SENATE—*Tuesday, March 27, 1979*

(Legislative day of Thursday, February 22, 1979)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by Hon. ADLAI E. STEVENSON, a Senator from the State of Illinois.

PRAYER

The Rabbi Lester M. Miller, Congregation Beth Israel, New Orleans, La., offered the following prayer:

Let us pray:

He who giveth salvation unto kings and dominions and unto princes, whose kingdom is an everlasting kingdom, may He bless the Senators of the United States of America and all their families.

Put in their hearts a spirit of wisdom and understanding, a spirit of counsel and might, a spirit of knowledge and fear of the Lord that they may govern our country with love and mercy. Guard them from evil and guide their paths in righteousness for Thy name sake.

In this time of peace, we pray Thee, remind us that peace is the only vessel of Thy blessings and all who love peace and strive for it are surely doing Thy holy work.

O Lord of mercy, we call Thy special blessing today upon our country, the United States of America, for the dream of freedom it has given to the oppressed of the world for while the gates of America are open all people and all races can hope and dream for human rights and for the growth of the human spirit.

In this time of national challenge when we are striving to meet the growing needs of our people we bid Thee, O Lord, who neither slumbers nor sleeps, guard us from any trouble and distress, all pain and disease. Protect our President and Vice President and all the officers of the Government of our land.

Speedily and in Thy days, may Thy kingdom of brotherhood be established upon the Earth with all mankind dwelling in peace and serenity, harmony and love and let us say: Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 27, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ADLAI E. STEVENSON, a Senator from the State of Illinois, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader is recognized.

THE JOURNAL

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

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

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. I thank the Chair.

A HISTORIC SERIES OF EVENTS

Mr. BAKER. Mr. President, on yesterday it was my privilege to attend the signing ceremonies for the treaty between Egypt and Israel, attested and sponsored by the United States of America. Last evening, it was my privilege to attend a state banquet, hosted by President and Mrs. Carter, for the President of Egypt and the Prime Minister of Israel and their official parties.

Today, it has been my special privilege to join with the distinguished majority leader in welcoming Prime Minister Begin and his party and President Sadat and his party to the Senate of the United States to visit with our colleagues and friends.

This is a historic series of events, Mr. President. I have spoken earlier of my commendations to President Carter for his dedicated, sustained, and personal efforts to bring about this situation. I spoke further on those points today, and I ask unanimous consent that my remarks in those respects may appear in the RECORD at this point.

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

WELCOME TO PRESIDENT SADAT

Mr. President, it is an honor for the United States Senate to welcome you here today.

Two thousand years ago, the statesman-philosopher Seneca said, "It is in the interest of the commonwealth of mankind that there be some one who is unconquered, some one against whom fortune has no power."

In our modern age, Mr. President, you have shown yourself to be the man against whom fortune has no power.

The peace we celebrate today between the two great nations of Egypt and Israel simply could not have come to pass without the memorable demonstration of personal and political courage which your historic journey to Jerusalem seventeen months ago represented.

In the splendor and comfort of this room, in an atmosphere so charged with good will and admiration, it is important for us here to remember the enormous risks you have taken in the cause of peace, and to make our own covenant with you that your courage will not have been in vain.

While this treaty represents a towering milestone in the search for peace in the Middle East, we recognize that it is really only the beginning, the first step toward stability and harmony in a region weary of war but wary of peace.

We know that to make the region truly secure, other nations must join this process which Egypt and Israel have begun, and must demonstrate the same extraordinary courage and the same revolution in thought which you and Prime Minister Begin, and our own President Carter, have nobly displayed.

We understand the anger, the prejudice, the mistrust which have ruled the Middle East for centuries, and we seek to expel rather than exploit those forces.

We seek to form an alliance for the common good of the region, to convert the burden of constant war into the blessings of lasting peace.

We stand ready, I believe, to encourage and nurture and, to the extent we can, reward every step toward peace which the nations of the Middle East are willing to make.

It is my deepest hope that the triumph of peace this day may be only the prelude to lasting peace and prosperity for 125 million citizens of the Middle East, and that others will soon see the wisdom which you have seen, Mr. President, in choosing peace over war.

WELCOME TO PRIME MINISTER BEGIN

Mr. Prime Minister, it is an honor for me to join in welcoming you once again to Washington and to the United States Senate on this great day of celebration.

It has been many years now since the beloved former Prime Minister of Israel, the late Golda Meir, predicted that when an Israeli and an Egyptian sat down face to face, there would be peace.

That day at last has come, and the prophecy is fulfilled. Yesterday at the White House, you and President Sadat of Egypt signed a covenant of peace, and the world has cause to rejoice.

These are days of exquisite personal triumph for you, for President Sadat, and for President Carter.

Each of you has gone beyond all reasonable expectation of personal effort to see this agreement reached.

Each of you has taken great risks in pursuing these negotiations against enormous odds.

Each of you has earned the praise and gratitude of your countrymen and of people everywhere who cherish every foothold of peace in this hostile and dangerous world.

Your whole life, Mr. Prime Minister, has been one of trial and suffering and constant struggle. That the day of peace has come must give you a surpassing joy, which we are pleased to share with you.

You are a great leader of a great people, and we are honored by your presence with us today.

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

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HAPPY BIRTHDAY, LOUELLA DIRKSEN

Mr. BAKER. Mr. President, for 10 years, from 1961 to 1969, my father-in-law Everett Dirksen stood where I stand today as Republican leader of the Senate.

No matter where Ev Dirksen stood in the course of his long and colorful career in politics—here in the Senate, in the House of Representatives, as commissioner of finance in Pekin, Ill., or on the campaign trail—his wonderful wife Louella was always at his side.

Today is Louella Dirksen's 80th birthday, and I know my colleagues will want to join me in wishing her a very happy birthday.

Everett and Louella Dirksen made quite a team for more than 40 years. He had no more trusted or valued counselor than his wife, and his remarkable record in this Chamber was due in no small measure to her influence and support.

It was she who sustained Everett Dirksen when his career was threatened by a temporary but frightening loss of eyesight, and she who gave him the courage to fight back, to regain his sight and give America a better and more inspiring vision of its own future.

Marriage was very important to Senator Dirksen, especially his own. In his inimitable way, he once paraphrased the biblical story of the Creation to suit his own purposes. In his best stentorian tones, Dirksen said:

> Then came the only creature that was created with intelligence, a soul, a personality, the prospect of divinity.
>
> There he was, this lonely creature. He had a beautiful home, if a garden can be called a home. God made it without the aid of the Housing Administration. They were not even around then.
>
> God decided that Adam needed a companion. He put Adam to sleep and took from him a rib and made for him a consort whom he called Eve.
>
> Eve was only a side issue then. She's the whole thing now.

To Everett Dirksen, Louella was the whole thing in life. We are fortunate, I think, that this delicate flower of Illinois' womanhood and old Mr. Marigold himself should have created and cherished such a long and loving partnership together. And we wish the silent partner for all those years a very happy 80th birthday today.

Mr. President, I have no further requirement for my time and no request for allocation of time under the standing order. I am prepared now to yield the floor.

Mr. MATSUNAGA. Mr. President, I yield back my time.

Mr. BAKER. Mr. President, I reserve my time under the standing order, and I yield such part of it to the distinguished Senator from North Carolina as he may require. I assume the distinguished acting majority leader wishes to reserve his time for those purposes as well.

Mr. MATSUNAGA. Mr. President, I reserve my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The time will be reserved.

RECOGNITION OF SENATOR HELMS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. HELMS) is recognized for not to exceed 15 minutes.

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

PEACE PROSPECTS AFTER THE HISTORIC SIGNING OF THE ISRAELI-EGYPTIAN PEACE TREATY: A LASTING PEACE, OR THE THIRD SINAI DISENGAGEMENT?

Mr. HELMS. Mr. President, the signing of the Israeli-Egyptian peace treaty on the White House lawn yesterday was an historic event. But history records both the great accomplishments and the missed opportunities, and it will be for future generations to record yesterday's signing in the proper column. Almost certainly the treaty will give the world a pause—a pause to reflect and get our bearings on the future of events in the Middle East. For, impressive as yesterday's event may be, we must face the fact that it is more an agreement to agree, rather than an agreement itself. Indeed, it may well be just the third in a series of Sinai disengagements.

The heart of the problem is that the treaty is not a comprehensive settlement, that major questions remain outstanding, not only between Israel and Egypt, but also among Israel, Syria, and the rest of the Arab world. These outstanding questions are already eroding the stability of the agreement. The treaty may not be a step toward comprehensive agreement at all; it may be a step that makes comprehensive agreement unlikely. We may well have sacrificed whatever leverage we had on both the Arab States and Israel to reach such a comprehensive agreement.

Indeed, representative as we are of the American people, we must ask ourselves some hard questions.

First. What will be the direct and indirect costs to the United States for the military and economic aid to both sides?

Second. What is the significance of Israel's insistence upon holding on to the West Bank, East Jerusalem, and the Golan Heights?

Third. What will be the effect upon the Arabs if these questions, and the Palestine settlements question, are not resolved to their satisfaction?

Fourth. What role will a radicalized Islamic Republic of Iran play in future actions against Israel?

Fifth. Will Arab dissatisfaction bring in some presently neutral Muslim states, such as Turkey, in a coalition against Israel?

Sixth. Will OPEC be tempted to draw the oil noose tightly around the United States, and more importantly, Europe?

Seventh. Why is Israel becoming increasingly isolated from her allies in Europe?

Eighth. Will OPEC shift funds from American banks, and away from the dollar as the unit of value, choosing instead from the basket of higher priced currencies?

Ninth. What would be the economic impact of such an action on the U.S. balance-of-payments and rate of inflation in this country?

Tenth. Will the United States be able to keep our military commitments to Israel in the face of such economic stress?

Eleventh. What are the vulnerabilities of Israel's military strategy, and the consequences to the United States?

Twelfth. What role could the Soviet Union play in exploiting these vulnerabilities?

These questions make up an even dozen, but they are questions that were standing, unanswered, around the peace table yesterday, looking on at the signing ceremony. Despite the euphoria of the day's events, they now deserve cool-headed analysis.

Mr. President, allow me briefly to state the situation as it appears to me, and then go into a more detailed analysis of what might lie ahead.

It is clear that the signing of the Israeli-Egyptian peace treaty, and the resultant strengthening of the overall Israeli military position vis-a-vis that of potential Arab opponents, reduces the prospect for another outbreak of war in the Middle East in the immediate future.

However, unless subsequent diplomatic progress is made on the other outstanding issues involving other parts of territories captured in the 1967 war, it is probable that economic pressures on the United States may be applied by Arab OPEC, both collectively and individually. The financial cost of these pressures could eventually dwarf the direct multibillion dollar cost to the United States of the present Israeli-Egyptian agreement.

These pressures, of course, may include higher oil prices, a shift in Arab purchases from American and Japanese suppliers, a dropping of the dollar-based oil price in favor of a basket of currencies, and ultimately, a shift in dollar resources from American banks. The cumulative effect of these and similar actions could actually have a multiplier effect beyond their sum total. It seems probable that one or more of these steps will be taken, possibly within months, and without a great deal of warning rhetoric by the Arabs. And this may have a very disagreeable impact upon the U.S. economy.

Already serious balance-of-payment problems seem likely to worsen considerably. The dollar may experience recurrent weakness. The United States may ultimately be forced to devote billions of dollars to developing more expensive and environmentally less favorable national sources of energy. Protectionism in nonenergy related trade may be necessary because resolving the energy shortfall will take a number of years, and emergency steps will probably be required to deal with a critical balance-of-payments problem.

Mr. President, all this is likely to lead to serious political difficulties between the United States and our traditional trading partners and allies. There may also be domestic political problems coming from higher inflation, unemployment, and resentment at higher fuel prices. The Arab military option is also not foreclosed. There are a number of

possibilities which may tempt the Arabs to launch another limited attack upon Israel within the next several years.

I. THE NATURE OF THE EGYPTIAN-ISRAELI PEACE TREATY

Unfortunately, the Egyptian-Israeli peace treaty negotiated by President Carter in exhausting circumstances appears not to be, in fact, a peace treaty at all, but merely an expedient decision by both Israel and Egypt to extend the military truce which has prevailed in the Middle East since 1973. In character, it is much closer to the disengagement agreement, Sinai II, which Secretary Kissinger negotiated several years ago than it is to any true or enduring peace treaty between the belligerents. The price tag to the United States, of course, is much higher this time around.

The first reaction by Sadat to the terms which President Carter brought from Israel tends to confirm this:

> Sadat looked on somberly and said nothing as Carter spoke to reporters and television cameras at Cairo airport. Carter immediately boarded his plane to return to Washington and Sadat climbed into his helicopter, avoiding the journalists waiting to question him.

This was not the triumphant reaction of a man at home who believed that peace was at hand.

Whatever the advantages conferred by the agreement to Israel, Egypt, and the United States, and there are some important immediate advantages to all three parties, the fact remains, nonetheless, that the really hard decisions necessary to achieve a real peace treaty between Egypt, Israel, and the rest of the Arab world, have yet to be taken. And a betting man would have to give heavy odds to a wager predicting that much blood and many dollars will yet flow in the Middle East before anything approaching a final peace treaty is achieved between Arab and Israeli, or even between Israel and Egypt.

Yet, compelling circumstances and a calculation of advantages have induced the three parties toward this third Sinai disengagement agreement.

II. ISRAELI POINT OF VIEW

Those in Israel who desire to retain the West Bank permanently doubtless are experiencing a tremendous wave of relief. President Carter could have acted differently in recent weeks: He could have gone on American television and called for a suspension of economic and military aid to Israel until movement on the West Bank made possible progress toward a compehensive agreement. But that option, if it ever existed, now seems foreclosed until after the 1980 elections. Israeli West Bank settlements appear politically safe in the immediate future from American diplomacy.

Also, Israel has apparently gained the promise of the American President to provide some form of direct military support in the event that the Egyptian agreement collapses. Equally important, Secretary Brown has approved vast new arms and technology transfers and sales to Israel, including, it seems, coproduction of antitank and antiaircraft missiles.

This is important because it means that Israel will be a far tougher nut to crack militarily.

The Israelis had been extremely concerned about the actual and potential Arab military buildup, and about the increasing political impact in the West of the economic situation. Also, the Iranian disintegration ending the flow of relatively cheap oil and mutual trade, required the Israelis to seek another reliable source of petroleum.

The agreements made during past weeks with Egypt and the United States leave Israel in a far stronger position.

III. EGYPTIAN POINT OF VIEW

The Egyptians also make certain gains in the short run. The bulk of the Sinai will revert back to Egypt, including the oil fields which will give Egypt badly needed foreign exchange. Rather than being backed up to the Suez Canal close to Egypt's centers of population, the Egyptian army now will have more room to maneuver during any subsequent hostilities with Israel. Egypt also gains the promise of the United States to help fill the gap which a Saudi cutoff of aid may produce along with the probability of considerably increased weapons sales and grants from the United States. Sadat personally gains some time; a complete breakdown of negotiations would almost certainly have destroyed him politically. Realizing that pure diplomacy has now gone as far as it can go, Sadat probably hopes privately that the other Arab powers with oil will now use that weapon to apply economic pressures on Israel's allies.

IV. THE AMERICAN PERSPECTIVE

The United States also makes some gains in the shortrun. The threatened breakdown in the negotiations would have resulted in an immediate and potentially disastrous escalation of the Arab economic pressures against the United States. Sadat would probably have been replaced by a hard-line individual, and the Soviets would have gained additional influence and presence in the Middle East. President Carter would have been forced either to absorb a heavy economic blow from Arab OPEC or to attempt to impose a comprehensive settlement on Israel. This latter would inevitably have been a very messy process and possibly jeopardized his reelection.

Depending upon the ultimate success of the recent Brzezinski mission to Saudi Arabia, the possibility now exists that President Carter will have bought another year or two of time. The possibility also exists that President Carter in the 1980 elections will achieve the same degree of political support by Israel that President Nixon secured with the Phantoms in 1972.

However, President Carter's Sinai disengagement agreement also entails three serious risks:

First. The Arabs, after an initial period of confusion and silence are very likely gradually to begin a tightening of the economic pressures against the United States, which will spill over into the Western economy generally.

Second. The world will have lost, for at least 2 years and possibly much longer, the opportunity to secure a comprehensive Middle East settlement. Israel is now far better positioned to withstand any subsequent American pressures, and will have 2 years to expand her settlements and consolidate her position on the West Bank, Golan, and East Jerusalem.

Third. Just as the Arabs concluded that they would get no real diplomatic help from the United States after President Nixon's abandonment of the Rogers plan during the 1972 election campaign, and made the quiet decision to go to war; so too now are the Arabs likely to conclude that a similar situation exists again. As in the past Middle East wars, the next conflict is likely to erupt without warning to the United States and entail very serious military and economic consequences.

V. THE IMMEDIATE PRICE TAG

All three signatories have a considerable interest in down-playing the full cost to the American taxpayer of the third Sinai disengagement agreement. A public exposition of the actual price tag of this agreement is likely to be unsettling to Congress and the American people—particularly considering the very limited nature of the agreements achieved.

Therefore to fudge matters, the financial consequences of understandings, agreements, and substantive conversations between heads of state and defense officials during this latest round of negotiations are likely to be presented to the full Congress and the public only piecemeal, reflected fully in future budget requests for aid, weapons, and credits for various parties in the Middle East.

The direct and indirect cost to the United States is likely to be somewhere in excess of $10 billion, including $3 billion to Israel for transferring and rebuilding airbases from the Sinai, plus additional billions in economic and military aid. Egypt will also gain additional billions, including a commitment by the United States to make good any economic aid cutoff by Saudi Arabia, should this come to pass.

However, the real cost of the third Sinai disengagement agreement to the United States is likely to be far, far higher than the possibly $10 billion in verbal and written commitments of various kinds. The failure of President Carter to achieve a comprehensive Middle East settlement, despite firm past commitments to Saudi Arabia, and the weakened bargaining position which this new agreement puts the United States in vis-a-vis Israel, means that we can almost certainly expect renewed heavy economic pressures upon the United States by Arab OPEC.

This probably means the gradual end of Saudi Arabia's willingness to hold the line on oil prices, the increased transfer of Arab OPEC purchases away from American suppliers and contractors and toward more cooperative Western European and Japanese nationals, and ultimately, the possibility of a mutually advantageous de facto economic alliance between Western Europe, Japan, and the Muslim Middle East. This latter possibility could involve transfers of financial resources away from the New York banks and toward a Europe and Japan made more prosperous by a redirection of Arab OPEC purchases and investments.

It is impossible to predict exactly how far the Arabs will go in this direction. The decisions have not yet been made and the moderate Arabs have an important stake in preventing an American financial collapse and an utter deterioration in government to government relations. It is, in any case, likely to be a very understated operation.

But one thing is absolutely certain. From the vantage point of the next decade, historians will almost certainly regard the $10 billion in direct cost to the American taxpayer to be by far the smaller part of the ultimate price tag of the third Egyptian-Israeli disengagement, and of President Carter's failure to achieve a more comprehensive settlement ending the Arab-Israeli confrontation.

VI. ISRAEL'S DIPLOMATIC CLAIM TO THE WEST BANK AND GOLAN

From a juridical and diplomatic point of view, the arguments which Israel advances for maintaining control over the West Bank, Golan, and East Jerusalem are unique. There are three: First, Israel's officials hold that ancient biblical writings include these areas in Eretz Israel, the Land of Israel promised to the Jews by God.

Second. Israel notes that in the past, Jordanian and Syrian soldiers, saboteurs, and irregulars have used the Golan Heights, East Jerusalem, and the West Bank to fire upon and harass Israeli citizens, settlements, and farms.

Third. Israel needs these regions to avoid a direct military threat to the important sea coast cities of Israel, such as Tel Aviv and Haifa by the armies of the Arabs.

These arguments deserve close attention. In the first case, the fact that the West Bank provinces of Judea and Samaria are included in the biblical land of Israel promised by God to the Jews as a homeland underscores to the Arabs the disturbing fact that the east bank of the Jordan River, the southern part of Lebanon, and parts of present Syria are also part of biblical Israel, Eretz Israel. Thus, any biblical claim by the Israelis to the West Bank applies equally to these other regions still under Arab sovereignty.

Needless to say, this feeling of manifest destiny by the Government of Israel is deeply disquieting to the Arabs in the region. They believe that the gradual consolidation and expansion of Israel which has occurred over the past 50 years portends a future expansionary policy for Israel, given the least opportunity.

Arab leaders believe that the vast efforts which the Israeli Government and her allies have made to gain release of Soviet Jews is part of a campaign to increase the Jewish population of Israel, change the demographic situation on the West Bank, and ultimately pave the way for future expansion years from now.

If Americans sometimes wonder why the Arabs are so paranoid about Israel, this concept of a greater Israel expressed by the term Eretz Israel, is a major reason.

Israel's second reason for retaining the West Bank and Golan, namely that previously Arabs sniped at bordering Israeli settlements and farms, is also received by the Arabs with some skepticism. They point out that the Israelis have constructed new settlements and new farms just as close to the present military lines as the old ones were to the 1967 lines. Thus, the bordering farms are just as exposed to Arab guns and snipers as they were in the past.

Israel's final argument for retaining the captured territories on the West Bank and Golan, namely that any withdrawal would increase the military threat to Israeli heartland is also difficult for Arabs to accept at face value. All of Israel's neighbors, including Syria, Jordan, and Egypt, have agreed to sign a permanent peace with the Jewish state, provided that she withdraws from the occupied territories and permits a demilitarized Palestinian entity federated with Jordan.

Arabs point out that the real danger to Israeli national security comes from the large and powerful modern armies of the major Arab States surrounding Israel. It is these rockets, planes, and tanks which constitute the real threat, not the puny efforts that any Palestinian rejectionist group might mount from a future West Bank base.

Yet, obstensibly for fear of local West Bank discontent, Israel insists upon retaining military control over the region. This is the block to a comprehensive settlement. Thus, to avoid a comparatively minor security problem on the West Bank, Israel runs the risk of continued confrontation with the large regular armies of the important Arab powers in the region.

All these considerations make the Arabs in the region believe that it is manifest destiny, a desire to expand, rather than any real security consideration that impells the Israelis to retain West Bank and Golan conquests.

And today, Israel's intention to retain control and the option for increased settlements of the West Bank, Golan, and East Jerusalem is the central fact in Middle East diplomacy. The Egyptian-Israeli treaty will change none of this. If anything the arrangements strengthen Israel's ability to hold firm.

VII. LONGER TERM PROSPECTS

Ten years from now, the world will look back upon the just completed mission of President Carter and the resulting Egyptian-Israeli treaty in one of two ways:

On one hand, the agreement may be seen as the essential first step which changed attitudes, weakened ancient enmities, and ultimately led to full peace in the Middle East.

Alternatively, President Carter's failure to secure a more comprehensive agreement may be viewed as one of the most unfortunate missed opportunities in the 20th century diplomatic history, leading ultimately to economic, political, and military upheavals of the most fundamental nature.

While the future is clouded, and will be determined by the subsequent will, energy, and imagination of the parties involved, it is at this point difficult to take an optimistic view. While a permanent and peaceful settlement in the Middle East is indeed possible, it would require a fundamental change in the policy of Israel toward the West Bank, Gaza, Golan, and East Jerusalem.

The Government of Israel has always been willing to return Egyptian territory captured in the 1967 war in return for a bilateral peace. This was reflected in the tiny number of Israeli settlements planted in former Egyptian territory, as compared with the scores of settlements located on the West Bank, Golan, and in Jerusalem itself.

The cabinet of Prime Minister Begin, containing a number of key individuals intensely dedicated to the retention of the West Bank, Golan, and East Jerusalem, voted unanimously in favor of the recent agreement with Egypt. It is clear that this means they do not feel that this agreement jeopardizes Israeli control over the other captured territories.

Moreover as previously indicated, the new military and economic aid package provided to Israel as part of the recent agreement will make it far more difficult than ever before for an American President to nudge Israel into greater flexibility on the West Bank and Golan. Without this pressure, effectively applied, there will in all likelihood be no Israeli movement on the West Bank, and hence no comprehensive peace with the Arabs.

This is not a pleasant prospect either for ourselves or for our allies because it means added strains upon a world political, financial, and economic fabric that has been dangerously stretched since the 1973 oil price increase. Since then, world consumption patterns have not altered to the extent that is called for. Instead, consumption has been supported by borrowing on an unprecedented scale—and this is as true of the American consumer as it is for the Third World. But past borrowing and present heavy debt loads mean that there is very little slack left to buffer the system from yet another economic shock. And the storm warnings are flying.

VIII. THE PALESTINIAN FACTOR

The events of the past weeks will have a deep and unsettling impact on the Palestinians, both those living in the occupied territories and those residing in the surrounding countries.

Should they conclude that the United States has for all practical purposes abandoned them—along the lines of Brzezinski's famous "bye bye PLO" commentary in Paris—they are likely to take additional steps to force themselves into the consciousness of the world. This may include:

First. Riots, demonstrations, strikes, and an increase in terrorism on the West Bank and in Israel proper.

Second. Threats of sabotage against any of the oil states in the Middle East which are tempted to side with the United States, Israel, and Egypt.

Third. Political assistance to sympathetic factions in Muslim nations like Turkey which presently have pro-Western governments.

These steps are potentially serious. While the Israeli army can easily suppress organized mobs by the liberal shedding of blood, detaining suspects on a large scale, and by intensifying intel-

ligence operations, such activities are likely to pose a serious continuing moral dilemma to the people of Israel and constitute a running sore on Israel's reputation abroad.

Also, the implied Palestinian threat of actual sabotage of the vulnerable oil fields, to tankers sailing through the narrow exists of the Persian Gulf, and to crucial surface separating plants cannot be ignored by Saudi Arabia, Kuwait, or other producers. This will tend to keep them in line, quite apart from other considerations.

Finally, the extremely effective help provided by the PLO and their Soviet mentors to the opponents of the Shah will encourage others to seek similar assistance in other pro-Western Muslim countries. Turkey, with its historic attachments to Palestine, seems the most probable candidate for a destabilization program leading to a pro-PLO regime.

IX. THE SOVIET PERSPECTIVE

The stressed state of the economy of the West gives the Soviets reason to hope that they may yet succeed in triggering an economic collapse, greatly reducing Western military strength in the process.

The Soviets know that without Persian Gulf oil, the Western economy would wither like a tree ringed at the base. Thus, the prospect of being able to trigger a civil war in Iran, and shortly thereafter, another general Middle East war and oil embargo must be incredibly tempting.

The Soviets know that another general war in the Middle East will break out as soon as the Arabs become disillusioned with the diplomatic prospects and have adequate weapons to run the risks. The Soviets will control the timing of these weapons deliveries, and thus, control the timing of the next Middle East war.

Once the Israelis detect the buildup of Arab arms reaching a threatening point, or the least indication that an attack is close, they themselves will launch a surprise attack upon the Arabs, probably without warning even to the United States.

Regardless of the results of the next Middle East war, the Soviets gain. Any new war will exhaust the Arabs' supply of modern weapons, requiring tens of billions of dollars worth of new Soviet arms. The Soviets thus gain financially both directly in terms of billions in hard cash, and indirectly, by longer production lines which cheapen the unit costs of weapons delivered to the Red army.

The Soviets also gain in the event that a new oil embargo causes unemployment and financial distress in the West. The Soviets know that Communist parties in France, Italy, Portugal, Turkey, and elsewhere stand ready to make important gains if unemployment rises seriously. The Soviets also know that under certain conditions the war could spread to the actual oil fields in the Persian Gulf. This, of course, would be even more damaging than another embargo.

The Soviets need fear only one development: that the war could spread and involve Soviet and American military forces in direct confrontation and war. But, to limit this risk, they need merely to keep their own military personnel in the Middle East to unofficial advisory status, and let the Arabs and the non-Soviet East bloc personnel do the actual fighting. And this is within their control.

Unfortunately, there is always the possibility that one side or the other may make a dreadful miscalculation, with events spiraling out of control and into general war. Although the possibility of this happening should not be underestimated by us, the Soviets may well believe that they can keep this risk under control. They know that their Arab customers and clients do not have to win in order for the Soviets to win.

Quite to the contrary. The Soviets, if they are wise, will realize that complete victory by their Arab allies, however unlikely, would prove to be a net loss to them in the long run, as would any other scenario leading to a real and permanent end to the Middle East conflict. They would lose, immediately billions of dollars of annual export sales. And except for weapons, they have few competitive exports. They would also lose political influence since the Arabs would eject the godless, meddlesome Marxists were they no longer essential to help fight Israel.

Thus, the Soviets have no overriding interest in seeing peace come to the region.

X. THE MILITARY PROSPECTS FOR THE NEXT MIDDLE EAST WAR

President Carter's military arrangements with Israel appear to have further altered the power balance between the Arabs and the Israelis in favor of the Israelis.

These measures have included a speeding up of deliveries of the F-16 fighter from 1981 to next year, coproduction in Israel of antitank and antiaircraft missiles, access by Israel to very sophisticated American electronic and communication technology with important battlefield applications, and a general increase in the military might of the Israeli defense force right across the board. This, on top of an already massive stockpile in Israel of American war material.

These policies follow the earlier Kissinger doctrine of providing Israel with such a massive superiority of weapons over the Arabs that the outbreak of war is less likely. And in the short run, that is to say, the next year or two, this is likely to prove an effective deterrent to an Arab-originated military conflict.

However, the military option is not indefinitely foreclosed to the Arabs. For one thing, subsequent negotiations between Israel and Egypt over the West Bank, Gaza, Golan, and East Jerusalem are likely to yield genuine progress only in the Gaza Strip at best—and this is likely to fall far short of Egyptian expectations.

The Egyptians, recognizing this, are very likely to continue pressure on the United States and Saudi Arabia for additional modern weapons, if only to keep the negotiating pressure on Israel at credible levels. Sadat at this point appears to be a man without illusions. While he is likely to dampen his rhetoric, he will likely act in ways that will keep the Egyptian army a potent force. Even if Sadat were disposed to weaken his armed forces, the political pressure from the officer corps would probably prevent him from any significant unilateral disarmament.

Thus, the Israeli defense force will be compelled to factor the Egyptian army into any future military calculations, once the negotiations on Palestinian autonomy run into the inevitable snags.

The immediate diplomatic strategy of both Egypt and Israel. at this point will be to nail down as hard as possible American commitments on arms and aid before the bleak prospects for comprehensive peace in the Middle East sink into the consciousness of the American Congress and people.

XI. ISRAELI MILITARY STRATEGIC DOCTRINES

Assuming that there will be another war, it may be governed by Israel's classical strategic principles described by Gen. Israel Tal, one of Israel's military planners, in a recent publication:

First. While Israel's enemies have strategic depth and a manpower base which enables them to survive defeats on the battlefield, Israel cannot survive even one defeat and endure.

Second. The Israeli army must make up in sophistication and technology what it lacks in numbers.

Third. Israel does not have the option of gaining a final and definite victory by means of a permanent military defeat of her enemies. Israel can win wars but cannot impose its will upon a region extending from the Atlantic Ocean to the Persian Gulf.

Fourth. There must be full exploitation of all national resources in war with Israeli ground forces based on the militia principle.

Fifth. Superior intelligence must be developed so as to give adequate warning for the militia to be mobilized and deployed with the air force developed as "flying artillery" to provide additional time for the army to deploy.

Sixth. Artifilicial strategic depth by means of intensive area defense must be created. Every settlement, every village, every house in Israel must become a potential military obstacle for an attacker.

Seventh. But the lack of true strategic depth compels Israel to carry the battle immediately to the enemy territory.

Eighth. A preemptive attack is the best means of accomplishing this objective and is desirable for other military reasons.

Ninth. A quick military decision is vital for Israel to avoid economic collapse which the full mobilization would otherwise cause. Also, the anticipated intervention of the great powers and the need to avoid high casualties in long battles of attrition make protracted conflict potentially very disadvantageous to Israel.

Tenth. Israel must conclude every war as the clearly perceived victor. This is not only because Israel will then be able to gain territory in return for peace, but

also because national morale is as important to long-term staying power as are economic and military resources.

These principles were effectively executed until the 1973 war. However, the 1973 war revealed important Israeli weaknesses for the first time.

ISRAELI VULNERABILITIES

An important intelligence failure right across-the-board not only found Israel unprepared for the timing of the Arab attack in 1973, but also quite unready for the actual battle tactics which decimated many air force units and tanks in the early hours and days of the war, and washed away the underpinnings of the bunkers along the fortified Bar Lev Suez Canal line with high pressure hoses.

It would be comforting to think that this could never happen again. However, the post-1973 security environment which Israel finds herself in today reveals a number of serious military problem posed by new vulnerabilities in Israeli intelligence:

While no one will ever know for sure what spies Israel has managed to insert at high levels in Arab councils in the meantime, we do know that the full capabilities and weaknesses of American satellite detection and surveillance upon which Israel as well as the United States depends, have been completely compromised by Mr. Kampiles' betrayal to the Russians of various satellite manuals and other less well reported intelligence breaches. Thus, the Soviets and their Arab clients know precisely what steps they must take in preparing their attack if they wish to escape detection from American satellites. A surprise attack, therefore, is still possible and probably predictable.

It is conceivable, though improbable, that Syria and Iraq could secretly achieve a local concentration of Soviet weapons in sufficient quantity to encourage them to launch an attack with limited objectives upon Israel.

Hitherto uninvolved Muslim countries could eventually join the coalition against Israel in an active way. Turkey, for example has the largest army in the Middle East. Thus, Turkey, Iraq, Jordan, Syria, Saudi Arabia, and the Palestinians could combine forces in a coalition sufficiently powerful to attack Israel successfully with the sudden involvement of the Egyptian Army.

After the new forces in Iran have managed to consolidate their regime, something that may take 2 years or more, it is fair to assume that the Iranian Air Force, at least, become involved in the coalition against Israel. However, this too is likely to occur without warning, as any telegraphing of the punch would lessen the degree of strategic surprise and tempt Israel to help the Kurds destabilize Iran.

Access to the latest in satellite photography has improved surveillance and target acquisition by both parties.

To cope with the military problems created by overhead surveillance, both sides have dispersed targets and hardened protective aircraft shelters, but long-range cruise-type missiles with conventional warheads and other forms of precision-guided munitions will mitigate these defensive arrangements to some degree. The effectiveness of these measures will only be determined by the unfolding of events in the next war.

Because of the necessity of achieving strategic surprise and to avoid being totally wiped out in an Israeli preemptive strike, it seems fair to conclude that a substantial precentage of fighter aircraft earmarked for the various Arab air forces, will be retained in the Soviet Union, where extensive secret training of Arab pilots and technicians will also take place. These aircraft may only arrive on dispersed airfields in the Middle East on the eve of battle—and some possibly after the first days of the war.

Other more advanced Soviet systems also may only arrive in Iraq, Syria, and elsewhere on the eve of battle to avoid detection by Israeli intelligence. Arab technicians trained to use the weapons may be held in the Soviet Union until the actual eve of battle to avoid careless conversations while on furlough that could leak to Israeli intelligence.

It seems likely that the Egyptian army will be involved in the next war, and that there may be absolutely no warning that Egypt had rejoined the military coalition against Israel. The Egyptian army is likely to be brought up to speed by the covert measures described in the above two paragraphs. The only warning Israel may have might come from fragmented reports of an unusual number of Egyptian flights to the Soviet Union. Sadat himself is likely to keep up a deceptive pattern and engage in negotiations with Israel long after he has abandoned any hope of achieving his diplomatic goals at the table.

Similar patterns may unfold to some extent in Jordan.

However, anyone who attempts to predict the precise course and outcome of the next Middle East war is wasting his time. In order to be meaningful, quantitative and qualitative measurements must be made. But because the most important increments to Arab arsenals are likely to be retained in the Soviet Union until the last minute, and the capabilities of the most advanced and important Soviet weapons and ECM systems are shielded from Western and Israeli eyes, it is absolutely impossible to predict with certainty either what will be on the actual battlefield or how it will be deployed.

Here the Arabs may have an advantage by way of hardware. They will know precisely the weapons which the Israelis have received from the Americans and they will know their approximate capabilities. The Soviets and Western Europeans will see to that. But because of superior Soviet security, Israel will not know the full extent of the Arab's punch until the day of battle. It would, however, be fair to assume that the Arabs will not go to war, or permit the Israelis to goad them into war, until they feel confident of being able to meet the Israeli Defense Force on equal or superior terms.

XII. MORALE VULNERABILITIES

The Arabs understood in the planning of the 1973 war that while overall military objectives can only be gained in a final sense by the conquest of vital strategic objectives in the depths of the enemies' territories and the heart of their state, they do not have the strength to achieve this.

However, the Arabs are capable of pounding Israel's population centers with the aim of undermining morale. Even after the conclusion of such a war with another Israeli victory, the sight of hundreds of destroyed housing blocks in Israeli cities, the thousands of families which will have suffered casualties, and the prospect of yet another blood bath in a future conflict would have several important strategic consequences for Israel:

First. Immigration would stop.

Second. Emigration would accelerate.

Third. Begin's party would be discredited, and moderates willing to compromise with the Arabs strengthened.

This operation could be carried out by Syria and Iraq alone, under certain circumstances.

The war itself might open with a massive Arab air attack upon Israel's cities, then a quick withdrawal to the protection of an effective SAM envelope. Long-range conventional rockets might drop intermittently on Israel's cities for the duration of the conflict to increase the destruction and terror.

Of course, there would be savage retribution. Damascus would eventually suffer major damage. But the long-term effects on Israel's morale could force Israel to accept a final peace on far more modest terms than she now anticipates.

Also in the aftermath of the perceived military success of the 1973 war, the triumph of OPEC, and the Islamic revival, the morale factor may no longer be in Israel's long-term favor.

Sophisticated Israelis realize that unlike the bigoted world of the 1930's and 1940's, today skilled Israelis are welcome in the United States and other civilized countries should they decide to move. They therefore have the option of leaving Israel if the going gets sufficiently unpleasant and harrowing.

Arabs, on the other hands, are not in this psychological state of mind. They view themselves as bound to their region. Thus, they may be willing to endure more in the long run than the Israelis.

Arab strategists will have noted that even the marginally deteriorated environment in Israel caused by the trauma and aftermath of the 1973 war triggered an outflow of Israelis seeking homes elsewhere. If the Arabs turn up the pressure—even at the cost of ghastly retaliation against themselves—this trickle of emigration could become a flood.

OTHER FUTURE MILITARY CONSIDERATIONS

Israel's military situation in 1979 is no longer a simple one. Israel has been successively abandoned by the Soviet Union which provided invaluable weapons and

support during Israel's War of Independence, by France which armed her for the 1956 and 1967 wars, and now by virtually the rest of the world.

The basic issue which caused the falling away of most former Israeli supporters was not a lack of sympathy for Israel.

Even the Jewish Prime Minister of Austria has taken to referring to Menachem Begin publicly in insulting terms.

The first reason for the loss of support for Israel was the new willingness of the Arab nations to accept an Israel of pre-1967 size as a permanent, peaceful, and integral part of the Middle East. The refusal of Israel to accept these terms, and the unwillingness of most nations to risk their oil supply and domestic economies to support Israel's 1967 conquests, has caused this diplomatic isolation.

Increasingly in her wars, Israel has been forced to play a risky double or nothing game. Since 1956, the stakes have risen each round. To continue the game, Israel has been forced to rely on one last bankroller: The United States. And there is the increasing prospect that even this bankroller may eventually close the purse strings or that Israel herself will lose a single fatal throw of the dice.

Emotional support for Israel among the American leadership class is rapidly declining. Support now comes more grudgingly. For this and other reasons, Israeli military planners can no longer count on profiting by winning limited wars. The 1973 war showed that winning limited wars now results in increasing the international political and economic pressure on Israel.

For that reason, Israeli military planners will now be compelled to make the next war not a limited one, but the broadest conflict possible. It must be so decisive that it alters the fundamental situation in the Middle East. Anything less than that could be fatal to Israel's territorial ambitions.

Now, a successful war from the Israeli point of view must include most of the following elements:

First. The end of Arab OPEC and the Arab oil weapon.

Second. The eviction of many of the Arabs from the West Bank.

Third. The utter destruction of the Arab armies.

Fourth. The destruction of Arab morale.

Fifth. The active involvement of the United States in actual military operations in conjunction with Israel.

This war plan, while ambitious, is necessary for Israel. A war which would leave Saudi Arabian and other Persian Gulf oil fields unscathed would only mean that economic sanctions against the United States in the postwar environment would create new pressures on Israel to withdraw from the captured territories. It would also mean that plenty of money would be available to rearm the Arab armies.

The failure to take advantage of the war environment to improve the conditions for greatly expanded Israeli settlement of the West Bank only means that Israel would face renewed international outcry every time she builds new settlements on the West Bank, a continuation of the present unsatisfactory state of affairs.

Failure to destroy utterly the armies of the Arabs would mean that morale among the Arabs would remain high, guaranteeing still another conflict and continued pressures against Israel.

Failure to secure the active involvement of the United States makes any long-term seizure of the Arab oil fields untenable and opens Israel to potential attack from the Soviet Union's rearmed client states.

This strategy is, of course, very risky. It seems questionable whether Iraq, Iran, or Egypt could be put totally out of business even though Syria, Jordan, and Saudi Arabia are more vulnerable.

The Soviets could rearm these remaining bastions and prolong the conflict for months, possibly years. Israel just could not stand the gaff in such circumstances. Hence, active U.S. involvement becomes even more important to act as a tempering factor upon the Soviet Union. Though the United States is not yet firmly tied into an unconditional Israeli military alliance, recent events may eventually move us in this direction.

There are a number of scenarios by which this might be accomplished beginning with encouraging the United States to upgrade its military capability to intervene abroad. Joint contingency planning exercises between American and Israeli military planners for a seizure of the Saudi oil fields would also be important.

A FINAL COMMENT

However successful Israel might be in maneuvering the United States on a short-term basis, there is a potentially fatal long-term contradiction in Israel's grand strategy.

Israel and her allies are working intensively to detraumatize the United States from her Vietnam experience and to secure a revitalization of America's commitment, presence, and nerve abroad. This is vital for Israel to help her withstand Soviet and Arab pressures that will otherwise prove overwhelming.

On the other hand, Israel through domestic political pressures, forces the United States to support her conquests in the 1967 war. This policy, the recurrent wars necessary to support it, and its economic consequences have directly and indirectly damaged America's relations with almost every other major nation on Earth. Shortly, the economic price of this policy will almost certainly force the United States to adopt a more autarchic energy and economic policy. All this will systematically weaken the moral, spiritual, military, and economic ties which now integrate America into a global involvement and alliance.

A Middle East policy which causes recurrent and humiliating weakness in our balance-of-payments and dollar, and energy short falls, could easily combine with other latent problems to cause America to revert to one of its periodic phases of isolationism. Support for the policy of our former distinguished majority leader, Senator Mansfield, to bring home all the boys would be one of the first consequences.

In the long run, it is very unlikely that America's defense commitment to Israel will survive a foreign policy characterized by strong isolationist impulses. And it is very questionable whether Israel herself could survive even 5 years without American military back up.

Today virtually every poll shows steadily diminishing support for Israel among the American people. By a 2 to 1 margin in a recent NBC poll, the American people even oppose paying the multibillion dollar price tag for the recent Egyptian-Israeli agreement. It is very clear that the American-Israeli relationship is skating on very thin ice in a climate of rising temperatures.

I am apprehensive that the present Egyptian-Israeli agreement could fall to pieces within a year or two unless firm American action is taken.

For this reason, and at this moment, I am inclined to oppose further aid to either Israel or the other parties to the Middle East dispute until such time as a comprehensive and final peace settlement is ready for signature.

At that time, I would be more than happy to consider supporting further aid to the parties, and to lend my support to a regional alliance among Israel, the moderate Arab powers, and the United States. I feel certain that our European allies would also join such an arrangement.

This is what peace in the Middle East is all about—real peace, that would enable the ordinary people of the Middle East and the entire world to go about the business of planning their lives without the specter of war and economic disruption constantly hanging over their heads. We do these people a cruel deception by avoiding coming to grips with the real issues, and seeking their solution.

By demanding too much, the leaders of Israel could risk everything they have created over 50 painful years of struggle and labor. More than that, Middle East tensions have created vast and disproportionate risks and costs to the rest of the world. Tens of millions of jobs around the world are hostage to the potential outbreak of another Middle East war which could easily spread to the oil fields.

Increasingly the Middle East has begun to resemble conditions in the Balkans just prior to World War I, where explosive religious and ethnic passions coexist together with vast economic stakes.

This tinderbox must not be allowed to continue to exist. All parties involved must move rapidly and forcefully to achieve a permanent and comprehensive Middle East settlement.

The real issue still dividing Arab from Israeli remains the ultimate disposition of the West Bank, Golan, and other territories captured from the Arabs in the 1967 war.

From statements made by Israeli leaders, it is clear that there is no intention to return these captured territories to Arab sovereignty. Yet, without this and other measures to provide a home for the Palestinian people, there will clearly never be a comprehensive peace in the Middle East, and the world economy will continue to be hostage to recurrent instability in the region.

But, in any event, Mr. President, I hope the American people will not be mesmerized in a euphoria created by an orchestrated media event into believing that peace has been achieved.

I will be more than happy to consider supporting further aid and lend my support to a regional alliance among Israel, the moderate Arab powers, and the United States. I feel certain that our European allies will join such an arrangement. This is what peace in the Middle East is all about—real peace, that is—peace that would enable the ordinary people of the Middle East and the entire world to go about the business of planning their lives without the specter of war and economic disruption constantly hanging over their heads.

If peace is to be achieved, it is obvious that this deadlock must be broken. The stakes for all involved are simply too high to allow this matter to continue to fester. One miscalculation, one overreaction, one blunder, could plunge the entire world economy into distintegration.

I have become reluctantly convinced that only forceful action by the American Government can cut this Gordian knot. I believe that President Carter must come forth with the outlines of a comprehensive settlement, and he must be prepared to withhold aid if necessary.

For what is at stake is not merely the peace that we all cherish, but survival itself.

Mr. President, if I have time remaining, I yield it back.

ORDER OF BUSINESS

Mr. NELSON obtained the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for Mr. MAGNUSON be yielded to the Senator from Wisconsin.

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

SENATOR STEWART SPONSORS FARM ENTRY ACT

Mr. NELSON. Mr. President, on March 8, along with 12 other Senators, I introduced S. 582, the Farm Entry Assistance Act. Senator STEWART was one of the original sponsors of the bill, and was so listed in the statement in the CONGRESSIONAL RECORD of that day. Unfortunately, when S. 582 was printed, Senator STEWART's name was not listed on the bill. I can understand, of course, how a clerical error in transcribing names to the bill could have been made, but I want to make it clear in the RECORD that Senator STEWART was an original sponsor of this bill.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remainder of the order for the recognition of Mr. MAGNUSON be waived.

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

RECOGNITION OF SENATOR ROBERT C. BYRD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. I thank the Chair, and I yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I want to retrieve 1 minute of the time I yielded back, and I thank the Senator from West Virginia.

PRESIDENT SHOULD DECONTROL OIL

Mr. HELMS. Mr. President, as unbelievable as it may seem, 5 years after the Arab oil embargo this Nation still has no comprehensive energy policy. Why is it that the most powerful country in the world, with ample oil and gas supplies of its own, now faces the prospect of another "energy crisis"? Why is our current policy in a shambles?

I suggest that the reason is to be found in Washington's favorite word—regulation. Because of the mismash of bureaucratic regulations, this country produces less oil than it did before the 1973 Arab embargo. The Federal Government has tried to run the oil and gas industry of the United States, and the result has been total failure.

The fact is, we do have plenty of energy—in the ground—if we will just let the free enterprise system work to get it out. The President should decontrol upper tier crude immediately on June 1, 1979, and systematically remove controls on lower tier crude by September 1981. Independent producers have already told the President that such action would increase domestic oil production by 400,000 barrels daily by 1981 and 2,000,000 barrels a day in 1985. This new production would displace imports barrel for barrel.

If we truly believe in the free enterprise system which made this country great, we must let it function.

It may be a matter of too little, too late, but it is interesting to note the shifting sentiment here toward deregulation of oil and gas production in the United States. Just a few years ago, it was politically popular to shout about "big oil companies," and to insist upon Federal regulation. But look at the trouble it has caused.

Now, some of the very people who shouted the loudest are beginning to admit that deregulation of our energy production is the only hope for a continued and dependable supply of energy. If the Federal Government had deregulated our energy producers several years ago, as some of us pleaded, the United States would not be at the mercy of foreign oil producers today. And our economy would be in far better shape.

The President, as I have said, can bring order out of chaos beginning on June 1. He can restore some degree of sanity to our national energy policy if he will only act to free us of the cumbersome regulations that have discouraged domestic production.

The President talks a great deal about the need to streamline and control the Nation's regulators. I wholeheartedly agree. And I was pleased to read his remarks made in Dallas over the weekend:

> For far too long, we have acted as if we could throw another rule at every problem in our society without thinking seriously about the consequences. When I came to Washington I found a regulatory assembly line which churned out new rules, paperwork, regulations and forms without plan, without direction and seemingly without control. Such a system eats up productivity and capital for investment. Americans will not support—and I will not permit—needless rules, excessive costs, duplication, overlap and waste.

Intended or not, the President put his finger on precisely what is wrong with our current energy policy. As he prepares to announce his decision on decontrol of domestic oil later this week, I hope the President will remember what he said—and promised—in Dallas. There has been a lot of talk by this administration of its desire to reduce pervasive Federal regulation; unfortunately, there has been precious little action.

The Carter administration simply must take the steps now to substantially reduce the burden of Federal regulation, the root cause of our energy supply problem. Until the administration does act, it should not expect either the American people or Congress to suffer the inconvenience of shortsighted measures such as rationing, advertising bans, and weekend station closings which only perpetuate the illustion that our problem is temporary.

I joined with several of my colleagues last week in a letter requesting that the President decontrol upper tier crude on June 1, 1979 and systematically remove controls on lower tier crude by September 1981. I urge the President to give our proposal serious consideration. We simply must adopt a realistic, free market energy policy that will reduce our dangerous dependency on foreign imports.

I ask unanimous consent that the March 20, 1979 letter to President Carter be printed in the RECORD.

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

WASHINGTON, D.C.,
March 20, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: One of the major problems with our economy is the excessive importation of expensive foreign oil which

increases inflation. The continual and increasing cost of over forty billion dollars a year is resulting in an enormous impact on the dollar. A weakened dollar increases inflation. If energy imports are decreased, if domestic production is significantly increased, and if we can consume less in the United States, then we can really diminish inflation. We must not look at the short-term in devising a policy for the pricing of our major energy source. We must consider what is the best for our nation in the long-term.

If we are to become more energy independent, we must greatly increase capital investment in all forms of domestic energy production. Retained profits by the private sector plowed back into investment are certainly the preferable and most effective source of the necessary capital. To obtain necessary capital, domestic prices should go up to the world price as soon as possible. In addition, proper conservation and the need to make realistic, long-term investment decisions in all areas of the private sector, dictate that we move to the world price.

If you were to decontrol upper tier crude immediately on June 1, 1970, and systematically remove controls on lower tier crude by September, 1981, two things would occur. First, producers would be allowed to receive a price for their products commensurate with replacement costs which would in turn spur increased domestic production and thereby begin chipping away at our excessive foreign imports. Secondly, by allowing the price of crude oil to reach world market levels, the price of petroleum products would soon reach a level which would assure decreased consumption, and accordingly, greater conservation.

There will be some price increases which would result from the decontrol of crude oil prices. And, certainly, we all recognize that no member of Congress can be enthusiastic about supporting programs which are likely to result in higher energy prices. In our judgment, however, a majority of the members of the House and Senate can be persuaded to accept higher energy prices if there is some reasonable prospect that those higher prices will contribute substantially to the solution of our present energy supply problem. Certainly, the American public appears ready to accept the short-term impact of higher prices if they can look to the long-term impact of certainty of supplies. The public understands that, in the long run, consumers will have to pay much more for energy if we remain at the mercy of foreign producers than if we develop our own sources.

We recognize the political difficulty which you face in making this decision. But, we must all face the fact that there is no cheap or simple solution to our energy problems. We have reached the point that decisive action is required, and you will have the opportunity with the expiration of EPCA to exercise such action.

While the option we support requires a full measure of political courage, the alternative is much worse. Controls have only succeeded in (1) raising the costs of energy significantly, without doing enough to increase production and (2) jeopardizing the economic, political, and military security of this nation.

If supplies of oil from Saudi Arabia or some other crucial energy supplier were shut off, the economic disaster would be so great as to make moot any concern with partisan politics. We must not continue a policy which has placed America in such grave jeopardy.

We must have an energy policy which effectively promotes conservation and specifically reduces foreign imports of oil. There is no question that this policy can be accomplished by allowing the market place to reflect the cost of energy products rather than the Federal government.

We very much look forward to your response concerning these important energy policy matters.

Respectfully yours,

DAVID L. BOREN,
LLOYD BENTSEN,
JESSE HELMS,
JAKE GARN,
HENRY BELLMON,
JOHN TOWER,
THAD COCHRAN,
JAMES MCCLURE.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

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 second 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.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there any additional morning business?

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

EXTENSION OF THE PUBLIC DEBT LIMIT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 2534) to provide for a temporary increase in the public debt limit, and for other purposes.

The Senate resumed consideration of the bill.

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 second 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.

FIFTEEN-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 12:33 p.m., recessed until 12:48 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. STEVENSON).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business of not to exceed 10 minutes, with Senators permitted to speak therein up to 5 minutes each.

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

Mr. ROBERT C. BYRD. 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. 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.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business again be closed.

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

EXTENSION OF THE PUBLIC DEBT LIMIT

The ACTING PRESIDENT pro tempore. The Senate will continue with the consideration of the pending business.

The Senate continued with the consideration of H.R. 2534.

Mr. ROBERT C. BYRD. Mr. President, are both amendments in the second degree, or a substitute and a perfecting amendment?

The ACTING PRESIDENT pro tempore. Both the amendments by the Senator from Louisiana to the amendment by the Senator from Colorado and the Senator from Kansas are in the second degree.

Mr. ROBERT C. BYRD. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of routine morning business for not to exceed 15 minutes, with Senators permitted to speak up to 5 minutes each therein.

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

THE MIDDLE EAST PEACE SETTLEMENT

Mr. PROXMIRE. Mr. President, it can be said without any exaggeration that the President's Middle East peace initiative is the most important act of his administration. Seldom has the world witnessed the kind of personal dedication and perseverance displayed by President Carter in bringing two intractable foes to the brink of peace.

It may well be impossible to measure the positive consequences of this bold diplomacy. If even one war is averted in a region where wars are commonplace, if one generation is allowed to live a normal

life in a time of turmoil and family tragedy, if there can be brotherhood between peoples separated by 3,000 years of hatred, then President Carter has given the world a gift which is explained adequately only by the Bible—"Blessed are the peacemakers, for they shall be called the children of God."

Peace—that illusive goal of man and nations, the word on men's lips though not always present in their hearts—peace is a condition of life that cannot be measured in dollars and cents. What is it worth that a generation of Israelis and Egyptians live without war, without loss of life, with greater economic resources for self development, with an enhanced quality of life? Is this kind of peace worth $1 billion, $5 billion, $100 billion? This metaphysical question cannot be answered in any ordinary sense.

But are there principles to guide us in the search for this answer—what is peace worth? Perhaps there are. The first is that peace is a shared commodity. Peace in the Middle East benefits not only the residents of that region but tens of millions around the world. Oil, regional security, balance of power—these are the geopolitical considerations which flow from a condition of peace. Japan, West Germany, Great Britain, Western Europe and Africa all share the fruits of a peace in the Middle East.

In many ways the United States had the most to lose in a volatile Middle East. We have gained an enormous, tangible benefit. It is only appropriate that the people who benefit from peace should share the burdens of peace. The United States has played an instrumental, catalytic role in these negotiations. Thus we have carved out a certain responsibility as a party to the peace plan. But we need not believe that our special relationship be exclusive. There are other benefiting parties.

Each must assume its fair share of the costs of peace as well as the benefits. This is particularly true in terms of developmental support for Israel and Egypt. Should Saudi Arabia reduce or eliminate its annual $1.5 billion fiscal contribution to Egypt as a result of pressure from the Bagdad Conference members, then Europe, Japan, and Africa will have to join the United States to fill the gap. We cannot do it alone. We should not do it alone. Multilateral assistance is better for the recipient and is absorbed with far less political danger than bilateral aid. That is my first point. The United States should not be expected to carry the financial burden of economic development in Egypt and budgetary support in Israel by itself.

The second issue is more fundamental to the kind of peace that has been negotiated. It is the irony of our age as Winston Churchill put it that we have "reached a state * * * where safety will be the sturdy child of terror and survival the twin brother of annihilation." Even with peace, Israel and Egypt will rely on increasing armaments to maintain the perception in each country of the regional balance of power. As with the SALT negotiations we have seen that success breeds a strange alliance. The very instruments of death and destruction so desperately accumulated prior to peace are desperately augmented in the aftermath of peace. It is as if the weapons are independent of the fact. The arms race moves on in new directions between the U.S. and U.S.S.R. while each party rests in the assurance that an exchange of paper somehow caps the race. In the Middle East the first initiative after the dramatic announcement of agreement on a peace treaty is the military requirements levied on the United States as a precondition to that peace. Egypt requires an extensive rearmament program to modernize its obsolescing weapons and replace inadequate Soviet equipment. The Egyptians have submitted a long shopping list to the Pentagon including 300 F-16's, 600 tanks, 500 artillery pieces, 2,000 armored troop carriers, submarines, jeeps, the Hawk antiaircraft missiles and associated items. The total 1 year U.S. cost for military assistance to Egypt might well exceed $1.5 billion with more in succeeding years.

Israel, on the other hand, is requesting that the United States pay for the withdrawal of Israeli forces from the Sinai at a cost of nearly $3 billion over 3 years ($800 million in grants and $2.2 billion in loans). This appears to be a supplement to the $1.8 billion in annual military and economic assistance now provided by the United States to Israel. In addition, the United States apparently has agreed to step up deliveries of 75 F-16 aircraft.

So what we are seeing is a return to that old state of mind. In peace or during periods of tension, weapons are the answer. And the United States, for various reasons, is going along with the Iranian syndrome. Somehow more arms equals more security, more stability in the Middle East, insurance of the supply of oil.

For too long we have acepted this simple formula without thinking through its consequences. With the image of Iran looming before us, we cannot now ignore the obvious. If one accepts the need for a balance of power in the Middle East, as I do, then there are several alternatives to preserving this balance. You can preserve the balance by staying at the status quo or by reducing the armaments on both sides. In other words, the balance need not automatically rise upward, with or without peace, independent of the external conditions.

As a Senator who opposed the arms sale package to Saudi Arabia, Egypt, and Israel, I feel compelled to oppose any new round of weapons accumulation in the Middle East—even if tied to and justified by the peace treaty. In the euphoria of succes we may be tempted to pay any price. But the payment should not include a new round of the arms race in the Middle East dressed as the dove of peace.

The PRESIDING OFFICER (Mr. EXON). The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I yield 5 additional minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

THE GENOCIDE CONVENTION: AN AFFIRMATION OF OUR BASIC IDEALS

Mr. PROXMIRE. Mr. President, a few miles away from this Chamber, etched into the marble walls of one of this city's memorials, are the words:

> We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness. . . .

Mr. President, Thomas Jefferson's words are as radical today as when they were first written. It was indeed a noble and brazen effort to attempt to build a nation on right instead of might. Yet that is just what we have done. From the Declaration of Independence to the Bill of Rights to the subsequent amendments to the Constitution, we have endeavored to base our system of government upon universally recognized human rights.

Mr. President, the zeal and gumption of the American people to insure that individuals are guaranteed fundamental human rights has not been reserved for individuals living within this country alone. Throughout our history the United States has considered human rights in other countries to be a matter of our deepest interest and consonant with the profound commitment to the heritage of freedom which has nourished us. Examples abound of our Government's humanitarian intervention in behalf of oppressed religious and ethnic minorities in other lands.

The United States has intervened on behalf of oppressed religious minorities of the Ottoman Empire in 1840; in Morocco in 1863; in Rumania in 1872; and in Poland in 1918–19.

America's historic commitment to the protection of human rights found further expression in the efforts of President Taft in 1913 to obtain guarantees for minority rights in the peace treaties that followed the Balkan wars. President Woodrow Wilson urged a similar course in the peace treaties of 1919 involving central and east European countries.

Mr. President, in light of our country's efforts to secure a respect for human rights on the international level, it is indeed a shame and an embarrassment to look at the Senate's record of action on a treaty that would guarantee the most fundamental of human rights—the Genocide Convention. This Convention, which guarantees the right of a racial, religious, ethnical, or national group to live, has been before the Senate for almost 30 years without being acted on.

Is it because the treaty lacks endorsement?

No, Numerous Presidents, the Secretary of State, the Defense Department, and virtually every religious denomination have endorsed this treaty.

Is it because it would drain the Treasury?

No, again. Our ratification would not cost us one penny.

Is it because there are constitutional problems with the treaty?

Three times, no. The prestigious American Bar Association, gave its full

endorsement to the treaty in 1976. It was the Bar Association's overwhelming conclusion that the constitutional arguments against the treaty were invalid.

What then is holding us up? Only one thing, Mr. President: Inertia. The Senate has simply become too lackadaisical to take action on this issue.

Mr. President, we must move before it is too late. If we do not consider the Genocide Convention within the next few weeks, we will never be able to get to it under the swarm of legislation that will hit us mid-spring. No treaty, Mr. President, could be more in line with the fundamental values upon which our Nation was established. No treaty could be a better affirmation of our commitment to human rights on an international level. No treaty has had more endorsements, more thorough scrutiny, more painstaking consideration.

Mr. President, we must not let another opportunity slip by the boards. We must take immediate action to ratify the Genocide Convention.

Mr. President, I thank the distinguished majority leader and yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EXTENSION OF THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The Senate will resume consideration of the pending business.

The Senate continued with the consideration of the bill, H.R. 2534.

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. MOYNIHAN. 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. MOYNIHAN. Mr. President, last evening, toward the close of debate on the measure before us, which is to say, the debt ceiling limitation measure, H.R. 2534, I had occasion to introduce for the RECORD, some numbers on the question of the deficit in the public sector in 1978 as represented by the Federal budget. I contrasted this with the surplus in the public sector of State and local budgets during the same year, such that, if memory serves, the public sector deficit was only about $1.9 billion—not a large sum. I said it in response to some observations made by my new friend, the distinguished Senator from Colorado (Mr. ARMSTRONG), who was not on the floor at the time—I noted that he was not—and inasmuch as my remarks were somewhat divergent in their implications from his, I assumed that the time would come when he would wish to respond.

I see that he is on the floor now. I wonder if he would wish to take this opportunity to present his thoughts in the matter, compounding them with observations on the subject of the money supply and its role in inflation.

He will recall that my point was that the sources and origins of inflation in this time are very much more complex than merely that of public spending, that 1978 was a year which showed us that the base for what looks like fearsome inflation at this moment, was not one in which the public sector itself was particularly in balance. I ask, since there are not many Members on the floor, if I could take a moment to say with respect to the whole subject, there is a line of Hilaire Belloc which goes like this:

> The question is very much too wide and much too deep and much too hollow, and learned men on either side use arguments I cannot follow.

I see the distinguished Senator is here and I wonder if he wishes to speak to his point, and to elaborate his point of view.

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

Mr. ARMSTRONG. Mr. President, I thank the Senator from New York for his courtesy and for the wisdom of the insights he has shared with us and for the style and grace he brings to debate on this issue on the floor.

I do, as a matter of fact, disagree with one of the principal points the Senator from New York raised yesterday. Before I raise the one with which I disagree, I call the attention of the Senator to the observations which my distinguished colleague from New York has made about the conception of the gross national product, how the fate of Germany and the United Kingdom were influenced during World War II by the relative appreciation and understanding of that economic concept.

I think that is a very useful insight, and I hope that every Member of the body will reflect upon that and look upon the comments of the Senator from New York on pages 6140 and 6141 of the RECORD.

I should like, however, respectfully to disagree with the balance of my colleague's remarks. He pointed out in his comments yesterday, and I shall quote:

> The problem of inflation is a formidable one and, at this point, it is beyond the clear understanding of the economics we have available to us. But if there is one thing we can be clear about, it is that it involves a much more complex set of phenomena than simply the deficit or surplus of the Federal budget.

Mr. President, I say I think my colleague is mistaken in this matter, that inflation is by no means beyond the clear understanding of the economics available to us. The cause and the cure of inflation, in my judgment, are quite plain, both from a logical and historical perspective. It seems to me that what the Senate lacks is not knowledge of inflation, but the courage to face up to it.

Over the years, inflation has been blamed on a wide variety of villains—not, I shall say, yet by the Senator from New York, but by other Members of this body and the other body and the general public and the press—price-gouging corporations, labor unions, this, that, and the other, and even, on many occasions, on the weather. You will recall that when there was a run-up of prices in certain food commodities a few years ago, it was blamed on the shortage of Peruvian anchovies, which was a function of the weather.

The truth, however, it seems to me, is very plain, that none of these is the cause of inflation, that those who seek to blame inflation on these spurious causes really are wide of the mark. The cause of inflation, indeed, the very definition of inflation, is the expansion of the money supply and credit in an economy greater than the rate of expansion of the production of goods and services; that is, simply said, too many dollars chasing too few goods.

Price increases, wage increases, shortages caused by weather or other acts of God can create temporary increases in some but not a general increase in prices throughout the general economy. That can only be occasioned, in my opinion, and in the opinion, I believe, of most economists, by an increase in the money supply which exceeds the increase in the Nation's productivity. It is easy to see why that is so without dwelling on it.

Let me point out that this fundamental economic truth can be seen simply by examining the rate of inflation over the years and comparing it to the rate of increase in the money supply. Year after year, when we have had an increase in the money supply beyond that which is reflected in the increased supply of goods and services in the economy, this has been followed by increases in the general price levels.

I stress to my colleague from New York and other Senators that this is not inevitable. Inflation is not some irresistible force like the wind or tides. It is something which has been caused by excessive increases in the money supply.

As a matter of fact, it is interesting to note that, throughout the recorded history of the world, inflation was a relatively unkown phenomenon. In our own country's history, prices were about the same in the 1930's as they were in the year 1800. They only doubled from the year 1800 to the year 1940 on those products and services which were comparable over that period of time. The tremendous increase in prices has come only during the years when we have had a tremendous run-up in the money supply.

That brings us to the bill which we shall be taking up later this afternoon. As we seek, in this legislation, to increase the national debt, what we are really doing is, once again, funding annual operating deficits. When that happens, the money supply is increased as the Federal Reserve follows its legal mandate to support Treasury issues, various certificates of indebtedness which the Government issues to support the deficits. That means a larger money supply, the run-up of the money supply beyond the productivity increases, with consequent inflation. That is the central concern, it seems to me, in the legislation which we shall further consider and, I hope, dispose of this afternoon. The question is, how much inflation are we willing to impose upon the people of this

country—inflation which, in my view, is the inevitable consequence of increasing the money supply too fast?

Mr. MOYNIHAN. If the Senator will yield, I shall respond to him. I congratulate and thank the Senator from Colorado for his clarifying and thoughtful remarks on this matter, but I beg vigorously to disagree on the one point: Does the economic profession, calling, clergy—whatever—really have a grasp of the present phenomena?

I beseech my new friend, the distinguished Senator from Colorado, to consider that this may not be so. They insist it is not so. The work of the monetarists of the Chicago school, which we associate with Professor Friedman, has clearly been the most important addition to our understanding of these phenomena since the work of Lord Keynes.

Yet, it is not sufficient. Economists do not predict events. Nobody does. One of the reasons, I think, that I often have thought, and Professor Modigliani at MIT, the institute professor at MIT, has said, that there have been a series of supply shocks to the system in the 1970's which were, as the economists say, exogenous in their origins—the OPEC price increase being the most conspicuous—and that has kept the economy off balance. There have been economic events that were political in origin that have certainly kept us off balance of which the decline in the dollar has been one.

I do not know why the dollar declines and not many do. Some say that there was too much of a Eurodollar out there, that there was inflation here. Yes. Yes. Yes.

But I think at the origin there was a political element in that decline. But the minute this political event occurs, the next morning everything costs more here. Again, an exogenous event.

I do know this, however, that if inflation is a relatively new phenomenon, I would particularly ask my friends from the Great Plains to remember that deflation was not a new problem for us. We went through 50 years of sheer hell for the American farmer after the Civil War, because the people standing in this Chamber insisted on a surplus every year to pay off the national debt. They were well-intended people and they created economic disasters.

During the late 18th century, as the Nation was founded, the United States faced a severe national debt. As part of the agreement to form the United States, the Federal Government agreed to assume the debt incurred by the States during the Revolutionary War. But Hamilton and Jefferson did move—they agreed to move the Capital from New York to Washington. A grave mistake from which the Nation has not yet recovered.

But by about 1838, all that debt had been paid off. In fact, the Federal Congress came to a point where there was a surplus and divided the surplus around the States.

In Maine, they divided it among the people. I think they got 7 cents.

But the Civil War came, huge new debt followed, we set out to repay that debt regardless, and we kept a deflated agricultural community for half a century.

I ask anybody, if he would remember, what does it mean when we talk about the great battle of free silver?

I see some Senators from silver-mining States here. What do they think?

The distinguished Senator in the Chair, unfortunately, cannot speak, but I see he recognizes it.

What do we think free silver was about? Why were the farmers fighting for it year after year?

Bryan. Bryan. Bryan. Four times our candidate for President, my party, and the party of the distinguished Senator in the Chair.

Why? Because the Federal Government was deflating and they needed to get some currency in circulation so as to prevent the constant drop of agricultural prices.

Just as the whole movement of populism that swept the Great Plains was a move against the deflationary policies of this Congress, so, too, it was a revolt of people. Nobody understood quite what was happening, but the farmers knew they were being destroyed and those small towns were being destroyed. And we built up a phenomenon of monopoly capitalism and vast trusts, and things like that, which we still have not got out of our system in this country. But these forces would not have happened if it were not for the prolonged depression of agriculture and small-town economies in this country that followed from those fiscal policies.

So I do not mean to say anything more—no, I will say this—I wish this debate were being carried out more on the terms that the distinguished Senator from Colorado makes it, in terms of what new have we learned? What do we not know? What do we know? That, in some of the other voices I have heard, not in this Chamber, but in this country, which is the voice of primitivism that says that everybody knows all about economics: You just have to have been married for 20 years and bought a house and car and raised three kids, and what else do you need to know? We need to know a lot more.

Yesterday on the floor, the Senator from Louisiana, who is sponsoring this legislation, discussed Herbert Hoover. I do not mean to be derogatory of Hoover. Remember, if President Hoover's views were complex, those of Roosevelt were positively primitive at the time.

But we know what was done in response to the crash of 1929. The Federal Reserve proceeded to squeeze and cut back the money supply in the most shocking way. The President called—everybody knows—for a balanced budget. Herbert Hoover was one person who began to understand the need to reflate, as they said in those days, to add money to the system, and the Federal Reserve Board would not let him. Roosevelt only stumbled onto it.

That never really did work until the Second World War when in 1943 the Federal deficit was almost exactly the size of the Federal revenue. We spent twice as much as we took in.

The whole point, if I may strain the patience of my friend from Colorado, is that an industrial economy is subject to crisis. It is different from the kinds of preindustrial crises which came when it did not rain, or the locusts came.

Marx was one of the first European economists to know this. He said, "Capitalism is crisis prone."

Well, it has taken us a century to learn to deal with those crises. We used to call them panic. Panic was a good 19th century American word.

In 50 years—this is the 50th anniversary of the great crash—in 50 years from the great crash, we have, excepting for 1931, and a little setback in 1937, we have not had depression in half a century.

Well, we had the most severe one in 1975, but if this legislation had been in place in 1975, we would have been thunderstruck.

I repeat the material, because it responds to some remarks made with great eloquence yesterday, by Dr. Gramley, of the Council of Economic Advisers, who sent me a letter yesterday about what would have been the effect in 1975 if legislation like this had been in place.

We have a fair capacity to approximate. We have models of these things. I was struck by the model run by Prof. Otto Eckstein at Data Resources, Inc. He did the same thing and came out with almost exactly the same results.

That legislation would have required a reduction of about $100 billion in Federal spending that year—just what the Federal Reserve Board did and Franklin Roosevelt called for in 1930. It would have cut GNP by 12 percent. That runs up to a half-trillion dollars in lost GNP—a half-trillion dollars or more. It would have produced an unemployment rate, the Council says, of 12 percent; the Otto Eckstein group says 11 percent. It is a depression level of unemployment. In the central cities, it is double that rate.

This is no cure for inflation. This is a formula for economic stagnation. It is calamity.

I know that on our side, we come into this forum and exchange such limited knowledge as we have. But this is not an exchange of knowledge; this is simply a manifestation of fear—not the Senator's proposal, but this whole movement. It is a fear of the unknown. Rather than just responding to our fear, why can we not stretch the horizons of our knowledge.

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

Mr. MOYNIHAN. I yield.

The PRESIDING OFFICER. At this time, the Chair recognizes the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, the Senator from New York raises two or three issues that require at least a brief response.

First of all, it seems to me that, during the course of his remarks, we have reached agreement on the question of inflation; because, as he pointed out in referring both to the 19th century and the period in the 1930's, it was the change in the money supply that occasioned the change in price levels. The Senator pointed out that a weakening money supply in the 19th century caused a sharp

drop in prices, particularly with respect to agriculture; but through the 1800's, the general level of prices in this country declined, and the same was true in the 1930's. That is the point at which it started.

An increase in the money supply beyond the increase in productivity—that is when you have more dollars chasing proportionately more goods and services. That is what inflation is. In the dictionary sense, that is the definition. The consequence, which is what most people term inflation, is an increase in general price levels. That is a higher consumer price index, higher costs of groceries and fuel, and so forth.

I am pleased that in the course of this discussion, we have staked out, between the Senator from New York and me, an area of considerable agreement with respect to the money supply.

Also, I think the Senator may have misunderstood. If I gave him the impression that I had great faith in economic forecasts, I would want to clarify that.

Mr. MOYNIHAN. To make such a charge would be subject to a point of personal order, requiring an apology, and the Senator knows that I would never dare act in such a way to provoke bad feelings through bad manners.

Mr. ARMSTRONG. I thank the Senator.

I am one of those who agree with the distinguished former Chairman of the Federal Reserve Board, Dr. Burns, who said the trouble with economic forecasters is that they claim to know more about the future than good scholars know about the past. I share that perception.

I believe that while we must work with economic forecasts and econometric models, we must do so at the general intellectual level of witchcraft.

That is not to say that there are not some things known. One thing that I believe is well understood is that as the money supply increases beyond the rate of increase of goods and services, the inflation which results causes a runup in prices.

In this bill, I suggest to the Senator from New York, it is not the product of the fear of the unknown; it is the product of the fear of the known. It does not create an ironclad inflexible parliamentary situation. It simply says that because of the three decades of experience with rising deficits, the increase of the money supply which results, and the runup in price levels which has hurt practically every family in the country, has hurt every business, has hurt our balance of trade, has been partially if not entirely responsible for the declining status of the dollar on the international exchange markets—as the result of all these factors, there is an agreement that somehow we would have to bring this budget into balance; perhaps not every year, perhaps not inflexibly.

There are those who argue today—and I would not contend with them—that there are times when an unbalanced budget is justified. I think that is arguable. The Dole amendment does not say that we never can have an unbalanced budget. It says that if the budget is to be unbalanced—that is to say, if we are going to create additional public debt—it must be done only with an extraordinary majority in this body.

The suggestion that Senator DOLE and I first brought forth was for a two-thirds majority. Later, we decided that was perhaps much, and we offered to scale it down to three-fifths.

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

Mr. ARMSTRONG. I yield.

Mr. MOYNIHAN. Here is where I think we might identify our differences.

I would wish to join the Senator, and this side of the Chamber would wish to join that side, in the quest for a better understanding about inflation, to a better degree than we now have understanding. But we feel that in the course of dealing with the inflation, the up side of an industrial economy, the Senator does not mention what we have learned about the down side. The Senator imposes upon us rigidities that would deny us the use of a half century of hard-earned and, on the whole, very successful knowledge.

One of the things we know is the need for is flexibility. It was because the Federal Reserve Board dogmatically thought it knew what to do in 1930 and 1931 that in part created the great depression; and if Franklin D. Roosevelt had not been lucky in his advisers, he would have done worse than Hoover had done.

We have learned something in a half century. We have learned that if this balanced budget gimmick had been in place 4 years ago, under a Republican President, we would have had, if I recall correctly the phrase of Secretary of the Treasury Humphrey—under President Eisenhower—a depression that would curl your hair.

That is more of a statement than a question, but I ask the Senator this: Does he not see that we fear ignoring what we have acquired in this quest—knowledge.

Mr. ARMSTRONG. I think the Senator's point has merit and is a very substantial concern, indeed.

First of all, it does not necessarily follow that if this proposal had been the law 4 years ago, a balanced budget would have ensued. In fact, this proposal does not guarantee that a balanced budget will obtain in any year.

The question is, by what majority should an unbalanced budget occur? What should the presumption be? I submit that after the kind of inflation we have had, a presumption in favor of balancing the budget and stable prices is a good presumption.

I point out that within the last 4 years—the Senator mentioned that period—the purchasing power of the dollar has declined drastically. In fact, it went down by 1.2 percent in the month of February alone—at an annual rate of 15 percent in February. It was 9.5 percent last year. The tremendous hardship this has been for many families in this country should not be ignored.

I am not arguing today that there is never a time for an unbalanced budget. I am just saying that when that time comes, there is plenty of evidence that it is easy, that it does not require great political willpower or great discipline, to pass an unbalanced budget in hard times. On the contrary, what seems to be impossible, even in good times, is to pass a balanced budget.

We have been through perhaps the 20 most prosperous years in our Nation's history; yet, we have had an unbalanced budget all the time—I suppose with the exception of 1 year in the last 20.

I am simply suggesting that a presumption in favor of a balanced budget would not be an unwise thing; it would be a very wise thing to do.

Mr. MOYNIHAN. Mr. President, I observe that the Senator from Colorado is more than a little formidable in his economic arguments.

And I think in the circumstances I will shift the ground and say something from a field which we are perhaps equally ill-equipped to discuss.

But to say it with great seriousness. What I object to most in the proposal before us is original two-thirds and then the subsequent three-fifths provision.

If there is one failing in the American Constitution—well there are probably more than one—but the only one that I find myself troubled by at this point is that two-thirds vote required to ratify a treaty. Two-thirds is an unnatural proportion for any democratic assembly. I mean, it is said lightheartedly that you could not get a two-thirds agreement on the time of day. It is just not natural. It is not the way the dynamics of our system should work.

Has there ever been a President since George Washington who received two-thirds of the popular vote? I think not. Our Presidents tend to win by one-tenth of 1 percent. And 55 percent is a big margin in an election. I wonder if we could ask Alexander Hamilton: Did he think we should demand a two-thirds majority on anything except the most extraordinary of events. I think he would say no. I wish he were here to guide us.

Mr. ARMSTRONG. I am not sure how far afield we should go in this discussion. I guess we are rambling while our colleagues have lunch.

But I say to the Senator from New York that the test of any political theory is in how it works in the real world. And I wonder if the Senator would care to name some of the important propositions which he would have liked to have seen enacted which were defeated as a result of this two-thirds requirement. Immediately none come to my mind.

Mr. MOYNIHAN. Yes. We would have joined the League of Nations had we not had that two-thirds vote. I think our failure to have done so resonates to this day in the problems we are dealing with.

Let me shift back to economics. I have a table here, and in our time the man with the table in his hand has the advantage over the person not so equipped. In 1958, after 6 years of Secretary Humphrey in the Treasury, a man not given to extravagance with other people's funds, the public debt was 51.2 percent of our Gross National Product. Last year it was 29.9 percent. The estimate for 1982 is 22 percent. I mean as a phenomenon, as an amount, as a proportion of debt

in this country, Federal debt has been going down regularly even as the amount has risen. And it has gone up by about three times in these 20 years.

Mr. ARMSTRONG. Mr. President, do the Senator's figures reflect the off-budget debts as they increase in that same period of time and the liability for social security trust fund and Federal employees trust fund and the various unfunded debts?

Mr. MOYNIHAN. No, this is debt held by the public.

Mr. ARMSTRONG. Yes. I think, first, that while I have not claimed and do not claim now that the proportion of debt as measured against the Gross National Product is determinative of inflation—that is solely, in my view, a function of the increase in the money supply—I do happen to think that the increase in the national indebtedness is a very serious problem, but to refer only to that portion of the national debt which is represented by Treasury bills and other Treasury certificates I think begs the issue, because we have an enormous unfunded debt which has been growing very, very rapidly in these trust funds which are simply not reflected in those figures.

And the last figure I have heard bandied about by social security is $2.5 trillion. I think when we talk about the proportion of debt against the size of the economy, we must take the other debts into account as well.

Mr. MOYNIHAN. Here I have to invoke Belloc. It is:

> The question is very much too wide and much too deep and much too hallow, and learned men on either side use arguments I cannot follow.

But I do think that a distinction would have to be made, sir, between a publicly held debt, an investment purchased by an investing public of a debt certificate as against the private sector.

The point about the public debt is that after a point, it is in competition with those seeking to borrow for purposes of investment in the private economy, and you do not want more than just a little bit of that. You want as much investment as you can get, in the main, when the time the public debt seriously is an obstacle to private investment. But that would not be the case today. Resources are not being diverted. Or does the Senator from Colorado think otherwise?

Mr. ARMSTRONG. The discussion began, I would say to the Senator, with inflation and its cause which is in my view the increase in the money supply. There are other economic problems. Inflation is only one of the problems which confronts us in the national economy. One of the problems that I am very much concerned about is the extent to which we have pledged the work and resources of future generations to pay for the desirable programs of the present, and in that extent I cannot distinguish between the funded debt and unfunded debt.

Mr. President, before I yield the floor entirely and hope we are prepared to go to a vote on the pending amendment, I wish to make one additional observation to my friend from New York. I do not want him to think that I am insensitive to the concern he expresses about the down-side potential in our economy. I am sensitive to that, and I hope he will look with interest and favor on my amendment No. 110, which is pending to this bill, which addresses itself to that aspect of our national economic problem. I am persuaded that the greatest single impediment to the prosperity and growth of our economy is the excessive level of taxes in this country.

For the average median income family of four taxes have tripled, and the median income family is paying over $6,000 in taxes to the Federal, State, and local governments. We all know that the amount of taxes in dollars and the portion of personal income devoted to taxes have been rising rapidly, so we have the unfortunate, almost unthinkable, situation in this country today where the median income family has less after tax, after inflation income, than they had 5 years ago.

The Senator from New York is a historian, and I am sure he would agree that the very essence of the American dream or at least a great part of the American dream is the concept of rising expectations, of hard work, thrift, and doing better next year and next generation than we are doing now.

So in a country like that when we face a situation where real incomes after taxes and inflation are going down, I think we ought to take a hard look at our economic policy.

The amendment which I intend to call up, depending upon the outcome of amendments which are ahead of it in the pending business line, the effect of it will be to create a presumption in favor of a tax cut. In fact, it does three things: First, it cuts taxes in each of several years ahead. It conditions that tax cut on restraint in Federal spending so that Federal spending will decline as a proportion of the gross national product in easy annual steps; and, finally, that we have a balanced budget in fiscal 1981.

So that I hope that, while it is not the pending business at the moment, the Senator from New York will take a long look at that, because I think it really does respond to the concern he has so well expressed, and I hope he will join me in this measure. If I am not mistaken it has been before the Senate previously, and I regret that I do not recall how the Senator voted on that occasion, but it was endorsed by about a 3-to-1 margin on October 9 in this Chamber, and I hope it will be again.

Mr. MOYNIHAN. I thank the Chair and I thank the Senator from Colorado for his thoughtful and clarifying observations.

I would like to call attention to an amendment I have, which is 118, which simply says that in considering the balanced budget for fiscal years 1981 and 1982 the Congress shall maintain as near as possible equal per capita expenditure levels among the several States.

I hope he will find it possible to support this measure. It would not be, perhaps, to the immediate advantage of Colorado, which is a State that gets back from the Federal Government a great deal more than it returns in taxes. It would be of great advantage to the State of New York which does just the opposite. But to avoid regional animosities, I hope my friend from Colorado supports my amendment.

I would simply like to make this one point, sir: I hope the States whose legislatures have called for a constitutional convention realize that the true beneficiaries of the Federal deficit are not the liberals, but the people in the Sun Belt.

I repeat on the floor what I said on a less public occasion recently: That if we could agree to maintain the service of the public debt and the U.S. Navy, the State of New York would be considerably better off leaving the budget at just that. It is we who would hemorrhage ourselves providing for programs that make for great prosperity in other parts of the country, and those other parts of the country should not indefinitely suppose that we will never waken to this imbalance.

I see the distinguished Senator from Kansas (Mr. DOLE) is on the floor. I would like to point out to him that the amendment I have introduced would be an advantage to Kansas which, in fact, is one of those States that sends more money to Washington than it receives in return, not in that large proportion that most of us in the Northeast must endure, but in sufficient amount that it might, my amendment might, commend itself to his favorable attention.

On the other hand, I see that the Senator from Arizona (Mr. DECONCINI) is present, and looking at these ratios I am not excessively hopeful of my success with respect to his vote, although his national impulse, his sense of what is just, comes from his distinguished career as a prosecutor and officer of the bar; his sense of what is noble and magnanimous, might lead him to overcome what some might view as the merely parochial fact that the Federal budget is, indeed, a very great bargain for the State of Arizona.

Mr. President, I have made some observations about the exchange of resources, the flow of funds to and from the Federal Treasury with respect to different States.

I observe that the distinguished junior Senator from Nebraska (Mr. EXON) is in the chair, and I would like to note that in fiscal 1976, Federal spending per person in Nebraska was $1,194, while Nebraskans paid, in Federal taxes, $1,433, giving them a spending to tax ratio of 8.3 to 10, and having the consequence of Nebraska being a net donor to the Federal Treasury of $370 million in that year, a very large amount for a State of Nebraska's size.

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

Mr. MOYNIHAN. I would be happy to yield.

Mr. DECONCINI. The Senator from Arizona would just call to the attention of the Senator from New York the generosity of this body last year in aiding his great city. Certainly it indicated that many Senators felt the need to not get into the parochialism of deciding the

balancing of each tax dollar in guaranteeing the loans of the city of New York, so I am sure the Senator in his efforts to balance from the journal that he points out here will not forget that the shoe fits different feet at different times, and that we should always remember that, in my opinion, and I am sure the Senator from New York will do so.

Mr. MOYNIHAN. I am happy to observe two things: I thank the Senator for that observation, which is a fairminded one.

I would like to make two comments: First, the loan guarantees that were provided the city of New York last year did not involve the transfer of $1 to the city of New York, not $1. On the contrary, because the Federal Government charges an extra ½ percent of interest on the loan so guaranteed, it brings money back to Washington, thus further deepening the imbalance between my State and the Federal Treasury.

I would say that there is some measure in which we would not have been in that unhappy situation had it not been for this imbalance in revenue flows that has persisted for a generation. But I do not want to in any way suggest that we are anything but grateful to the Congress for its help.

Indeed, 4 days before the President signed the New York City loan guarantee for $1.65 billion, without even a bill-signing ceremony, he signed a measure providing for $4 billion of loan guarantees to farmers, $4 billion. I voted for that. I was happy to vote for it. I have not heard many people standing up and remarking upon my magnanimity in doing it. I thought it was a good idea. I am sure the Senator from Arizona thought it was, and this obviously is a debate that will go on.

I see that the Senator from Nebraska (Mr. EXON) is in the chair, and I would call attention to the fact that in the amendment we are going to discuss about equal expenditures per State, that it is possible to note that Nebraska does not do very well by the Federal budget.

I see the Senator from Wyoming (Mr. SIMPSON) in the Chamber. Well. Wyoming just about breaks even, so the Senator from Wyoming has the opportunity to cast a most disinterested vote in this matter later in the afternoon. I am happy that that is the case, because early in his experience here he has established his reputation as a distinterested and fair-minded person, and the more then do I hope our proposal commends itself to him.

I see that the most distinguished and beloved Senator from North Dakota (Mr. YOUNG) is in the Chamber, and let us examine his situation. I am happy to report that North Dakota is amply rewarded for its contribution to the Federal Treasury, receiving about one-third more in return than it contributes. This can only be attributed to the extraordinary regard with which the distinguished minority Member is held in this Chamber, in his length of service and the diligence of his concerns for his constituents.

Mr. YOUNG. I want to thank my friend from New York, for his kind comments. I will not ask for any more for North Dakota.

Mr. MOYNIHAN. Not for more.

But the Senator will understand if, in the budget balancing, it suggests that we get even less.

Mr. President, I see that the hour of 2 o'clock has arrived, and I will yield the floor.

The PRESIDING OFFICER. In his capacity as a Senator from the State of Nebraska, the Chair suggests the absence of a quorum. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MOYNIHAN. Mr. President, in that we have a moment in the Chamber not occupied by pressing business, I would like to put into the RECORD the material I referred to in the colloquy I had with my friend from Colorado on the devaluation that followed the fiscal practices of the Federal Government after the Civil War, or the War Between the States, as it is called.

In 1867, the price of wheat per bushel was $2.01. By 1900, it was down to 62 cents. That was the consequence, in large measure, of Federal policy, and it profoundly affected the American economy far into this century.

I ask unanimous consent that the table to which I have referred be printed in the RECORD for the further study of the vigorous and informed mind which the Senator from Colorado has brought to this Chamber.

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

SERIES K 502–516. CORN, WHEAT, OATS, AND BARLEY—ACREAGE, PRODUCTION, PRICE, AND STOCKS: 1839 TO 1900

[Census figures in italics]

Price per bushel [1]

Year:	*Dollars*
1900	0.62
1899	*.56*
1899	.59
1898	.58
1897	.81
1896	.72
1895	.51
1894	.49
1893	.53
1892	.62
1891	.83
1890	.84
1889	--
1889	.70
1888	.93
1887	.68
1886	.69
1885	.77
1884	.65
1883	.91
1882	.89
1881	1.20
1880	.95
1879	---
1879	1.11
1878	.77
1877	1.08
1876	1.04
1875	1.01
1874	.95
1873	1.17
1872	1.24
1871	1.25
1870	1.04
1869	---
1869	.92
1868	1.46
1867	2.01
1866	2.06
1859	---
1849	---
1839	---

[1] December 1 price received by farmers prior to 1908; season average price thereafter.

Mr. MOYNIHAN. 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. JEPSEN. 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. JEPSEN. Mr. President, I would like to address myself to some remarks made yesterday by our distinguished colleague from New York (Mr. MOYNIHAN).

He argued that we cannot simply look at the Federal deficit as an isolated entity. We should look at the total public sector, including State and local government. He went on to say that in 1978 State and local governments ran a budget surplus of $27.8 billion while the Federal Government had a deficit of $29.4 billion. Thus, Senator Moynihan concludes, the public sector deficit amounted to a mere $1.6 billion—hardly something to worry about.

I have several objections to Senator MOYNIHAN's analysis.

My primary objection is that he misses the entire point of the so-called balance-budget movement. The objective of those, like myself, who support measures to require a balanced Federal budget is not to balance the budget at all cost, to the exclusion of all other goals, but to reduce the size, growth, and burden of Government.

We believe that a balanced-budget requirement will supply the backbone Congress needs to resist the demands of special interests and those who benefit from Government spending. Thus the question of whether the public sector budget is balanced or not is totally irrelevant.

Another point Senator MOYNIHAN raised in this connection related to aggregate deficit spending and inflation. I am prepared to concede that deficit spending per se is not inflationary. This is because inflation is basically a monetary prenomenon—too many dollars chasing too few goods, as they say. But deficits put pressure on the monetary authorities to increase the quantity of money. What happens is that the Treasury goes into the money market to borrow funds to cover the deficit, which raises interest rates and crowds out private borrowers, leading the Federal Reserve to create new money in an effort to bring interest rates back down again. Un-

fortunately, what then happens is that an inflation premium gets tacked on to interest rates and they end up being even higher than they would otherwise be.

Another problem I have is that Senator MOYNIHAN appears to be mixing apples and oranges when he compares State and local government finances to Federal finances. Virtually every State and local government in America has either a constitutional or statutory obligation to balance its budget. And even if they were not required to do so by law economic necessity would force them to, because State and local governments do not own printing presses like the Federal Government does. If they go too long without balancing their budgets they will literally go bankrupt and no one will ever loan them money again.

Thus, to say that State and local government surpluses somehow offset Federal Government deficits is not really valid. One might as easily say that General Motors' budget surplus last year, which we call profits, offsets the budget deficit to that extent. Or one could say that since all corporations had profits of $178.1 billion in 1978 that there was actually a surplus of $148.7 billion in the Federal-corporate consolidated budget. Obviously this is nonsense.

The last point I would raise is this: The burden of Government is not simply what it taxes and spends, but the total amount of resources which it directs and controls. In this sense, we should add to the Federal Government's outlays the amount of money spent by the private sector for compliance with Government rules and regulations, and the total amount of money Government takes out of the economy in terms of borrowing—not just the amount which finances the public debt. Thus the President's 1980 budget estimates that total Federal borrowing will amount to more than $80 billion in fiscal 1980 even if the deficit is held down to $29 billion. I would also point out that as of September 30 of last year the Federal Government had outstanding loan guarantees amounting to $230 billion.

In closing I will just say that we can play with numbers all day, but the fundamental issue remains how do we restrain the growth of Government. The amendments offered by Senators DOLE, ARMSTRONG, and others are just different ways to cope with this fundamental problem. This is why I think we need a balanced-budget amendment to the Constitution and any other controls we can come up with to reduce the size and power of Government.

Thank you, Mr. President.

Mr. MOYNIHAN. Mr. President, I would like to thank the Senator from Colorado for his observations, which were clarifying. But I do not believe that the concern of the sponsors of this measure should only be with the problem of inflation, and not with the problems of depression, recession, or unemployment.

I spoke earlier at some length about that with the Senator from Colorado. I will note, Mr. President, that later in the day I will call up an amendment which says that in establishing these balanced budgets the Congress shall provide, as nearly as possible, equal per capita expenditure levels among the several States.

I do that in unabashed self-interest because, as the Senator knows, my State is in a deficit relationship with the Federal deficit. We send billions of dollars each year to be expended in other regions of the Nation.

As the Senator, I think, might also note, the tables that we have available and the data we have available show his State to be in a significant surplus. I know I will have his thoughtful attention to the matter, and I dare even hope I might have his support.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise to discuss the comments of the distinguished Senator from New York regarding the National Journal of 1976–77.

The authors claimed that the Northeast and Midwest pay more in Federal taxes and get less in Federal expenditures than do the South and the West.

Since the National Journal articles, a number of in-depth studies have been done by a variety of governmental and private organizations. The Congressional Budget Office, the Congressional Research Service, and the Government Accounting Office have all been highly critical of the conclusions reached in the National Journal articles. In good measure, their conclusions rest upon an illusion created by the statistical devices utilized, among them what one scholar has called "the perils of per capita."

We in the West are still the "little guys"—especially those of us in the Southwest. Our populations are sparse compared to the great metropolitan centers of the Northeast and Midwest. Consequently, even small expenditures can look large using strictly a per capita measure. It might be asked, Why disperse funds on anything but a population basis? Certainly, this would insure there would be no disparities between the States.

The answer, unlike the question, is many faceted. First, not all types of Federal disbursements could be reasonably made on a per capita basis. For example, social security payments are individual entitlements—they must go to the States where the recipients live. Or, consider a long established military base. Its payroll can only be distributed in one place. Furthermore, the base itself can only be located in one place.

Formulas based solely on population would be inconsistent with federalism. But that is a philosophical argument. There is a practical one as well. We undertake a national census only once every 10 years; however, population shifts occur much more rapidly than that. States with dynamic population growth, such as those in the West and the South, would be doomed to a perpetual 10 year lag in funding formulas. Conversely, States that are losing population would be given a bonus for those 10 years, receiving more Federal moneys than strictly population distributions would warrant.

Mr. President, I am quite willing to admit that gross figures appear to give the West and South an edge over the Frostbelt, if you want to refer to it as that. However, anything less than gross figures do not support across-the-board generalizations that the Sunbelt fares better. Consider defense spending: In fiscal year 1976, Oregon received $48 per capita in defense contracts while Connecticut received $620; Arizona received $302 per capita, while Massachusetts received $348.

Frostbelt advocates are quite fond of citing the large numbers of defense contracts that go to Sunbelt States. However, they are unwilling to admit that at least $20 billion is subcontracted to the Northeast and Midwest on an annual basis. Therefore, the supposed advantage is more an accounting trick than a reality. At the same time, they maintain that interest payments on the national debt that flow into New York should not be counted as Federal disbursements to the frostbelt. These funds, they argue, flow out of New York to banks in other parts of the country. At least, we should be consistent. If we are going to refuse to exclude Federal moneys subcontracted to non-Sunbelt States as part of the overall Federal flow into the Sunbelt, we should not simultaneously exclude moneys flowing into New York as payment toward the national debt.

Throughout this discussion, it is important to maintain some perspective. The picture that is painted by Frostbelt advocates—such as the Senator from New York earlier today—depicts the West and Southwest as the repositories of great wealth. In truth, of course, these areas are economically disadvantaged compared to the Northeast. For example, Arizona, my own State, in 1975 had a per capita income that amounted to only 91 percent of the national average. Even Texas was below the national average. New York, conversely, has a per capita income of 111 percent of the national average; New Jersey stood at 114 percent; and the District of Columbia was 131 percent of the national average.

If we rate counties in America on the basis of high, medium, and low income, we find that fully 81 percent of all low income counties are in the South and Southwest. To reinforce that tendency, a recent Congressional Budget Office study concluded that more Federal funds per capita were spent in high income counties.

Finally, we need to keep the economic prosperity of the Sunbelt in perspective. In a study by the Department of Commerce in 1976, it was found that the northern tier of States still possess a significant lead in the level of economic development in both aggregate and per capita terms.

The last point I want to cover is the specific question of whether the Sunbelt receives more in Federal expenditures than it sends to Washington in the form of taxes. The ostensible answer is, "Yes." But we need to look beyond the obvious to understand its meaning. First, most experts have serious reservations about including the corporate tax in a State's tax contribution to the Federal Government. The reason is simple: This merely

reflects where the corporate headquarters happens to be located, not where production actually occurs. Thus, States like New York and Delaware—and thus the entire Frostbelt, the entire Northeast area—appear to have paid more in Federal taxes than other accounting techniques would suggest. The Government Accounting Office, unlike the National Journal articles, calculated the Government aid/tax support ratio using only Federal income taxes. Done this way, the results are inconclusive. The South turns out to have the highest Government aid/tax support ratio; but the Northeast is second; the West is third; and the Midwest is last. Thus, the concept of the Sunbelt versus the Snowbelt simply becomes meaningless. The same is true when individual States are compared. Arizona's government aid/tax support ratio is 1.09. However, Rhode Island's ratio is 1.27, Maine's is 1.68, and New York's is 1.27.

A second major source of distortion in these figures is social security payments. Many individuals retire to Arizona and Florida because of the climate. Thus, they receive their social security checks here. This counts toward the overall support given to our States, but the taxes were paid elsewhere, where they labored.

The Sunbelt-Frostbelt controversy is greatly overdrawn. It is largely meaningless because it reflects inadequate data, faulty methods, and often contradictory assumptions. I would reiterate that what we are faced with is the normal and expected growth of the West and the South after decades of economic stagnation. Unfortunately, some persons view this as a threat to the more established areas of the country, and believe that our growth must be at their expense. Such notions are inconsistent with the facts and fan the flames of sectional rivalries this country does not need. The idea that the West and South get a better return on their taxes is, in large measure, the result of questionable calculating methods.

Mr. STENNIS. Mr. President, I call to the attention of the Senator from Louisiana his amendment which has reference to the presentation by the Budget Committee of a report by April 15, 1979, and then a reference to the fiscal year 1981 and future fiscal years, including fiscal year 1982.

As the Senator from Louisiana knows, my concern, as I expressed it here yesterday afternoon, is about leaving the jurisdiction, powers, and responsibilities of the authorizing committees unimpaired and unchanged with reference to their responsibility for considering the budget and making a preliminary report to the Budget Committee.

I have called that to the attention of the Senator from Louisiana and have spoken with him about language. If I may ask him in the form of a question, what change, if any, does the Long amendment, to which I have just referred and described, have on the authorizing committees, the Appropriations Committees, and also the taxing committees of the Congress?

Mr. LONG. Mr. President, it would not make any change. The relationship between the authorizing committees, the appropriating committees, and the tax-writing committees on the one hand, and the Budget Committee on the other, would remain exactly the same as it is now. What this amendment contemplates is that in 1980 and 1981 the Budget Committee would report to the Senate a balanced budget for fiscal years 1981 and 1982. Prior to reporting that, this year it would report certain projections that would indicate how it thought the budget might be balanced in 1981 and 1982.

When the first budget resolution comes in for 1980—by April 15, 1979—it is not envisaged that that would be a balanced budget for 1980. But the committee might suggest certain reductions that would be appropriate in 1980 if we were expecting to have a balanced budget in 1981.

For the first budget resolutions for fiscal years 1981 and 1982, the committee, if it wants to, can favorably report a balanced budget or, if it wants to, it could report unfavorably on its balanced budget and favorably report an unbalanced budget. It could say, for example, that it does not recommend that we try to balance the budget in 1981, but it is, nevertheless, submitting how the committee thinks the budget would best be balanced if we wanted to do that in 1981. It might also take the same attitude, that we either should or should not have a balanced budget for 1982. But if the committee concluded that we should not have a balanced budget for 1982, it would be under the burden to submit to the Senate how the Budget Committee would propose to balance the budget for 1982 if that should be required.

This in no way would change the relationship between the Budget Committee and the authorizing committees, the Appropriation Committee or the Finance Committee, so that each of those committees would make their recommendations, just as they would do now.

The Senator will notice that there is no proposed change here in any ruler relating to committees other than the Budget Committee. They can provide whatever information they want to provide, just as they have been doing. Obviously, nothing that is recommended by the Committee on the Budget, whether it recommends it as an alternative or whether it recommends it as its principal recommendation, is binding on the Senate. The Senate would have to act on it. I assume the Senate would act on it as the conscience of the Senate would dictate.

So, there would be no change in the relationship of the Committee on Armed Services, for example, and the Committee on the Budget. The Armed Services Committee would still recommend what it thought was essential for national defense. The Budget Committee would take all that into account and, if it did not recommend what it thought was adequate, it is assumed that, just as under the present situation, those who speak for the Armed Services Committee and others would propose amendments on the floor to provide adequately for national defense.

After all, from the point of view of many of us and I even include Howard Jarvis, the author of proposition 13, in the spirit of this language, because I heard him say it personally—it is not this Senate that determines how much we need for national defense, it is the Russians who determine how much we need for national defense. Our level of defense spending depends on how much it would take to defend ourselves against the greatest military power that exists anywhere else on Earth.

Mr. STENNIS. I thank the Senator, and, as the author of the amendment, the Senator from Louisiana, has said, as I understand him, regardless of what the Budget Committee might report here as an alternative or as a report or in language of a report or in language of a resolution itself, there is no authority here, in the Long amendment, that gives that report or language any status of any kind, that changes or impinges on or diminishes the responsibility, jurisdiction, power, the whole situation, that presently is in the authorizing and appropriating and taxing committees.

Mr. LONG. It is not in the amendment and it is not intended to be in the amendment. In other words, just because the Budget Committee reports something does not mean that the Senate is bound to it, no more than it means that we would be bound to something if the Armed Services Committee reported something. That does not mean we have to agree to it. That only means what the committee reports.

In this particular case, I believe the record makes it very clear that the Budget Committee is not even required to recommend a balanced budget. They are only required to report how the Budget Committee thinks that we might be able to balance the budget and how that committee thinks it would have to be done if compelled to do so. The Budget Committee could report out its balanced budget unfavorably and favorably report a balanced budget.

Mr. STENNIS. I thank the Senator again.

The reason I bring this up now, and I want to make this clear, is that I must go to a meeting of the Appropriation Committee, where we have the witnesses waiting, and another thing, legislatively, I could not offer an amendment now, even if I wanted to.

But this colloquy, in my opinion, covers the matter fully. When the Senator from Maine comes in, I want to interrogate him the same way, as he is chairman of the Budget Committee itself.

Mr. LONG. I feel sure that the Senator from Maine will confirm what I am saying, that this resolution would not change the relationship between the Budget Committee and the other committees, nor does it bind any committee, including the Budget Committee itself, to vote for the so-called balanced budget which the Budget Committee is required to report to the Senate.

Mr. STENNIS. I thank the Senator very much.

Mr. DOLE. Mr. President, I hope we can vote very soon on the perfecting amendment of the distinguished Senator from Louisiana.

It still is the hope of the senior Senator from Kansas that we would defeat the Long perfecting amendment—the Herbert Hoover amendment—and then go back to the stronger amendment offered by the Senator from Kansas and the Senator from Colorado.

But if we adopt the Herbert Hoover amendment offered by Senator LONG, then I assume that there would still be room for additional amendments.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Mr. President, if the Long amendment is adopted, is the Dole amendment, as perfected by the Long amendment, still open to further amendment?

The PRESIDING OFFICER. An amendment at the end of the amendment, or the amendment to the word "shall," would still be in order.

Mr. DOLE. The word "shall"?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, it may be that we have an amendment of this kind drafted. I am not certain whether it will be offered, but if it is, it would only be offered in good faith to try to tighten up and complement the efforts of the distinguished Senator from Louisiana.

The Senator from Kansas would like to repeat, as I have each day on the floor, that I do not know of anybody who strives more for a balanced budget and fiscal responsibility than the distinguished Senator from Louisiana.

So this is not a contest—at least as far as this Senator is concerned—of who is most responsible or most hopeful for a balanced budget. I do not believe that is an issue. It may be, as the Senator from Kansas indicated yesterday, that the Senator from Louisiana has a better idea.

The only difference between our approaches is that the Dole-Armstrong amendment is tied to further increases in the debt ceiling and it would bring about a little more discipline by requiring either a two-thirds or a three-fifths vote.

In the event of the defeat of the Long amendment, then we will be voting on the original Dole-Armstrong amendment that provides that beginning in fiscal year 1981, there could be no more debt limit increases beyond the May 1, 1980, level, unless the second concurrent resolution on the budget provides for a balanced or surplus budget, or more than three-fifths of the House and Senate agree to a budget resolution which projects a deficit.

The amendment would not affect the combined (temporary and permanent) debt limit level provided for in H.R. 2534, $830 billion, which will cover our debt needs through the end of fiscal year 1979. The amendment does not address the question whether there should be any additional increases in the debt limit for fiscal year 1980.

Again, I emphasize and repeat: In effect, the Dole-Armstrong amendment would implement the amendment offered by the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.), which was adopted last year, to balance the budget by 1981—Public Law 95-435.

The Dole-Armstrong amendment also would implement the administration's projection that we will have a balanced budget by fiscal year 1981. In fact, this projection is contained in the President's March 1979 OMB update of the President's budget. The projected surplus in fiscal 1981 is approximately $300 million.

The Dole-Armstrong amendment would permit a deficit in the event of extraordinary circumstances. It also allows sufficient time for the administration and Congress to plan for the difficult choices a balanced budget will impose.

Our amendment would permit debt limit increases after the budget is balanced. This is necessary because even with a balanced budget, the public debt still is raised by off-budget items, trust fund investments, and cash-flow shortfalls.

Mr. President, again I would like to emphasize that there was strong bipartisan support for this approach in the House of Representatives, where a similar amendment lost, as I recall, by a vote of 201 to 199. That indicates a great deal of bipartisan support. In fact, the principal author of the amendment was a member of the majority party, and he had a great deal of support from the members of the minority party.

I suggest that the Dole-Armstrong amendments offers an opportunity to address not only the balanced-budget question, but also to tie it to further increases in the debt limit. There may be a number of opportunities this year to record ourselves on the balanced budget concept. There even could be an opportunity later this year or next year to record ourselves on whether or not we favor a constitutional amendment for a balanced budget.

As the distinguished Senator from Texas (Mr. TOWER) said yesterday, one way to resolve the question of whether or not there should be a constitutional convention, a prospect which causes many a great deal of concern, would be to put together some of the resources and wisdom in both parties in Congress to draft an appropriate constitutional amendment for a balanced budget with the required flexibility, such an amendment would be a responsible answer to the 70 or 80 percent of the American people who are looking for us to bring some reason into the spending process. It is my hope that Congress may draft such a constitutional amendment sometime this year or early next year and submit that amendment to the States. This move would sharply reduce and probably stop altogether the efforts to call a Constitutional Convention.

I do not know of anybody in the U.S. Senate who does not want a balanced budget. So what we do should not be viewed as a Republican effort or a Democratic effort or a partisan effort to try to impose our will upon others in the Senate with reference to the budget process.

I commend the distinguished chairman of the Budget Committee, Senator MUSKIE, and the distinguished ranking Republican member, Senator BELLMON, for their tireless efforts to bring about some discipline and to make us more responsible as we deal with budget matters. They have done an outstanding job—there is no question about it.

Nevertheless, I do not believe that the Senator from Colorado (Mr. ARMSTRONG) and the Senator from Kansas are not offering any radical proposal. It seems to this Senator to be a well-reasoned proposal that has a great deal of support.

The Dole-Armstrong perfecting amendment was tabled yesterday by the smallest of margins—46 to 44.

It seems to me that there may be a great deal of merit not only in what the distinguished Senator from Louisiana suggests, but also in what the distinguished Senator from Oregon (Mr. PACKWOOD) suggests. The Senator from Oregon as a member of the Budget Committee has had his finger on the budget process for a long time.

I hope that when we finish debate on the public debt limit, the measure will have attached to it appropriate amendments that indicate our concern, in a strong nonpartisan, bipartisan way—that we are willing to make the tough decision; that we are willing to cut even where it hurts. If that happens, I believe that not only will we have the everlasting gratitude of the American people—maybe not immediately, but very soon thereafter—but also, we can tell the American people that we truly have insured a balance budget.

It supports President Carter's efforts to have a balanced budget by fiscal 1981. It is not directed at President Carter. It is directed to the next President of the United States, because we are talking about fiscal year 1981.

Therefore, I hope we will reject the Herbert Hoover-Russell Long approach and come back to the Bob Dole-Bill Armstrong approach. If Herbert were here, I think he would say the same thing.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, we will vote shortly—up-or-down, I hope—on the amendment that has been offered by Mr. LONG and myself and Mr. CRANSTON and other members of the ad hoc committee, as well as by Republicans who have combined in support of this matter.

This amendment takes a responsible approach to achieving balanced budget. It stipulates that "Congress shall balance the Federal budget" and that "pursuant to this mandate, the Budget Committee shall report by April 15, 1979, a fiscal year budget for 1981 and a fiscal year budget for 1982 that shall be in balance."

Furthermore, the committee shall show the consequences of such a budget "on the economy, setting forth the effects on revenues, spending, employment, inflation, and national security."

It meets the requirement that Congress not lock itself into a fiscal straitjacket as it moves toward a balanced

budget. It would allow Congress to evaluate the impact of a balanced budget in the light of economic conditions and in the light of defense needs.

In contrast, the amendment by Mr. DOLE could lock us into a balanced budget regardless of our economic situation and regardless of our national security situation. It could lock us into a balanced budget at times when such a policy would prove economically counterproductive. For example, what would happen if we should experience a serious economic downturn? Should that become a recession? Should that then become a depression? The requirement of a balanced budget could tip the economy into a recession, if Congress were mandated to balance the budget without studying the consequences. It could tip the economy from a slowdown into a recession, and it could slide further into a depression.

What would happen in periods when the economy heats up and we are faced with an economic boom? The requirement of a balanced budget would allow excessive stimulus to the economy and so allow the situation to get out of hand.

Mr. President, let us move toward a balanced budget, but let us do so responsibly and through the congressional budget process.

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

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, I believe that one thing we should consider—and this is something that definitely must be considered—is that if we are going to have a balanced budget for fiscal year 1981, we probably cannot have any major tax cut before 1982. We will have to decide whether the American people want a balanced budget more than they want a tax cut, and whether a tax cut would be better or worse for the economy than a balanced budget.

Mr. Howard Jarvis, the great advocate of proposition 13, is telling the people across this country that the people of this Nation are more interested in a tax cut than in a balanced budget. Obviously, there is room for debate about that. I am sure that some Americans would feel one way about it and others would feel differently.

However, when we see the prospect of a big increase in the social security tax, come January, and when we see the effects of 2 years of inflation pushing up tax rates—because to maintain the same purchasing power a person has to make more money, and they are pushed up into a higher tax bracket because of that and pay a lot more tax, even in terms of constant dollars—there will be a tremendous pressure on Congress at that point for a big tax cut.

And there will undoubtedly be Senators, including some who advocate a balanced budget, who will be for a tax cut.

My advice is that we cannot have a major tax cut, we cannot postpone that social security tax increase, and still have a balanced budget.

Would it not be better to make that decision when the facts are all before us.

Assuming, for the sake of argument, that by that time we are thoroughly convinced that the overwhelming majority of the American people want the tax cut, would it not be better to let the decision be made by a majority vote rather than require a 60-percent vote to carry out what the majority of the American people perhaps would want at that point?

Mr. ROBERT C. BYRD. Mr. President, I have to answer the Senator's question in the affirmative. I think all these factors have to be considered. All of the complex ramifications have to be considered before we take certain steps. The amendment that has been offered by the distinguished Senator from Louisiana allows Congress to have this full broad picture so that it will know what the ramifications are with respect to Government spending, with respect to tax cutting, tax revenues, tax increases or whatever may be the case, and the American people could understand the ramifications.

In other words, do we cut spending for defense? Or do we cut spending for jobs? So these are the factors that we should consider.

We want to go into this thing with our eyes open. I want a balanced budget. The Senator from Louisiana wants a balanced budget. Everyone is for a balanced budget. But there are times that the budget can be balanced without jeopardy to the economy, without jeopardy to the national defense, and there may be times when it cannot be balanced without prejudicing one or the other. So the approach that the senior Senator from Louisiana has taken in support of others here is the right approach and still balance that budget. That is our goal. That amendment mandates that the budget be balanced. But it also mandates that we have a comprehensive picture of what the effects of the balanced budget will be, where we have to cut it, where we have to add in order to achieve that balanced budget.

So it would require that all of these issues be faced up to in the context of the overall budget process.

As to the two-thirds or three-fifths vote, whatever it may be—it is two-thirds at the moment, I believe, in the amendment which Mr. LONG's amendment is addressed—this would require a super, super majcrity; in other words, one-third plus one vote could stop spending for national defense or for jobs programs. If a minority of one-third plus one was so insistent upon it, insistent upon a balanced budget that it was willing to hold firm, it would mean that two-thirds of the Senate and House of Representatives would not be representative of the best interests of the Nation, would not be representative of the majority of the American people.

So I do not believe that the Senate should straitjacket itself in an attempt to go down that road.

So, Mr. President, I support the amendment, and I hope that the Senate will vote up the amendment by Mr. LONG.

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

Mr. ROBERT C. BYRD. I yield.

Mr. CRANSTON. For all the reasons the majority leader has given plus those given by the distinguished Senator from Louisiana, I simply wish to make plain my strong support for the pending amendment.

I am delighted that I was able to play a part in putting it together. I strongly believe in a balanced budget, but I believe in reaching that balanced budget at the earliest possible moment in a responsible way, taking into account all the national interest, national defense, and other interests. I applaud the leadership of the two Senators who have just spoken for their part in getting this amendment before this body.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority whip. I believe that the Long amendment shows the way to balance the budget in the responsible way that the distinguished Senator from California just stated, and it recognizes that the path to a balanced budget is going to be paved by hundreds, even thousands, perhaps, of difficult decisions on what should be the levels of Government spending here, what should be the levels there for job programs, for national security, and so on.

I say, Mr. President, in closing, there is no substitute for doing this the responsible way because the responsible way is going to be the right way. There is no substitute for hard, deliberate work by Congress to achieve a balanced budget. There is no shortcut.

Mr. DOLE. Mr. President, I shall just take a minute. I certainly do not quarrel with anything that has been said except I am reminded that when proposition 13 was pending in California no one was for it until after the voters there passed it. Then Governor Brown originated it after the fact. He became the author of the amendment.

There is a great deal of public sentiment that we do something to balance the Federal budget. Perhaps it is not fully understood just how difficult the budget process is. Certainly no one suggests that we should make a judgment in Congress that affects any American or any program without having all the knowledge. Nevertheless I believe that the American people collectively want us to do something—to whittle back on spending and to have more oversight of programs, even though some interests may suffer some in the process.

I think that is probably the thrust of the majority leader's efforts this year—spending more of our time looking at old programs, trying to ferret out abuse or waste, trying to determine whether programs have been cost-effective so we can do more with the dollars that we have. No one quarrels with those objectives.

Again, I will repeat that I do not question the motives of anyone. It just seems to us that we Republicans have a better idea in this one instance. When we defeat the Herbert Hoover-Russell Long amendment that is now pending then we can return to the substantive Dole-Armstrong amendment, which ties the balancing of the budget to the debt ceiling. I believe this approach makes a great deal of sense without doing violence to the process.

The Dole-Armstrong amendment simply says what the President projects—that in fiscal year 1981 we are going to

have a balanced budget. The President is projecting a $300 million surplus. We do not think that is unreasonable. Therefore, I hope that the pending amendment will be defeated.

● Mr. BAYH. Mr. President, I am pleased to be able to vote in support of the Long amendment to the debt ceiling legislation. This legislation will require the Budget Committee, in its April 1980 resolution, to report to the Senate a balanced Federal budget for fiscal year 1981. It will assist the Senate in its efforts to implement that portion of the International Monetary Fund legislation the Congress passed last year requiring a balanced budget in 1981. I supported that amendment also and I believe that a mandated balanced budget resolution will enable both the Congress and the American people to make informed and intelligent decisions concerning our economic priorities and Federal spending. I should point out that the estimated deficit for next year is substantially below that of this and previous years. I would hope, therefore, that this trend will continue and that we may indeed be able to reach a balanced budget by 1981.

I might also emphasize, Mr. President, that although there are statutory balanced budget requirements currently on the books, the Subcommittee on the Constitution, which I have the honor to Chair, has already begun hearings on the various proposals introduced in the Senate which seek to amend the Constitution to require a balanced budget. These hearings will continue and in that process we will be monitoring our progress in reducing excess Federal spending and gaining greater control over our budget deficits.●

● Mr. GARN. Mr. President, Senators will recall that during consideration of the Revenue Act last year the Senate adopted an amendment which would have tied substantial, across-the-board tax cuts to spending cuts. This measure, which was called "Son of Roth-Kemp" was also supported by a 2-to-1 margin in the House. Unfortunately, after some strenuous arm-twisting, and in the face of tremendous lobbying by the White House, this provision was dropped in the conference committee. Instead, we passed tax cuts which do not even offset the increases in taxes for social security, and the effects of inflationary "bracket creep."

Mr. President, we cannot continue to mislead the American people in this way. They are not stupid. They see their tax burden continuing to grow, despite the "tax cuts" we pass here year after year. They become cynical, and rightfully so. The son of Roth-Kemp, passed last year, offered the promise of real tax rate reductions, and an increase in incentive for economic activity. More importantly, this measure offered the possibility of a balanced budget by 1981, something that is virtually universally desired in this country, at least outside the peculiar precincts of politics and theoretical economics.

Luckily, we have another chance to adopt this sensible measure. Senator ARMSTRONG has introduced it, with a number of cosponsors, with whom I am happy to be associated. The economic justification for this amendment is there, the political pressure for it overwhelming. For once, good sense and good politics are allied, and I urge my colleagues to adopt this amendment.●

Mr. ROBERT C. BYRD. Vote.

Mr. LONG. Vote.

Mr. DOLE. The yeas and nays have been ordered.

Mr. LONG. They have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

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. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

The PRESIDING OFFICER (Mr. LEVIN). Is there any Senator who has not voted?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—57

Baucus	Glenn	Morgan
Bayh	Gravel	Moynihan
Bellmon	Hart	Muskie
Bentsen	Hollings	Nelson
Biden	Huddleston	Nunn
Boren	Inouye	Packwood
Bradley	Jackson	Pell
Bumpers	Javits	Pryor
Burdick	Johnston	Randolph
Byrd, Robert C.	Kennedy	Ribicoff
Cannon	Leahy	Sarbanes
Chafee	Levin	Sasser
Chiles	Long	Stennis
Cranston	Magnuson	Stewart
Culver	Mathias	Stone
Durkin	Matsunaga	Talmadge
Eagleton	McGovern	Tsongas
Exon	Melcher	Weicker
Ford	Metzenbaum	Williams

NAYS—42

Armstrong	Hatch	Roth
Baker	Hatfield	Schmitt
Boschwitz	Hayakawa	Schweiker
Byrd,	Heflin	Simpson
Harry F., Jr.	Heinz	Stafford
Church	Helms	Stevens
Cochran	Humphrey	Stevenson
Cohen	Jepsen	Thurmond
Danforth	Kassebaum	Tower
DeConcini	Laxalt	Wallop
Dole	Lugar	Warner
Domenici	McClure	Young
Durenberger	Pressler	Zorinsky
Garn	Proxmire	
Goldwater	Riegle	

NOT VOTING—1

Percy

So the amendment (No. 124) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 53

(Purpose: To require the Federal Government to end deficit financing)

Mr. DECONCINI. Mr. President, I send to the desk a perfecting amendment to amendment 111, and ask for its immediate consideration.

Mr. HARRY F. BYRD, JR. Mr. President, may we have order? We cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 53.

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

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

The amendment is as follows:

Add the following new sections at the end of amendment 111:

SEC. 5. No later than the twentieth day after the close of each fiscal year, beginning with Fiscal Year 1981, the President shall—

(1) ascertain the total receipts of the Government during such fiscal year, not including any receipts derived from the issuance of bonds, notes, or other obligations of the United States, and not including any receipts from any income tax surtax imposed under this article;

(2) ascertain the total outlays of the Government during such fiscal year, not including any outlays for the redemption of bonds, notes, or other obligations of the United States; and

(3) if the total receipts described in paragraph (1) are less than the total outlays described in paragraph (2), determine the percentage rate of income tax surtax, to be imposed as provided in section 6, which is necessary to provide an additional amount of revenue equal to the amount by which such total receipts are less than such total outlays, and transmit to the Congress, by special message, the rate of income tax surtax so determined.

SEC. 6. Subject to the provisions of section 7, an income tax surtax, at the rate determined and transmitted by the President under section 5—

(1) shall be effective for the calendar year following the close of the fiscal year with respect to which the determination was made, or for so much of such calendar year for which such surtax is not suspended under section 7, and

(2) shall apply, as an additional income tax for the period for which it is in effect, with respect to the income tax liability of each taxpayer which is attributable to the portion or portions of such taxpayer's taxable year or years which fall within such period.

The income tax liability attributable to a portion of a taxable year falling within a period shall be based upon the ratio of the number of days in the taxable year within such period to the total number of days in the taxable year.

SEC. 7. In the case of a grave national emergency declared by Congress (including a state of war formally declared by Congress), the income tax surtax which would otherwise be in effect for a calendar year under section 6 may be suspended for such year, or a portion thereof, by a concurrent resolution agreed to by a rollcall vote of two-thirds of the Members present and voting of each House of Congress, with such resolution providing the period of time, if less than the whole calendar year, during which such surtax is to be suspended.

Mr. DECONCINI. Mr. President, the amendment that is before the Senate is, in essence, the substance of Senate Joint Resolution 2. But whereas Senate Joint Resolution 2 is structured in the

form of a constitutional amendment, what we have before us now has been rewritten as legislation. Obviously, it is not as binding as a constitutional amendment would be—a fact which appeals to some and concerns others.

Realistically, Mr. President, a constitutional amendment mandating a balanced budget is always possible, but not very likely. While the political climate in the country overwhelmingly supports such an approach today, that sentiment has not penetrated Congress yet as the votes of the last few days amply reveal.

I personally favor a constitutional amendment to require a balanced budget. But, I can see the validity of many of the arguments advanced by my colleagues and others.

Yet, Mr. President, the argument that Congress needs to maintain maximum flexibility in its consideration of budgetary matters has certain weaknesses as well. It sounds good. It lends itself to excellent rhetoric about our responsibilities and about the welfare of the economy and about who will make the decisions of what to cut.

What I am proposing does tend to limit our discretion somewhat. But more importantly, it provides for automatic consequences unless certain decisions are made. By the terms of this amendment, an income tax surtax is automatically imposed to make up the deficit. Now, this surtax can be stopped if two-thirds of the Congress enacts a resolution declaring that a national emergency exists. Obviously, such an emergency could consist of a state of war or an economic recession or whatever the Congress chooses to label an emergency.

But, prior to discussing the arguments, let me briefly outline the manner in which the legislation would work. Twenty days after the end of the fiscal year, the President would be required to calculate the amount by which expenditures exceeded revenues. Having done that, the President then submits to the Congress a message which incorporates a surtax designed to precisely offset the shortfall. This surtax would go into effect automatically for the following calendar year. Thus, for example, if the 1982 fiscal year were to reveal at its conclusion a deficit of $10 billion, the President would submit during October a proposal incorporating a surtax that would raise $10 billion during the calendar year beginning that January—that is, calendar year 1983. Unless the Congress declared a national emergency by a two-thirds vote of each House, the tax would go into effect with no congressional action required.

This proposal is not new. It has a venerable history in the Senate, although no action has been taken. I believe we have an opportunity this Congress to implement legislation of this type to see if it will assist us in becoming more responsive to the clear wish of the electorate that the Federal budget be balanced.

Let me make it clear, Mr. President, that I am no different than my colleagues. I would much prefer to satisfy the wishes of groups of constituents for this new program or that or increased funding for an existing one. And I would much prefer not to vote for higher taxes. But it is precisely because the pressures on politicians are structured as they are that we find ourselves with such huge Federal deficits.

The problem, Mr. President, arises out of the fact that the pressures to increase spending are very specific, very vocal, and very concrete. A group in the State will write or see us urging that a small amount—say, an additional $10 million—be added to a particular program because of the good it is doing. The people who make this request are almost always terribly committed. And the amount is small in comparison with a Federal budget of hundreds of billions of dollars. But most importantly, that increase is only an issue with those people. There is no comparable group in the State fighting the increase, and thus defining it as an issue. For most of us, most of the time, acceding to these wishes is the easiest and most politically expedient course of action. Most of us, including myself, succumb.

This very simple fact of political life must be coupled with another equally simple fact. The pressures to cut spending are entirely different than the pressures to increase spending. The desire to cut Government programs and outlays is by and large abstract. It is articulated more as a principle and not a concrete proposal. Those who propose cuts rarely specify what they should be, leaving that very difficult decision to Congressmen, Senators and the Executive. In fact, some of the most ardent and vociferous advocates of reduced Government spending may well be urging increases in some programs that they personally—or when wearing a different hat—favor.

The net result of this situation is a tendency to pay lip service to the notion of Government economy at the level of political rhetoric and to assist constituent groups obtain greater funding or new programs at the concrete political level. It is a cynical compromise with an unfortunate reality.

It seems to me, Mr. President, that in reviewing the history of this Nation, we must admit that a deficit national budget is by no means an evil in and of itself. There are times when a deficit is good; there are times when it is bad. Lord Keynes laid out a plan in this regard, and much of what he said is surely valid.

Yet, Mr. President, it strikes me—and I base this largely on my personal experience since coming to Washington—that the Keynesian view has created a bad habit that we are finding it difficult to break. Most Government deficit spending is not flexible spending. Thus, we find extremely difficult to overspend 1 year because the economy needs it, and then cut back the following year if the economy no longer needs it. The Government spends money through programs which require bureaucracies which require buildings and civil service job guarantees and which engender in the public specific constituencies that do not want the program or its benefits stopped. Thus, it is easy to spend, excruciatingly difficult to stop spending.

This fact must be viewed against the backdrop of deficit spending. While at any given time it may be good or useful to overspend—that is, deficit spend, this does tend to become a habit. Politicians find it easy to say "yes" to continued spending because they can raise this or that program without the terribly difficult task of enacting higher taxes to pay for the program. To some extent, therefore, the spending syndrome is a sort of incumbents protection policy. Politicians fight for increases for this or that because specific interest groups in the State want them. They do not have to justify the benefits of these expenditures against the costs attendant to increased taxes. And so, the politician makes friends at home at the expense, ultimately, of all the American people and even future generations who will have to continue to bear the burden of the national debt.

I believe, Mr. President, that the men and women who elected us would like us to exercise good judgment and make hard decisions for them about the nature and direction of our Government. I believe that to meet that responsibility we must eliminate from our thoughts and our actions the use of the public purse for parochial political purposes. More importantly, we must begin with the assumption that the Federal budget, like any other budget, should be balanced. This makes sense intuitively and it is a neutral position as far as the Keysean model is concerned.

I grant that bringing the budget back into balance today will be difficult politically. But that difficulty is the price we pay for too many years of extravagance. To achieve balance, we will have to reduce spending in many areas that will disturb many of our constituents. But we must do it. Once we have reached that point, we should stay in balance, either through increased taxes or decreased expenditures. If and when the situation demands, we should adopt an unbalanced budget, but we should do so in such a manner as to allow us to stop this additional spending rather quickly.

I believe, Mr. President, that the amendment I am offering today may well constitute the first important step toward what I hope will be an altogether new approach to the question of fiscal responsibility.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, the thought has been expressed to me by Senators who have looked at this measure that they believe it may violate the Constitution. Under the Constitution, only the Congress can raise taxes. This amendment gives the President the power to raise taxes. Of course, it states on what basis the President can trigger this action. It says that the President shall ascertain, he shall determine the percentage rate and transmit that to Congress by special message, and that shall go into effect.

It can be contended that this amounts to the President raising taxes, and, if so, Mr. President, it would be clearly uncon-

stitutional, because only Congress can raise taxes. But over and above that, Mr. President, there are substantive reasons why the amendment should not be agreed to.

I suppose the most compelling reason, from the point of view of the American public, is that the American public does not want us to balance the budget by raising taxes. What they want us to do is to balance the budget by cutting spending. The American people think there is too much spending going on in this country, and they are right. They think there is a tremendous amount of waste, especially in some of these social welfare programs. They believe we ought to eliminate a lot of this waste. They feel that having done so we would not have to raise any taxes, but we could cut taxes.

It was my pleasure to visit with Mr. Howard Jarvis over the last weekend and he was expressing the view he has been telling people all over the United States. That is that the people of these United States are much more interested in a tax cut than they are in a balanced budget. They would like to have a balanced budget. Yes, that would be nice, but even more than that, these families are hard pressed by inflation, especially those who are not able to move into a home because of the taxes, the high interest rates, and the inflation with which they are confronted. They do not have the opportunity to move into one soon. They do not want a tax increase; what they want is a tax cut.

The Senator comes in with just the opposite of what the majority of the people want. They want a tax cut, not an increase. They want us to cut spending and not proceed to put a tax on them because of failing to do that which they feel we should do.

Mr. President, another defect in this amendment is that it does not balance the budget. This amendment would cause a tax to go into effect 2 fiscal years after the year in which there is the deficit. For example, if there is a deficit in fiscal year 1980, the President would impose a surtax which would not be reflected in the withholding during the fiscal year 1981. The surtax would actually be paid on April 15, 1982, 2 years after the deficit occurred.

Furthermore, Mr. President, by that time the economic problems might be absolutely overwhelming, so it would be the worst possible thing to do. For example, looking back at the situation that existed in 1975, at that point the Nation was in a recession, and that was one of the reasons we had the deficit. The recession justified a tax cut rather than a tax increase.

Mr. President, this amendment would have required that we have a $66 billion tax increase because of the deficit. That would have put us in an even worse recession than we had. The deficit was caused by the recession, and this amendment would have caused the economy to go down even further by virtue of triggering a very big additional tax on the American people.

Congress looked at the problem. Having looked at the problem Congress decided that for fiscal year 1976 we ought to have a big tax cut. So we voted a big tax cut, because the economy dictated that that should be the case. The President of the United States appreciated that, and both Houses of the Congress appreciated that.

Mr. President, this amendment would dictate just exactly the opposite of what the President thought should be done in 1975 and 1976, what the economists of the country thought should be done, and what the Congress thought should be done. This would have put a simple one-third minority in either House in position to trigger this tax increase, which the majority of the people did not want. All economists would have advised against it. The President would have advised against it, but it would have required him to put this tax increase into effect.

For all we know, there might have been a minority so absolutely adamant for the tax increase—a 38-percent income tax increase; imagine that. This amendment, if it had been in effect in 1975, at a time when we should have been cutting taxes, would have given us a 38-percent income tax increase. Imagine a 38-percent increase in taxes, in individual income taxes and in the corporate surtax.

Now, it turns out that that is just exactly the opposite of the thing that ought to have been done. We could not have afforded a 38-percent tax cut, but we did provide a substantial tax cut in 1975 because circumstances at that time justified it, based on the economic conditions that were prevalent in the country at that time.

Mr. President, based on the experience we have had, this would be an unwise thing to do. It attempts to make a decision without reference to what the economic conditions are in the country at the time. That could be a disastrous decision. But it puts a one-third minority, in either the House or the Senate, in position to lock this country into a disastrous decision that might not be justified by any stretch of the imagination from the point of view of the majority and even from the point of view of the President.

Mr. President, I hope that this amendment is not agreed to. Furthermore, the amendment is not germane to this bill. It is a tax amendment; this is not a tax bill. This is merely a bill to borrow some money to let the Federal Government pay the bills that have been incurred and which must be paid. It is going to cost us many millions of dollars, Mr. President, to try to manage the national debt if this bill is delayed for several more days.

I hope, Mr. President, that we can vote on the amendment and get onto the next matter as quickly as possible. Therefore, Mr. President, I move that the amendment be laid on the table.

Mr. DECONCINI. Mr. President, will the Senator withhold that motion to table for just 3 minutes?

Mr. LONG. I ask unanimous consent that I may withhold for 3 minutes.

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

Mr. DECONCINI. Mr. President, I rise to praise the distinguished Senator, the chairman of the Committee on Finance, for his eloquent argument on not raising taxes. I think we all have that same desire. I know the Senator has been a leader in curtailing taxes, but there are a couple of things I should like to address to this question.

First, the legislative counsel advises this Senator that the delegation of such authority as is set forth in this amendment is constitutional.

Second, nobody has to have any tax increase as a result of this amendment. This is to make and to force this Congress and future Congresses, hopefully, to bite that proverbial bullet of overexpenditures, and forces the Executive to do likewise. If we had to face the awesomeness of going back to our constituents with a surtax, I dare say that the pressure to balance the budget on a national level would be so great that if we did not do it, it would be extremely close and, by gosh, by the next election time, when the taxes went up, we would have a balanced budget.

The Senator raises the fact that the tax would not be collected for almost 2 years. That is not quite accurate. The withholding tax would be added to if a surtax were imposed. Under the estimated income tax quarterly payments, you would be required to amend your return and your estimated income tax.

The whole purpose here is to insure those of us in Congress, if we elect, and those in the White House, as they put forth a budget for this Government, if they elect that it is necessary to have a deficit in the budget starting in 1981, that there will be a tax to pay for it. Then the people will know what the programs will cost if we are going to have new, expanded programs, or if we are going to cut in different areas, what it is going to cost. If it is such a drastic mistake to enact this type of legislation, then, of course, a two-thirds vote of each House can declare a national emergency, if it were time of war, or in time of economic recession.

Mr. President, I suggest that this is a realistic approach that would force this body and would force the executive to bring our budget into balance by 1981.

There is an escape valve if there is such an emergency and if things are going to get so bad that this would be a mistake, and then the mistake would be in not acting by a two-thirds vote. I believe, Mr. President, that the American public would welcome the opportunity to have its legislative leaders tell them exactly what they are doing in the budget area and in the expenditure areas, that if we are going to spend those deficit dollars, in fact, they, the taxpayers, are going to have to pay for it.

I yield back the remainder of my time.

The PRESIDING OFFICER. The time has expired.

Does the Senator renew his motion to table?

Mr. LONG. Mr. President, I just want to make this point: if the Senator will think further about this amendment, he will likely change his mind, because this is not the first time this idea has been suggested. The last time I recall its being suggested, the Senator from Missouri

(Mr. DANFORTH) was suggesting that we ought to have a tax that we call the excess spending tax so that, if Congress failed to balance the budget, there would be a tax increase, that is, a surtax automatically triggered into effect; that also was a somewhat better drafted proposal than the one we have before us. My reaction at that time was that it is all right with me if we put it on the bill under consideration, provided that we name it after the sponsor and let everybody know that this is a Danforth tax increase.

After the Senator thought about it for a while, he changed his mind. We had agreed to it in the committee. The committee had agreed to the Danforth tax increase, call it whatever you want to call it—the Danforth excess spending tax increase.

If this had been in effect in 1975, we could have called it the DeConcini tax, and everybody would have paid a 38-percent tax increase.

We would just pay the DeConcini tax. We could put it right on the tax return so everybody would know, when paying this extra tax, that it is the brainchild of the Senator from Arizona to raise everybody's taxes 38 percent in order to have a balanced budget. We would explain on the tax forms that they are being penalized by this DeConcini tax because the Congress failed to do anything about balancing the budget, and, therefore, they will pay the DeConcini tax.

I promise the Senator that if he can run on that platform and get reelected, he is the most powerful and effective politician anywhere in the United States, because after they get through paying that 38-percent DeConcini tax, the people are going to be all the more firm in their opinion that we should have cut spending rather than raise their taxes.

That being the case, Mr. President, I hope that the Senate will not insist on this. It comes in late in the consideration of this bill. When considered by a previous sponsor, it was withdrawn after being agreed to, because he saw that it was the better part of wisdom and discretion not to pursue it. It really should not be a part of the law, Mr. President.

Therefore, Mr. President, I move that the amendment be laid on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table UP amendment No. 53. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

I further announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The PRESIDING OFFICER. Is there any other Senator who wishes to vote?

The result was announced—yeas 86, nays 12, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—86

Baker	Glenn	Moynihan
Baucus	Gravel	Muskie
Bayh	Hart	Nelson
Bellmon	Hatch	Nunn
Bentsen	Hatfield	Packwood
Biden	Hayakawa	Pressler
Boschwitz	Heflin	Pryor
Bradley	Heinz	Randolph
Bumpers	Hollings	Ribicoff
Burdick	Huddleston	Riegle
Byrd, Harry F., Jr.	Humphrey	Roth
	Inouye	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Javits	Schmitt
Chafee	Jepsen	Schweiker
Chiles	Johnston	Stafford
Church	Kennedy	Stennis
Cochran	Laxalt	Stevens
Cohen	Leahy	Stevenson
Cranston	Levin	Stewart
Culver	Long	Stone
Danforth	Lugar	Talmadge
Dole	Magnuson	Thurmond
Domenici	Matsunaga	Tower
Durkin	McClure	Tsongas
Eagleton	McGovern	Wallop
Exon	Melcher	Warner
Ford	Metzenbaum	Williams
Garn	Morgan	Young

NAYS—12

Armstrong	Goldwater	Proxmire
Boren	Helms	Simpson
DeConcini	Kassebaum	Weicker
Durenberger	Pell	Zorinsky

NOT VOTING—2

Mathias	Percy

So the motion to lay on the table UP amendment No. 53 was agreed to.

Mr. LONG. Mr. President, at this point the substitute which was originally offered by me is now identical to the Dole amendment as amended by the Long amendment, and now the yeas and nays have been ordered on the Dole amendment. They have not been ordered on the substitute, and there is no point in having a yea and nay vote on the substitute because it is identical to the Long amendment.

I do not think it would prejudice anyone's right unless someone wants to change the language in the amendment to simply agree to the amendment to the substitute by voice vote.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the yeas and nays be vacated on the Dole amendment.

Mr. LONG. It has been vacated.

Mr. DOLE. I ask unanimous consent that they be vacated.

Mr. LONG. I would like to have the yeas and nays on the amendment as it stands.

Mr. DOLE. Oh, the Senator would?

Mr. LONG. Yes. Not on the substitute, as they are both identical, but on the amendment on which the yeas and nays were ordered on the Dole amendment by my perfecting amendment.

The PRESIDING OFFICER. Does the Senator object?

Mr. ARMSTRONG. Mr. President, could the Chair restate the parliamentary situation? Some of us have had difficulty following exactly how we arrived at this point. If the Chair could restate it I think it would be helpful.

The PRESIDING OFFICER. The question now is on agreeing to the amendment by the Senator from Louisiana in the nature of a substitute.

Mr. LONG. For the amendment that is perfecting.

The PRESIDING OFFICER. To the Armstrong-Dole amendment.

Mr. LONG. As perfected.

Now the two amendments are identical. The only difference in the parliamentary situation would be that it would no longer be in order to amend after the word "shall" but one can add any language he would want to add to the end of the amendment or anywhere else in the bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. If the proposal of the Senator from Louisiana is agreed to, then the amendment as adopted would be subject to amendment at the end of the amendment; is that correct?

The PRESIDING OFFICER. It would have to be amended as agreed to. However, language can be added to the amendment.

Mr. LONG. If the amendment is agreed to it could be either amended before or after the language.

The PRESIDING OFFICER. That is correct.

Mr. ARMSTRONG. Mr. President, to be more specific, I have no reason to object other than to protect my right to call up amendment No. 110. If we agree to the unanimous-consent request of the Senator from Louisiana will it then be in order for me after the adoption of this amendment to call up the amendment No. 110?

The PRESIDING OFFICER. I do not believe there is a unanimous-consent request pending.

Mr. ARMSTRONG. I beg the Chair's pardon. I thought the Senator from Louisiana had asked unanimous consent to change the order of vote.

The PRESIDING OFFICER. The only request the Chair heard was from the Senator from Kansas to vitiate the yea and nay vote, and that was not agreed to.

Mr. ARMSTRONG. I thank the Chair. I appreciate that explanation.

The PRESIDING OFFICER. The question now is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

Mr. LONG. Now, the yeas and nays are ordered on the substitute.

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 111 as amended.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

Mr. LONG. The yeas and nays have been ordered.

We are now voting on the Dole amendment as amended.

The PRESIDING OFFICER. That is correct. We are now voting on amendment No. 111, the Dole amendment as amended.

Mr. HARRY F. BYRD, JR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. Presi-

dent, I ask unanimous consent that the order for the quorum call be rescinded.

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

The question now is on agreeing to the amendment numbered 111, as amended.

The yeas and nays have been——

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, how am I recorded on the last rollcall?

The PRESIDING OFFICER. The Senator is not recorded on the last rollcall.

Mr. MATHIAS. Mr. President, I am at a loss to understand why I should be so recorded. I was present. I voted in the affirmative, and I would like the RECORD to show I was present and voted in the affirmative.

The PRESIDING OFFICER. The Chair noted the Senator's presence.

Mr. ROBERT C. BYRD. Mr. President, let us understand what we are doing here. Let us be sure we understand what we are doing here. I want to make sure that I understand.

Under the rules no Member, including my friend from Maryland, or the junior Senator from West Virginia, may vote after the Chair has announced a vote.

Mr. MATHIAS. If the Senator will yield, I did not request that.

Mr. ROBERT C. BYRD. I want to be sure of what the Senator is requesting. The Chair cannot even entertain a request that a Senator be allowed to vote after the vote is announced.

Mr. MATHIAS. I want the record to show that I do not know where the error occurred. Maybe I did not speak loud enough. It may be my mistake. But I was here. I did vote in the affirmative. I want to make the point now and before it gets lost in the pages of history.

Mr. ROBERT C. BYRD. Then that will not require unanimous consent because the Senator's statement speaks for itself.

Mr. MATHIAS. And I made no request.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. LEVIN. Mr. President, I want to take this opportunity to explain, for the record, my votes on a series of amendments that have come before us today. I have been opposed to amendments that would have the effect of mandating a balanced budget unless two-thirds or three-fifths of the Congress finds that a national emergency exists. I have supported amendments that mandate that the Congress, through structural reform, consider a balanced budget, examine its consequences, and have the opportunity to vote on such a budget.

I have, however, objected to some of the language in the Long amendment. While I support the concept of the amendment, I am unable to support the amendment because we were told during debate that, in effect, it does not mean what it so clearly says.

The amendment states, without qualification, that Congress "shall balance the Federal budget."

However, it was stated often during debate that this amendment does not guarantee that we will, in fact, balance the budget.

All it does, we are told, is guarantee that we will consider a balanced budget. As I indicated on the floor on Monday, if there is one thing that the American people want more from Government than a balanced budget, it is candor and the truth. Because the language which introduces this amendment is misleading in that it promises more than what we are told in debate it intends to deliver, I cannot support it.

During the procedural maneuvering, I found myself in a position where it was necessary at one point to vote for the amendment that contained the language to which I object. I did so only because the amendment eliminated at that point the even more dangerous provisions of amendments which would have given a minority of the Senate control over our budget in some circumstances.

Once that danger was removed, I felt free to vote against final passage of the Long amendment.

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 111, as amended.

On this question, the yeas and nays have been ordered, and the clerk will call the role.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois (Mr. STEVENSON) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The PRESIDING OFFICER (Mr. PRYOR). Have all Senators in the Chamber voted at this time?

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—96

Armstrong	Glenn	Nelson
Baker	Goldwater	Nunn
Baucus	Gravel	Packwood
Bayh	Hart	Pell
Bellmon	Hatch	Pressler
Bentsen	Hatfield	Proxmire
Biden	Heflin	Pryor
Boren	Heinz	Randolph
Boschwitz	Helms	Ribicoff
Bradley	Hollings	Riegle
Bumpers	Huddleston	Roth
Burdick	Humphrey	Sarbanes
Byrd, Harry F., Jr.	Inouye	Sasser
Byrd, Robert C.	Jackson	Schmitt
Cannon	Javits	Schweiker
Chafee	Jepsen	Simpson
Chiles	Johnston	Stafford
Church	Kassebaum	Stennis
Cochran	Kennedy	Stevens
Cohen	Laxalt	Stewart
Cranston	Leahy	Stone
Culver	Long	Talmadge
Danforth	Lugar	Thurmond
DeConcini	Magnuson	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	McClure	Warner
Durkin	McGovern	Weicker
Eagleton	Melcher	Williams
Exon	Metzenbaum	Young
Ford	Morgan	Zorinsky
Garn	Moynihan	
	Muskie	

NAYS—2

Hayakawa	Levin

NOT VOTING—2

Percy	Stevenson

So the amendment (No. 111), as amended, was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question recurs at this time on the amendment No. 113 offered by the Senator from Arizona (Mr. DECONCINI).

Mr. ROBERT C. BYRD. Mr. President, I believe that was vitiated. We had a vote on the amendment by Mr. DECONCINI earlier, and I understand that order is now to be vitiated. I make that request.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

UP AMENDMENT NO. 54

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD), for himself and Senators DOLE, LONG, DOMENICI, BENTSEN, PRESSLER, HART, LUGAR, and LEAHY, proposes an unprinted amendment numbered 54.

Mr. PACKWOOD. 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:

At the end thereof, add the following new section:

SEC. 6. (a) If a budget which is transmitted by the President to the Congress under section 201 of the Budget and Accounting Act, 1921, would, if adopted, result in a deficit in fiscal year 1981 or in fiscal year 1982, the President shall also transmit alternate budget proposals which, if adopted, would not result in a deficit.

(b) Such alternate budget proposals shall be transmitted with the budget and, except as provided in subsection (c), shall be in such detail as the President determines necessary to carry out the purposes of this section.

(c) Alternate budget proposals for a fiscal year transmitted under subsection (a) shall include a clear and understandable explanation of specific differences between the budget and alternate budget proposals.

Mr. PACKWOOD. Mr. President, this is very similar to amendment No. 112, which is on the desks of Senators. I have made some slight changes in the amendment to conform it to the Long substitute, which has just passed.

In short, what this amendment will do is to require the President, if he submits to the Congress a budget which is not in balance, to submit an alternative budget which is in balance. Then, as we start to work on a balanced budget, as required by the previously adopted amendment, we will at least have the

administration's recommendations as to where to cut if we are going to cut.

That is it in a nutshell. I am prepared to vote, unless there is other discussion.

Mr. LONG. Mr. President, I think this amendment is meritorious. It carries out the same philosophy that we just voted—to require of the congressional budget committees. It requires the President to do the same thing, to submit a balanced budget. He does not have to recommend a balanced budget, but he would have to submit one to us as an alternative. Then we would know how the President and his advisers would balance the budget if they were called upon to do so. They would say how they would propose to balance the budget.

That would give us guidance so that Senators could vote for a balanced budget the way the President would recommend balancing it, or the way the House committee would recommend balancing it, or the way the Senate committee would recommend balancing it.

Of course, if they wanted to, they could pick and choose pieces. They could say, "This is something the President would recommend if he were voting for a balanced budget," or, "This is what the Senate committee would recommend."

I think it would be very useful to help in bringing about a balanced budget. It offers an alternative to all Senators which I think they should have. I am pleased to agree to the amendment as far as I am concerned, and to urge Senators to vote for it. I would hope we would have the yeas and nays on the amendment, Mr. President.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Oregon. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. MELCHER), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) is necessarily absent.

I further announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The PRESIDING OFFICER (Mr. BAUCUS). Is there any other Senator desiring to vote?

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—93

Armstrong	Bentsen	Bumpers
Baker	Biden	Burdick
Baucus	Boren	Byrd, Harry F., Jr.
Bayh	Boschwitz	Byrd, Robert C.
Bellmon	Bradley	
Cannon	Huddleston	Proxmire
Chafee	Humphrey	Pryor
Chiles	Inouye	Randolph
Church	Jackson	Ribicoff
Cochran	Javits	Riegle
Cohen	Jepsen	Roth
Cranston	Johnston	Sarbanes
Culver	Kassebaum	Sasser
Danforth	Kennedy	Schmitt
DeConcini	Laxalt	Schweiker
Dole	Leahy	Simpson
Domenici	Levin	Stafford
Durenberger	Long	Stevens
Durkin	Lugar	Stewart
Eagleton	Magnuson	Stone
Exon	Mathias	Talmadge
Ford	Matsunaga	Thurmond
Garn	McGovern	Tower
Glenn	Metzenbaum	Tsongas
Goldwater	Morgan	Wallop
Hart	Moynihan	Warner
Hatch	Muskie	Weicker
Hatfield	Nelson	Williams
Heflin	Nunn	Young
Heinz	Packwood	Zorinsky
Helms	Pell	
Hollings	Pressler	

NAYS—2

Hayakawa	Stevenson

NOT VOTING—5

Gravel	Melcher	Stennis
McClure	Percy	

So the amendment (No. UP 54) was agreed to.

AMENDMENT NO. 118, AS MODIFIED

Mr. MOYNIHAN. Mr. President, I call up my amendment No. 118, as modified.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an amendment numbered 118, as modified.

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

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

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. 6. In carrying out the provisions of section 5, the Congress shall provide, as nearly as possible, equal per capita expenditure levels among the several States adjusted for differing costs of living, and shall provide equal per capita expenditure levels among the territories and possessions of the United States which bear the same ratio to the per capita expenditure levels for the several States as the per capita expenditure levels for such territories and possessions for fiscal year 1979 bear to the per capita expenditure levels for the several States for that fiscal year.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that this amendment, if adopted, be placed at an appropriate place in the bill, rather than any specified place.

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

Mr. MOYNIHAN. Mr. President, this is a simple amendment of large concern. I wish to present it to the Senate, and I ask for the attention of the Senate for a short while, in order to put forth a simple proposition.

H.R. 2534, as amended, will now call upon the Budget Committee to prepare a series of balanced budgets for the coming years. I am concerned that there be a regional balance in this balanced budget approach, and I use this amendment as an opportunity to call to the attention of my colleagues the quite considerable regional imbalance in the flow of funds between the Federal Government and those regions and the States of which they are a part.

This is not a matter unknown to us, and I would not wish to say whether this disparity has become greater or lesser in recent years.

I am quick to say that the degree of our competent knowledge of the data is limited, perhaps not for the worst reason: That the Federal Government has not collected this information very well. The only thing we have is the Federal outlays series in the Community Services Department agency of the Department of Commerce.

Even so, I have put on the desk of each Senator a competent analysis—not a definitive one—that appeared in the National Journal last week under the heading "Some States Win, Some States Lose."

I should like to make a simple point, and it is this: In striking proportion, the States which have been calling for the reduction in our budgets and fixed, rigid balancing features in our budgets are States for which the Federal budget is an enormous fiscal boon.

Without in any way wishing to suggest that this process is inappropriate, I suggest that these States have a rather remarkable advantage. They get the Federal money and they denounce the Federal spending; and, perhaps to an unhealthful degree, they have been able to depend upon the votes of persons from other regions, which have very little advantage in this Federal pattern, to maintain it nonetheless.

So I stand here, Mr. President, and say that the Federal budget is no bargain for the State of New York. I have remarked, only half in levity, that if it could be provided with the payments on the national debt and if the debt service payments were to continue and if a Navy were to be maintained, New York could do quite well without anything else. New Yorkers have subsidized other regions in the country without complaint for two generations, but we have come to the end of that scheme of things.

I simply fear that, such is the political atmosphere in which the balanced budget debate is carried out, there may be those who think that we are going to balance the budget simply by reducing what few programs are of benefit to a State such as my own, and I would like to disabuse those persons of that thought.

This amendment simply calls for the balanced budgets to be constructed to show equal average per capita expenditure in all States. What that would mean to some States would be of considerable surprise to them. I assure Senators that it would be no burden to the State of New York or to the States in my region. It might be a different story in other States.

If we simply would take the excess funds which are required to provide above average per capita expenditure outlays in the country today, we would have approximately $22 billion to spare. There is $22 billion that goes out to States which have above average Federal outlay, and that would take us more than two-thirds of the way to a balanced budget—just there.

So this is the equal rights amendment on a question that is quite severe, which I do not wish to exacerbate, but which I certainly wish to insist upon, of extraordinary regional imbalance of Federal expenditure, a matter never directly addressed in this Chamber.

Mr. President, I am prepared to discuss this matter if there are Members who wish to do so.

Senators who feel they cannot support this measure—and come from States which are advantaged by the Federal budget—have created for themselves a problem. If they are really opposed to so much Federal spending, then my amendment is a superb way to reduce it. If there is no Member who wishes to debate this amendment further, 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. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I appreciate the very able junior Senator from New York and I admire his performance here in the Senate and the tremendous service he has rendered to his country. I am very fond of him, but I regret that I cannot support his amendment. There will be others that I can support, but I cannot support this one.

The Senator, as I understand it, wants the recommendation from the Budget Committee to reflect as far as possible equal per capita expenditures levels among the several States adjusted for the cost of living.

Mr. President, it is going to be difficult enough for the President or for the Budget Committees to recommend a balanced budget on any basis that would serve the Nation's interest without trying to balance it in all the various ways that the Senator suggests. Furthermore, in justice and fairness, it is not fair to insist that they do that.

Let us just take an example. Out in the Northern section of the United States, in some of our Middle Western States, we have these big missile silos. They are not there because those States campaigned and made a big fight to put those atomic missiles in those particular States. They are there because the United States felt that was the location we needed in order to be closest to the targets at which those missiles would be fired.

And the people of that area become a target in the event that there should be an attack on this Nation. They would be first targeted in all probability because that would be the area on which the enemy missiles would be fired first.

I know, from my point of view, I would say, "Just spare us that kind of Federal largess because it means we would be the first to be destroyed in the event of atomic warfare." Yet under the terms of that amendment I would assume that we would have to allow for the money that those people out there were getting on the basis that we had those missile silos located out there, presumably for their benefit.

And then some States are more subject to a disaster than others. For example, the State of Louisiana drains off the water of almost 30 other States, and there is the time of the year when we are looking at those levees with that water stacked up there 20 feet above our land on which we are standing.

We have had disasters of that sort happen to our people that in current dollars cost a billion dollars. That was the basis upon which it was decided that we would have a flood control plan. While we do benefit from it, the Nation benefits from what we are able to produce from that property, and that should be taken into account.

Furthermore, some areas are more subject to disasters than others. Some areas are more subject to hurricanes and earthquakes than other areas and, therefore, get more disaster assistance.

We have, relatively speaking, more defense expenditures in Hawaii than the other States. Why? Because it is a frontier area. To say, "Well, you are going to have a per capita reduction," completely tends to ignore the defense needs, the fact that we are spending money in that particular area because that is the area on which an attack would be likely to fall, as was the case at Pearl Harbor.

And the same type of thing is also true with regard to Alaska. We have more defense spending out there because it is a frontier area and likewise it makes that area more subject to a surprise attack.

Mr. CHURCH. The Senator convinced me.

Mr. LONG. Really, Mr. President, there are areas, for example, in development of mineral resources where we expect to spend money, but we are going to spend it in the areas where we think we are going to find the minerals. What sense would it be to spend our money to develop minerals in the area where we do not have them? That would not make much sense.

Further, Mr. President, when we try to allocate, it leaves room for all kinds of arguments as to how we should allocate. I can recall Hubert Humphrey, the great American, who was a citizen of Minnesota and for a while was a citizen of South Dakota. He came down to Louisiana to go to school, and if they made a grant for Mr. Humphrey to go to school at that time, where would they assess it? Would they assess it against Louisiana, where he was going to school, or would they assess it against Minnesota where he hoped to make his fortune, or would they assess it against South Dakota from whence he hailed?

All of those problems arise, and it really does not make much sense to try to divide the money that way.

Furthermore, Mr. President, if we are going to vote on something like this or try to do business this way, we really should have before us a chart so every Senator could look at it. It should say how much his State wins or how much his State loses depending on how much cutting we are going to do because it is not fair, really, to a Senator to ask him to vote for that amendment without knowing he is going to vote to put more money in his State or vote to put less money in his State.

Mr. President, there will be another problem about trying to bring the Budget Committee——

Mr. MOYNIHAN. Mr. President, will the distinguished chairman yield to let me respond to his point?

Mr. LONG. I yield.

Mr. MOYNIHAN. Let me say from the table in the National Journal, which has been on the desks of Senators for the last 2 days, the Senators may make a simple calculation in the third column. If the spending-taxes ratio is greater than one, his State will not benefit and if it is lower than one, his State will. I regret to say that that ratio for the State of Louisiana is greater than one.

Mr. LONG. Mr. President, I am glad——

Mr. MOYNIHAN. I cannot say I am surprised.

Mr. LONG. Mr. President, I appreciate the Senator referring me to the table. But I point out that no matter what you make the committee recommend—and this would be the Senator seeking, I understand, to make the committee recommend something—no matter what you make the committee recommend, anything other than its honest best judgment as to what is good for the country based on the composition of that committee, it will be the Senate that will make the ultimate decision.

I would like to point out that just because of the way the Senate is constituted all you have to do is just look at the revenue-sharing bill and the history of revenue-sharing, and you can say because of the way the Senate is constituted that the States that have less than the average per capita income tend to be in the majority, and the States that tend to have relatively small numbers compared to area are also in the majority, so what tends to happen in the legislative process—and I would like the Senator from New York to hear this—is the kind of thing that happened with the revenue-sharing bill where a delegation such as that from New York has numbers and they make them felt very heavily over on the House side, and those who have a similar situation, like California, tend to coalesce with them, and their weight of numbers is very much felt on the House side and it is reflected in those decisions.

Then when it comes over to the Senate side, the so-called smaller States, or the States with more area and less population, or more area compared to their population than the others, tend to do very well over in the Senate.

When the two meet in conference they tend to compromise and to adjust their differences, so that it tends to work out to an overall solution that we think best.

The President, who is elected by all the people nationwide, where there is sort of a weighted average so far as he is concerned, his administration will be pushing for about the kind of balance that one would expect when one is elected nationwide.

So you have the three factors working together to push us to the kind of compromise that tends to be reached.

I think that is good, Mr. President. There is nothing wrong with it. There is nothing wrong with the so-called smaller States doing well in the Senate.

because whatever success they have tends to be neutralized over in the House of Representatives and in the executive branch.

I think, Mr. President, that all things considered, while the balance tends to work out against the numbers of a great State like New York here in the Senate, the overall tends to work out reasonably well for a State like New York.

I would just like to think that what New York lacks in numbers it makes up in quality, and it has extremely high quality here in the U.S. Senate. But confronted with overwhelming numbers, the Senator sometimes has the problem that the Senator from Louisiana has to contend with when confronted with overwhelming numbers on issues, that you have to do the best you can under the circumstances and rely upon these things leveling themselves out in the overall legislative process.

So I hope, Mr. President, that we will not agree to the amendment just because I think it will be difficult enough for the committee to try to arrive at a budget the way it is, and to try to figure all these different wheels within wheels that would be involved if you try to do it with perfect fairness it would, in my judgment, create too much of a problem, and I really think if the committee can do a good job of balancing the expenditures according to Nation's interests, they would have done enough.

The main point in balancing the budget should be, not which States you spend the money in, but how well that serves the Nation's interests, and if the expenditure is best calculated to defend the Nation or best calculated to do social justice fairly to its citizens, whether it puts more money in one State than another should be secondary.

For those reasons I hope very much, Mr. President, that this particular amendment will not be agreed to.

Mr. PRESSLER. Mr. President, if the Senator will yield, I am intrigued with this amendment for a number of reasons, and I am undecided as to how to vote on it but, perhaps, I can address a question to its author.

For some years, and coming from South Dakota, I have always been told that we can get $2 or $3 back from the Federal Treasury for every $1 we put into it. I do not believe that is true, and I do not think the Senator said that.

But in a State like South Dakota we do not have large manufacturing centers. When we buy our General Motors car that tax is paid in Detroit which, perhaps, gets credit for it being paid into the Federal Treasury or if we purchase a John Deere tractor.

Some States not thought to be manufacturing States are thought to get a good deal, but if we really analyze it that is not the case.

Also with respect to many public lands in the Western States, you can say expenditures in certain Indian tribal situations, certain interstate highway situations, where interstate commerce passes through a State which is, perhaps credited to that State. but I guess the question is, the thrust is, is it the thought that the citizens of South Dakota, for example, would be affected much more than New York in this reporting?

Mr. MOYNIHAN. Let me thank my distinguished friend from South Dakota. First, to confirm his impression that the amount that South Dakota gets from the Federal Treasury is smaller than is sometimes reported. The ratio of spending to taxes is, as estimated by the National Journal, a careful estimate, a responsible one, and is 1.28. New York, for example, has 0.85. He would be in the high range of those States, but not excessively so.

Sir, I wish to make several points: First, my part of the Nation did not commence this charade. In the past year we have seen ourselves on the verge of calling a constitutional convention in the most uncertain and feckless of circumstances, tampering with the fundamentals of the Nation, in response to the exaggerated and often misrepresented assertions about the calamitous nature of public spending at this time. And whence do these cries of alarm come from? They come from precisely those parts of the Nation for which public spending is a beneficence, and we are going through the exercise of creating several hypothetical balanced budgets.

I am for a balanced budget, I have no fear of it. I would like the Members, the Senators, to see—and their publics at home more than the Senators, who know this—what it would mean to their States.

If I may use a term from the Women's Liberation Movement, and a very attractive term, a little consciousness-raising would be helpful here.

I did not mind whilst this matter remained at the level of political rhetoric, but when you start fooling around with the Constitution it is a serious matter. I will give the Senate a brief anecdote.

In 1858 the New York Times reported one morning that a group of State Senators had introduced into the New York State Senate a resolution calling for a State convention in response to the reduction of canal revenues and the raising of taxes. So they wanted a State convention for the purpose of abolishing the executive and legislative branches of the New York State government, and turning them over to the chairman, the vice chairman, and board of directors of the New York Central Railroad Co.

This was introduced in jest, and promptly passed. Next it was adopted by the assembly, and in the following fall it lost by 6,200 votes.

Democracies get into this kind of fecklessness that verges on the deeply irresponsible, and my purpose, I would say to my friend from South Dakota, is only to say that the people of his State, as of mine, would learn something of the advantages—his State would learn something of the advantages—that they have out of the Federal budget and the costs that would be incurred by listening to many of the irresponsible representations—about constitutional convention—not made in this Chamber but made out in those parts of the world.

I see the Senator from Louisiana is on his feet.

Mr. JOHNSTON. Yes. Mr. President, I would ask the distinguished Senator from New York about the meaning of the phrase "differing costs of living," requiring equalization, as much as possible taking into consideration differing costs of living.

I ask the Senator this: Does not that really mean that instead of having equalized costs, you have to spend more in those States that have high costs of living, and if you happen to be from South Dakota, where the cost of living is low, that means we spend less in South Dakota where the cost of living is low, and more in New York? Is that not what that means?

Mr. MOYNIHAN. The Senator is, as I said, quite right. The purpose of that clause—may I be specific? Is primarily to provide for the very special conditions in Alaska and Hawaii. But may I say to you that our present increments provide for the lowest Federal payments in the States with the highest cost of living. My State of New York is supposed to have a high per capita income, and in plain income we rank ninth. But when you adjust the income for taxation and living costs, we come out No. 39—well behind Louisiana, for example.

In any event, Mr. President, have I answered the Senator's question? Without a cost-of-living provision, it would be totally unacceptable to Hawaii and Alaska, which face special problems of transportation costs, and so on.

Mr. JOHNSTON. This is not limited, though, to Hawaii and Alaska.

Mr. MOYNIHAN. No. In the past, the high Federal payments used to be to States with the lowest per capita income. Mississippi was such a State. But would anyone in this Chamber like to hear what the adjusted per capita incomes by States are in this country, what the last four States are, numbers 47, 48, 49, and 50, in adjusted per capita income? They are Rhode Island, Massachusetts, Vermont, and Maine.

The world has changed, and the atmosphere in which these matters are debated in this Chamber has not kept up with that. There must be, as I say, again to use that phrase of the women's movement, a certain consciousness-raising.

Mr. JOHNSTON. Will the Senator yield for one more question?

Mr. MOYNIHAN. I am happy to. I do not want to prolong the debate, but I am happy to try to help the Senator understand.

Mr. JOHNSTON. Just this one question: Would not this require, in matters of procurement, that the Federal Government spend more for an equal number of widgets in a high-income State than in a low-income State, in order, not to equalize income, but to equalize the adjusted income, adjusted for the cost of living?

Mr. MOYNIHAN. No, I think it would not, for the simple reason that the highest levels of Federal expenditures now tend to be in the formerly "high income" States, which no longer are.

I must ask you, in all candor, to accept their methodology to make adjustments, to be sure, but the Senator must be surprised to find that the list of adjusted per capita incomes by States has Rhode Island, Massachusetts, Vermont, and Maine at the bottom.

If there is no other Senator who wishes

to comment, I know that my senior colleague wishes to make remarks.

I see the Senator from Hawaii is on his feet.

Mr. MATSUNAGA. Mr. President, if the Senator will yield——

Mr. MOYNIHAN. Yes, I am happy to yield.

Mr. MATSUNAGA. I first of all wish to thank the Senator from New York for giving consideration to Hawaii and Alaska by way of giving consideration to the higher cost of living in those two areas of our Nation.

However, I am inclined to agree with the chairman of the committee that the amendment offered by the Senator from New York cannot be truly operative, in view of the fact that we have in our Nation areas with smaller populations which, from the standpoint of national security, for example, must require, in fact demand, greater expenditures than the population itself would call for.

In the case of Hawaii, for example, we have Federal expenditures for defense purposes of nearly a billion dollars a year, because Hawaii is the westernmost fortress of our continent. We have Pearl Harbor, we have Fort Shafter, we have a number of military installations which are a must in order to keep our defenses off of the coast of California; and much as I appreciate the effort on the part of the Senator from New York, I must agree with the chairman of the committee and vote in the negative.

Mr. MOYNIHAN. But will the Senator from Hawaii allow me to make a statement?

Mr. MATSUNAGA. Certainly.

Mr. MOYNIHAN. That this amendment is not addressed to him? First of all, clearly, this is never going to be operative. This bizarre exercise we are going to go through on the Budget Committee is going to have some consquences. I would like it to have the consequence of making the people who benefit from the Federal Treasury know how much they do.

I would say to the Senator from Hawaii that he is absolutely right, that the westernmost defenses of the United States are in his State and need to be there.

But I never hear him say that means we cannot spend any money on employment problems in the central cities of the Northeast.

Mr. MATSUNAGA. No, indeed.

Mr. MOYNIHAN. I never hear him stand up and say, "Wasteful Federal expenditure is ripping us off, and we must cut off anything to help the poor people of this country, and what we need are more dams." I never hear that from the Senator from Hawaii.

Mr. MATSUNAGA. No, I have not questioned that. I have agreed with the Senator from New York in that respect.

Mr. MOYNIHAN. Therefore, you are, as it were, not a fit object for my experiment. You are a man of great and capable understanding of national needs and regional differences.

Mr. MATSUNAGA. I appreciate that statement.

Mr. MOYNIHAN. And I think Senators would find we have voted together on almost everything.

I have heard in this Chamber today, sir, a good friend of mine say, "What about that loan guarantee we provided New York City?" I guess I will never hear the end of that loan guarantee. But let me tell you, I will remind you that 4 days before the President signed that little $1.6 billion loan guarantee for New York, with an extra point interest so that the Treasury makes money—all the world knew about it, without even a signing ceremony he signed a bill to provide $4 billion in loan guarantees to farmers, and I voted for that, and you did, too.

Mr. MATSUNAGA. I have always supported guaranteed loans to farmers.

Mr. MOYNIHAN. And we will vote for them again next year, when it comes up again. But has anybody talked about "bailing out" the farmers? Has anybody proposed that it is not a good thing to provide guaranteed loans to businessmen who need them?

While I regret, Mr. President, that the Senator from Hawaii says he cannot support this measure, he has my complete friendship and respect. I say to him, "Sir, you do not need this amendment."

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

Mr. MOYNIHAN. Yes, I am happy to yield to my good friend the Senator from Nebraska.

Mr. EXON. We have begun talking about farmers now, so it would be appropriate for me to make a statement. The Senator from New York and I have talked earlier on this subject, and, for the record, I want to state once again, the State of Nebraska is in a little worse shape than the State of New York is.

Mr. MOYNIHAN. The Senator is entirely correct, Mr. President.

Mr. EXON. I think we get back about 83 cents in Nebraska for every dollar paid in.

That shows that the farmers are not doing quite as well as some of the factors might indicate. I wanted to straighten that out first.

Mr. MOYNIHAN. The Senator is precise in his ratio.

Mr. EXON. I think I see what the Senator is trying to do, but from a practical standpoint and from some of the statements the Senator has made in the discussions today, I wonder if indeed the Senator himself is for what he is proposing. Is the Senator for this?

Mr. MOYNIHAN. No, I am not for this. I think it would be a calamity to do this. I am for introducing this into our exercise, these "pretend" budgets we are going to make, in order that people can see what the impact of the Federal budget is on them.

Mr. EXON. As a member of the Budget Committee, then, certainly, the Senator from New York recognizes it would be totally impossible for us in the Budget Committee to do what he is suggesting we do in this amendment?

Mr. MOYNIHAN. No. I would respectfully suggest we could do it. We would do it badly, but we will do the whole thing badly. The Senator does not suppose anybody has the vaguest notion what in 3 years our expenditures and revenues will be.

I see our distinguished chairman is here. He is not protesting my remarks. I remember some remarks Dr. Burns said recently about economic forecasting. He said economic forecasters are people who pretend to know things about the future which the most careful scholars cannot get determined about the past. People act like the GNP is a bank account that you can call up and find out about. If our GNP estimates are accurate plus or minus $200 billion, I would think it would be a remarkable achievement.

Mr. EXON. I thank the Senator from New York.

Mr. President, I am ready to vote any time.

Mr. JAVITS. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. JAVITS. Mr. President, I think the Senator has taken this occasion to point out a very serious problem for our country, not just for New York. There are very material demographic changes in the country which occur when one region, which is favored by nature and by the interests of other Americans, as certain areas of our country are now, changes completely the nature of its relation to the Federal Establishment in terms of what it needs and what it has a right to draw.

We really do not have, except for the advocacy of the Senators or Congressmen from the particular area or from their own State or local officials, a sufficient way to evaluate that in terms of the budget and in terms of our expenditures and receipts. It seems to me this would be a very clear indication of demographic shifts in the United States.

For example, it is the fact that for many years, and quite properly, I favored the South and Southwest. Now the shoe is on the other foot and we are having the same difficulties respecting our effort to adjust to demographic change here in the North and Northeast which, for so long, supported all of these other programs.

I think what Senator MOYNIHAN seeks to do, whether it is adequately architected or not, is to give us at least the knowledge of what is happening, where we stand, and, therefore, what we ought to do about it, and not necessarily what we will do, because it does take time to adjust. It is just like exports and imports in international trade, the interests of the consumer and the interests of our own world development in terms of our own exports and our own financial standing.

In short, Mr. President. I rise to commend my colleague for the effort to take a step, not of a mandatory character, which is critically important to our country, and which, by the way, shows us why our superstitions about indicative planning are so harmful to the total economy and why it, like our foreign policy, is so often caught flatfooted, as we were in Iran, because we do not try to see ahead for 10 years, like General Motors, General Electric, IBM, and any other good company, or, indeed, any public utility. So I am glad my colleague has acted as he did, and in any way I can, I shall certainly support him.

Mr. MOYNIHAN. I thank my dear senior colleague for his statement, which

is very clear and balanced, a lot more balanced than the budget will be, I daresay.

Mr. President, I move the adoption of the amendment.

Mr. MAGNUSON. Does the Senator consider the matter of loans in the Federal budget?

Mr. MOYNIHAN. No. Loans are not classified as outlays.

Mr. MAGNUSON. There are about $34 billion in loans in the Federal budget.

Mr. MOYNIHAN. Yes.

Mr. MAGNUSON. Part of them are to develop, for example, dams on the Columbia River, which we pay back at 3 percent.

Mr. MOYNIHAN. That is correct.

Mr. MAGNUSON. We are right up to schedule. The C–B ratio on water projects in Louisiana is good. That is a loan.

I understand how the people in New York feel, "Well, the people in the State of Washington or in the State of Louisiana get more out of the Federal Government than we do per capita."

But we are doing things for the country. The hydroelectric power on the Pacific Northwest has come from a loan. I wonder if the Senator has considered that.

Mr. MOYNIHAN. I would say I certainly have considered it. I believe the Senator has made a valid point.

I would like to repeat to the Senator from Washington, our President pro tempore, what I said to my colleague from Washington. This does not apply to the Senator from Washington. The Senator has always supported an equitable distribution of programs. Because dams are proper in one part of the world does not mean that we do not need jobs in other parts of the world.

Mr. MAGNUSON. It is hard to differentiate these things geographically. What is geographically good for the country happens in Louisiana, in the State of Washington, or in New York. I just think we have to take the overall. As the chairman said today, it works out pretty good. The Senator may think it does not work out very well for New York, but I believe it does. It works out good for New York. We contribute a great deal to New York in the way of many things.

Mr. MOYNIHAN. May I respectfully say it is easier to be philosophical about these amounts when you are in defense of them. In the National Journal estimates in 1976, California had a surplus with the Federal Government of $4.7 billion and New York State has a deficit of $4.7 billion.

That is why we are broke and they are not. That is why they had such a huge surplus that they went nutty over proposition 13 and we have had us locked up in this crazy business for the last few years. If you ever stop to think, if California did not have that huge surplus, we would never have had proposition 13.

Mr. MAGNUSON. Just as a matter of incidental information to contribute to this wild budget debate that has been going on here, everybody has a different idea—I mean wild in that sense. There are $89 billion in the budget that are for picking up local tabs and there are $43 billion in the budget that are loans. We could cut out that $43 billion in loans and put them over here some place and balance the budget overnight.

Mr. MOYNIHAN. The Senator from Washington knows too much.

Mr. MAGNUSON. Yes, and $89 billion of the local tabs—we could do that pretty well, too.

Mr. MOYNIHAN. And this is coming if we do not get more——

Mr. MAGNUSON. That may be, but I just wanted to be sure that the Senator from New York realizes that the maldistribution which he is talking about still contributes a great deal overall to the country.

Mr. MOYNIHAN. I say to the Senator that I have never protested it until I learned that when our circumstances became somewhat straightened, this principle of need suddenly no longer applied. It turned out we could not afford it.

Mr. President, I make one last observation: As a result of this debate and these exercises, we are going to have a smaller tax cut next year than we otherwise would have, and we shall probably cut a large chunk of the revenue-sharing, and we shall probably have, in the aftermath of it all, a still greater, more centralized, more powerful Government. This is, as Michael Oakeshott says, an unanticipated consequence of social change.

I am ready to vote. I see no Member is on his feet.

Mr. President, I move the amendment.

Mr. LONG. Mr. President, I do not know for sure whether the amendment works out the way the chart does that the Senator provided us. I have simply listed the number of States that would lose as well as those that would gain under the amendment. I ask unanimous consent that the chart the Senator provided, together with those markings, be printed in the RECORD.

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

SOME STATES WIN, SOME STATES LOSE

[Losers under the amendment are shown in *italics*, 29 States]

	Spending per person	Taxes per person	Spending-taxes ratio	Dollar flow (millions)
Northeast	$1,453	$1,708	$0.85	−$12,617
New England	1,599	1,676	.95	−939
Maine	1,579	1,227	1.29	375
New Hampshire	1,466	1,477	.99	−10
Vermont	1,503	1,308	1.15	92
Massachusetts	1,626	1,662	.98	−207
Rhode Island	1,494	1,580	.95	−80
Connecticut	1,638	1,995	.82	−1,109
Mid-Atlantic	1,405	1,718	.82	−11,677
New York	1,510	1,770	.85	−4,710
New Jersey	1,271	1,886	.67	−4,514
Pennsylvania	1,328	1,535	.87	−2,453
Midwest	1,228	1,566	.78	−19,475
Great Lakes	1,142	1,633	.70	−20,094
Ohio	1,132	1,578	.72	−4,777
Indiana	1,062	1,451	.73	−2,061
Illinois	1,288	1,822	.71	−5,979
Michigan	1,071	1,662	.64	−5,389
Wisconsin	1,044	1,454	.72	−1,886
Great Plains	1,438	1,401	1.03	619
Minnesota	1,271	1,432	.89	−635
Iowa	1,101	1,400	.79	−858
Missouri	1,847	1,388	1.33	2,191
Kansas	1,373	1,464	.94	−210
Nebraska	1,194	1,433	.83	−370
South Dakota	1,464	1,145	1.28	218
North Dakota	1,714	1,275	1.34	281
South	1,511	1,325	1.14	12,616
South Atlantic	1,577	1,427	1.11	4,992
Delaware	1,204	1,912	.63	−411
Maryland	2,012	1,745	1.15	1,104
Virginia	2,050	1,466	1.40	2,922
West Virginia	1,317	1,154	1.14	295
North Carolina	$1,249	$1,244	$1.00	$29
South Carolina	1,393	1,164	1.20	649
Georgia	1,432	1,299	1.10	658
Florida	1,524	1,554	.98	−252
South Central	1,447	1,227	1.18	7,622
Kentucky	1,483	1,149	1.29	1,140
Tennessee	1,551	1,268	1.22	1,188
Alabama	1,480	1,112	1.33	1,342
Mississippi	1,690	945	1.79	1,749
Louisiana	1,255	1,161	1.08	361
Arkansas	1,342	1,067	1.26	582
Oklahoma	1,569	1,227	1.28	937
Texas	1,396	1,370	1.02	325
West	1,852	1,579	1.17	10,446
Mountain	1,701	1,372	1.24	3,208
Montana	1,588	1,305	1.22	212
Idaho	1,407	1,270	1.11	113
Wyoming	1,530	1,533	1.00	−1
Colorado	1,739	1,503	1.16	605
Utah	1,560	1,181	1.32	461
Nevada	1,729	1,795	.96	−40
Arizona	1,696	1,383	1.23	701
New Mexico	2,101	1,101	1.91	1,156
Pacific	1,904	1,650	1.15	7,238
California	1,891	1,670	1.13	4,724
Oregon	1,360	1,486	.92	−291
Washington	2,023	1,602	1.26	1,511
Alaska	3,620	1,920	1.89	638
Hawaii	2,421	1,672	1.45	656
District of Columbia	14,713	1,938	7.59	9,032
Total, United States	1,524	1,524	1.00	0

NOTE.—The table shows winners and losers in the contest for Federal spending. The columns record: (1) Federal spending per person in fiscal 1976, excluding interest payments; (2) the Federal tax burden per person, with the deficit distributed proportionally to population as an added tax; (3) money received in Federal spending for every tax dollar sent to Washington; and (4) the dollar total that flowed into or out of each State and region.

Source: National Journal July 2, 1977, p. 1034.

Mr. LONG. Mr. President, this debate could go on. If we had the time, it would be interesting to debate it for hours and hours, and for days. It is a very interesting problem that has been discussed a lot nationwide, in the news media and the monthly publications and others, but there is an urgency to act on this bill.

Therefore, Mr. President, to bring the matter to an immediate vote, I am ready to move that the amendment be laid on the table.

Mr. ROBERT C. BYRD. Will the Senator withhold that for a moment?

Mr. LONG. I ask unanimous consent that I may withhold without losing my right to the floor, Mr. President.

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

Mr. MOYNIHAN. Will the Senator allow me a moment for the purpose of putting in the RECORD this National Journal table as well?

Mr. LONG. Yes, I put it in, but the Senator has it marked by those who would lose from one point of view. I have marked it by those who would lose from the other point of view.

Mr. MOYNIHAN. As long as it is the original table, that is fine. I shall just put it in as printed.

I ask unanimous consent therefor, Mr. President.

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

SOME STATES WIN, SOME STATES LOSE

	Spending per person	Taxes per person	Spending-taxes ratio	Dollar flow (millions)
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Ohio	1,132	1,578	.72	−4,777
Indiana	1,062	1,451	.73	−2,061
Illinois	1,288	1,822	.71	−5,979
Michigan	1,071	1,662	.64	−5,389
Wisconsin	1,044	1,454	.72	−1,886
Great Plains	1,438	1,401	1.03	619
Minnesota	1,271	1,432	.89	−635
Iowa	1,101	1,400	.79	−858
Missouri	1,847	1,388	1.33	2,191
Kansas	1,373	1,464	.94	−210
Nebraska	1,194	1,433	.83	−370
South Dakota	1,464	1,145	1.28	218
North Dakota	1,714	1,275	1.34	281
South	1,511	1,325	1.14	12,616
South Atlantic	1,577	1,427	1.11	4,992
Delaware	1,204	1,912	.63	−411
Maryland	2,012	1,745	1.15	1,104
Virginia	2,050	1,466	1.40	2,922
West Virginia	1,317	1,154	1.14	295
North Carolina	$1,249	$1,244	$1.00	$29
South Carolina	1,393	1,164	1.20	649
Georgia	1,432	1,299	1.10	658
Florida	1,524	1,554	.98	−252
South Central	1,447	1,227	1.18	7,622
Kentucky	1,483	1,149	1.29	1,140
Tennessee	1,551	1,268	1.22	1,188
Alabama	1,480	1,112	1.33	1,342
Mississippi	1,690	945	1.79	1,749
Louisiana	1,255	1,161	1.08	361
Arkansas	1,342	1,067	1.26	582
Oklahoma	1,569	1,227	1.28	937
Texas	1,396	1,370	1.02	325
West	1,852	1,579	1.17	10,446
Mountain	1,701	1,372	1.24	3,208
Montana	1,588	1,305	1.22	212
Idaho	1,407	1,270	1.11	113
Wyoming	1,530	1,533	1.00	−1
Colorado	1,739	1,503	1.16	605
Utah	1,560	1,181	1.32	461
Nevada	1,729	1,795	.96	−40
Arizona	1,696	1,383	1.23	701
New Mexico	2,101	1,101	1.91	1,156
Pacific	1,904	1,650	1.15	7,238
California	1,891	1,670	1.13	4,724
Oregon	1,360	1,486	.92	−291
Washington	2,023	1,602	1.26	1,511
Alaska	3,620	1,920	1.89	636
Hawaii	2,421	1,672	1.45	658
District of Columbia	14,713	1,938	7.59	9,032
Total, United States	1,524	1,524	1.00	0

Note: The table shows winners and losers in the contest for Federal spending. The columns record: (1) Federal spending per person in fiscal 1976, excluding interest payments; (2) the Federal tax burden per person, with the deficit distributed proportionally to population as an added tax; (3) money received in Federal spending for every tax dollar sent to Washington; and (4) the dollar total that flowed into or out of each State and region.

TIME LIMITATION REQUEST

Mr. ROBERT C. BYRD. Mr. President, I understand Mr. HART is going to call up an amendment immediately following the disposition of this amendment. I ask unanimous consent that there be a 30-minute time limitation—a 20-minute time limitation on the amendment by Senator HART.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. It seems to me that we ought to vote on the Hart amendment without a lot of discussion. It is not germane to this bill, but if it is going to be offered on the bill, I think I could perhaps vote for it. But I think we ought to have a quick decision and that could be done by a motion to table. If the motion fails, then we can agree to the amendment. I do not want to waste an hour if we can do it a lot sooner than that.

Mr. ROBERT C. BYRD. Mr. President, it is not my suggestion that we waste an hour. I suggest a 20-minute time limitation. I should like to see an up-or-down vote.

Mr. LONG. The problem I have, Mr. President, is if we take that much time on the Hart amendment—and everybody knows how he is going to vote on that amendment; it has been discussed in the media up one side and down the other—I would be willing to agree to 5 minutes on a side.

Mr. ROBERT C. BYRD. Would the Senator give him 10 minutes on a side?

Mr. LONG. Mr. President, we are not going to be able to do anything but debate that one amendment the rest of the day.

Mr. ROBERT C. BYRD. If we do not have a time limitation agreement, we may not vote on it today.

Mr. LONG. Oh, no, it is subject to——

Mr. ROBERT C. BYRD. Mr. President, I am trying to see that the Senator from Colorado be given an up-or-down vote on this amendment.

Mr. LONG. I am in favor of what the Senator wants to do, but I am not in favor of spending an hour on it.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 20-minute time limitation on the amendment of the Senator from Colorado.

Mr. LONG. I object. I am willing to vote on it, Mr. President, but I am not willing to agree to a 20-minute time limitation. Five minutes on each side I would be willing to agree to.

Mr. ROBERT C. BYRD. Mr. President, I am trying to help the Senator from Louisiana on his bill, trying to help get time limitations on it, and I want to help the Senator from Colorado get an up-or-down vote on his amendment. He is willing to go for a time limitation of 20 minutes, equally divided.

Mr. LONG. All right. OK. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I hope the distinguished Senator will not object. The Senator from Louisiana wants to get this bill finished today if he possibly can. This agreement would preclude any filibuster or extended debate on the amendment by the Senator from Colorado. Let the Senate vote up or down—it knows what the issue is—whether or not it wants to vitiate the action taken recently. If it does not want to vitiate it, let the Senate vote it down. If it wants to vitiate the action, let the Senate vote it up. Let us have a rollcall vote. I hope the Senator will not object.

Mr. LEVIN. Mr. President, if I may state the nature of my objection, it seems to me that the problem we got into before was that we acted without due notice on this matter once before. It got us into difficulty. It seems to me that, by approaching it this way and trying to vote on this today, we are going to be compounding that difficulty, voting on something again of which many Senators may not have notice.

As I understand this amendment, it has not yet been offered. I presume this is the amendment relative to the honoraria?

Mr. HART. The Senator is correct.

Mr. LEVIN. It seems to me we shall be compounding the problem we created for ourselves before if we proceed in this manner. I do think we should have an up or down vote on this matter. I have an amendment to offer to it, a perfecting amendment, when it is offered. I do think we should do this with notice to other Senators.

Mr. ROBERT C. BYRD. Mr. President, there was notice given to Senators on the other occasion. The amendment was called up on one day, opening statements were made on the amendment. The CONGRESSIONAL RECORD, in the Digest, indicated that action would take place on that amendment on the following day. Any Senator who reads the RECORD knew that there was going to be a vote on it. Any Senator could have asked for a rollcall vote on it. The request was not made.

The Senator from Colorado wants to vitiate the action. Everybody knows what the issue is. I had hoped we could have 20 minutes on the amendment and vote up or down—not move to table. Let the Senate make a decision today as to whether or not it wants to vitiate that action.

I do not think that takes any time. Everybody knows what the issue is. The press has been full of the issue. Everybody knows what we are talking about.

There was ample notice given on that other occasion, 24 hours' notice. How much notice do Senators want? If they read the RECORD, they ought to have known what was going to happen. The Senate voted by voice vote. Any Senator could have asked for a "yea" or "nay" vote. No Senator asked for one.

Let the Senate vote up or down. That is what the hue and cry has been. Let the Senator have a vote on his amendment, up or down.

Mr. President. I hope we will have a 20-minute time limitation on the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. I object for the reasons stated.

The majority leader is correct. There was 24 hours' notice. It was brought to the attention of the Senate on one evening at 7 o'clock. It was brought to a vote the next morning. I believe that does comply with the 24-hour rule because, at least, it was held over a day. As I understand things here, this is not even going to be held over a day and I do not believe that complies with the spirit of the 24-hour rule.

Mr. ROBERT C. BYRD. There is no 24-hour rule on the amendment. I hope the Senator from Colorado, now that there is objection, will call up his amendment and let us get a vote on it. It is my intention, and I have expressed the hope, and I express the hope, that we would not have a tabling motion.

UP AMENDMENT NO. 118

Mr. LONG. Mr. President, I move that the pending amendment be laid on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from New York. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) is necessarily absent.

I further announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 69, nays 28, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—69

Armstrong	Durenberger	Morgan
Baker	Eagleton	Nunn
Baucus	Exon	Pressler
Bellmon	Ford	Pryor
Bentsen	Garn	Randolph
Biden	Goldwater	Roth
Boren	Hart	Sarbanes
Boschwitz	Hatch	Sasser
Bumpers	Hayakawa	Schmitt
Burdick	Heflin	Simpson
Byrd,	Helms	Stafford
Harry F., Jr.	Hollings	Stennis
Byrd, Robert C.	Huddleston	Stevens
Cannon	Inouye	Stewart
Chafee	Jepsen	Stone
Chiles	Johnston	Talmadge
Church	Kassebaum	Thurmond
Cochran	Laxalt	Tower
Cranston	Leahy	Wallop
Culver	Long	Warner
Danforth	Magnuson	Weicker
DeConcini	Matsunaga	Young
Dole	McGovern	
Domenici	Melcher	

NAYS—28

Bayh	Kennedy	Proxmire
Bradley	Levin	Ribicoff
Cohen	Lugar	Riegle
Durkin	Mathias	Schweiker
Glenn	Metzenbaum	Stevenson
Hatfield	Moynihan	Tsongas
Heinz	Muskie	Williams
Humphrey	Nelson	Zorinsky
Jackson	Packwood	
Javits	Pell	

NOT VOTING—3

Gravel	McClure	Percy

So the motion to lay on the table amendment No. 118, as modified, was agreed to.

The PRESIDING OFFICER. If there be no further amendment, the question is on the engrossment of the amendments and third reading of the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I did not want the bill to go to third reading if any Senator has an amendment.

AMENDMENT NO. 110

(Purpose: To provide for individual tax reductions during calendar years 1981, 1982, 1983, and 1984 contingent upon certain limitations on Federal spending)

Mr. ARMSTRONG. Mr. President, I call up my amendment No. 110.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an amendment numbered 110.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. It has been printed and is available for the use of Senators.

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

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 5. Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—There is hereby imposed on the taxable income, for the taxable years beginning in the calendar years specified in subsection (b)(2), of every—

"(1) married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined under the applicable schedule for the taxable year,

"(2) head of a household (as defined in section 2(b)), a tax determined under the applicable schedule for the taxable year,

"(3) every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined under the applicable schedule for the taxable year, and

"(4) a married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax equal to one-half the tax which would be determined for an individual described in paragraph (1) with the same taxable income.

"(b) APPLICABLE SCHEDULES.—

"(1) APPLICATION OF SCHEDULES TO INDIVIDUALS.—For purposes of subsection (a) the applicable schedule for—

"(A) individuals described in subsection (a)(1) is schedule 2,

"(B) individuals described in subsection (a)(2) is schedule 3, and

"(C) individuals described in subsection (a)(3) is schedule 1.

"(2) APPLICATION OF SCHEDULES TO TAXABLE YEARS.—

"(A) CALENDAR YEAR 1981.—The schedules in effect for taxable years beginning in 1981 are as follows:

"SCHEDULE 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:		"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$2,300	$3,400	$0, plus 12.3%	$2,300	$18,200	$23,500	$3,358, plus 32.3%	$18,200
$3,400	$4,400	$136, plus 13.3%	$3,400	$23,500	$28,800	$5,070, plus 37.0%	$23,500
$4,400	$6,500	$269, plus 15.2%	$4,400	$28,800	$34,100	$7,034, plus 41.8%	$28,800
$6,500	$8,500	$588, plus 19.0%	$6,500	$34,100	$41,500	$9,249, plus 46.5%	$34,100
$8,500	$10,800	$968, plus 20.9%	$8,500	$41,500	$55,300	$12,694, plus 52.2%	$41,500
$10,800	$12,900	$1,449, plus 22.8%	$10,800	$55,300	$81,800	$19,904, plus 59.8%	$55,300
$12,900	$15,000	$1,928, plus 24.7%	$12,900	$81,800	$108,300	$35,765, plus 64.6%	$81,800
$15,000	$18,200	$2,446, plus 28.5%	$15,000	$108,300		$52,884, plus 66.5%	$108,300

"SCHEDULE 2

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:		"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$3,400	$5,500	$0, plus 12.3%	$3,400	$35,200	$45,800	$7,744, plus 40.8%	$35,200
$5,500	$7,600	$259, plus 13.3%	$5,500	$45,800	$60,000	$12,074, plus 46.5%	$45,800
$7,600	$11,900	$539, plus 15.2%	$7,600	$60,000	$85,600	$18,685, plus 51.3%	$60,000
$11,900	$16,000	$1,192, plus 19.9%	$11,900	$85,600	$109,400	$31,817, plus 56.0%	$85,600
$16,000	$20,200	$2,010, plus 23.7%	$16,000	$109,400	$162,400	$45,157, plus 60.8%	$109,400
$20,200	$24,600	$3,008, plus 27.5%	$20,200	$162,400	$215,400	$77,381, plus 64.6%	$162,400
$24,600	$29,900	$4,220, plus 30.4%	$24,600	$215,400		$111,619, plus 66.5%	$215,400
$29,900	$35,200	$5,831, plus 36.1%	$29,900				

"SCHEDULE 3

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:		"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$3,000	$5,100	$0, plus 12.3%	$3,000	$29,500	$34,800	$6,445, plus 39.9%	$29,500
$5,100	$7,200	$259, plus 13.3%	$5,100	$34,800	$45,400	$8,559, plus 43.7%	$34,800
$7,200	$9,400	$539, plus 15.2%	$7,200	$45,400	$61,300	$13,192, plus 51.3%	$45,400
$9,400	$12,500	$873, plus 20.9%	$9,400	$61,300	$82,500	$21,348, plus 56.0%	$61,300
$12,500	$15,700	$1,521, plus 22.8%	$12,500	$82,500	$109,000	$33,231, plus 59.8%	$82,500
$15,700	$18,900	$2,251, plus 25.6%	$15,700	$109,000	$162,000	$49,091, plus 64.6%	$109,000
$18,900	$24,200	$3,071, plus 29.4%	$18,900	$162,000		$83,329, plus 66.5%	$162,000
$24,200	$29,500	$4,632, plus 34.2%	$24,200				

"(B) CALENDAR YEAR 1982.—The schedules in effect for taxable years beginning in 1982 are as follows:

"SCHEDULE 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:		"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$2,300	$3,400	$0, plus 11.6%	$2,300	$18,200	$23,500	$3,146, plus 30.3%	$18,200
$3,400	$4,400	$127, plus 12.5%	$3,400	$23,500	$28,800	$4,750, plus 34.7%	$23,500
$4,400	$6,500	$252, plus 14.2%	$4,400	$28,800	$34,100	$6,590, plus 39.2%	$28,800
$6,500	$8,500	$551, plus 17.8%	$6,500	$34,100	$41,500	$8,665, plus 43.6%	$34,100
$8,500	$10,800	$907, plus 19.6%	$8,500	$41,500	$55,300	$11,892, plus 48.9%	$41,500
$10,800	$12,900	$1,357, plus 21.4%	$10,800	$55,300	$81,800	$18,647, plus 56.1%	$55,300
$12,900	$15,000	$1,806, plus 23.1%	$12,900	$81,800	$108,300	$33,506, plus 60.5%	$81,800
$15,000	$18,200	$2,292, plus 26.7%	$15,000	$108,300		$49,544, plus 62.3%	$108,300

"SCHEDULE 2

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:		"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$3,400	$5,500	$0, plus 11.6%	$3,400	$35,200	$45,800	$7,255, plus 38.3%	$35,200
$5,500	$7,600	$243, plus 12.5%	$5,500	$45,800	$60,000	$11,312, plus 43.6%	$45,800
$7,600	$11,900	$505, plus 14.2%	$7,600	$60,000	$85,600	$17,505, plus 48.1%	$60,000
$11,900	$16,000	$1,117, plus 18.7%	$11,900	$85,600	$109,400	$29,808, plus 52.5%	$85,600
$16,000	$20,200	$1,883, plus 22.2%	$16,000	$109,400	$162,400	$42,305, plus 57.0%	$109,400
$20,200	$24,600	$2,818, plus 25.8%	$20,200	$162,400	$215,400	$72,494, plus 60.5%	$162,400
$24,600	$29,900	$3,953, plus 28.5%	$24,600	$215,400		$104,570, plus 62.3%	$215,400
$29,900	$35,200	$5,463, plus 33.8%	$29,900				

"SCHEDULE 3

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:		"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$3,000	$5,100	$0, plus 11.6%	$3,000	$29,500	$34,800	$6,038, plus 37.4%	$29,500
$5,100	$7,200	$243, plus 12.5%	$5,100	$34,800	$45,400	$8,019, plus 40.9%	$34,800
$7,200	$9,400	$505, plus 14.2%	$7,200	$45,400	$61,300	$12,359, plus 48.1%	$45,400
$9,400	$12,500	$818, plus 19.6%	$9,400	$61,300	$82,500	$20,000, plus 52.5%	$61,300
$12,500	$15,700	$1,425, plus 21.4%	$12,500	$82,500	$109,000	$31,132, plus 56.1%	$82,500
$15,700	$18,900	$2,108, plus 24.0%	$15,700	$109,000	$162,000	$45,991, plus 60.5%	$109,000
$18,900	$24,200	$2,877, plus 27.6%	$18,900	$162,000		$78,066, plus 62.3%	$162,000
$24,200	$29,500	$4,340, plus 32.0%	$24,200				

"(C) CALENDAR YEAR 1983.—The schedules in effect for taxable years beginning in 1983 are as follows:

"SCHEDULE 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:		"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$2,300	$3,400	$0, plus 11.2%	$2,300	$18,200	$23,500	$3,040, plus 29.2%	$18,200
$3,400	$4,400	$123, plus 12.0%	$3,400	$23,500	$28,800	$4,590, plus 33.5%	$23,500
$4,400	$6,500	$243, plus 13.8%	$4,400	$28,800	$34,100	$6,367, plus 37.8%	$28,800
$6,500	$8,500	$532, plus 17.2%	$6,500	$34,100	$41,500	$8,373, plus 42.1%	$34,100
$8,500	$10,800	$876, plus 18.9%	$8,500	$41,500	$55,300	$11,491, plus 47.3%	$41,500
$10,800	$12,900	$1,311, plus 20.6%	$10,800	$55,300	$81,800	$18,019, plus 54.2%	$55,300
$12,900	$15,000	$1,745, plus 22.4%	$12,900	$81,800	$108,300	$32,376, plus 58.5%	$81,800
$15,000	$18,200	$2,214, plus 25.8%	$15,000	$108,300		$47,874, plus 60.2%	$108,300

"SCHEDULE 2

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:		"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$3,400	$5,500	$0, plus 11.2%	$3,400	$35,200	$45,800	$7,011, plus 37.0%	$35,200
$5,500	$7,600	$235, plus 12.0%	$5,500	$45,800	$60,000	$10,931, plus 42.1%	$45,800
$7,600	$11,900	$488, plus 13.8%	$7,600	$60,000	$85,600	$16,914, plus 46.4%	$60,000
$11,900	$16,000	$1,079, plus 18.1%	$11,900	$85,600	$109,400	$28,803, plus 50.7%	$85,600
$16,000	$20,200	$1,820, plus 21.5%	$16,000	$109,400	$162,400	$40,879, plus 55.0%	$109,400
$20,200	$24,600	$2,723, plus 24.9%	$20,200	$162,400	$215,400	$70,050, plus 58.5%	$162,400
$24,600	$29,900	$3,820, plus 27.5%	$24,600	$215,400		$101,045, plus 60.2%	$215,400
$29,900	$35,200	$5,279, plus 32.7%	$29,900				

"SCHEDULE 3

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:		"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$3,000	$5,100	$0, plus 11.2%	$3,000	$34,800	$45,400	$7,749, plus 39.6%	$34,800
$5,100	$7,200	$235, plus 12.0%	$5,100	$45,400	$61,300	$11,942, plus 46.4%	$45,400
$7,200	$9,400	$488, plus 13.8%	$7,200	$61,300	$82,500	$19,326, plus 50.7%	$61,300
$9,400	$12,500	$790, plus 18.9%	$9,400	$82,500	$109,000	$30,083, plus 54.2%	$82,500
$12,500	$15,700	$1,377, plus 20.6%	$12,500	$109,000	$162,000	$44,440, plus 58.5%	$109,000
$24,200	$29,500	$4,193, plus 31.0%	$24,200	$162,000		$75,435, plus 60.2%	$162,000
$29,500	$34,800	$5,834, plus 36.1%	$29,500				

"(D) CALENDAR YEAR 1984.—The schedules in effect for taxable years beginning in 1984 are as follows:

"SCHEDULE 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:		"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$2,300	$3,400	$0, plus 10.7%	$2,300	$18,200	$23,500	$2,899, plus 27.9%	$18,200
$3,400	$4,400	$117, plus 11.5%	$3,400	$23,500	$28,800	$4,376, plus 32.0%	$23,500
$4,400	$6,500	$232, plus 13.1%	$4,400	$28,800	$34,100	$6,071, plus 36.1%	$28,800
$6,500	$8,500	$508, plus 16.4%	$6,500	$34,100	$41,500	$7,984, plus 40.2%	$34,100
$8,500	$10,800	$836, plus 18.0%	$8,500	$41,500	$55,300	$10,957, plus 45.1%	$41,500
$10,800	$12,900	$1,250, plus 19.7%	$10,800	$55,300	$81,800	$17,181, plus 51.7%	$55,300
$12,900	$15,000	$1,664, plus 21.3%	$12,900	$81,800	$108,300	$30,871, plus 55.8%	$81,800
$15,000	$18,200	$2,111, plus 24.6%	$15,000	$108,300		$45,647, plus 57.4%	$108,300

"SCHEDULE 2

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$3,400	$5,500	$0, plus 10.7%	$3,400
$5,500	$7,600	$224, plus 11.5%	$5,500
$7,600	$11,900	$465, plus 13.1%	$7,600
$11,900	$16,000	$1,029, plus 17.2%	$11,900
$16,000	$20,200	$1,735, plus 20.5%	$16,000
$20,200	$24,600	$2,596, plus 23.8%	$20,200
$24,600	$29,900	$3,642, plus 26.2%	$24,600
$29,900	$35,200	$5,033, plus 31.2%	$29,900

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$35,200	$45,800	$6,685, pus 35.3%	$35,200
$45,800	$60,000	$10,422, plus 40.2%	$45,800
$60,000	$85,600	$16,128, plus 44.3%	$60,000
$85,600	$109,400	$27,463, plus 48.4%	$85,600
$109,400	$162,400	$38,978, plus 52.5%	$109,400
$162,400	$215,400	$66,792, plus 55.8%	$162,400
$215,400		$96,345, plus 57.4%	$215,400

"SCHEDULE 3

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$3,000	$5,100	$0, plus 10.7%	$3,000
$5,100	$7,200	$224, plus 11.5%	$5,100
$7,200	$9,400	$465, plus 13.1%	$7,200
$9,400	$12,500	$754, plus 18.0%	$9,400
$12,500	$15,700	$1,313, plus 19.7%	$12,500
$15,700	$18,900	$1,943, plus 22.1%	$15,700
$18,900	$24,200	$2,651, plus 25.4%	$18,900
$24,200	$29,500	$3,998 plus 29.5%	$24,200

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$29,500	$34,800	$5,563, plus 34.4%	$29,500
$34,800	$45,400	$7,388, plus 37.7%	$34,800
$45,400	$61,300	$11,387, plus 44.3%	$45,400
$61,300	$82,500	$18,427, plus 48.4%	$61,300
$82,500	$109,000	$28,684, plus 51.7%	$82,500
$109,000	$162,000	$42,373, plus 55.8%	$109,000
$162,000		$71, 926, plus 57.4%	$162,000

"(c) SCHEDULE REDUCTION NOT TO TAKE EFFECT WHEN FEDERAL SPENDNG EXCEEDS LIMITATIONS.—

"(1) NOTIFICATION OF CONGRESS.—In calendar years 1980 through 1983, after the adoption by the Congress of the second concurrent resolution on the Budget or any further concurrent resolution on the Budget adopted by the Congress under section 310 of the Congressional Budget Act of 1974 (referred to elsewhere in this subsection as the "budget resolution") and before the beginning of the next calendar year, the Secretary shall notify the Congress if—

"(A) the total amount of Federal outlays agreed to in the budget resolution for the fiscal year which ends within such next calendar year exceed the following percent of the projected gross national product projected by the Congressional Budget Office for that fiscal year on the basis of the budget resolution for that fiscal year: 20.5 percent in fiscal year 1981, 20.0 percent in fiscal year 1982, 19.5 percent in fiscal year 1983, and 19.0 percent in fiscal year 1984;

"(B) only for fiscal year 1981 if the total amount of Federal outlays specified in the second concurrent budget resolution for fiscal year 1981 exceed the total revenues specified in that resolution; or

"(C) the increase in total Federal outlays specified in the budget resolution for that fiscal year exceeds the amount of Federal outlays estimated by the Congressional Budget Office to have actually occurred during the preceding fiscal year by a percent greater than—

"(i) the percent increase in the year to year implicit gross national product deflator (as projected by the Congressional Budget Office) for the 4 calendar quarter period ending on September 30 of the year following the one in which the Secretary is to make the notification, plus

"(ii) 1 percent.

"(2) SCHEDULE REDUCTION NOT TO TAKE EFFECT.—If any event described in subparagraph (A), (B), or (C) of paragraph (1) occurs, then—

"(A) the schedules which, under subsection (b), would be in effect for the next calendar year, shall not take effect for such next calendar year, and

"(B) the schedule which, under subsection (b), is in effect for the calendar year in which the event occurs shall remain in effect for the next calendar year.

"(3) APPLICATION OF PARAGRAPH (2) ON A CUMULATIVE BASIS.—If any scheduled tax reduction under subsection (b) does not go into effect during the calendar year for which it is scheduled (because of the application of paragraph (2)), then the reductions scheduled to go into effect in subsequent calendar years, shall take effect for the scheduled calendar year under subsection (b) unless precluded by the application of paragraph (2) in that year.

"(4) CORRESPONDING ADJUSTMENTS.—For each calendar year for which a schedule under subsection (b) is in effect, the Secretary shall change the zero bracket amount under section 63 for the calendar year, the tax tables prescribed under section 3, the withholding tables prescribed under section 3402, the dollar amounts set forth in section 3402(m)(1) (relating to percentage method withholding), and the dollar amounts set forth in 6012(a) (relating to filing requirements) necessary to reflect in such tables and amounts the schedules in effect for the calendar year. The amounts adjusted by the Secretary under this paragraph for any calendar year shall be the amounts in effect for taxable years beginning in that calendar year.".

The PRESIDING OFFICER. The Senate will be in order.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of this amendment: Senators TOWER, DOMENICI, BOSCHWITZ, STEVENS, COCHRAN, HELMS, HATCH, HAYAKAWA, GARN, LUGAR, JEPSEN, and WARNER.

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

Mr. ARMSTRONG. Mr. President, I ask Senators to consider the pending amendment in the light of the underlying purpose of the bill which is before us. H.R. 2534 is a bill to extend the debt ceiling and to raise it to the astronomical sum of $830 billion.

In the last several days, we have discussed at great length what has caused this bill to come before us. The enormous spending spree which the Federal Government has been on year after year has produced a deficit of breathtaking proportions.

My concern, and that of others in the Chamber, is not merely for the fact that a large deficit is being run up but also for its practical effects upon the working men and women of the country, upon families, the inflation it has produced, the burden it has placed upon our country, the job opportunities that have been lost, the effect on our international trade, the decline of the dollar, the stagnation of the stock market, and the micro- and macro-effects which these tremendous deficits have had each year.

It is my belief, and I trust that of the majority of the Members in this Chamber, that it would be irresponsible for us to pass this bill and again to raise the debt ceiling unless we couple with the debt ceiling increase a substantial measure of procedural reform.

I believe that there is a great consensus that the major underlying problem which is facing this Nation, the concern which is closest to the hearts of most of the people that we are here to serve, is inflation.

Last year the cost of living increased 9.5 percent. In February, according to figures released over the last weekend, the cost of living increased 1.2 percent which is at an annual rate of nearly 15 percent.

Surely none of us can doubt that the time for decisive action to control inflation is in order.

The amendment which I offer responds to these deeply felt concerns in an eminently practical way.

Let me just summarize briefly the effect of the amendment which is now pending:

This amendment, first of all, will provide tax cuts in each of the calendar years 1981, 1982, 1983, and 1984, a tax cut which is estimated to amount to $189 billion over the 4-year period.

These tax cuts would be conditioned upon restraint in Federal spending.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the amendment being offered is worthy of our consideration. I do not want to appear to tell Senators what to do. Certainly none of us ever should be in that position. But I do feel that we must accord to the Senator the opportunity to be heard.

The PRESIDING OFFICER. The Senator's point is well taken.

The Senate will be in order.

The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I thank the Chair and I thank the Senator from West Virginia for his courtesy.

Let me complete my discussion of the purpose and effect of this amendment. It will provide tax cuts on the basis of restraint in Federal spending, and it provides tax cuts which I have outlined which will go into effect only if Federal spending declines as a proportion of the gross national product from 20.5 percent in fiscal 1981, to 20 percent in fiscal 1982, to 19.5 percent in fiscal 1983, and to 19 percent in fiscal 1984.

It provides further that these tax cuts will be conditioned on holding the rate of increase in Federal spending to not more than the rate of inflation plus 1 percent and provided, finally, that a balanced budget is achieved in fiscal 1981.

So in a single amendment we have a proposal which responds to deeply felt concerns of the American people.

Mr. President, I agree with the distinguished chairman of the Finance Committee who pointed out in earlier debate that the people of this country do want a balanced budget. They do want to control inflation and even more than that they want a tax cut because for the average family in this country the largest and most rapidly rising component of their cost of living is taxes.

For a median-income family in this country taxes have tripled within the last 10 years and the median-income family of four now pays more than $6,200 per year in Federal, State, and local taxes, three times what it was just a few years ago.

It means, Mr. President, that for the median-income family there is less after-tax, after-inflation income than they had even 5 years ago.

I will suggest that, in a country where rising expectations are a basic part of what we call the American way of living, that is intolerable, that the tax cut is good, the tax cut is in order, the tax cut is needed; it is justified.

I will stress that this is not an absolute reduction from the present level. It is really a slowing of the constant rate of increases in taxes which have been imposed upon the people of this country in recent years.

But more than that, this is an amendment which is fully responsible because it conditions the tax cuts on spending restraint and on an achievement of a balanced budget which is, of course, essential if we are going to control inflation and, as I have already said, I share the perception which is so widely reflected among our constituents that this is a No. 1 priority.

In my opinion, this amendment is not perfect, and I wish to explain why I am offering this particular amendment to this particular bill.

If I were drafting a tax and spending program, I would prepare a tax cut which would move in a slightly different direction than what is suggested by amendment No. 110 now pending. I would incorporate also a substantial reduction in taxation on business because I think that is important in order to stimulate the kind of capital investment that will create new job activity. I would also include a special break for small savings account holders because I think if there is one thing that we have done in this country, it is to discourage thrift among average working men and women. I would like to see a tax cut for those who inherit small farms and businesses. I think we need either a cut in the Federal estate tax rates or a further increase in the estate tax exemption, and yet I have not incorporated those things into this amendment and I would like to explain exactly why because this amendment is familiar to the Senate.

And it seems to me that the time is so urgent and the bill which we have before us is so strategic in terms of actually enacting a tax cut that the familiarity and popularity of this amendment overrides what I see as some of its shortcomings.

The amendment which I offered is, of course, exactly the same amendment, with very minor modifications, as that which was offered as the so-called coalition amendment by nearly two dozen Members of this body and adopted by a vote of 65 to 20 in October of last year.

If Senators remember after that was adopted, after this amendment was adopted and put on the Revenue Act of 1978, the bill went to conference and then some of my colleagues in the other body stood up and moved that the House of Representatives instruct its conferees to agree to Senate amendments and to accept this particular amendment. That proposal was adopted in the House of Representatives by a vote of nearly 2 to 1, and so with an overwhelming majority this proposal has been endorsed by both bodies of Congress.

Somehow, despite this mandate from our colleagues in the other body and from this Chamber as well, this amendment got dropped out of the Revenue Act of 1978. I am not sure I know all the reasons. I do know that I felt at the time and still feel a considerable sense of concern and betrayal and a feeling that if the process is working the way it should, that when something passes by a 2-to-1 majority in both Houses, then it should become the law or at least it should hit the President's desk for his signature and consideration. But somehow in the waning hours of the session that did not happen.

There is no sense rehashing it. There is no sense trying to go back over the old ground except by way of explanation of why I am offering this particular amendment rather than something that is more closely to my own choice.

This is a good amendment. It follows closely the so-called coalition amendment. It follows closely the proposal which first came to my attention last year when it was offered by our colleague MARJORIE HOLT in the House of Representatives and was very nearly adopted last July. So it is an amendment which has substantial backing and which is familiar and which has been well studied and which in my judgment can easily be passed.

Why am I offering it to this particular bill because I can almost hear someone rising to say, "Well, this is a good idea, but we ought to do it a little later or put it on a different kind of bill"? The reason is very simple. This is a bill which is regarded by some as a very important piece of legislation. Some would even say it is a must bill. I have already make it clear that I do not regard it as a must. Unless there is some reform in here, I am not even going to vote for it. I do not think we should have a further increase in the debt unless we also have reform. But because of the high priority accorded this measure by the leadership of the House of Representatives, I believe that the amendment will not get lost in transit again. I believe that the President will be disposed to sign this if we put it on this particular piece of legislation. So that is why I bring it before the Senate in this way and why I bring this particular amendment.

Now, I wish to comment on one other aspect of it, and that is the question of is this the right time to enact such an amendment? Someone is going to stand up and say, "Well, we need to evaluate this." I say to my colleagues that nothing has changed since October 9 when we passed this by a 3 to 1 majority in this body.

Someone is going to say, "Well, have we looked at the new economic forecasts?" Yes, I have looked at some new economic forecasts but, as I pointed out to the Senator from New York, I am not one who has a lot of faith in economic forecasts. They change from month to month.

But in any case 2 or 3 months of economic forecasts in the life of a proposal which stretches out over 5 years are really not all that significant. We are not trying to fine-tune the economy in this amendment. We are not trying to guess what is going to happen in 5 years. We are trying to make a policy decision, a long-term commitment, in behalf of the Congress of the United States that says, first of all, we are going to control inflation because it is hurting the people we represent, and we know the only way to control it is by balancing the Federal budget.

Second, we are saying that we are going to cut taxes and we are going to control Federal spending, limiting the increase of Federal spending to not above 1 percent of the increase in inflation.

We are going to specific gross national product targets for spending. It will not exceed those targets.

Third, we are going to achieve a balanced budget.

So despite the fact that I do not regard this as a proposal of perfection, it is a well-balanced, well-rounded, in my view, a well-advised proposal, and I hope my colleagues will support it.

Mr. LONG. Mr. President, I voted for an amendment similar to that last year. Let me point out what has occurred since that time. At that particular time we were voting to put more money into the spending stream with a major tax cut. We were voting to put money into the spending stream to offset the fact that we had raised the social security tax, and we were trying to make taxpayers whole to the extent that we could.

At that time, Mr. President, we were trying to recover from a recession. We were trying to put more people to work, and we were trying to expand the economy.

Since that time, the situation has changed. We are trying to fight inflation. The President has changed his monetary policies to tighten up on the money supply.

The Senator, in speaking for his amendment, has said he would rather cut taxes in some other way. But instead he gives us an amendment that, starting in 1981, would cut taxes contrary to the way he thinks they ought to be cut.

If we are going to cut taxes, we ought to start right out by postponing that big tax increase coming in January 1981 when there is going to be a great big increase in the social security tax, and you are going to hear a lot of screaming and howling about it.

I am not saying we should or should not postpone that.

At that moment I was one of those who insisted that the social security fund should pay for itself. But we are going to hear a lot of suggestions that we ought to either postpone that tax increase or that we should call it off, call off the tax increase in social security, and try to find some other way to raise money, such as to use money out of the general fund from the income tax to try to cover the deficit in the social security payments. So the money may be needed for some other purposes.

Furthermore, Mr. President, the principal reason why we, as Senate conferees, certainly on this side of the aisle, yielded on an amendment similar to this when it was in conference last year was that he had good reason to believe, having talked to the President of the United States in my case, that the President was going to veto that tax cut bill if this amendment stayed on there. We went for a proposal that we thought we could sustain and have the President sign that bill.

Mr. President, if the President of the United States is to feel that he must veto a bill, he should not be compelled to veto this debt limit bill because the Senate tries to force down his throat something where to veto it would mean the Nation would be required to default on its obligations for the first time in its 200-year history. In other words, if this type of thing is to go down to the President's desk, it ought to go down on a bill that he can veto if his conscience tells him he ought to veto that bill.

It should not go down there where, if he thinks he should veto this bill, the Nation will default on its obligations for the first time in its 200-year history.

Mr. President, if this amendment is added to this bill it means we will have to have a conference with the House. It can well mean the bill will not become law, and it just should not be done that way.

I hope the Senator would have offered his amendment on some bill such as we will have up later on this week, and we will have up time and time again during this session, such as a revenue bill that the President can veto it if he wants, and we will have time to consider it, with no harm done to the national interest.

But, Mr. President, this type of thing should be considered where it can be handled in a thoughtful fashion, and the Budget Committees can look at it, as well as the tax-writing committees, who can then offer their suggestions.

Now, we do not know whether we can afford a 6-percent-tax increase in 1981 or not. Only time will tell. To try to look in a crystal ball and say that we have got to balance the budget, and then if we balance the budget we automatically unbalance it to the extent of $36 billion by a tax cut we vote now without knowing whether the economy will need the tax cut or whether it will be contrary to what is best for the economy, we should not be in such a position as that.

Mr. President, it may be that if people on the Budget Committee and the other committees had the information to take all of these suggestions and run them through the computers and look into their crystal balls and see what their thinking might happen to be in 1981 and 1982, they might conclude that you ought to have a tax cut, and that this is the way you ought to do it. But then again they might not.

For example, what are we going to do with that big social security tax that is scheduled to go into effect in January of next year? Are we going to let it go into effect? If so, it is going to be a real backbreaker as far as taxes on the working people are concerned. They are going to complain bitterly about it.

If you want to call it off, you will need this money. Rather than vote a tax cut and then rescind it, it would make a lot more sense to wait and see what the situation is when we are closer to the time.

Let us see if we can balance the budget, let us see if we can cut spending as much as we think we can cut spending, and if we can do so we are justified in cutting taxes, and if we do, we should give every Senator in the U.S. Senate a chance to consider all of the various alternatives that might be available to us when we go to cut taxes, rather than to just say:

> We voted to give you a 6-percent tax cut in 1981 if the budget is balanced, which means maybe you do get the tax cut and then again maybe you do not get the tax cut.

Would it not make better sense to say, well, let us take a look and see whether we can afford it?

Mr. President, I happen to have the honor of serving on the tax-writing committee, and I am very proud to serve on that committee. I hope all our other Members feel the same way. We think we are capable of making some useful suggestions about a tax cut, ways in which you might be able to improve it a little bit, ways in which you might be able to shape it so that it might do more for the economy.

We would like the opportunity to consider something like that rather than to vote years in advance saying here is what we are going to do without knowing whether it would be justified when the time comes or not.

Mr. President, I hope if Senators do not see fit to give consideration to serving on a tax-writing committee, that they at least should afford us the opportunity of looking at these kinds of things, and not on a bill to allow the Government to borrow some money to pay the debts of the bills it has already incurred.

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

Mr. LONG. I yield to the Senator from Washington and then to the Senator from Colorado.

Mr. MAGNUSON. If you balance the budget you have a balanced budget. If you get a 6-percent-tax cut it is unbalanced.

Mr. LONG. It is unbalanced in fiscal year 1982.

Mr. MAGNUSON. We in appropriations play a kind of game with you people in financing. Once we get the outgo close to the input, why, then, the Committee on Finance meets and cuts taxes so we lose the receipts. So this amendment would say "Balance the budget, but give us a 6-percent-tax cut," and that would be 6 percent out of balance, and that is more than the budget is out of balance right now.

Mr. LONG. As a matter of fact, what our economic advisers tell me is that we have a good chance to balance the budget in 1981 if we do not cut any taxes, and if we permit that big social security tax increase to go into effect; and they further tell me if we do not do that, we are going to have great difficulty in balancing it. We have little chance in their judgment to balance that budget if we cut back on that big tax increase that is due in January or if we vote for income tax cuts although we know some are justified because inflation will cause the tax rates to be pushed up.

I yield to the Senator from Colorado.

Mr. HART. I thank the floor leader.

Mr. President, I agree with the Senator from Louisiana on the timing of this issue. I think this is the wrong vehicle, and I will vote to support his view on this.

But I want to commend my colleague from Colorado for this proposal. I think it is a sound one. I thought it was such a good idea that I had it about a year ago, and that was when this country was talking about a Kemp-Roth or Roth-Kemp tax cut after tax cut, no spending controls.

Then someone began to work on the idea, on the question of balancing those tax cuts with controls on spending, and

that proposal was offered by this Senator from Colorado last October. There was a similar proposal by the Senator from Georgia (Mr. NUNN), the Senator from Florida (Mr. CHILES), and the Senator from Oklahoma (Mr. BELLMON).

Those were the proposals the Senate essentially adopted, and the House went along.

So I agree wholeheartedly with what my colleague from Colorado is trying to do here. I do not know that I accept his specific numbers, but I think if we are going to cut taxes in the future, we are going to have to put controls on Government spending at the same time; they have to be very carefully calibrated, and I think that is the way we ought to go, and not massive tax cuts without controls on spending at all.

Several Senators addressed the Chair.

Mr. LONG. I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I would say to the floor manager of the bill that I would like to extend the committee process on this matter. We are talking about a piece of legislation of great magnitude, and one involving a lot of procedures. We are talking about priorities, trying to balance budgets, what we ought to do about the economy on the supply side, and trying to stimulate savings. On that issue, the Senator talks about saying that the first $500 of savings accounts be tax free.

We have the lowest percentage of savings of any major nation in the world. We have brought out of the Joint Economic Committee a unanimous report saying that we should concentrate on the supply side, encourage savings, and do some of the very things the Senator from Colorado is talking about.

But I would hope that we could consider this particular piece of legislation proposed by the Senator from Colorado before the Finance Committee, where we could have the give and take we need for developing some wise tax legislation for this country. I think he could make a very good contribution there, but I must at this time support the position of the distinguished floor manager.

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

Mr. LONG. I yield for a question.

Mr. ARMSTRONG. I would also like to make a request for the yeas and nays. Will the Senator yield for that purpose?

Mr. LONG. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. If the Senator will yield further——

Mr. LONG. I yield for a question.

Mr. ARMSTRONG. I beg your pardon?

Mr. LONG. I yield for a question. I do not want to yield the floor.

Mr. ARMSTRONG. If I may collect my thoughts, then, in the form of a question, Mr. President, it seems to me that we are losing perspective of something here.

First of all, if I might respond briefly to the comment of the Senator from Washington, I think he misunderstands. A reduction in taxes as provided in this amendment would not result in the budget being unbalanced, because that has been carefully fed into the equation, and the resulting feedback would produce a balanced budget within the terms of this amendment. I have distributed a factsheet showing the figures developed by the CBO, and their effect.

I think there is a legitimate issue which the floor manager has raised, and certainly the President has constitutional responsibilities in deciding whether to veto a bill or not.

However, I would point out to the distinguished chairman that last year this amendment was approved by veto-proof majorities in both Houses. It did not pass by a narrow margin on October 9 in this body; it passed by a margin of 65 to 20, and was approved by a 2-to-1 majority in the House. I am stunned to hear Senators today saying this is a piece of legislation which is ill-timed, that it is a good idea but we really ought to take a good long look at it, when those very Senators voted for it on October 9.

I am at a loss to understand what has changed since October 9. Inflation is not changed. Certainly the tax situation has not changed. All the reasons which caused my collague from Colorado to vote for this legislation last October still obtain. All the reasons which caused the distinguished Senator from Washington to vote for this proposal, and all of the reasons, I presume, which motivated the chairman of the Finance Committee to vote for it, still obtain.

All of those reasons, it seems to me, still are relevant. Nothing has changed of which I am aware. It seems to me the question is, are we really serious about this? If we hook this proposal onto an innocuous bill somewhere, it will get vetoed, or shuttled off to some committee in the House. So I would hope the chairman would relent of his opposition and join me in supporting this measure, because it certainly is needed. Our constituents are crying for this kind of relief, and nothing has changed since October.

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

Mr. LONG. Mr. President, I yielded for a question. I did not yield for a speech. I am willing to yield for questions or brief observations, but not to yield the floor.

I yield to the Senator from Florida.

Mr. CHILES. Mr. President. I thank the distinguished Senator from Louisiana. I happened to be one of the cosponsors of the amendment that was adopted by the Senate last year, and I think the thrust of the amendment was very good then.

I would like to see us be able to have an amendment something like that this year. One of the reasons that I will not support the amendment tonight is that in trying to determine where we are first, we have not been able to get figures run yet to show us what kind of figures—what the economic figures will ultimately show us on this. The indications are, and my feelings are, that there is no way we can have a tax cut in 1981 and hope to arrive at a balanced budget in 1981, in 1982, and probably in 1983, if we mandate a tax cut in 1981.

So I would not support this now on the basis of what we now see in the way of economic impact, because we are trying to go to a balanced budget. If the figures show that it would be possible to have that tax cut and still obtain the balanced budget, then I am certainly going to support it again, and I think it is the kind of thrust we should have. But I do not think there is any way we can say this now; and to lock this requirement in on the bill that is veto-proof, and mandate that we have a tax cut that would keep us from balancing the budget, I think, would be something none of us would want to do and would be something that none of the original sponsors of the amendment would want to do, and none of the people who actually voted for it.

But as one of those who originally sponsored the amendment last time, and who worked very hard on this floor to see that we could get sufficient votes to pass it, and then, having worked as hard as I could to see that we could get the conference to keep it, as one who was very disappointed that the conference did not keep it in its entirety, I think we still have to look at where we are today; and, based on the preliminary economic findings, I do not see how we can do that now.

If the run shows us we can, I would certainly be in favor of attempting to do so, in addition to trying to do this on the Budget Act.

Mr. LONG. Mr. President, here is the scheduled tax increase in social security: For 1981, there is scheduled to be an increase of about $15 billion. That is an increase to pay for cash benefits and hospital insurance.

Senators are going to want to consider whether, rather than cutting the income tax, that maybe we would rather postpone those social security tax increases. I know we are not going to be able to cut back drastically in the benefits, because I just looked at what some of those cuts would have to be. We ought to wait and see whether we think the working man would be better off with a social security tax cut than with an income tax cut. Certainly all those making less than $17,000 would be a lot better off if we postpone the social security tax increase, rather than giving them a 10-percent cut in their income tax.

But time will tell on that. Here we are, trying to balance the budget. If you want to balance the budget for 1982—maybe we cannot balance it for 1981, but 1982 might be the year we ought to balance it—we should not be talking about cutting taxes until we see whether we can balance the budget.

What are we trying to do? Talk out of both sides of our mouths and whistle at the same time? We are talking about trying to balance the budget. One of the biggest impediments to a balanced budget is tax cuts, which prevent us from reaching a balanced budget. If you want a balanced budget, you will not get to it until 1981, but if you achieve it in 1981,

then under this amendment you have a $36 billion tax cut, which might cause an unbalanced budget in 1982.

Furthermore, the Senator seems to think that if Senators are voting for this amendment, they would override a Presidential veto. I have been around here long enough to know that that is not always true. Even when only two or three men have voted against a bill, Congress has sometimes not voted to override a veto in either House. So it is a lot easier to talk about overriding a veto than to do it.

If people want to try something of this sort, they ought to send it to the President on something where the national interest would not be hurt.

Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Will the Senator withhold?

Mr. LONG. Mr. President, I ask unanimous consent that I can withhold for 3 minutes and allow the Senator to address this subject.

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

Mr. ARMSTRONG. Mr. President, I have only two additional points to make. There is some question about the age of the data which is being presented here today. I just want the RECORD to reflect that the factsheet which has been distributed reflecting the tax cuts, revenue loss, and the balanced budget are based on projections made available to us by the Committee on the Budget on March 21. These are, by their very nature, estimates and are not infallible, but these are the current figures.

Second, I would like to just acknowledge my colleague from Colorado, who has shown great leadership on this matter, and the distinguished Senator from Florida, the Senator from Georgia, and others, who have offered similar amendments. I think they deserve to be complimented for their leadership.

The path which they have blazed in this Chamber, and which my colleague MARJORIE HOLT began a year ago in the other Chamber, and which JACK KEMP and others started some years ago, can be brought to a logical conclusion this week in the Congress.

I think enough of us are on record in support of the general concept of, one, balancing the budget and, two, cutting taxes. This is the time for us to act responsibly and decisively. Therefore, I hope we will approve this.

Mr. NUNN. Will the Senator yield?

The PRESIDING OFFICER. The motion to lay on the table is not debatable.

Mr. LONG. I ask unanimous consent——

Mr. NUNN. Has the motion been made?

The PRESIDING OFFICER. The motion has been made to lay on the table.

Mr. LONG. If the Senator wishes me to withhold, I will withhold for a moment.

Mr. NUNN. I just wish to ask a couple of questions of the author of the amendment.

Mr. LONG. I will not yield the floor for that purpose. I am willing to yield the floor to answer questions myself but not for a colloquy.

Mr. NUNN. I will ask the chairman.

Having been an author of a similar amendment last year, I am interested in this concept. The author at that time spent a great deal of time working with the Chase Econometric Survey and with the Budget Office in getting a precise economic analysis as to when a budget can be balanced and when we could have a tax cut so that they would be programed in a way that would lead not only to a substantial tax cut for the American people but also a balanced budget in fiscal 1982.

My question of the Senator from Louisiana is this: Have there been any kind of economic statistics furnished that would update this amendment, bringing it up to date based on the changes in economic patterns that have occurred since last November?

Mr. LONG. There have not been any that I am aware of. But one point that I think should concern all of us is that it is entirely possible that this might cause the President to veto the bill. If there were any other revenue bill, if this were the bill that is going to come right behind this——

The PRESIDING OFFICER. The time has expired. The question is on agreeing to the motion.

Mr. LONG. I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. LONG. If there were any other revenue bill, for example, or the trade bill coming right along behind this, if it were that type of bill, and the President vetoed it, we could try to override it and the time spent in debating it and trying to override the veto would cause no real harm.

But on this bill, we are right up against the date.

On April 2 this Nation will have to start defaulting on its obligations. It has not done that in its 200-year history. We should not be doing that on this bill.

If someone wants to put an amendment of that sort on some bill, put it on a bill where, if the President vetoes it, we have time to discuss it and see if we can override the veto. If we can override it, all right, more power to the sponsors. But if we put it on this bill, one could do grievous injury to this Nation because we would be defaulting on our obligations while we were trying to settle the issue with the President.

Mr. NUNN. The Senator from Georgia is inclined to agree with the Senator from Louisiana, but I will say that I intend to renew my effort. This was my amendment last fall. I have worked with the Senator from Florida, who is in the Budget Committee. Senator BELLMON is working on it. We have worked hand in hand with him. For 6 weeks we have had our staffs trying to get updated economic analysis and we have not been able to get that information. We have an ongoing effort in that regard.

I say to my colleague from Colorado, I would like to have this joint effort proceed, but it needs to be done in an orderly way so that we can tell our colleagues on the floor of the Senate that this is at least the opinion of some economists, that some economists believe we can achieve these economic projections.

I would have to say that based upon what I have heard in the dialog here, and in the office, I do not think we have that information. It is not updated. I believe if we vote on this amendment right now what it is going to do is to signal the defeat of an amendment that had overwhelming approval last year.

The PRESIDING OFFICER. The time has expired.

Mr. NUNN. Mr. President, I ask for 2 more minutes.

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

Mr. NUNN. The amendment has a good chance of becoming law at some point in the future with responsible, long-range projections, but at this point in time, if we get an overwhelming negative vote on it, it is going to undercut everything we have been working on for about a year.

I say that to those who supported the amendment last year, on which we worked long and hard. I believe we are about to undercut an effort that was based on thoughtful analysis at a very late hour on a bill that should not be subject to this kind of an amendment.

Mr. ROTH. Will the Senator yield?

Mr. JOHNSTON. Reserving the right to object, Mr. President, we have gone on since the motion to table for minutes and minutes. I hope this is the last unanimous consent request.

Mr. LONG. I am willing to ask for 2 more minutes providing it is the last time I ask for a continuance. The Senator can have the last word.

I ask for 2 additional minutes to be allowed to the Senator from Delaware.

The PRESIDING OFFICER? Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. ROTH. First, I congratulate the Senator from Colorado. He campaigned on the promise of cutting taxes and cutting the growth of Federal spending. I am happy to see him carry through with both campaign pledges.

As the one who initiated in this body the concept of a general tax reduction, it seems to some people that sometimes there is never a right time to do it.

I point out to my distinguished fellow Members of the Senate that we have had a further additional study made of Roth-Kemp the second. Chase Econometrics made a careful study of the proposal, and they have stated that if this were adopted they would see something like 8 million new jobs created in the next 5 years. They would see that the budget would be balanced by 1982. They see that the real growth instead of being roughly 1.5 percent would be 3.5 percent.

I also point out to my distinguished colleagues that if this type of legislation were adopted, Chase predicted that the rate of inflation——

Mr. NUNN. Will the Senator yield? Where are those statistics?

Mr. ROTH. I do not have them with me, but we do have a letter from Chase Econometics.

Mr. NUNN. I think the letter would be helpful to Senators who sponsored it last year, and I happened to be the leader in that respect. I think it would be necessary for us to be able to see a copy of the letter.

Mr. ROTH. I have not yielded.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. ROTH. I want to point out that the question was asked whether any further studies have been made. I am saying that, on the basis of Roth-Kemp the second, additional studies have been made which show it would have had a beneficial effect on the economy.

What concerns me is that everybody voted last fall on the idea that it would help the economy. If that had been adopted, it would have been the law. I say we ought to move forward. I congratulate the Senator from Colorado.

Mr. JEPSEN. Mr. President, I rise in strong support of the amendment offered by the Senator from Colorado (Mr. ARMSTRONG).

This amendment would simultaneously accomplish two very important things: It would cut individual income taxes across the board and, at the same time, prohibit the growth of Government spending beyond 1 percent per year in real terms.

As I noted in my remarks yesterday, it is not necessary to back away at the Federal budget with a meatax in order to balance the budget. All we need to do is slow the growth of spending, which increased by an average of 14 percent per year since 1975. If, during this period, spending had only grown at the rate of inflation we would have had a budget surplus in fiscal 1978.

The reason this would have been possible, of course, is because inflation increases income tax revenues by pushing people into higher tax brackets. Because this is a process that has been going on for years, and will continue for years to come unless it is stopped, I support an across-the-board cut in tax rates and indexation of the Tax Code. Thus it is important to note that Senator ARMSTRONG's amendment does not propose to balance the budget on the backs of the taxpayers.

Mr. President, Senator ARMSTRONG's amendment represents to me a very moderate and justified proposal for dealing with the twin problems of excessive spending and taxation. Personally, I think we need to go much further. We should also consider adopting a constitutional amendment to balance the budget, Senator DOLE's legislation to index the Tax Code for inflation, and at least a one-third reduction in income tax rates, as proposed by Senator ROTH and Congressman KEMP.

In closing let me just add that I believe an amendment to the debt limit increase bill is a perfectly appropriate place to consider measures to reduce spending and taxes. I urge my colleagues to vote for the Armstrong amendment.

● Mr. HAYAKAWA. Mr. President, for several days now, while attempting to consider the debt limit extension, the Senate has become embroiled in a debate on whether or not to balance the budget. I feel strongly that we should be asking ourselves, instead, how to strengthen and preserve the economic stability of our Nation. "Balance the budget" is the phrase either being shouted or whispered all across the country.

This call arose from a grave concern that we need to lower inflation and produce a healthy economy. I fear that we have lost sight of that concern in the rush to balance the budget "come hell or high water." The following testimony by Michael K. Evans before the Senate Budget Committee on March 5, 1979, addresses the issue:

> We ought to be concerned not primarily with balancing the budget but with reducing the share of GNP absorbed by the public sector, stimulating high growth and remaining near full employment without accelerating the rate of inflation.

This is an important point; what are we trying to do here? Are we trying to balance the budget because it is the thing to do, or are we going to stop inflation and stimulate our economy?

I personally like to think that my colleagues are statesmen concerned with the future of their country, not with being trendy. Let us pause for a moment in our deliberations and ask ourselves what we are attempting. Is a balanced budget our only goal? Mine is not. I think we must examine our economy closer to decide what our goals must be.

For the first time in 20 years the annual Report of the Joint Economic Committee was endorsed by both the majority and minority members of the committee. It is significant, then, that this report states that, "the most serious problems besetting the economy in 1978 were the accelerating inflation rate and the precipitous decline in the value of the dollar." I think that most of my colleagues would agree that the value of our dollar was to a large extent pegged to our inflation rate.

The conclusion that I reach is that reducing inflation is, in the words of President Carter, "our top economic priority." At this point, I would like to direct my colleagues' attention to an editorial in the Wall Street Journal of February 27, 1979, titled "Deaf to Hope." I entered this article in the RECORD earlier this year and I think that it is particularly relevant for us to consider it again at this time. Please allow me to quote the more important aspects:

> We seriously doubt that the inflation we are experiencing has been caused by too much economic growth. . . . The problem, we believe, is that the conventional wisdom confuses the growth in aggregate demand with the growth of the economy. Restraining inflation does require a slower growth in demand, but the economy could actually grow faster as a consequence.

How? Let me quote further?

> The problem, then, is not that too much economic growth has caused inflation, but that demand has been stimulated while supply has been stunted. The solution is to stimulate demand less and supply more. Mr. Miller can do an important part—hold down the growth of money—but he can't do it all. The Congress must not give him any large debts to monetize, and tax rate reductions paid for by slowing the growth in spending would restore production incentives. As money and fiscal restraint squeezed out inflation expectations, the interest rate would fall. And if tax rates were reduced, the added boost of incentives would send the economy on its way. This is a scenario of high growth, low inflation and a strong dollar.

I believe that this is what the country needs to get it back on its feet. And this is why I am reluctant to "go along with" the budget balancing proposals which are not tied to tax reduction. As most proponents of legislation to balance the budget, I too favor a reduction in Federal spending to accomplish this goal. History, though, does not show that Congress has been inclined to reduce spending at any time and the accelerated growth in recent years is not reassuring.

There are two ways to balance the budget besides reducing Federal outlays—raising taxes through legislation and raising them through inflation. Before my colleagues protest that they would never consider such action, let me direct your attention to last Thursday's debate. The esteemed chairman of the Finance Committee, Senator LONG, mentioned the possibility of the Budget Committee's issuing a balanced budget which envisaged "that we pass a tax." Senator PACKWOOD, a member of the Budget Committee, added the following comment:

> Let us say, for example, the Budget Committee says, "All right, we think the way it might be balanced in 1981, considering that we might have a 7, 8, to 9 percent inflation, is there will simply be no tax cut and because people are pushed into higher tax brackets and the revenues go up it will catch up with the expenditures, and that is our estimate of how we might balance the budget in fiscal year 1981.

These are not acceptable alternatives, yet they are distinct possibilities if we mandate a balanced budget without tieing it to tax reduction.

I cannot with a clear conscience vote for balance-the-budget legislation which I feel is likely to result in higher taxes. I am opposed to the unnecessary risk of increased taxes implicit in such measures which do not contain a firm commitment by Congress to lower taxes. I do support, and have cosponsored, an amendment to H.R. 2534, No. 110, introduced by Senator ARMSTRONG, to combine tax reduction with lowered levels of spending and a balanced budget in fiscal year 1981. I believe this to be a more responsible approach.

An article in the March 22, 1979 Wall Street Journal by Paul Craig Roberts titled "A New Economic Era" supports my arguments for reduced taxes. I think that my colleagues will find Mr. Roberts' thoughts valuable. I ask that the article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, March 22, 1979]

A NEW ECONOMIC ERA

(By Paul Craig Roberts)

Dissatisfaction with the Keynesian management of economic policy reached new heights last Monday with the appearance

of the 1979 Annual Report of the Joint Economic Committee of Congress When Senators Kennedy and McGovern sign off on a report that disavows more government spending to stimulate the economy and calls instead for a reduction of the tax wedge on production, chances are it's a new era for economic policy

Led by Sen. Lloyd Bentson and Rep. Clarence Brown, the JEC has produced the first unanimous report in 20 years. And what a breath of fresh air it is! Stagflation, says the JEC, is the result of policies that have stimulated demand while retarding supply.

The way out, the committee says, is to restrain demand by paring government expenditures and to encourage supply by reducing tax and regulatory burdens, while following a moderate monetary policy. Gone altogether are the Keynesian ideas that investment is inflationary, that saving is a drag on the economy, and that spending will lead to economic growth regardless of the level of tax rates.

Lest it be thought that I am fantasizing on a Jack Kemp-Art Laffer theme, listen to committee chairman Bentsen: "This report illustrates an emerging consensus in the committee and in the country that the federal government needs to put its financial house in order and that the major challenges today and for the foreseeable future are on the supply side of the economy."

What's going on here besides a revolution in economic policy thinking? For one thing, Democrats have noticed the success Republicans have had in pushing the new supply-side economics; why allow the other party to draw such a clear-cut line with you on the wrong side of it?

For another thing, black Congressmen like Parren Mitchell can't forever remain deaf to the argument that now that blacks have a right to buy a ticket to get on the opportunity train, they have a big stake in getting the engine of economic growth moving. No responsible black leader wants to lead his people further into what Sen. Orrin Hatch has called the new slavery of federal handout dependency.

For yet another, economists of the stature of Martin Feldstein and David Meiselman have been appearing before the JEC, stressing in their testimony that saving and investment have been neglected. It is finally dawning on big spending congressional liberals that they cannot wring any more transfer payments and entitlements out of an economy that is not growing.

It is a sign of hope that the supply-side economics in the "Minority Views" appended to the 1977 and 1978 JEC reports enjoy majority support in 1979. Rep. Brown's view that "modern economists have rediscovered the supply side of the economic model" and "the demand-oriented approach is now outdated" is no longer controversial.

The function of the JEC's Annual Report is to evaluate the Economic Report of the President and make economic policy recommendations to the Congress. The Annual Report states: "It is the Committee's view that the Administration's current budget proposals do not provide for sufficient improvements in incentives for capital formation and saving." As a consequence of the monetary and fiscal policies of the past several years, "there has been a decided change in the composition of output away from capital investment toward higher levels of consumption. This has contributed significantly to our sluggish productivity performance, which in turn has exacerbated our underlying rate of inflation."

The report points out that inflation is very bad for economic growth because it lowers after-tax rates of return by understating the costs of plant, equipment and inventory used up in production. "This understatement of real expenses causes profits and taxes of corporations and partnerships to be overstated and reduces the real rates of return to, and quantities of, investment and output."

Fine-tuning demand is helpless to do anything about this serious problem because "even if demand is high, capital spending and the supply of output in general may be low if the after-tax real rate of return is inadequate." As the JEC says, "The problem, simply, is that the U.S. economy is putting too few of its resources into the expansion of its capital stock."

The 1979 Annual Report is in every sense a breakthrough, because it shifts the focus of economic policy from demand management to reducing the tax wedge. "The greater the burden on a factor of production," says the JEC, "the smaller the quantity of that factor that will be offered to the market. The greater the burden placed on production, the less production there will be." With the economy "stuck in a deep economic hole," we must "alter the policy mix to encourage supply, reduce disincentives and raise the reward to production."

To reduce the regulatory burden, currently running at $100 billion annually, the JEC proposes a regulatory budget to limit the costs that each federal agency can impose on the private sector. This sensible proposal also reflects a recognition that there is a problem of accountability with the administrative law issued by bureaucrats. If it continues to expand at its current breathtaking rate, legislative lawmakers will soon be shunted aside and over-shadowed by edicts issued by an unelected bureaucracy.

As a final repudiation of worn-out Keynesian approaches to economic policy, the committee warns the administration: "We oppose any attempt to transform the guidelines into mandatory wage and price controls." What we need now is a President who will use this broom to clean up the incentive structure for economic growth and sweep out the penalties on production that hinder the nation's success.●

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment of the Senator from Colorado on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Alaska (Mr. GRAVEL), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

The PRESIDING OFFICER (Mr. BRADLEY). Are there any Senators in the Chamber who have not voted who wish to do so?

Mr. ROBERT C. BYRD. Will the Chair repeat that?

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted who wish to do so?

Mr. ROBERT C. BYRD. I thank the Chair.

The result was announced—yeas 61, nays 33, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—61

Baucus	Hatfield	Nelson
Bayh	Heflin	Nunn
Bellmon	Hollings	Pell
Bentsen	Huddleston	Pryor
Biden	Inouye	Randolph
Boren	Jackson	Ribicoff
Bradley	Javits	Riegle
Burdick	Johnston	Sarbanes
Byrd, Robert C.	Kennedy	Sasser
Cannon	Leahy	Stafford
Chafee	Levin	Stevenson
Chiles	Long	Stewart
Church	Magnuson	Stone
Cranston	Mathias	Talmadge
Culver	Matsunaga	Tsongas
Durkin	McGovern	Weicker
Eagleton	Melcher	Williams
Exon	Metzenbaum	Young
Ford	Morgan	Zorinsky
Glenn	Moynihan	
Hart	Muskie	

NAYS—33

Armstrong	Garn	Pressler
Baker	Goldwater	Proxmire
Boschwitz	Hatch	Roth
Byrd,	Hayakawa	Schmitt
Harry F., Jr.	Heinz	Schweiker
Cochran	Helms	Simpson
Cohen	Humphrey	Stevens
Danforth	Jepsen	Thurmond
DeConcini	Kassebaum	Tower
Dole	Laxalt	Warner
Domenici	Lugar	
Durenberger	Packwood	

NOT VOTING—6

Bumpers	McClure	Stennis
Gravel	Percy	Wallop

So the motion to lay the amendment on the table was agreed to.

Mr. PROXMIRE. Mr. President, I have an amendment to extend the life of the Renegotiation Board for 60 days. The Renegotiation Board would die on March 31 unless its life is extended. It is a board, as we know, that reclaims excessive defense profits.

The extension is supported by the Secretary of Defense, by the President of the United States, by every unbiased study, including the GAO, the House Committee on Government Procedures, the staff of the Internal Revenues Tax Commission. It is an agency that brings in six times as much as it costs.

I am not going to offer that amendment, because the leadership in the House and Senate has indicated to me it feels its addition might kill the debt limit bill in the House.

Furthermore, with the leadership opposition, I am convinced the vote against the amendment would be decisive and would be an unfair test of the feeling in the Senate about the Renegotiation Board.

However, I want to serve notice that at this time that I intend to offer a proposal to extend the life of the Renegotiation Board at the earliest opportunity. I hope that can be this week, and, if not, early next week.

Mr. President, I regret very much I cannot offer it on this bill. The amendment has a number of cosponsors. But I am not going to offer it at this time, and those are the reasons.

Mr. METZENBAUM addressed the Chair.

Mr. PROXMIRE. Mr. President, I yield to the distinguished Senator from Washington.

Mr. MAGNUSON. I hope the Senator can bring it up before the time the Renegotiation Board expires.

Mr. PROXMIRE. I thank the Senator. I will try to bring it up before the Renegotiation Board expires. But, in any event, I hope it will be the next few days—if not this week, early next week.

Mr. METZENBAUM. Mr. President, I associate myself with the remarks of the Senator from Wisconsin.

A number of us in this body have indicated a concern about the expiration of the Renegotiation Board. Much of the opposition to the extension of the Renegotiation Board comes from that very group in the Senate that has seen fit to be offering amendments to the budget bill and which has indicated its concern about excessive expenditures in balancing the budget. Yet, the fact is that the Renegotiation Board is one of the few bodies this Government has that makes it possible to provide some limitations on excessive spending by our Government with respect to defense procurement.

Although I had been very enthusiastic and interested in going forward with the amendment that the Senator from Wisconsin has just mentioned, he has provided such distinguished leadership in this area in the past that I would not for a moment suggest or even consider going forward without his cooperation. But I do want to make it clear that I associate myself with him in my concern for the termination of the Renegotiation Board, and I hope we may have an opportunity to breathe a breath of new life into this needed Federal agency.

Mr. CRANSTON. Mr. President, I do not wish to be a cosponsor of this amendment when it is offered, for good and sufficient reason. It has not proved to be a moneymaker for the Government.

I am opposed to any reauthorization of the Renegotiation Board.

The statutory authority for the Renegotiation Board expired on September 30, 1976—some 30 months ago. All contracts entered into during the past 2½ years have not been subject to renegotiation. None of the horrors predicted, if we did not have a Renegotiation Board, have come to pass.

The Board has a large backlog of contract filings which remain to be processed. These should be processed, but not by the Renegotiation Board.

The Board has done very little to gain the confidence of Congress that it can manage to dispose of its backlog efficiently.

The record shows that the Board has managed instead to multiply and remultiply its backlog by the simply, but effective device of promulgating new and retroactive regulations which required more work and the hiring of more employees by the Board.

The General Accounting Office reports that the Board's retroactive application of its new regulations was "seriously open to question."

The GAO said further:

> Considering the difficulties with processing and liquidating the current backlog, the wisdom of the Board's extension of its jurisdiction to Foreign Military Sales contracts at this time seems questionable. . . . If the Renegotiation Act is not to be extended in the same form, an emphasis by the Board on the task of processing and reducing its existing backlog would seem to be more desirable than adding accruals and receipts from FMS contracts to its workload in pending cases.

It has been suggested by some that the Board earns money for the taxpayer.

This is simply not the case.

Here are the facts:

The annual budget for the Board is $6 to $7 million.

In fiscal 1978, the Board reported excess profit determinations totaling about $78 million. The comparable figures for previous years were $18 million in 1977, $40 million in 1976, and $27 million in 1975.

The cost to industry has been estimated at various figures ranging from $100 to $300 million and higher. David Packard, former Deputy Secretary of Defense and president of Hewlitt-Packard Corp., in testimony before the Senate Subcommittee on Appropriations for State, Justice, Commerce, the Judiciary, and related agencies, estimated the cost to industry conservatively at $200 million.

The cost of complying with the Renegotiation Act is charged to the taxpayer, because such a cost is recoverable under the terms of contracts with the Government.

When the Board does make a determination, which must also withstand review by the courts, the contractor generally receives a tax refund from Treasury, because he previously had paid taxes on the income earned.

So the taxpayer pays three times for the Renegotiation Board, for salaries of employees, for industry costs of reporting, and recordkeeping and for tax refunds. The total cost which I have estimatedw on the low side at $140 million far exceeds the highest determinations ever made by the Board.

Finally, I would like to point out that excess profits are a very small, virtually insignificant, factor in defense costs. The Board reviews about $40 billion in contract filings annually in order to make determinations of excess profits averaging around $30 million.

Clearly, excess profits—to the extent they can be substantiated—are not a heavy drain in the defense budget. But unwise purchases, waste and cost overruns are significant factors in pushing up unnecessary costs to the taxpayers.

I believe it is much more important to improve the procurement process so that costs are controlled and productivity increased. The relevant question to ask if the Government finds that it is paying too much is to ask why was the contract or purchase so poorly negotiated in the first place. The record of losses sustained by defense contractors suggests that the Government actually drives a hard bargain.

The Board is an anachronism and unnecessary: It should be given a coup de grace by the Senate once and for all.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill was read the third time.

EARNED INCOME LIMITATION

Mr. HART. Mr. President, earlier this afternoon or this evening there was a discussion about the possibility of offering an amendment to the pending measure which would reverse the action of the Senate of several days ago with regard to earned income limitations by Senators. That proposal is in the form of a resolution, and it is my intention, as the principal sponsor of that resolution, to call up that measure for an up-and-down vote sometime tomorrow. However, I did want Senators to be on notice that the measure would be before the Senate tomorrow, and it is my intention to call it up as early as possible tomorrow.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. ROBERT C. BYRD. Mr. President, I will proceed for a very few minutes, and I will not unduly delay the Senate.

On March 7, a resolution was called up, providing for postponement of the effective date of rule XLIV(44), with respect to the limitation on outside earned income, until January 1, 1983. In other words, the $25,000 limitation, in effect for the past several years would continue for 4 years. That was on March 7, and the opening statements on the resolution appeared in the RECORD on that day.

On page 4242 of that same day's RECORD, I secured a unanimous-consent agreement to vote on that resolution no later than 12:30 p.m. the following day, March 8.

Also in the CONGRESSIONAL RECORD of March 7, last page, the program for Thursday was stated in the Daily Digest. In that program, it was stated that the Senate would, on Thursday, resume consideration of Senate Resolution 93, to postpone the effective date of rule XLIV of the Standing Rules of the Senate from January 1, 1979, to January 1, 1983.

Moreover, it was stated in the CONGRESSIONAL RECORD Daily Digest that a vote on that resolution would occur no later than 12:30 p.m. on the following day, Thursday.

On page D177 of the Daily Digest of the same date, in statements with reference to Chamber action, it was stated that the "Senate began consideration of Senate Resolution 93, to postpone the effective date of rule XLIV of the Standing Rules of the Senate from January 1, 1979, to January 1, 1983"; and it also said that the "Senate will resume consideration of this resolution tomorrow, and by unanimous consent, a vote will occur thereon not later than 12:30 p.m."

So, adequate notice to all Senators was in the RECORD of March 7 that a vote would occur the next day, at no later than 12:30 p.m., on that resolution.

Also on page D177, Senators were referred to page 4240. If they would have turned to 4240, they would have found the opening statements on the resolution.

That is all I am going to say at this time with reference to that matter. Senators were on notice, by the CONGRESSIONAL RECORD, that there would be a vote on Thursday, March 8, and that the resolution had been introduced, the resolution having been printed in the RECORD, and the opening statements having been in the RECORD.

I just take the floor at this time to compliment the distinguished Senator from Colorado on offering to call up his amendment today. I wanted to get a yea-and-nay vote on it, up-and-down, and I sought to get an agreement to that effect, that we vote on it within 20 minutes, up-or-down, but there was an objection to that request.

Now, the Senator has put the Senate on notice that he is going to try to call up a resolution tomorrow that would vitiate the earlier action of the Senate on that date. I say to the Senate that I hope we will have an up-and-down vote on the resolution.

Senators have had 3 weeks now. That was the 7th, and tomorrow is the 28th. Any Senator could have asked for a rollcall vote at that time. The resolution was adopted on the 8th by voice vote. Tomorrow will be 3 weeks. Senators have had ample time to explain their position and to make speeches back home and in the Senate.

So Senators should be ready for a vote by rollcall without further debate. I ask unanimous consent that a vote occur on Mr. HART's resolution, up or down, tomorrow, at 4 p.m.

Mr. MORGAN. Mr. President, reserving the right to object, would that preclude a substitute amendment to Senator HART's resolution?

Mr. ROBERT C. BYRD. It would not. But if there are going to be amendments to it, I think I should not waive the rights of Senators to table.

I would like to see an up-or-down vote on the amendment. The issue is clear; everybody knows what we are talking about. The Senate would be voting up-or-down on the resolution to vitiate the previous action. If we are going to have amendments to Mr. HART's resolution, I think Senators should retain the right to move to table.

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

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. I plead with the distinguished leader that we vote on the debt limit bill, and then those who want to talk about this honorarium matter can stick around and talk about it all night. Some of us have other things to do and know how we are going to vote on it, and we do not need to be convinced. Will the leader help me get a vote? I will pick up the RECORD tomorrow and read every word that is said afterward.

[Laughter.]

Mr. MORGAN. Mr. President, I want to leave, also. I have an engagement that I accepted 5 months ago.

I think the Senate should know that we are operating in the Senate under the law we passed last year which applies not only to the legislative branch of Government but the judicial and executive branches as well, and at the same time we are operating under rules of the Senate.

I have sat on the Ethics Committee for some long and difficult hours, and I think it is time we reconciled ourselves to the fact that either we operate under the rules of the Senate and exempt ourselves from the law we passed, in which there are conflicts, or we say, "All right, we will live under the same rules as the executive and judicial branches."

I am not sure that it would fit in tomorrow, but I would like to have the evening to look at it and, if we are going to get on the matter, to see if tomorrow would be the day to bring it up.

It is very hard for those of us who are serving on the Ethics Committee to try to administer the Rules of the Senate and also administer the law we passed. So if the majority leader does anything after the vote which is about to occur, I wish he would protect my right to offer amendments tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request at this time.

The Senator from Colorado has put the Senate on notice that he intends to call up his resolution tomorrow. He is going to seek immediate consideration. Of course, if that request is objected to, he will not get a vote on the resolution. The resolution will not even be called up if his request is objected to. It will go over under the rule, under rule XIV, and he will not even get a chance to bring it up before the Senate tomorrow if there is a single objection.

I expect to vote against his resolution.

I was merely seeking to get an order of the Senate that he would be assured of an up and down vote tomorrow on his resolution.

I withdraw the request.

SEVERAL SENATORS. Vote!

Mr. DOLE. Mr. President, 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, Shall the bill pass? 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. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted who wish to do so?

The result was announced—yeas 62, nays 33, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—62

Baucus	Ford	Muskie
Bayh	Glenn	Nelson
Bellmon	Hart	Nunn
Bentsen	Heinz	Packwood
Biden	Huddleston	Pell
Boschwitz	Inouye	Pryor
Bradley	Jackson	Randolph
Bumpers	Javits	Ribicoff
Burdick	Johnston	Riegle
Byrd, Robert C.	Kennedy	Sarbanes
Chafee	Leahy	Schmitt
Chiles	Levin	Stafford
Church	Long	Stennis
Cohen	Magnuson	Stevens
Cranston	Mathias	Stevenson
Culver	Matsunaga	Stone
Danforth	McGovern	Talmadge
Durenberger	Melcher	Tsongas
Durkin	Metzenbaum	Williams
Eagleton	Morgan	Young
Exon	Moynihan	

NAYS—33

Armstrong	Hatfield	Proxmire
Boren	Hayakawa	Roth
Byrd, Harry F., Jr.	Heflin	Sasser
Cannon	Helms	Schweiker
Cochran	Hollings	Simpson
DeConcini	Humphrey	Stewart
Dole	Jepsen	Thurmond
Domenici	Kassebaum	Tower
Garn	Laxalt	Warner
Goldwater	Lugar	Weicker
Hatch	Pressler	Zorinsky

NOT VOTING—5

Baker	McClure	Wallop
Gravel	Percy	

So the bill (H.R. 2534), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill—H.R. 2534—be printed with the amendments of the Senate, and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, and so forth designations, and cross references thereto.

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

RESCISSION OF CERTAIN BUDGET AUTHORITY—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on H.R. 2439 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2439) to rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96-46), transmitted pursuant to the Impoundment Control Act of 1974, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House of Representatives.)

Mr. MAGNUSON. Mr. President, this bill rescinds $723.6 million. The President had requested $914.6 million be rescinded.

The Senate had proposed that $723.6 million be rescinded, $17.7 million more than the House.

In conference, the House receded to all of the Senate figures.

We all had to make some difficult choices in putting this bill together. Given the times, I think it is the best which could be done.

I yield to the Senator from North Dakota.

Mr. YOUNG. The total dollars approved for recission by the Senate was approved by the conferees and earlier today by the House. I urge a "yes" vote because a "no" vote would require the administration to spend over $700 million that they do not want to spend.

Mr. MAGNUSON. The Senator is correct.

Mr. President, I move that the conference report be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business with Senators permitted to speak 5 minutes each.

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

BYELORUSSIAN INDEPENDENCE DAY

Mr. LEVIN. Mr. President, 61 years ago this week this Byelorussian people began to enjoy a brief interlude of national independence and liberty between eras of political repression and denial of self-determination. Byelorussia declared itself a sovereign republic on March 25, 1918; its declaration of independence proclaimed: "Today we * * * cast off the last chains of the political servitude that had been imposed by Russian tsarism upon our free and independent land."

After a short 10 months of freedom, along with significant advances in education, culture, and social welfare, the "chains of political servitude" were once more manacled around the nation as the Red Army marched into the Byelorussian capital of Minsk and imposed a new government.

One form of imperial control, tsarism, had been undone, merely to be replaced by another tryanny. Ultimately, this fledgling democracy was partitioned between Poland, Latvia, and Russia by the Soviet Union in 1921. Today, the Byelorussian Soviet Socialist Republic is an area of key geopolitical importance with a population of 10 million.

As a nation born of a quest for independence, Mr. President, we cannot help but mourn as we recall the short-lived liberty of the Byelorussian people. We may find some solace in the fact that the fire of Byelorussian nationalism thrives today, despite the persistent efforts of Soviet authorities to drown it out.

Yet the tragedy of Byelorussia is more poignant today than ever. We are appalled by the daily flagrant violations of human rights perpetrated by the Soviets in the subjugated land of Byelorussia.

Consider the case of Lauhen Ivanivich Buzinnikau who, in May and June of 1978, was arrested and detained at an "investigative prison" in Byelorussia and then later held for "psychiatric analyses." The charges against Buzinnikau included "corresponding with dissidents * * *," and "listening to and dissemination of foreign radio broadcasts." Or, Mr. President, examine the case of Aleksandar Krut'ko, a 71-year-old man who was harassed and abused by the local authorities in the Byelorussian town of Tsyntsavichy for desiring to emigrate to the United States and live with his daughter.

These examples, Mr. President, serve to remind us of the cold realities of life under a totalitarian regime. During this week, which marks the anniversary of Byelorussian independence, I am proud to take this opportunity to acknowledge the Byelorussians in their valiant struggle for liberty and to assert this country's unflinching opposition to the repression of human rights anywhere in the world.

THE DEPORTATION OF NAZI WAR CRIMINALS

Mr. LEVIN. Mr. President, we are all well aware of the heightened international interest in the Holocaust and its devastating effects. In many ways, this Nation has made known its great concern. Now, once again, it is our responsibility to voice our belief that those persons who committed these crimes—not only against the Jewish community in Europe, but also against mankind—be brought to justice.

In the United States, the Special Litigation Unit of the Immigration and Naturalization Service is actively involved in hundreds of cases of suspected Nazi war criminals who are currently living here illegally. Although the unit has not received the level of funding it deserves, it is deeply involved in many major cases, and I hope that it is nearing the successful completion of deportation cases of a number of participants in Nazi actions.

However, once the alleged criminals have been deported, it is assumed that they will be prosecuted under the codes of Nuremberg. However, the West German Government's statute of limitations governing the prosecution of Nazi war crimes is due to expire on December 31, 1979. After that time, only war criminals against whom proceedings have been started can be prosecuted. Those who have remained undetected, or who have been returned from other countries, will be free from prosecution in West Germany.

It is unfortunate and ironic that the West German statute is expiring at a time when the worldwide interest in major issues surrounding the Holocaust and those who participated in it has been intensified. It is unfortunate because it is unthinkable that the participants in the crimes be allowed to continue to live freely and without the threat of prosecution.

It is ironic because only recently have the events of the Holocaust become a major area of historical investigation. New information becomes available regularly which more fully than ever details the atrocities which took place. This new research may make the prosecution of these criminals easier. It is vital that the West German Government extend its statute of limitations, or abolish it entirely, to allow the prosecutions to continue.

Already, we have recently seen photographs, never before released by the Government, taken by British and American reconnaissance planes which clearly show the existence of a death camp at Auschwitz. They were released only last month by the Central Intelligence Agency. The authors of a CIA report which accompanied the release of the photographs wrote:

> It is our hope that we stimulate the interest of historians in the use of photographs taken through aerial reconnaissance. It is an untapped source of history.

Certainly, this source, and others, should be tapped, not only to reconstruct with greater accuracy the historical record of the time, but also to assist authorities in locating and prosecuting persons who may have been involved in the operations of the death camps and other inhumane activities.

The uncovering of this new record further demonstrates the importance of leaving open the available means of prosecution of those who participated in these actions. Because of the new records there are likely to be many more deportations from the United States and other countries.

The resolution which has been introduced recently by Senator CRANSTON, is one way in which the Senate can speak out on this matter. Already, far too many criminals have escaped detection and prosecution, both in the United States and throughout the world. If the West German statute is allowed to expire, criminals will be able to live openly without fear of punishment. Failure to extend the statute of limitations would all but destroy the recent worldwide movement to discover Holocaust participants and would make useless any nation's efforts to find and deport suspected criminals. The newly discovered evidence, which is making these investigations easier, would become all but worthless.

In 1969 and 1965, the West German Government extended the statute when faced with the same situation as we now find. I understand that there appears to be more opposition to the extension this year. Several countries, notably Poland and Israel, have already expressed their strong views that the statute be extended or abolished entirely. The United States should add its voice to this call for justice. I applaud the assistant majority leader (Mr. CRANSTON) for introducing this resolution, and I urge my colleagues to favorably consider it.

THE RHODESIAN ELECTIONS

Mr. LEVIN. Mr. President, as you know, in a few days the Members of the Senate will have an opportunity to vote on a resolution calling for a group of impartial observers to be sent to Rhodesia for the April 20, elections. The observers will seek to determine if the elections are "free and fair."

Mr. President, I find that I cannot support such a resolution.

The climate of fear and intimidation among the country's 7 million Africans has heightened greatly over the past several weeks. It is my understanding that private armies committed to getting the "internal settlement" approved are travelling throughout rural areas of the country in an effort to assist Africans in "learning" the voting process. History is not encouraging as to the type of education which those armies will seek to impart. The methods and substance of the education will not be readily visible to the observers who will arrive after the "education process" is completed.

The persuasive techniques which can be masked so well from public view obscure the true nature of the election process. I think we contradict ourselves in our commitment to majority rule if we act in a fashion that will legitimize an election that we know with reasonable certainty cannot assure a genuine choice.

Mr. President, the election will be supervised and administered by the same individuals who have repressed the African majority for years on end.

A truly "free and fair" election, under such circumstances, would require full control by massive neutral forces.

Such forces are not on the scene. In their absence we should not lend credibility to the goings on of April 20.

Mr. President, how does an observer see that a voter does not believe the ballot will be secret and believes that there will be reprisal. How does an observer see that certain persons and parties have been stopped from voting long before they could get to the polls. How does an observer know that political participation, education and campaigning have been impossible because of martial law, censorship and government manipulation.

Mr. President, we should not do anything to give credibility to the elections staged by the Smith regime.

GREEK INDEPENDENCE DAY

Mr. LEVIN. Mr. President, to the inhabitants of a small peninsula in the east Mediterranean, western civilization owes an enduring debt; because it was there, over 2,500 years ago where the philosophical foundations of democratic government were evolved by the ancestors of persons whom we know today as Greeks. No reason appears for this sunburst of enlightenment but the reality of our cultural indebtedness cannot be denied. The very word "democratic" means that ultimate power upon which our Nation was founded and has prospered and endured to this day. America has benefited not merely from its heritage from ancient Greece, but also from the contributions of Americans who have come from Greece to make their personal contributions to the growth and health of our Nation.

My State of Michigan is particularly blessed by the contributions of Greek Americans. My city, Detroit, takes pride in its very own "Greektown" which symbolizes the vitality of the Greek American community in metropolitan Detroit. The spirit of the Greek patriot Demitrius Ypsilantis, who in the past century demonstrated against great odds the vitality of the Greek love of freedom, has found a permanent home in the university town which bears his name.

The free world on March 25 salutes the Greek people and unites in its expression of indebtedness to the hellenic tradition for the philosophical underpinnings of the democratic way of life. I am proud to add my voice to the chorus.

Mr. President, I yield the floor.

THE STATUS OF DEMOCRACY IN SUB-SAHARAN AFRICA

Mr. HARRY F. BYRD, JR. Mr. President, I recently asked the Library of Congress to survey the state of democracy and of human rights in the nations of sub-Saharan Africa.

I felt that a survey of that nature would be of value to the Senate in assessing American foreign policy in Africa and in particular the present policy of nonrecognition of the Government of Rhodesia.

In preparing the survey the Library of Congress relied primarily on information supplied by the Central Intelligence Agency and the Department of State.

Mr. President, I ask unanimous consent that a summary of the Library of Congress research be printed in the RECORD.

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

SUMMARY

ANGOLA

No elections held to date. Independence achieved from Portugal in 1975.

Pending the institution of the People's Assembly, the Council of the Revolution is the supreme organ of state power.

BENIN

Current government has held no elections and none are scheduled.

The Revolutionary Government which seized power in 1972 under the leadership of Lt. Col. Mathieu Kerekou abrogated the Constitution then in force and two years later adopted the principles of Marxism-Leninism as its guiding philosophy.

No constitutional guarantees of civil and political liberties exist.

BOTSWANA

A general election was held 26 October 1974.

Botswana is a multi-party parliamentary democracy based on constitutionally guaranteed universal suffrage.

It is land-locked and is bordered by South Africa, South West Africa, and Rhodesia.

CAMEROON

Presidential elections were held 5 April 1975; parliamentary elections were last held 18 May 1973.

Cameroon is a single-party state with a civilian government operating under a Constitution adopted in 1972.

While there is no legal proscription of additional parties, in practice Cameroon is a one-party state. Opposition parties are not tolerated and all political activities must take place under the umbrella of the Cameroon National Union.

Labor unions have little political or economic strength because of the small size of the salaried work force and government control over union activities. Strikes are banned.

CENTRAL AFRICAN EMPIRE

No elections have been held under Emperor Bokassa's regime.

Constitutional rule returned to the Central African Empire (CAE), after an eleven-year hiatus, in December 1976 with the proclamation of the Empire. All individual civil and political rights are legally limited and are further subject to abridgement by direct intervention of the Government.

CHAD

All political activity is banned.

CONGO

Last legislative elections were held June 1973.

The People's Republic of the Congo is a one-party Marxist-Leninist state, governed by a President who heads an eleven-man military committee. A well-established state security apparatus monitors the foreign community, censors the press, and restricts freedom of speech and assembly.

ETHIOPIA

Effective power is exercised by Provisional Military Administrative Council (PMAC), a group estimated at 40–100 officers and enlisted men which operates on committee system; the predominantly civilian cabinet is ineffectual and holds office at suffrance of military; the legislature was dissolved September 1974; the judiciary at higher levels is based on Western pattern, at lower levels on traditional pattern, without jury system in either.

In short, political activity is under the complete control of the PMAC, which tolerates no opposition. There is no parliament.

GABON

Presidential and parliamentary elections last held February 1973.

Gabon is a one-party state in which political power is effectively concentrated in the Presidency.

GHANA

No elections held since 1969.

Ghana is ruled by the Supreme Military Council (SMC), a military government with seven members including the Head of State and Chairman of the Supreme Military Council.

GUINEA

Approximate election schedule—5 years parliamentary, latest in 1975; 7 years presidential, latest in 1975.

Guinea is a one-party socialist state.

Labor unions are firmly controlled by the Government.

GUINEA-BISSAU

No elections held to date.

Guinea-Bissau is a single-party state and the ruling party for both Guinea-Bissau and Cape Verde is the African Party for the Independence of Guinea-Bissau and Cape Verde (PAIGC). Opposition parties are not permitted. In any event, there have been no elections.

IVORY COAST

Uncontested Presidential and legislative election held in November 1975 for 5-year term.

The political process in Ivory Coast operates on the basis of a one-party system.

KENYA

General election (October 1974) elected present National Assembly; next elections are due in 1979.

Kenya has only one political party, the

Kenya African National Union, although there is no law against the formation of others. The Government has substantial powers to restrict political activity.

Freedom of expression and communication in Kenya can be restricted under various sections of the penal code. The existence and occasional use of the detention laws inhibit public exchange of views on sensitive political topics. The Government discourages student political activism. Although there is no formal censorship of the press, government guidelines are issued on politically sensitive issues and are usually observed by the media. Under the Societies Act the Government can refuse to register any society which it believes may pursue activities harmful to public security. This denial of registry, combined with the restrictions of the Public Order and Police Act, can effectively prevent an organization from operating. The only opposition political party, the Kenyan African Democratic Union, remains proscribed under this Act.

LESOTHO

Elections were held in January 1970; however, the results were not approved and the election was nullified allegedly because of election irregularities.

Political activity has been restricted since that time, the government having thereafter suspended the constitution and declared a state of emergency. No plans for elections have been announced.

LIBERIA

The democratic process is open to all who meet the age and citizenship requirements. Since the late nineteenth century, Liberia has been governed by the True Whig Party. There are, at present, no other registered national parties although opposition groups function freely.

The sole discriminatory legal provision is that of the Liberian Constitution which limits those who may be citizens to "persons of Negro descent"; this is defined to mean at least one-quarter Negro ancestry.

MADAGASCAR

Referendum held in Dec. 1975 gave overwhelming approval to government and new constitution; elections for People's National Assembly held in June 1977; only one political grouping was allowed to take part in the election.

Labor unions participate in the political process through their affiliation with an approved political organization. Those unions choosing not to affiliate with such organizations are not authorized to conduct political activities.

MALAWI

Malawi is a one-party state in which all effective political power is held by the Life President, Dr. H. Kamuza Banda.

Only indigenous Africans may join the Malawi Congress Party, and only members of the Party may seek election to the Parliament.

MALI

Military Committee of National Liberation promises elections at unspecified date.

MAURITANIA

Direct citizen participation in the political process was suspended following the July coup. The new military Government abolished the one political party, the National Assembly, and the Constitution. The country is now governed by an eighteen-member Military Committee for National Recovery (CMRN), which provides political guidance to the Head of State (who is also President of the CMRN) and to his cabinet members, some of whom also belong to the CMRN. There is a 22 member advisory group who theoretically represent a cross-section of Mauritanian society. The Department of State does not know what role, if any, this advisory group plays as a link between the ruling group and the rest of the society.

MAURITIUS

Legislative elections were held in Dec. 1976; municipal elections held in 1977.

The rule of law prevails in Mauritius under a British-oriented legal system with an independent judiciary.

MOZAMBIQUE

Information is not available on future election schedule, if any.

Mozambique is a one-party state controlled by FRELIMO. The party has adopted principles of Marxism-Leninism. Opposition political movement are not permitted.

NIGER

Political activity is banned.

The Supreme Military Council (SMC) which now directs the executive branch is comprised of the army officers who organized the 1974 coup. The President of the SMC is also Chief of State and President of the Council of Ministers.

NIGERIA

The Federal Military Government (FMG) in power since 1966, has promised to restore power to an elected civilian regima at a future date when state and federal legislative elections are held.

SENEGAL

Presidential and legislative elections were conducted in February 1978.

Although effective political power is held by the socialist party, the Constitution was amended in April 1976 to permit the number of political parties to increase to three and to define the ideological orientation to which each party must adhere.

SIERRA LEONE

Sierra Leone became a one-party state on June 14, 1978, when a national referendum, marred by charges of ballot box stuffing, approved a new Constitution.

Political activity in recent years has been marked by intense and occasionally violent competition among political fractions that largely represent tribal groups. The elections in 1977, for example, were accompanied by numerous clashes between strong-arm squads of different factions.

SOMALI

The Somali Revolutionary Socialist Party, created on July 1, 1976, has become the new executive body in the country; the party has a 74-man central committee and 5-man politburo headed by President and Prime Minister, Gen. Mohammed Siad Barre.

There are no elections of local or national government officials.

SUDAN

Election for National People's Assembly and Southern Regional People's Assembly were held in Feb. 1978; the most recent Presidential election was held in April 1977 with Numayri as the sole candidate.

The Sudanese Socialist Union is the only legal political party within the country.

TANZANIA

In the October 1975 national elections Julius Nyerere received 95% of about 4 million votes cast.

Tanzania is a one-party socialist state. President Julius Nyerere has been a vocal advocate for human rights abroad.

However, Tanzania tends to ignore, or at best to justify in the interests of state security, most domestic violations of human rights.

TOGO

The Presidential referendum of Jan. 1972 confirmed Gen. Eyadema for an indefinite period.

Togo is a one-party state. The present regime came to power in a military coup in 1967.

There have been no elections since 1972 in which support for the President was expressed by almost one hundred percent of the popular vote.

Togo is ruled by decree.

UGANDA

No elections scheduled by General Amin who in 1971 ordered the suspension of Uganda's legal system, and the concentration of legislative powers in his own hands, with the assistance of a Defense Council and a Council of Ministers nominated by him.

UPPER VOLTA

Parliamentary elections were held on 30 April 1978 and Presidential elections were on 14 May.

A new Constitution based on the French model of a strong democratically-elected executive and parliament had been approved overwhelmingly by national referendum in 1977. The legislative and presidential elections held last April and May were open and freely contested.

In the Presidential election, General Lamizana, head of the outgoing military government, ran as an independent supported by five parties and failed to win an absolute majority on the first ballot against three other contenders. He received 55 percent of the vote in the run-off election to continue as head of state.

ZAIRE

Presidential and legislative elections were last held in October and November 1970; elections for urban zone councils, legislative council, and political bureau of the sole political party were held in October 1977.

Participation in the one-party process is obligatory.

Although there is some freedom of debate within the party's politburo, important decisions are ultimately taken by General Mobutu.

The constitution bans ethnic and social discrimination, but regional and tribal factors affect access to jobs, both in government and private sectors, and to higher education. Recently the Zairian Army was purged of many members of the Shaban and Kasaian tribes and in its subsequest recruitment drive few were recruited from those areas or from Bandundu.

ZAMBIA

Under the 1973 Constitution, the United National Independence Party (UNIP) is designated the sole legal party in Zambia. Candidates for political office at any level must be members of UNIP and are subject to "vetting" for suitability by higher party authority. This system is described by the Zambian leadership as "one-party participatory democracy."

In 1978 seventy percent of the eligible voters participated and President Kaunda was returned to office by a margin of four to one.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries:

MESSAGE ON SCIENCE AND TECHNOLOGY—MESSAGE FROM THE PRESIDENT—PM 47

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the

Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Labor and Human Resources, jointly, by unanimous consent:

To the Congress of the United States:

This year the world marks centennials associated with two great men of science and technology. Albert Einstein, who was born March 14, 1879, enlarged our knowledge and understanding of the universe and changed the way we look at space and time. He was an early pathfinder in the remarkable era of scientific exploration in which we live. In that same year, Thomas Alva Edison invented the electric light. He was a great technologist who devoted his life to the creation of new products to meet human needs.

The world was changed by the work of these two men. The vast changes that have grown out of their work are part of the reason that the forces these two men represent, science and technology, have become increasingly important in our lives over the last century. We look to the fruits of science and technology to improve our health by curing illness and preventing disease and disability. We expect science and technology to find new sources of energy, to feed the world's growing population, to provide new tools for our national security, and to prevent unwise applications of science and technology. The health of our economy has been especially tied to science and technology; they have been key factors in generating growth, jobs, and productivity through innovation. Indeed, most of the great undertakings we face today as a Nation have a scientific or technological component.

Yet, despite the centrality of science and technology in our lives, the Federal government has rarely articulated a science and technology policy for the future. This Message sets forth that policy. The thesis is that new technologies can aid in the solution of many of our Nation's problems. These technologies in turn depend upon a fund of knowledge derived from basic research. The Federal government should therefore increase its support both for basic research and, where appropriate, for the application of new technologies. My Administration has done just that.

Within the coming months, the Congress and I must work together on strategic arms limitation, national health care, energy supply, industrial innovation, and economic growth—all of which have significant scientific and technological dimensions.

This message to the Congress:

—describes the Administration's policy perspective on science and technology and the roles of government, industry, universities, and the public in support of science and technology;

—highlights some of the most important science and technology initiatives undertaken in my Administration in domestic, national security, and international arenas;

—outlines the potential effects of science and technology on our Nation for the decade of the 1980s and beyond; and

—assists the Congress in its task of considering the research and development programs of our Departments and agencies as recommended in my 1980 budget.

In transmitting this message, I call on the Congress to join my Administration in its commitment to nonpartisan investment in science and technology for our future.

OVERVIEW OF RESEARCH AND DEVELOPMENT

The Federal government's support of research and development is critical to the overall advance of science and technology. Federal responsibility lies in three major categories:

1. The largest fraction of the Federal investment serves the government's direct needs and responsibilities, such as defense, space, and air traffic control. Because of the technical challenges involved in meeting these national needs, there is a relatively large and broad Federal investment in research and development.

2. The Federal government undertakes research and development where there is a national need to accelerate the rate of development of new technologies in the private sector. This is especially true when the risk is great or the costs inordinately high, such as with many aspects of energy and transportation. However, we look to private industry to finance research and development activities having near-term commercial payoff. Industry is most sensitive to the marketplace, to the benefits of competition, and to the commercialization of new technologies. This view is consistent with that of industrial leaders who ask the Federal government more for a climate that fosters innovation, rather than for direct support of research and development with commercial potential. My proposals for applied research and development in Fiscal Year 1980 reflect my overall view of the Federal responsibility.

3. The Federal government supports basic research to meet broad economic and social needs. Basic research is a quest for new knowledge. Research to advance scientific understanding—in astronomy, geology, chemistry, the behavioral and social sciences, and other areas—expresses our innate curiosity about ourselves and the universe. But basic research also is the forerunner of new inventions, advances in health care, nutrition and agricultural production, many new products of commerce, and new technologies for defense, space, energy, and environmental protection.

Although the Federal government has long accepted its dominant role in basic research, support declined seriously in the late 1960s and early 1970s, especially in mission agencies whose objectives are ultimately dependent on research. I have sought to reverse these trends, by urging the Congress to increase funds for basic research and by redirecting attention toward longer-range needs of the Nation. I have proposed a 26 percent increase in basic research in the two years of my Administration. This policy is both feasible and necessary, even as we seek to reduce our Federal deficit and move toward a balanced budget. The $4.6 billion requested for basic research in Fiscal Year 1980 in various Departments' and agencies' budgets is essential, and deserves the full support of the Congress. Prudent planning for the future demands a deliberate and continued commitment to basic research.

The majority of Federal support for basic research is in the mission agencies, with the Departments of Health, Education, and Welfare (National Institutes of Health), Defense, Energy, and the National Aeronautics and Space Administration leading the way. Strengthening the commitment of these agencies to the support of basic research is a central element of our science and technology policy. The National Science Foundation is critical to balanced support for all scientific and engineering disciplines. My budget request this year for the Foundation exceeds $1 billion. In presenting this request, I urge that Congress consider the critical role played by the Foundation. I have instructed the Foundation to improve the instrumentation of our university research laboratories and to investigate the need for special programs to support young scientists.

With the budget for Fiscal Year 1979, and full approval of my Fiscal Year 1980 requests, we will have made major steps in restoring the necessary balance and commitment to our scientific future. I would ask the Congress, in acting on agency budgets, to be aware of the interrelationships and the importance of each agency's contribution to a comprehensive, national program in support of science and technology.

MEETING DOMESTIC NEEDS

The United States is acutely aware of its energy problems, its need for natural resources, the deleterious effects of inflation on all Americans, and suffering from disease. Our future as a democratic society depends on our ability to confront these challenges successfully.

While science and technology alone will not solve all our domestic problems, they hold the key to many aspects of the solutions. During this century, the United States has built a system of industrial, university, and Government research laboratories that is unparalleled in the world. We have the national capacity to generate new basic knowledge, and to apply this knowledge to a broad range of problems. In this context I want to explain how my Administration is marshalling science and technology in terms of six domestic objectives:

—stimulating innovation in industry to sustain economic growth and improve productivity;

—meeting our energy, natural resource, and food needs;

—promoting better health for all;

—improving the regulatory process;

—expanding the beneficial use of space; and

—understanding the forces of nature, natural disasters, and changes induced by man.

STIMULATING INNOVATION IN INDUSTRY

As a Nation, we face problems of inflation, unemployment, foreign competition, and a decline in the growth of national productivity. Yet, traditionally we have been an innovative society. Our economic growth depends on an ability to produce and market new goods. Between 30 and 40 percent of the Nation's economic growth in the last three decades resulted from technological innovation. Innovative industries are our most productive, create more new jobs, and are the most competitive in world markets. When too few new industries are established, or older ones do not develop enough new products and more efficient operations, the stagnation is reflected in our economy. A lag in productivity worsens inflation. Innovation is essential to our battle against inflation.

More and more countries are industrializing, building industries in which this country once was preeminent. These are countries whose competition is healthy. We welcome their prosperity. We do not seek to limit their growth through tariffs and other trade barriers. Rather, we must seek to improve our own performance through renewed innovation in fields where we excel—such as agriculture, drugs, microelectronics, computers, aircraft, space satellite systems and many other technologies. We also need to make our lower-technology industries more competitive through innovation.

Americans have not lost their ability to innovate. But there are restrictive elements at work. I began a domestic policy review of the factors affecting industrial innovation. This study, which will be completed in the near future, is headed by the Secretary of Commerce. It involves thirty Federal agencies and many advisory groups from private industry, labor, universities, and public interest. I expect many practical recommendations to help make our industries more innovative.

I also have established a Productivity Council consisting of many of the senior members of my Administration. The Council is examining how science and technology can improve Federal, State and local government productivity, as well as the productivity of the private sector.

MEETING OUR ENERGY, NATURAL RESOURCE, AND FOOD NEEDS

The United States is richly endowed with natural resources, both renewable ones such as fresh water, clean air, timber, and agricultural land; and nonrenewable resources such as fossil fuels and minerals. These resources have been a key factor in our prosperity as a Nation.

We are currently using the energy and mineral resources that are the richest, the easiest to find, and the cheapest to produce—with substantial depletion of some. Growth in population, industrial activity, and a new awareness of the need to protect our environment are straining even our renewable resources in many regions. We are being forced to make difficult decisions about allocating water and land to one or another competing uses.

ENERGY

In energy, we have closely related objectives:

reducing dependence on foreign oil and minimizing the effects of supply disruptions, with conservation a key element;

implementing programs and policies that encourage domestic energy production and efficient use, without serious inflationary impact;

developing inexhaustible energy sources for sustained economic growth through the next century;

making the transition from primary reliance on depletable oil and gas to predominant use of more abundant energy sources;

developing safe nuclear power systems which, while limiting the potential for international proliferation of nuclear weapons, will increase our energy supply; and

using all energy sources in ways that do not endanger the environment and the health or safety of our citizens.

Today's scientific and technological investments can have only limited impact on these objectives in the near term. It takes time to bring new technologies to the stage of economic competitiveness, to develop industrial capacity, and to allow energy users to adapt to change. My near-term program thus emphasizes conservation, the reduced consumption of oil where alternatives are available, and removal of obstacles to the use of currently available energy sources, such as nuclear power, coal, or solar water heating, and providing adequate incentives for crude oil and natural gas exploration.

In the mid- to longer-term, however, science and technology will help resolve our current dilemma. They will assist in locating and developing new sources of supply and in using those supplies more efficiently with reduced damage to health and environment. Recognizing this, the government is enagged in an aggressive research and development effort. In this year of limited budget resources, difficult judgments had to be made. Nevertheless, my budget for fiscal year 1980 recommends an investment of nearly $3.5 billion in civilian energy research and development.

This country is blessed with a uniquely abundant supply of energy in the form of coal and oil shale. Over one-third of the known world reserves for coal belong to the United States. A major challenge is to demonstrate technologies that will enable us to substitute these energy sources for our ever increasing oil imports. My program provides for the government to work closely with American industry to accelerate the demonstration of commercial-scale technologies that show promise of entering the commercial market. Such demonstrations will test technical feasibility and the economics of conversion processes. They will give us needed information on the environmental and institutional impact of the technologies involved.

For the longer-term, there are many options. Technologies such as solar energy and fusion, promise virtually inexhaustible supplies of electricity in the future. But if these technologies are to be a significant factor, we must invest now in developing them. And we are doing so, as illustrated in solar research and technology development. Our national investment in this field has grown from almost nothing five years ago to $850 million in FY 1980.

In working with the private sector, it is particularly important that the government does not displace the resources of industry devoted to new energy technology. We must be mindful that appreciable energy producing capacity will be developed only if the private sector is actively involved and committed to our research and development efforts. We must carefully structure the Federal programs in a way that will lead industry to invest in, and ultimately commercialize, new energy technologies.

NONFUEL MINERALS

In the area of nonfuel minerals, we must recognize the importance of new technology and understanding of earth sciences and chemical processing to permit us to find, produce, and utilize scarce and lower grade ores without degrading the environment. A major study of nonfuel minerals is being conducted by the Secretary of the Interior under the Domestic Policy Review process managed by the Domestic Policy Staff. The adequacy and orientation of private sector and government investment in minerals research and development are being examined. I will report on the Secretary's recommendations later this year.

AGRICULTURE

Our agricultural science and technology have made us preeminent in the world. Our ability to maximize yield from agricultural land, to develop pest-resistant, productive crop strains, and to improve animal husbandry is unsurpassed. We are able to produce sufficient quantities of agricultural products to meet the basic needs of Americans and simultaneously supply much of the rest of the world. Agricultural products form the largest category of our civil exports. A key element in our success is our traditional system of cooperation among all levels of government, universities, producers, and rural communities.

My Administration has strengthened agricultural research and development by focusing attention on basic plant and animal sciences; integrated pest management; human nutrition and food safety; land and water use and conservation; energy research, especially production of biomass for energy, and production of alcohols from agricultural residues. We also are working to strengthen Federal research, development, transfer, and assistance programs in freshwater and marine aquaculture. We have supplemented these activities with a competitive research grant program. This program will attract researchers from many branches of science to advance knowledge on which future gains in plant productivity, genetic breeding, and nutrition ultimately will depend. The competitive grant program—which will help us meet our future agri-

cultural needs—merits strong Congressional support.

WATER

Our understanding of the Nation's water supply and how to use it wisely has increased over the years, but many opportunities for improvement still remain. River basin assessments, ground water flow and recharge patterns, efficient irrigation methods, and pollution control techniques are receiving careful attention by the Departments of Agriculture and Interior, the Environmental Protection Agency, the Corps of Engineers, and others. As greater demands are placed on our water supply, particularly in the West, we must understand how best to use and conserve it. And we must assess the long-term implications of our actions. Protecting water quality is also important for agriculture and in our urban and rural communities. I am directing the Secretary of Interior and Director of the Office of Science and Technology Policy to set research priorities aimed at meeting our future water needs.

Ocean science and engineering have opened a new region of the globe for exploration and resource development. As we explore new areas of our continental shelf and deeper water for oil and gas, we must have the world's best technical capability to protect our ocean and coastal environment, to find new resources, and to tap them efficiently. Science and technology will continue to play a major role in these activities.

DEPARTMENT OF NATURAL RESOURCES

Developing and utilizing science and technology requires effective Federal organization. My proposal for creation of a Department of Natural Resources will permit better integration of research and development activities in the area of natural resources and the environment.

PROMOTING BETTER HEALTH FOR ALL AMERICANS

As I stated in my State of the Union Message, the opportunity to lead a healthier life is denied to many in our country because health care services are inaccessible or unaffordable or inefficient. My Administration is dedicated to correcting this situation through initiatives that will influence the structure, function, and economics of our health services systems.

The biomedical capability developed in this country since World War II is a magnificent demonstration of our scientific and technological prowess; it is the envy of the world. The biomedical, social, and behavioral sciences have made countless contributions to the health of our people in recent years. Over the past generation, we have seen polio vaccine and new drugs developed, the introduction of heart-lung machines, organ transplantation, and a new understanding of the chemistry of the brain. And we have made major gains against high blood pressure, heart attack, stroke, specific kinds of cancer, birth defects, infant and childhood disease, and mental retardation and mental illness.

Much remains to be done. The Department of Health, Education, and Welfare is developing a health research strategy with increased emphasis on promotion of good health and prevention of disease. There are many elements to this strategy. We are emphasizing research on reproductive biology and the underlying mechanisms of normal development and of disease. This work exploits the modern techniques of molecular biology, the neurosciences, behavioral sciences, and genetics. We are increasing laboratory, clinical, and epidemiological research on the role of nutrition in normal development, good health, and disease. We are expanding research and services to reduce unwanted pregnancy, smoking, and alcohol and drug abuse among adolescents. We are placing more emphasis on the causes of common disabling conditions such as diabetes, arthritis, and neurological and digestive diseases. And we are stressing research on the biological and behavioral aspects of mental illness, drug abuse, and alcoholism to reflect the recommendations of the Commission on Mental Health.

In spite of our desire for better health, government spending alone will not ensure success. As we have learned from the emphasis on cancer over the last decade, advances depend on new discoveries whose rate cannot be predicted. Therefore, we must nurture a broadly-focused program of research, with a clear, long-term commitment. Accordingly, in view of the substantial increases provided by Congress last year above my requested increase, I believe an effective biomedical research effort can be maintained without any further increase in 1980. This pace for biomedical research is appropriate; over the period of fiscal years 1979 and 1980, funding will increase at an average of twelve percent per year, thus maintaining our vigorous national effort in biomedical research. We have every reason to be optimistic that health research in the years ahead will save lives and improve the quality of life for millions of people.

IMPROVING THE REGULATORY PROCESS

Over the past 15 years our Nation has established or improved programs dealing with air and water pollution, toxic substances, noise, radiation, automotive safety and fuel economy, worker health and safety, and numerous other hazards. My Administration will continue to enforce these important laws faithfully. But additional improvements are possible and desirable. I am convinced that continued investment in science and technology is required to improve our regulatory programs. Environmental, health and safety regulatory decisions must have a sound scientific basis. Consequently I am strengthening the research and development base in both regulatory and research agencies. I have proposed an increase in the Environmental Protection Agency's health effects research program for Fiscal Year 1980, with greater emphasis on long-term research.

In addition, we have begun three interagency activities that will improve regulatory decisions. The Regulatory Council, which I established last fall to ensure that regulations achieve their statutory goals in the most economic and balanced way, has prepared the Nation's first Regulatory Calendar—an outlook of proposed regulatory activity.

During the coming year, I expect the Council to identify government-wide scientific needs—programs, resources, and policies—that will improve the regulatory process. Second, the Interagency Regulatory Liaison Group—comprised of the Environmental Protection Agency, the Food and Drug Administration, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission and Agriculture's Food Safety and Quality Service—will coordinate the participants' regulatory activities and research program. Third, the regulatory agencies and the environmental health research agencies have joined in the new National Toxicology Program to set priorities for the testing and evaluation of toxic chemicals.

To ensure that we make effective use of science and technology in the regulatory process, I am asking the Director of the Office of Science and Technology Policy to give this issue personal attention in the coming year. He is to work with the heads of agencies, the Chairman of the Regulatory Council, and others to identify gaps in research programs, seek ways for research and development agencies to work with regulatory agencies, and develop procedures for proper use of scientific and technological data.

EXPANDING THE BENEFICIAL USE OF SPACE

Two decades ago mankind entered the space age. In that short time we have witnessed remarkable accomplishments —evidence of this country's progress in science and technology. Americans have explored the moon. Space probes are examining the planets of our solar system, as recently highlighted by the historic encounter of the Voyager I spacecraft with Jupiter. Satellites are indispensable components of our communications networks, weather forecasts and international security systems.

With the advent of the Space Shuttle, we are entering a new era. The Space Shuttle—our national space transportation system for the coming decades—will increase the flexibility of space operations, reduce costs, improve national security, and make possible new cooperative activities with other nations. To meet the challenges ahead, I have established a National Space Policy that sets the direction of our space activities over the coming years. We will emphasize applications not only by the National Aeronautics and Space Administration, but also by other Federal agencies, foreign governments, and the private sector. The policy stresses the use of space technologies to meet human needs here on earth. The new technologies of the space age can further revolutionize our communication and possibility can provide new energy supply. They can improve our ability to manage wisely our renewable and nonrenewable resources, and monitor our environment. Assessment and forecasting of crop conditions and yields, and extension of communications to remote areas are examples. I am committed to the continuity of remote sensing data over the coming decade and I expect to propose additional initiatives in remote

sensing of the earth's ocean, land resources, and environment in future years.

My space policy also encourages continued scientific investigation of the universe. We will conduct a vigorous program of exploration to understand the origin and evolution of the solar system. The space telescope—to be launched and serviced by the Space Shuttle—and free-flying satellites will usher in a new era of astronomy. From the clear environment of space, these new eyes will allow us to explore the distant galaxies and other astronomical phenomena—quasars, pulsars, and black holes. They will vastly expand our knowledge and understanding of the universe.

It is important that we maintain our world leadership in space. My policy is designed to encourage further advances in our use and exploration of space. We will provide adequate resources to maintain that leadership.

UNDERSTANDING THE FORCES OF NATURE, AND MAN-INDUCED ENVIRONMENTAL CHANGES

Man exists on this planet only with the consent of Nature. Natural forces like earthquakes, floods, storms, tsunamis, and landslides, as well as changes in weather that bring drought or excess rainfall, cause untold tragedy in loss of life, destruction of property, and disruption of economic and social structure.

Scientific advances of the past twenty years in geophysics, meteorology, and climatology have improved our understanding of natural phenomena. However, our predictive capability is limited and needs to be improved. And our capability for influencing natural forces for human benefit is nonexistent. On the other hand, our engineering skills, our ability to plan, our early warning and communications systems, and our ability to react quickly to prevent a breakdown of social order to help to reduce the toll when natural disaster does strike. We possess sophisticated technology for construction, communications, transportation, monitoring and interpretation of data on natural processes. My commitment to increase our progress is strong. The Congress recognizes that fundamental advances in understanding natural forces are important, and I welcome the partnership we have forged.

The National Earthquake Hazards Reduction Program established by the Earthquake Hazards Reduction Act of 1977 resulted in a national hazard mitigation plan that I transmitted to Congress in June 1978. This effort will involve Federal agencies, experts in the universities and private sector, and the States and localities to improve our understanding of earthquakes and our reactions to earthquake warnings.

To improve our ability to react to natural disasters and assist those affected, the Congress approved my reorganization recommendation to create the Federal Emergency Management Agency. This new Agency will have oversight of Federal programs to assist the areas and individuals affected by such civil emergencies. It will give us the ability to focus science—and the insight of the social sciences—on the mitigation of natural hazards as well as on post-disaster relief. The Agency will work closely with State and local jurisdictions to apply the benefits of available technology.

We also have focused increased research on climate. Within the framework of the National Climate Program Act of 1978, a national program has been organized. This program emphasizes impact assessment, diagnosis and projection, climate dynamics, and data management. My budgets in this area have more than doubled in the last two years. Advances that can be made in understanding climate change, in predicting it—and perhaps in influencing it beneficially—will be of enormous help to us and the rest of the world.

Another problem we face is the risk that man's own activities—now significant on a global scale—might adversely affect the earth's environment and ecosystem. Destruction of the ozone layer, increase in atmospheric carbon dioxide, and alteration of oceanic flow patterns are examples of the problems we must understand before changes are irreversible or the consequences inevitable. Many Federally-sponsored research activities, including basic research in the atmospheric, oceanic and earth sciences, and space observations, contribute to better understanding of the natural processes affecting the earth. They should receive serious attention in the coming decades. The increases that I have requested for basic research support this objective.

SCIENCE, TECHNOLOGY AND INTERNATIONAL RELATIONS

Science and technology is increasingly international in its scope and significance. This international dimension affects the planning and conduct of our research and development activities. Such activities, whether carried out by us or by others, serve to increase the fundamental stock of human knowledge. They can also foster commercial relationships, impact on the quality of life in all countries, and affect the global environment. Both our domestic planning and our foreign policy must reflect an understanding of this wide-ranging impact of science and technology.

Much of the existing international cooperation in science and technology takes place in academic or commercial channels. There is, however, a growing role for governmental cooperation as other nations make new commitments to scientific and technological growth. If used wisely these future opportunities for scientific and technological cooperation can support our foreign policy objectives.

Several themes have shaped my Administration's policy in this area. We are:

—pursuing new international initiatives that advance our own research and development objectives;

—developing and strengthening scientific exchanges that bridge political, ideological, and cultural divisions between countries;

—formulating programs and institutions that help developing countries use science and technology; and

—cooperating with other nations to manage technologies with global impact.

PURSUING NEW INTERNATIONAL INITIATIVES

United States scientific and technological objectives are advanced by cooperating with other nations. For example, we work together with many nations on large scale scientific programs; joint funding of expensive research, development, and demonstration projects; and efforts to alleviate common problems.

Two decades ago, the International Geophysical Year set a pattern for international cooperation on large-scale scientific problems. This model has been extended to most fields of science. Today the world's weather is studied jointly by nations through the Global Atmospheric Research Project. With the European Space Organization we are planning a space mission to examine polar regions of the Sun. These programs are yielding new knowledge about our solar system and our Earth's natural processes. They are providing important practical dividends.

As the cost of large-scale research programs and research facilities rises, all countries find the financial support increasingly burdensome. We must join together to support the most expensive and significant projects. We are discussing with other nations a program to drill deeply into the offshore continental margins between the continental shelves and ocean basins. This program would provide new knowledge of the sea floor and help us assess the margins' potential for resources. Other large-scale scientific programs that could be pursued jointly include the next generation of high energy physics accelerators, telescopes, and fusion energy research facilities.

Through the International Energy Agency we are cooperating on energy-related research and development. At the economic summit in Bonn in 1978, and more recently in Washington, I discussed the importance of intensifying joint energy research and development with the President of the European Economic Community. Similarly, in my discussions with the Prime Minister of Japan we agreed to increase cooperation in large-scale projects, particularly nuclear fusion and synthetic fuel production from coal. These agreements will help both nations achieve new energy sources—faster and at lower cost than if the research were pursued independently.

Environmental problems caused by industrialization are another area appropriate for cooperation. During my Administration we have started efforts with other nations to deal with problems of transboundary air pollution. Canadian and American scientists, for example, are working jointly to alleviate damage from acid rain caused by the long-range pollutants across our common border.

During my visit this February with Mexico's President Jose Lopez Portillo, we agreed to intensify scientific and technological cooperation to alleviate problems of mutual concern. We will explore ways to cooperate on research for developing the vast arid lands on both sides of our border. This will include research on new crops suitable for these lands and research on effective use of scarce water resources. We also will exchange information and begin joint work

on housing and urban planning for cities close to our common border.

DEVELOPING SCIENTIFIC EXCHANGES THAT BRIDGE DIFFERENCES BETWEEN COUNTRIES

Most nations value scientific and technological cooperation with the United States. We can use this fact to build bridges with countries where official relationships have been absent or strained. Our scientific and health exchanges with the Soviet Union and Eastern European countries, beginning after World War II, can be viewed in this light. These exchanges are now mature and extensive.

Our scientific exchanges with the Soviet Union are of special significance. At the sixth meeting of the US-Soviet Joint Commission on Science and Technology in Moscow in February 1979, we agreed to add new cooperative areas of interest to both sides. I expect to see continuing improvement in the quality of our exchanges with the Soviet Union. I also expect these programs to support and remain compatible with our overall political relationship.

The normalization of our relations with the Peoples Republic of China is a major event in American foreign policy. Since the signing of the Shanghai Communique of 1972, scientific and technological relationships have played a critical role in building the relationship. In order to accelerate this process, my Science and Technology Adviser led a delegation of senior government scientists to China in July of 1978. This delegation was followed by visits of the Secretaries of Energy and Agriculture. Chinese delegations subsequently visited the United States to discuss educational exchanges and space technology programs.

These missions led to the science and technology agreement that I signed with Vice Premier Deng Xiaoping during his recent visit to the United States. The agreement covers programs of interest to both countries, including development of a satellite communications system that will provide China with the means for nationwide television and telephone service. The agreement provides for exchange of scholars and students, exchange of plant materials for genetic research on crops, and cooperation in high-energy physics and other areas. The agreement enhances opportunities for US industry participation in China's modernization efforts. Our new relationship provides a sound beginning for increased technical and social ties between our countries.

HELPING DEVELOPING COUNTRIES USE SCIENCE AND TECHNOLOGY

The United States has an opportunity and responsibility to share scientific knowledge and appropriate technological skills with the developing world. Our purpose is to assist other countries in developing technology for their own needs. We must accomplish this purpose both for humanitarian reasons and because overcoming the problems of poverty, overpopulation, and scarcity of food and natural resources, will promote a stable world, enhancing our own security and well-being.

Recognizing these facts, I have submitted legislation to create an Institute for Scientific and Technological Cooperation, which will be charged with helping developing countries improve their scientific and technological capacity. Working with the Agency for International Development, the Institute will expand the use of science and technology to overcome obstacles to development.

The Institute will help individual developing countries choose and develop technologies that suit their own needs. At the same time, it will enable them to contribute to the solution of problems that affect developed as well as developing nations. For example, the Institute will work with developing countries on multiple crop farming systems for areas not suited to continuous cropping of food grain, technologies for clean water and sewage in rural areas where most of the poor live, modern information systems, prevention and cure of tropical diseases, and appropriate energy systems. The Institute also will establish means for developing countries to draw on United States government agencies, universities and institutes, as well as private industry. In this way the Institute will enhance coordination of the international activities of our government agencies.

An important dimension of the Institute is its mandate to work with the more advanced countries of the developing world, the "middle tier" nations. These countries have the infrastructure and science and technology capacity to become true partners with us in addressing regional and international problems and needs of the poor majority.

The Institute will call on industry, labor, and private voluntary organizations for development and management skills and improvement of the health and safety levels of modernizing societies. Already twenty-five percent of our current exports go to non-OPEC third world nations. Our trade in manufactured goods will expand as developing countries become better able to purchase and use our products.

Finally, we plan to take an active role in the United Nations Conference on Science and Technology for Development next summer. Father Theodore Hesburgh, President of the University of Notre Dame, will lead our delegation to the Conference. I view this Conference as an opportunity for discussing technology-related issues of concern to developing countries and reaching agreement on common objectives.

COOPERATING WITH OTHER NATIONS TO MANAGE TECHNOLOGIES WITH GLOBAL IMPACT

Much of modern technology requires global cooperation and management. The telecommunications network and activities of international organizations like the World Meteorological Organization, the International Civilian Aviation Organization, and the World Health Organization are noteworthy examples. The monitoring activities organized through the United Nations Environmental Program is a more recent example. Among other activities, we are working with other nations to update electromagnetic spectrum allocation, strengthen international controls on nuclear materials, and develop a regime for rapidly expanding transnational data flows. International cooperation in the management of technology for the mutual benefit of all nations will become even more important in the coming decades.

I call the attention of Congress to two international discussions of great importance, one dealing with nuclear fuel cycle evaluation and the other with allocation of radio frequencies. The Congress knows of my concern over a spreading nuclear weapons capability as more countries meet their energy needs with nuclear power. Our own research and development programs have been reoriented toward developing technologies more resistant to misuse. At our suggestion, over forty countries have convened in the International Nuclear Fuel Cycle Evaluation to consider how we can minimize risks. I am hopeful that new institutional controls and technological approaches will emerge from these deliberations.

The electromagnetic spectrum—including the radio frequencies—is one of the reusable natural resources available to mankind. We are at a point in history where increasing worldwide demands for these frequencies are being made; demands that exceed the availability of the resource. All nations, large or small, have rights of equitable access as signatories to the International Telecommunications Convention. It is only through international cooperation and planning that these rights can be guaranteed. The 1979 Worldwide Administrative Radio Conference will review the allocation of radio frequencies for communications and other purposes. Results of this conference will guide the use of communications and electronic equipment and the pattern of domestic and international communications systems for the next several decades.

NATIONAL SECURITY

Our national security depends in large measure on our technological capability. Our future security will depend in part on our ability to deploy new weapons systems that embody more advanced technology. Our potential adversaries are investing heavily in military personnel, equipment, and technology. Accordingly, we must look to our research and development programs to enable us to maintain a modern and responsive defense capability.

In the context of this message on science and technology, I wish to emphasize several facets of their relationship to national security. We must ensure that we are:

—maintaining technological leadership in weapons systems;
—utilizing technology to reduce costs in an era of expensive defense systems;
—building our defense research base to provide for our national security in the future;
—preventing export of technological products and processes with military applications that would erode our security; and
—utilizing advanced technological capability in the pursuit of arms limitation agreements.

MAINTAINING TECHNOLOGICAL LEADERSHIP IN WEAPONS SYSTEMS

Our military investments in new technology over the years have contributed immeasurably to our security. Now, as other nations are becoming more proficient in science and technology, we must make certain that our own capabilities remain at the frontier of knowledge. We must be spared the shock of major technological surprises. It is absolutely essential for us to remain second to none in the development and production of new weapons.

We are moving ahead with major development programs to increase our military capabilities. In the strategic area, programs are underway to strengthen each element for the triad—air, land, and sea—in order to preserve our deterrent capabilities. Examples are the M-X intercontinental ballistic missile, cruise missiles, and the Trident submarine and missile system. We are also pursuing the development of more survivable and reliable strategic warning and command control systems.

In order to improve our capability to fight a conventional war, we are developing and procuring new generations of aircraft, ground vehicles and munitions. The F-15, F-16, F-18 and A-10 aircraft, the XM-1 tank and the Patriot air defense missile are examples.

UTILIZING TECHNOLOGY TO REDUCE COSTS

Science and technology—properly applied—can increase efficiency, thereby reducing acquisition costs and improving the effectiveness of weapons. Science and technology enable us to develop new materials and components at lower costs. They can give our weapons greater reliability and efficiency, thereby reducing personnel needs. And they improve our manufacturing productivity. Cooperation with our allies also will help reduce costs without sacrificing our modernization programs. Standardization and common operational capability among NATO allies are important objectives.

In the procurement of weapons, we are emphasizing competition between potential suppliers to help keep costs down. And we have adopted new management techniques to insure that economies are not overlooked. We also are analyzing carefully the best mix of systems needed to meet anticipated contingencies. We have concluded that future shipbuilding efforts should concentrate on larger numbers of small ships, with enhanced mobility and firepower. Similarly, we are building a new, comparatively low-cost tactical airplane, the A-10, that emphasizes mobility and munitions designed for engagement of enemy tank forces. With imagination and effort, these various approaches will enable us to maintain technological superiority at acceptable cost.

BUILDING OUR DEFENSE RESEARCH BASE

The development cycle from proposal of a new concept to a deployed weapons system can take a decade or more. The length of time for dividends from investments in basic research is even longer. Moreover, research and development are inexpensive compared to the acquisition cost of weapons systems. The proper strategy, therefore, is to expand our options in the early stages of the acquisition process through research, and then be very selective at the costly engineering, development, and production stage.

For these reasons, our science and technology base related to national security must be the best in the world. Thus, I am deeply concerned over the declining support for research and technology in the defense budgets that occurred in the early part of this decade. My budgets for Fiscal Year 1979 and 1980 reverse that trend and strengthen our technology base. The two year average growth in the technology base will be about 14 percent, including an increase in basic research of about 20 percent.

The Department of Defense also is taking steps to strengthen its relationship with universities in order to use the research and development resources of the academic community more effectively. Defense support of university research will have increased more than 20 percent between Fiscal Years 1978 and 1980.

PREVENTING EXPORT THAT ERODES OUR TECHNOLOGICAL SUPERIORITY

Within the framework of national security, export controls on technology are important to ensure that our technological advantage is not compromised. A comprehensive study of the implications of international technology transfer was undertaken early in my Administration. I am persuaded that the export control process must seek to balance the conflicting goals of trade promotion, selected trade restriction based on national security considerations, and furthering our foreign policy objectives. Decisions in specific export licensing cases must be made on their merits by considering these three goals. In particular we are taking steps to refine and expedite the government's decision-making processes. I must emphasize, however, that while sound export controls are important, only a strong research and development program, as I have proposed, ensures our technological leadership in defense.

UTILIZING ADVANCED TECHNOLOGICAL CAPABILITY FOR ARMS CONTROL

National security is enhanced by prudent arms control, as well as new weapons systems. To this end I have pursued a new Strategic Arms Limitation Treaty with the Soviet Union, a comprehensive nuclear test ban treaty, and other arms control measures. As these agreements enter into force, our choices in weapons development must meet our own needs, while giving our adversaries the incentive to participate seriously in negotiations. Successful arms control depends on science and technology to provide adequate technical means of verification. Our current national capability to verify arms agreements is excellent. It includes observation satellites and extensive capabilities for seismographic detection and interpretation. We must continue to pursue scientific and technological advances to maintain these capabilities.

HARNESSING THE NATIONAL CAPABILITY

Equally as important as the substance of our science and technology policies is our strategy for managing it and ensuring its vitality. This task is a challenging one because of the diversity of the participants—business and industry, universities, the Federal agencies, government at all levels, and the public. Each sector has distinct goals and objectives and special institutional qualities. Yet each can work with the others in a lively process of cooperation, so long as some independence is assured and our policies are adaptable to each.

The partnership between the Federal government and universities needs renewed attention. Many leaders of university research centers believe the government has intervened too deeply in university affairs, to the point of affecting institutional independence and diversity. The problem stems from the need to ensure accountability of research funds. On the one hand, accountability is important to me, to Congress, and to the taxpayers; we must improve the government's ability to manage and account for public funds. On the other hand, it is equally important that the pendulum not swing so far that we stifle progress. We must allow flexibility both for the government agencies and for the research institutions. We should not confuse excess paperwork with proper accountability. Both the National Science Foundation and the National Institutes of Health have taken significant steps to reduce unnecessary demands on their grantees. These initiatives follow from my interest in reducing needless paperwork throughout the government. Moreover, in the recent development of the cost principles that govern the financial relations between the government and universities in research, we sought to the maximum extent possible to solicit and incorporate the views of the academic community. It is clear, however, that our partnership with universities needs further strengthening. We must continue to experiment with new approaches.

Another partnership in science and technology is with State and local governments. Throughout the Nation there is public resistance to the increasing costs of public services. If we are to avoid the reduction or elimination of such services, then we must develop better ways to reduce costs. The Federal government has a large stake in the effectiveness of State and local government: $80 billion are transferred annually to meet a range of national, State, and local needs.

Few State and local governments alone can support the research and development needed to mount a broad-scale effort at problem-solving. Within the budgets I have proposed for Federal research and development, I expect the needs of State and local governments to be addressed. Federal research and development programs should be formulated with participation by State and local governments. The Intergovernmental Science, Engineering, and Technology Advisory Panel, co-chaired by Dr. Frank Press and Governor James Hunt of North Carolina, is helping Federal agencies identify research and development to meet State and local needs. This intergovernmental group already has focused attention on satellite remote sensing data, US Fire Administration research,

the National Technical Information Service, the problems of the elderly, and disposal of chemical wastes. I am directing the Panel to increase its efforts in planning technical assistance and research and development for problem-solving.

A better awareness of partnership also is needed among the Federal agencies. We must have coordinated policy and program planning, implementation, and evaluation. Through a variety of formal and *ad hoc* mechanisms, I have stimulated interagency cooperation in space application, earthquake hazard mitigation, dam safety, ocean pollution research and monitoring, aquaculture, nutrition, management of radioactive wastes, and many others. Consistent with the wishes of Congress, I have asked the Office of Science and Technology Policy to coordinate programs involving many agencies using interagency coordination through the Federal Coordinating Council for Science, Engineering, and Technology.

A fourth partnership is between universities and industry. Universities are the chief performers of the fundamental research that underlies technological advance; industry puts this research to work and also identifies prolems requiring new knowledge. The flow of people and information between the campus and industry is an important element in both scientific and technological advance. The National Science Foundation is beginning to experiment with projects that involve cooperative activities by people in industry and universities. Other efforts to strengthen the partnership are needed in the years ahead. I will give this issue attention as I review the recommendations coming from the study of industry innovation.

We must also strive to increase public understanding and participation in our scientific and technology activities. The changes induced by science and technology are infused in the fabric of society, profoundly altering the way we live. The understanding of those changes and their causes, as well as successful adaptation to them, requires an informed citizenry. I have supported measures, such as intervenor funding, that contribute to informed public participation in decisions where technology is important. Science education—preparing our children for tomorrow's technical society—will receive emphasis in the proposed Department of Education and programs of the National Science Foundation. In addition, the Federal Departments and Agencies conducting research and development will continue to support programs that train future generations of scientists and engineers. My Administration is committed to overcoming barriers that discourage career opportunities for minorities and women in science and technology.

Finally, if we are to make the best use of our scientific and technological progress, we must maintain continuity and consistency in our support and policies. This Nation's scientific capability is the greatest in the world, but it will not remain so in an environment of uncertainty and changing priorities and policies. We must recognize that it takes many years to train new scientists and to complete some research projects. Technology development projects and many research missions, such as our space probes, require sustained work over a decade. If research and development activities are started and stopped abruptly, the chance of their success is diminished and the probability of benefits to the Nation decreased. The Congress and the Administration must join in recognizing the long-term nature of many research and development activities. Together we must provide the necessary assurances and commitments. The policies of my Administraton, as articulated in this message, are intended to serve that purpose.

CONCLUSION

In our lifetime the world has been reshaped by two prevailing forces of change: the desire of peoples everywhere for freedom from tyranny and the advance of science and technology.

Given the stunning achievements of science, it is natural to wonder whether we can expect similar accomplishments in the future. Or, are we in danger of running out of new ideas? The forecast today—and as far ahead as we can imagine—is the same as stated thirty years ago by Vannevar Bush: science is "the endless frontier." The opportunities inherent in today's scientific research are limitless in all fields—from new understanding of the evolution of the universe to the insights revealed by the genetic code. Indeed, we are in the midst of a remarkable era of explosive growth in knowledge and its use by society, unparalleled in any period of history.

It is not possible to predict the political or technological directions in the century ahead. I am certain, however, that strong support for science and technology by the Nation is one of the most important ways to prepare for the future.

Building on the strengths of our American system, I have developed policies that should serve as guidelines for Federal programs for science and technology for the years ahead. In this task, I have given attention to the balance of our Federal effort, directing it toward many issues that will in my judgment be the critical issues for the remainder of this century. I seek to ensure that technology is used wisely for the benefit of all. With the support of our government and our people, and the skills from the scientific and technological community, science and technology can help us chart the way to a more meaningful and productive future for all mankind.

JIMMY CARTER.

THE WHITE HOUSE, *March 27, 1979.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States received earlier, dealing with science and technology, be referred jointly to the Committees on Agriculture, Nutrition, and Forestry: Appropriations; Armed Services: Banking, Housing and Urban Affairs; Budget; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Foreign Relations; Governmental Affairs; and Labor and Human Resources.

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

MESSAGES FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2277. An act to authorize research, development, and demonstration projects relating to aviation, and for other purposes.

The message also announced that the House has agreed to the concurrent resolution (S. Con. Res. 16) relating to a ceremony to be held in the Capitol rotunda as part of the commemoration of the Days of Remembrance of Victims of the Holocaust.

The message further announced that the Speaker has appointed Mrs. Sharon Dixon, of the District of Columbia, as a member of the District of Columbia Law Revision Commission.

At 3:45 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 2439, an act to rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96–46), transmitted pursuant to the Impoundment Control Act of 1974.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 2277. An act authorizing research, development, and demonstration projects relating to aviation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–931. A communication from the Clerk, United States Court of Claims, transmitting, pursuant to law, the Court's judgment order of March 20, 1979, in re Shawnee Tribe of Indians of Oklahoma v. the United States, No. 64–A, entering judgment for the plaintiffs in the sum of $437,735.92; to the Committee on Appropriations.

EC–932. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, the intent to obligate $72.4 million in the Defense Stock Fund and $8.4 million in the Army Stock Fund for war reserve stocks; to the Committee on Appropriations.

EC–933. A communication from the Under Secretary of the Army, reporting, pursuant to law, the recent discovery of 26 lethal nerve agent munitions at Dugway Proving Ground, Utah; to the Committee on Armed Services.

EC–934. A communication from the Under Secretary of the Air Force, transmitting a draft of proposed legislation to amend chapter 37 of title 10, United States Code (Uniform Code of Military Justice), to improve

the quality and efficiency of the military judicial system; to the Committee on Armed Services.

EC-935. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to amend titles 10 and 33, United States Code, to authorize reimbursement for expenses incurred in obtaining quarters by certain members of the uniformed services on sea duty who are deprived of their quarters aboard ship, and for other purposes; to the Committee on Armed Services.

EC-936. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize officers of flag rank to serve in the Medical Service Corps in the Navy, and for other purposes; to the Committee on Armed Services.

EC-937. A communication from the Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of offer to Turkey for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-938. A communication from the Executive Director, Neighborhood Reinvestment, transmitting a draft of proposed legislation to extend the authorization of appropriations for the National Neighborhood Reinvestment Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC-939. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend Title V of the Housing Act of 1949; to the Committee on Banking, Housing, and Urban Affairs.

EC-940. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the authorizations of appropriations for two programs of the National Bureau of Standards; to the Committee on Commerce, Science, and Transportation.

EC-941. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to reform the economic resultation of railroads, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-942. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report concerning the impact of competition and on small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the International Energy Program; to the Committee on Energy and Natural Resources.

EC-943. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report of money spent by the Commonwealth of Massachusetts, the City of Lowell, and nonprofit entities for activities consistent with the purposes of Public Law 95-290; to the Committee on Energy and Natural Resources.

EC-944. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a quarterly report for the period October through December 1978, concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; to the Committee on Energy and Natural Resources.

EC-945. A communication from the Federal Cochairman, The Appalachian Regional Commission, transmitting a draft of proposed legislation to extend the Appalachian Regional Development Act of 1965; to the Committee on Environment and Public Works.

EC-946. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, the agency's second annual report on its activities under the Resource Conservation and Recovery Act of 1976 (RCRA); to the Committee on Environment and Public Works.

EC-947. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Changes Needed in U.S. Valuation System for Imported Merchandise," March 23, 1979; to the Committee on Finance.

EC-948. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend title XX of the Social Security Act to provide for an expanded social services program, to make permanent certain temporary provisions, and for other purposes; to the Committee on Finance.

EC-949. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to strengthen and improve the program of federal support for foster care of needy and dependent children, to establish a program of federal support to encourage adoption of children with special needs to improve child welfare services, and for other purposes; to the Committee on Finance.

EC-950. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improperly Subsidizing the Foreign Military Sales Program—A Continuing Problem," March 22, 1979; to the Committee on Governmental Affairs.

EC-951. A communication from the Chairman, United States Nuclear Regulatory Commission, reporting, pursuant to law, on the number of fulltime permanent employees hired and promoted by the Commission during the first quarter of fiscal year 1979; to the Committee on Governmental Affairs.

EC-952. A communication from the Office of the Secretary of Transportation, transmitting, pursuant to law, a report on the administration of the Privacy Act; to the Committee on Governmental Affairs.

EC-953. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, a report on the administration of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-954. A communication from the Secretary, Postal Rate Commission, reporting, pursuant to law, on the administration of the Privacy Act; to the Committee on Governmental Affairs.

EC-955. A communication from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to amend title 18 of the United States Code to revise and improve the laws controlling false identification crimes; to the Committee on the Judiciary.

EC-956. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-957. A communication from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, that NASA, actions through its Contract Adjustment Board, did not grant any request for extraordinary contractual adjustment during calendar year 1978; to the Committee on the Judiciary.

EC-958. A communication from the Chairman, National Arthritis Advisory Board, transmitting, pursuant to law, a report of the activities of the Board for 1978; to the Committee on Labor and Human Resources.

EC-959. A communication from the U.S. Commissioner of Education, transmitting, pursuant to law, a notice of interpretation regarding entitlement funds for tribal schools; to the Committee on Labor and Human Resources.

EC-960. A communication from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend title XV of the Public Health Service Act to revise and extend the authorities and requirements under that title for health planning, to provide for assistance to hospitals in discontinuing inappropriate service, and for other purposes; to the Committee on Labor and Human Resources.

EC-961. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, interim final regulations for the Bilingual Education Program; to the Committee on Labor and Human Resources.

EC-962. A communication from the Chairman, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, transmitting, pursuant to law, a report and recommendations on "Ethical Guidelines for the Delivery of Health Services by DHEW"; to the Committee on Labor and Human Resources.

EC-963. A communication from the Administrator, U.S. Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act to provide program level authorizations for fiscal year 1980; to the Select Committee on Small Business.

EC-964. A communication from the Administrator, U.S. Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Select Committee on Small Business.

EC-965. A communication from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 18, United States Code, with respect to the protection of certain officers or employees of the United States, and for other purposes; to the Committee on Veterans' Affairs.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-114. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTION

"Whereas, The Congress of the United States in nineteen hundred and seventy-five enacted Public Law 93-619 which, in part, provides sanctions, including the dismissal of indictments for the failure on the part of the federal government to bring a defendant to trial within a specified period of time; and

"Whereas, The effective date of such sanctions is July first, nineteen hundred and seventy-nine; and

"Whereas, The implementation of Public Law 93-619 is crucial to the proper administration of justice and the protection of our citizens in that it requires speedy trials for those charged with criminal offenses; and

"Whereas, A delay in implementing Public Law 93-619 would result in allowing bailed defendants to remain at large for excessive periods of time; and

"Whereas, The United States Department of Justice is expected to recommend a delay of up to two years in the implementation of Public Law 93-619; now, therefore, be it

"Resolved, That the Massachusetts Senate memorializes the Congress of the United States to resist any effort to delay the effective date of Public Law 93-619; and, be it further

"Resolved, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, to the presiding officer of each branch of the Congress and to each member of the Congress from the Commonwealth."

POM-115. A concurrent resolution adopted by the Legislature of the State of South Dakota; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION No. 1008

"Whereas, each separate tax as a component and the tax system as an edifice ought to harmoniously combine the disparate principles of equity, economic efficiency, and ease of administration to the extent possible; and

"Whereas, the carryover basis provision of the Tax Reform Act of 1976 does not contribute to the goal of equity because it produces double taxation in the form of an estate tax and an income tax when the inherited property is sold with the latter failing to take into account either inflation-induced appreciation or the importance of management in producing the capitalized income stream inherent in the value of the property; and

"Whereas, the carryover basis provision of the Tax Reform Act of 1976 does not contribute to the goal of economic efficiency because it destroys both the incentives and the capability of the small business and farm sector of the economy to innovate and compete with the large-scale corporate sector, the former sectors being the source of much technological innovation and frequently more efficient through many spectrums of scale economies in different fields; and

"Whereas, the carryover basis provision of the Tax Reform Act of 1976 does not contribute to the goal of ease of administration either from the standpoint of the taxpayer or the internal revenue service with its complex recordkeeping requirements and equally complex tax computations:

"Now, therefore, be it resolved, by the House of Representatives of the Fifty-fourth Legislature of the state of South Dakota, the Senate concurring therein, that the Congress of the United States repeal section 2005 of the Tax Reform Act of 1976 and revive the prior law with an effective date of October 4, 1976; and

"Be it further resolved, that a copy of this Resolution be sent to the President of the United States, the Speaker of the House of Representatives, the President of the Senate, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Finance Committee, and each member of the congressional delegation of the state of South Dakota."

POM—116. A concurrent resolution adopted by the Legislature of the State of South Dakota; to the Committtee on Energy and Natural Resources:

"HOUSE CONCURRENT RESOLUTION No. 1014

"Whereas, insufficient and unpredictable rainfall prevents the dominant agricultural sector of the economy of the state of South Dakota from reaching its maximum potential; and

"Whereas, the development of the water resources of the state of South Dakota, particularly the water in storage behind the Missouri River main stem dams, is critical to the future of agricultural and economic development of South Dakota; and

"Whereas, under the ecological and economic conditions currently prevailing in the state of South Dakota, a one hundred sixty acre irrigated farm unit for an individual or a three hundred twenty acre unit for a husband and wife jointly is an economically unfeasible unit; and

"Whereas, the state of South Dakota lacks the capital to develop its water resources to the extent necessary to improve per capita income to the national average without federal assistance; and

"Whereas, the one hundred sixty acre limitation for federal reclamation projects effectively prevents the development of South Dakota's water resources, which increases the consolidation of dry land agricultural units and causes the decline of small towns producing low incomes and continuous outmigration of young people:

"Now, therefore, be it resolved, that the State of South Dakota urges the Congress of the United States to act to amend the acreage limitation provisions of the federal reclamation laws by raising the allowable acreage so that economically feasible units may benefit from federal project water or, preferably, to delete the acreage limitations from the reclamation laws entirely in recognition of the states' prerogatives to allocate their water and to manage the use of their lands; and

"Be it further resolved, that copies of this resolution be sent to the Speaker of the House of Representatives of the United States, the President of the Senate of the United States, the Chairman of the House Committee on Interior and Insular Affairs, the Chairman of the Senate Committee on Energy and Natural Resources, and the Secretary of the Department of Interior."

POM-117. A joint resolution adopted by the Legislature of the Federated States of Micronesia; to the Committee on Energy and Natural Resources:

"SENATE JOINT RESOLUTION No. 5, H.D. 1

"Whereas, the Constitution of the Federated States of Micronesia was ratified by the people in four districts of the Trust Territory of the Pacific Islands by vote on July 12, 1978, pursuant to Public Law No. 7-31 of the Congress of Micronesia; and

"Whereas, the Constitution of the Federated States of Micronesia provides that the effective date of the Constitution is one year after the date of ratification, unless the Congress of Micronesia provides for an earlier date; and

"Whereas, the Interim Congress of the Federated States of Micronesia has succeeded to the legislative authority of the Congress of Micronesia in the four districts of the Trust Territory that ratified the Constiution; and

"Whereas, a prompt and orderly transition to constitutional government is in the best interests of the people of the Federated States, an adequate period of time is essential to accomplish the transfer of executive functions and responsibilities, and this transfer should be completed by October 1, 1979, if feasible; and

"Whereas, Public Law No. IC-1 of the Interim Congress of the Federated States of Micronesia requires the Congress of the Federated States of Micronesia to convene on May 10, 1979; now, therefore,

"Be it resolved by the Senate of the Interim Congress of the Federated States of Micronesia, 1979 Session, the House of Representatives concurring, that the effective time and date of the Constitution of the Federated States shall be 10:00 a.m. on May 10, 1979; and

"Be it further resolved that certified copies of this Senate Joint Resolution be transmitted to the President of the United States, the Speaker of the House of Representatives of the United States, the President of the Senate of the United States, the Trusteeship Council of the United Nations, the Secretary of the Interior, the High Commissioner, the Governors and Speakers of the Legislatures of the States of Kosrae, Ponape, Truk and Yap, and the Chief Justice of the Trust Territory High Court."

POM-118. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Governmental Affairs:

"HOUSE RESOLUTION No. 224

"Whereas, the militia of the State is responsible for the public safety and internal security of Hawaii's residents; and

"Whereas, Hawaii's National Guard is an integral component of the militia of the State; and

"Whereas, National Guard obligations require time off from civilian employment for discharging military responsibilities; and

"Whereas, reemployment rights are necessary to protect National Guard members whose civilian employment is interrupted by a call to public duty; and

"Whereas, federal laws provide reemployment rights for members of the National Guard only when discharging duties under federal orders (38 USC, sections 2021, 2024); and

"Whereas, federal laws do not provide reemployment rights to National Guard members when they are called up by state governors; and

"Whereas, the Constitution of the State of Hawaii at Article IV, section 5, empowers the Governor to call out the National Guard for special or emergency duty in times of flood, fire, earthquake, strikes, riots, prison breaks, and the like; and

"Whereas, state law presently grants reemployment rights to state employees, who, pursuant to an order from the Governor are ordered into active National Guard service; and

"Whereas, federal employees called to National Guard duty by the Governor are not protected by such reemployment rights; and

"Whereas, only federal laws can provide for such reemployment rights for federal employees; now, therefore.

"Be it resolved by the House of Representatives of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, that the members of Hawaii's congressional delegation are requested to support the passage of federal legislation establishing reemployment rights for federal employees who are ordered to National Guard duty by their state governor; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Hawaii's congressional delegation."

POM-119. A resolution adopted by the legislature of the State of Hawaii; to the Committee on Agriculture, Nutrition, and Forestry:

"HOUSE RESOLUTION No. 297

"Whereas, agriculture is a major cornerstone of Hawaii's economy; and

"Whereas, agriculture in Hawaii is a multi-hundred million dollar business which provides employment and important revenues for the people of Hawaii; and

"Whereas, according to data appearing in the "State of Hawaii Data Book 1977", an official publication of the Hawaii State Department of Planning and Economic Development, in 1976, the value of crop and livestock sales amounted to $322,323,000; and

"Whereas, while sugarcane production remains the single most important component of Hawaiian agriculture, the second most important sub-industry of Hawaii's overall agriculture industry is diversified agriculture, generally defined to mean all agricultural production other than sugarcane and pineapple production; and

"Whereas, diversified agriculture has demonstrated exceptional performance in recent years and the current value of farm sales of diversified agricultural commodities alone is estimated to be approximately $120,000,000 annually; and

"Whereas, with the general exception of several major cattle raising enterprises in Hawaii, the overwhelming majority of farmers engaged in diversified agricultural are independent farmers producing vegetable

crops, fruits, hogs, nursery products, and the like; and

"Whereas, the House of Representatives of the State of Hawaii finds that since 1970, farmers engaged in agricultural production on leasehold lands in Hawaii are ineligible to qualify for loans under the so called "Farm Ownership Plan" of the federal Farmers Home Administration; and

"Whereas, considering Hawaii's unique land conditions, many farmers must operate their farming operations on leasehold lands; and

"Whereas, loans under the "Farm Ownership Plan" provide low interest, long term loans to support farming activities relating to the construction of farm structures and closely allied farming needs; and

"Whereas, the Constitution of the State of Hawaii at Article XI mandates the protection and development of agriculture in Hawaii, a clear indication of the major importance of agriculture in Hawaii; now, therefore.

"Be it resolved by the House of Representatives of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, that Hawaii's delegation to the Congress of the United States is respectfully urged to sponsor and support the enactment of legislation which will enable Hawaii's farmers engaged in agricultural production on leasehold lands in Hawaii to qualify for loans under the "Farm Ownership Plan" of the federal Farm Home Administration; and

"Be it further resolved that certified copies of this Resolution be transmitted to each member of Hawaii's delegation to the Congress of the United States, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Agriculture, the Governor of the State of Hawaii, the President of the Hawaii State Senate, the Speaker of the Hawaii State House of Representatives, and the Chairman of the Hawaii State Board of Agriculture."

POM-120. A resolution adopted by the legislature of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTION

"Whereas, The Congress of the United States is responsible for the large amount of money appropriated by the departments of the federal government and therefore must accept full responsibility for the inflation and deficit spending which have resulted from its actions; and

"Whereas, Drastic action by Congress is needed including both the enactment of legislative changes which will impose limits upon spending by the federal government and submission to the states of related amendments to the Constitution of the United States; now, therefore be it

"Resolved, That the Massachusetts Senate hereby urges the Congress of the United States to propose amendments to the Constitution of the United States which would require a balanced federal budget for each fiscal year; and be it further

"Resolved, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

POM-121. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTION

"Whereas, The United States Supreme Court ruled that an abortion during the first three months of pregnancy is to be governed by the medical judgment of a physician; and

"Whereas, The United States Supreme Court ruled that an abortion after the third month of pregnancy is to be determined by the woman and her physician; therefore be it

"Resolved, That the Massachusetts General Court respectfully urges the Congress of the United States to enact legislation presenting to the states a proposed constitutional Human Life Amendment proposing:—

"All men are conceived and born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties from the moment of conception; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

"The United States shall not make or enforce any law which shall abridge the privileges or immunities of its citizens; nor shall it deprive any persons, including the unborn, of life, liberty, or property without due process of law, nor deny to any person, including the unborn, within its jurisdiction, the equal protection of the laws; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Clerk of the Senate to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

POM-122. A joint memorial adopted by the legislature of the State of Idaho; to the Committee on Governmental Affairs:

"SENATE JOINT MEMORIAL NO. 106

"Whereas, the powers delegated to the federal government by the United States Constitution are limited, and those powers not delegated to the federal government are reserved to the States; and

"Wheras, it is becoming increasingly the practice of the federal government to require states to enact state laws to implement federal policies by threatening to withhold or withdraw federal funds for failure to do so; and

"Whereas, the federal government has imposed upon the states many programs and obligations which require funding in excess of state means, thereby making the states subservient to and dependent upon the federal government for financial assistance; and

"Whereas, through the coercive force of withdrawing or withholding federal funds, or the threat of withdrawing or withholding federal funds, the federal government is indirectly imposing its will upon the states and requiring implementation of federal policies which neither Congress nor the President nor any administrative agency is empowered to impose or implement directly; and

"Whereas, this coercive power of the purse is being used to extend the power of the federal government over the states far beyond the powers delegated to the federal government by the United States Constitution; and

"Whereas, the power of the federal government should be exercised directly by the enactment, implementation and enforcement of federal laws governing only those areas in which the federal government is empowered to act by the United States Constitution, and the federal government should be prohibited from usurping the authority of the states and imposing its will indirectly in those areas in which it has no power to act directly; and

"Whereas, the federal government has imposed upon the states many programs and obligations which require state administration and such programs or other programs may lose federal financing if certain conditions attached to the program are not met.

"Now, therefore, be it resolved by the members of the First Regular Session of the Forty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Congress of the United States to refrain from withholding, withdrawing or threatening to withhold or withdraw federal funds from a state as a means of requiring a state to implement federal policies or practices; and

"Be it further resolved that the Secretary of the Senate be, and she is hereby authorized and directed to forward copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States, and to the members of the Congress of the United States representing the State of Idaho."

POM-123. A joint resolution adopted by the legislature of the State of Tennessee; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION NO. 41

"Whereas, President Carter has nominated Bob Clement to fill the unexpired term of Mr. Bill Jenkins as a member of the Board of Directors of the Tennessee Valley Authority; and

"Whereas, Bob Clement's service as a Commissioner of the Tennessee Public Service Commission, a municipal consultant for the University of Tennessee Center for Government Training and as Chairman of the Ad Hoc Presidential Advisory Committee of the National Association of Regulatory Utility Commissions uniquely qualify him for the position on the Board of Directors; and

"Whereas, The citizens served by the Tennessee Valley Authority will be best served by a board member who is a resident of the area and who is sensitive to the geographic, economic, political, and sociological characteristics of the area; now, therefore,

"Be it resolved by the Senate of the Ninety-First General Assembly of the State of Tennessee, the House of Representatives concurring, That the members of this body extend their congratulations to Bob Clement on his nomination by President Carter to serve on the Board of Directors of the Tennessee Valley Authority.

"Be it further resolved, That the United States Senate is hereby urged to confirm the appointment of Mr. Robert Clement to fill the unexpired term of Mr. Bill Jenkins as soon as possible.

"Be it further resolved, That copies of this resolution be sent to Mr. Clement, President Carter, all members of the Tennessee delegation to the United States Congress and the president pro tempore of the Senate."

POM-124. A joint resolution adopted by the legislature of the State of Tennessee; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION NO. 42

"Whereas, The Federal Communications has announced its intention to promulgate rules which would permit duplication of radio broadcasting station assignments on Class I-A Clear Channels; and

"Whereas, There are only twenty-five (25) such stations in this country, among them WSM Radio in Nashville, Tennessee; and

"Whereas, WSM Radio went on the air in May, 1925, and since the fall of that year has been the broadcasting home of the Grand Ole Opry, the nation's longest running, continuous live radio program; and

"Whereas, The Grand Ole Opry is a unique part of the American heritage, the home of country music and humor, a style which over the past half-century has transcended the barriers of age and geographic boundaries; and

"Whereas, The enormous popularity of the Grand Ole Opry has contributed significantly to the growth of the tourist industry in Tennessee, in 1977 at $1.5 billion business which produced $402 million in state taxes; and

"Whereas, WSM Radio is also the home of the Waking Crew, an early morning program featuring the only live, studio orchestra in the world; and

"Whereas, WSM evening programming broadcasts weather information to travelers in all parts of the United States; and

"Whereas, Clear channel stations provide nighttime programming to rural areas of the country which otherwise would receive none, as the majority of the four thousand four hundred (4,400) A.M. stations are located in urban communities; and

"Whereas, In the event of a national emergency it would be possible for a handful of Class I-A Clear Channel Stations to provide comprehensive nationwide communication; now, therefore,

"Be it resolved by the Senate of the Ninety-First General Assembly of the State of Tennessee, the House of Representatives concurring, That the Congress of the United States is urged to enact legislation to prevent the Federal Communications Commission from prescribing rules which would permit duplication of radio broadcasting station assignments on Class I-A Clear Channels.

"Be it further resolved, That a copy of this resolution be sent to each member of the Tennessee congressional delegation, the President pro tempore of the United States Senate, the Speaker of the House of Representatives, the Chairman of the Federal Communications Commission, and the President of WSM Incorporated."

POM-125. A resolution adopted by the county legislature of Suffolk County, N.Y., memorializing Anthony Casamento; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Agriculture, Nutrition, and Forestry, with amendments and an amendment to the title;

S. 41. A bill to authorize the Secretary of Agriculture to convey any interest held by the United States in certain lands located in Bell County, Ky., to the Board of Education, Bell County, Ky. (Rept. No. 96-48).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with an amendment:

S. 210. A bill to establish a Department of Education (together with additional and minority views) (Rept. No. 96-49).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NELSON (for himself, Mr. PROXMIRE, Mr. RIEGLE, and Mr. METZENBAUM):

S. 769. A bill repealing the authorization for Tombigbee and Tennessee Rivers project; to the Committee on Environment and Public Works.

By Mr. CHURCH (for himself and Mr. MUSKIE):

S. 770. A bill to prohibit trading in potato futures on commodity exchanges; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WEICKER:

S. 771. A bill to establish an energy stamp program which will provide assistance to certain low-income and fixed-income households to help meet residential energy costs incurred by such households; to the Committee on Labor and Human Resources.

By Mr. NELSON:

S. 772. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the Secretary of Health, Education, and Welfare to impose conditions and limitations on the distribution of certain drugs; to the Committee on Labor and Human Resources.

S. 773. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for a Federal drug compendium which provides reliable, complete, and readily accessible prescribing information; to assure safety and efficacy of drugs through certification of certain drugs other than insulin and antibiotics; to require certain information in drug labeling; and to improve the administration and enforcement of the act as it relates to drugs; to the Committee on Labor and Human Resources.

S. 774. A bill to amend the Federal Food, Drug, and Cosmetic Act to make the Secretary of Health, Education, and Welfare responsible for the testing and evaluation of all drugs to determine whether such drugs meet the requirements for approval for commercial distribution, and to provide for the establishment of a national drug testing and evaluation center, and for other purposes; to the Committee on Labor and Human Resources.

S. 775. A bill to amend the Federal Food, Drug, and Cosmetic Act to require an appropriate warning on the label of any potentially dangerous drug, and for other purposes; to the Committee on Labor and Human Resources.

S. 776. A bill to amend the Federal Food, Drug, and Cosmetic Act in order to impose certain restrictions on oral representations made to physicians and pharmacists regarding drugs, and to impose certain restrictions on the written advertising of drugs; to the Committee on Labor and Human Resources.

S. 777. A bill to amend the Federal Food, Drug, and Cosmetic Act in order to require that the label of certain drugs include expiration dates regarding the effectiveness or potency of such drugs; to the Committee on Labor and Human Resources.

S. 778. A bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the export of any drug from the United States unless an application for approval of such drug has been obtained under section 505 of such act; to the Committee on Labor and Human Resources.

S. 779. A bill to amend the Federal Food, Drug, and Cosmetic Act, as amended, to require the submission of certain additional information by applicants for new drugs; to require the inclusion of certain additional information in drug labeling, and for other purposes; to the Committee on Labor and Human Resources.

S. 780. A bill to amend and supplement the Federal Food, Drug, and Cosmetic Act with respect to the manufacture and distribution of drugs, and for other purposes; to the Committee on Labor and Human Resources.

S. 781. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the certification of certain drugs other than insulin and antibiotics, and to provide for the submission of certain additional information on drugs by the producers of such drugs; to the Committee on Labor and Human Resources.

S. 782. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of sample drugs; to the Committee on Labor and Human Resources.

S. 783. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for quality control for drugs purchased by the United States or paid for with Federal funds, and to provide for a Formulary of the United States; to the Committee on Labor and Human Resources.

S. 784. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for a Federal drug compendium which will list all prescription drugs by their generic names and provide reliable, complete, and readily accessible prescribing information; to the Committee on Labor and Human Resources.

S. 785. A bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the use of any name in connection with any prescription drug other than the official name designated for such drug by the Secretary of Health, Education, and Welfare; to the Committee on Labor and Human Resources.

S. 786. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that the identity of the manufacturer of a prescription drug appear on the label of the package from which the drug is to be dispensed; to the Committee on Labor and Human Resources.

S. 787. A bill to amend the Public Health Service Act in order to protect the public against excessively high prices for certain drugs; to the Committee on Labor and Human Resources.

By Mr. DOMENICI (for himself, Mr. TOWER, Mr. DOLE, and Mr. DECONCINI):

S. 788. A bill to establish an Office of Hispanic Affairs in the Executive Office of the President, and in various Federal departments and agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CRANSTON:

S. 789. A bill to authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, Calif., and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WILLIAMS (for himself, Mr. JAVITS, Mr. RANDOLPH, Mr. MOYNIHAN, Mr. MCGOVERN, Mr. MELCHER, Mr. DURENBERGER, and Mr. SIMPSON):

S. 790. A bill to provide that 20 per centum of the funds appropriated for college work study programs in any fiscal year beginning after September 30, 1979, may be used for promoting cooperative education programs with private employers; to the Committee on Labor and Human Resources.

By Mr. CRANSTON:

S. 791. A bill to establish the true location of a portion of the northerly boundary of the Angeles National Forest in Los Angeles County, Calif., on the common line between section 16 and 17, township 4 N, range 10 W, San Bernardino meridian, and to establish the center quarter of said section 16; to the Committee on Energy and Natural Resources.

By Mr. BENTSEN:

S. 792. A bill to provide price incentives for production of high water cut crude oil; to the Committee on Energy and Natural Resources.

By Mr. NELSON (for himself, Mr. CULVER, Mr. NUNN, Mr. BAUCUS, Mr. WEICKER, Mr. HATCH, and Mr. PRESSLER):

S. 793. A bill to amend the Small Business Act; to the Select Committee on Small Business.

By Mr. LEVIN (for himself, Mr. PERCY, Mr. CHILES, Mr. JACKSON, Mr. COHEN, Mr. RIEGLE, Mr. BURDICK, Mr. MELCHER, Mr. PELL, Mr. HATFIELD, and Mr. NELSON):

S. 794. A bill to establish dispute resolution procedures and an abritration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service; to the Committee on Governmental Affairs.

By Mr. MAGNUSON (for himself, Mr. LEAHY, Mr. JACKSON, Mr. HEINZ, Mr. MELCHER, Mr. MCGOVERN, Mr. STEVENS, Mr. NELSON, Mr. PELL, Mr. MATSUNAGA, Mr. WILLIAMS, Mr. SARBANES, Mr. PRESSLER, Mr. BRADLEY, Mr. HATFIELD, Mr. MOYNIHAN, Mr. CULVER, and Mr. RIEGLE):

S. 795. A bill to establish a Federal policy concerning protection of certain agricultural

land; to provide for a land review study by the Secretary of Agriculture; to establish a research and pilot project program relating to methods of protecting certain agricultural land from being used for nonagricultural purposes, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CANNON (by request):

S. 796. A bill to reform the economic regulation of railroads, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JACKSON (by request):

S. 797. A bill to provide for the timely management of the spent fuel from nuclear reactors; to the Committee on Energy and Natural Resources.

By Mr. HART (by request):

S. 798. A bill to provide for the licensing of Department of Energy facilities primarily used for the receipt and storage of commercial spent fuel; to the Committee on Environment and Public Works.

By Mr. SCHMITT:

S. 799. A bill to increase the duty on imported copper by an amount which offsets the cost incurred by copper producers in the United States in meeting domestic environmental requirements; to the Committee on Finance.

By Mr. MATHIAS:

S. 800. A bill to amend the Rail Passenger Service Act in order to improve cost allocating procedures and the method of determining the amount of Federal assistance to be provided the National Railroad Passenger Corporation for operating costs; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, and Mr. DOMENICI):

S. 801. A bill to increase the tax of cigarettes; to the Committee on Finance.

By Mr. CHURCH (by request):

S. 802. A bill to further amend the Peace Corps Act; to the Committee on Foreign Relations.

By Mr. PROXMIRE:

S. 803. A bill for the relief of Nick Masonich; to the Committee on the Judiciary.

By Mr. HEFLIN:

S. 804. A bill for the relief of Jae Sill Rim and his wife, Young Ja Rim; to the Committee on the Judiciary.

By Mr. DURKIN:

S. 805. A bill to repeal changes in the exclusion of sick pay made by the Tax Reform Act of 1976, and for other purposes; to the Committee on Finance.

S. 806. A bill to amend the Internal Revenue Code of 1954 to make certain wood gasification equipment eligible for the residential energy credit; to the Committee on Finance.

S. 807. A bill to amend section 5(e) of the Food Stamp Act of 1977 to remove the ceiling on the excess shelter expense deduction, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 808. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

By Mr. STEVENS (for himself, Mr. BAYH, Mr. DOMENICI, Mr. DOLE, Mr. FORD, Mr. GARN, Mr. HATCH, Mr. HUDDLESTON, Mrs. HUMPHREY, Mr. METZENBAUM, Mr. MORGAN, Mr. MOYNIHAN, and Mr. THURMOND):

S. 809. A bill to amend title 38, United States Code, to provide that a member of a Reserve component of the Armed Forces shall not be denied certain employment, because of membership in such Reserve component; to the Committee on Veterans' Affairs.

By Mr. STEVENS:

S. 810. A bill to amend section 1102 of the Education Amendments of 1978; to the Committee on Labor and Human Resources.

By Mr. GOLDWATER:

S.J. Res. 52. A joint resolution designating the 7-day period of May 1, 1979, through May 7, 1979, as "National Photography Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. PROXMIRE, Mr. RIEGLE, and Mr. METZENBAUM):

S. 769. A bill repealing the authorization for Tombigbee and Tennessee Rivers Project; to the Committee on Environment and Public Works.

TENNESSEE-TOMBIGBEE WATERWAY DEAUTHORIZATION ACT OF 1979

Mr. NELSON. Mr. President, in 1946, the 79th Congress authorized the Corps of Engineers to construct a waterway project which would link the Tennessee and Tombigbee Rivers for the purpose of facilitating barge traffic on the inland waterway system. The project, as originally authorized, consisted of a 260-mile-long navigation channel from the Tennessee River at the Pickwick Pool to the confluence of the Tombigbee and Black Warrior Rivers at Demopolis, Ala. The channel is made up of three parts: A 40-mile-long cut through a dividing ridge, connecting the two rivers and ending at the Bay Springs Lock and Dam; a 44-mile-long canal, generally paralleling the East Fork of the Tombigbee River between Bay Springs and Amory, Miss., and a 176-mile-long river section on the Tombigbee from Amory to the southern terminus of the project at Demopolis, Ala. In the river and canal sections, the authorized channel width was 170 feet. In the divide section, it was to be 150 feet wide.

For 21 years following this authorization, the Corps was unable to justify construction of the project on economic grounds. In 1946, at the time of authorization, the benefit-cost ratio was 1.05 to 1. In 1951, at the conclusion of hearings by the House Appropriations Committee, that committee reported that the project was not economically sound, and that its staff had found the benefit-cost ratio to be .27 to 1. All planning was therefore directed to be discontinued, the funds previously allotted to the Tenn-Tom were revoked, and the project was placed in a "deferred-for-restudy" category.

The first restudy was called for in 1957 and completed in 1962. Again, the House Appropriations Committee rejected the project on economic grounds. The benefit-cost ratio was then 1.08 to 1. In 1964, a second restudy was undertaken by the corps. This time, the corps dramatically changed the design of the project. without obtaining, or even asking for, authorization from Congress. By nearly doubling the width of the project, from the authorized width of 170 feet to 300 feet, and by adding duplicate locks at two locations, the corps was finally able to increase the projected benefit-cost ratio to 1.24 to 1, and to obtain approval from the Appropriations Committees for planning funding. Construction funds were first appropriated in 1971, and construction began in December 1972. Since 1974, project costs have skyrocketed and project benefits have plummeted. Using corps' estimates, the benefit-cost ratio has now dropped from its all-time high of 1.6 to 1 in fiscal years 1970 through 1972, to 1.2 to 1, below the level that former Secretary of the Army Stanley Resor called marginal in 1967.

However, even this marginal benefits-to-costs ratio is bluntly repudiated by independent expert analysis which shows that a more realistic figure for the benefit-cost ratio is closer to .23 to 1. Thus, instead of providing a positive return on the Federal investment, the Tennessee-Tombigbee is actually losing money on every dollar we sink into it.

The 30-year history of the Tennessee-Tombigbee Waterway overwhelmingly demonstrates that it is economically unjustified. But there are also several other issues, which, when added together, conclusively show that Congress should immediately halt this biggest pork barrel boondoggle of them all.

First, the project is already obsolete, even though, according to corps figures, it is only 29 percent complete. Second, the project which is currently being built is not the project which was authorized in 1946. Third, the corps' own memorandums detail how Congress, the President, and the public were deliberately deceived as to the cost of the project. Similarly, memos of meetings between the corps and their consultants show that the consultants were told by the corps to make assumptions about the project which were unjustified and, in many cases, unauthorized.

Therefore, it should come as no surprise that these studies justified, rather than rejected, the decision to build the waterway. Fourth, the construction of the project will cause serious environmental damage. To date, physical construction of the project has been largely limited to the 10 locks and dams sites. The river itself is virtually untouched and the project, at present, has not yet resulted in irreparable damage to the environment. But there is not much time. The project's largest construction contracts will be let later this spring, unless Congress acts. If the Congress does not act, and allows the Tenn-Tom to be completed, it will be an environmental, as well as economic disaster. And finally, 70 percent of the projected tonnage to be shipped on the Tennessee-Tombigbee is coal, over half of which is for export.

In a time of energy crisis, when we have set as a national priority the achievement of energy self-sufficiency, it does not make a great deal of sense to spend billions of American tax dollars to subsidize the export of American coal to a foreign country. In fact, very little about this project does make good sense.

It is time Congress demonstrated a will to challenge these wasteful projects which consume billions of tax dollars while providing inadequate returns on our investment. In my judgment, the 96th Congress should foreclose any further expenditures on the Tennessee-Tombigbee Waterway by acting to repeal the project authorization.

PROJECT DESCRIPTION

Today, due to design modifications which add several cutoffs in the river section, the Tennessee-Tombigbee Waterway project is a 232-mile long (rather than 260-mile-long) navigation channel from the Tennessee River, at the Pickwick Pool, to the Tombigbee River, terminating at Demopolis, Ala. Starting at the northern terminus of the project, this channel consists of three distinct sections: A 40-mile cut section through a divide connecting the Tennessee River to the Tombigbee River; a 44-mile canal section with five locks and dams, which parallels the river from the Bay Springs lock and dam to Amory; and a 148-mile river section with four locks and dams, from Amory, Miss., to Demopolis, Ala. From Demopolis, the southern terminus of the authorized project, barge traffic can continue on the Tombigbee to the Gulf of Mexico at Mobile, Ala.

The channel from the Tennessee River to Demopolis is being designed at a 300-foot width, while the authorized width of the channel, south of Demopolis is 200 feet. In addition to 10 locks and dams, the project requires the commitment of over 105,000 acres of land, excavation of over 280 million cubic yards of earth, and the destruction of the largest remaining unimpounded, unchannelized and unpolluted river in the Mobile river basin, the Tombigbee.

In order to fully describe the project, it is necessary to explain the "off again, on again" segment between Demopolis and Mobile. At present, the Corps claims that this is a different project. However, from 1966 to 1975, the Corps' design for the Tennessee-Tombigbee was based on a 300-foot-wide waterway from the Pickwick Reservoir on the Tennessee River all the way to the Gulf of Mexico at Mobile.

This project formed the factual basis and assumption for all planning and appropriations requests during that period. Its existence, however, was never disclosed to the public or the Congress. In apparently contradictory, but actually precise, language, one key Corps official has termed it a "well-kept, if open secret."

In August 1975, the Corps realized that there was absolutely no authority for constructing a 300-foot-wide waterway south of Demopolis. Therefore, in November, 1975, the Corps decided to split the project into two sections at Demopolis. The decision was made to continue construction of the project north of Demopolis, but to avoid analysis of the environmental and economic impacts of the inevitable construction of the portion south to Mobile. However, for purposes of claiming the benefits of the waterway between Pickwick and Mobile, it continued to be treated as a single project. Indeed, the traffic projections necessary to justify the project continued to be dependent upon the assumption of construction of the portion of the project south of Demopolis.

It was at this time that the Corps, in their annual budget submissions to Congress, began to use the term "initial" project for the portion between Pickwick and Demopolis and "ultimate" project for the overall waterway between Pickwick and Mobile. Thus, in addition to using the overall 300-foot waterway as the economic basis for project justification, the Corps also based its annual appropriations requests upon the 300-foot waterway from Pickwick to Mobile. Indeed, they continue to do so at the present.

PROJECT HISTORY

The idea of linking the Tennessee and Tombigbee Rivers has a long history. As early as 1874, consideration was being given to the Tennessee-Tombigbee concept. The first project survey, conducted by a Corps district engineer, Powhatan Robinson, concluded:

> I must confess that the merits of this enterprise are utterly beyond my comprehension. I can see good sense in spending a small amount of money in improving the high water navigation of the Tombigbee, but this scheme presents nothing but incongruities in every aspect. . . . It has no national character and therefore must rest solely on its merits as an investment. No capitalist would accept it as a gift, on condition that he should keep it in repair.

Unfortunately for the American taxpayer, Mr. Robinson's advice has gone unheeded.

The recent and most relevant history of the Tenn-Tom begins in 1945 with the submission by the Corps of a recommendation for congressional authorization of a waterway to link the Tennessee and Tombigbee Rivers. In 1946, the Congress authorized construction of a 170-foot-wide waterway between the Tennessee River and Demopolis, Ala. in the Rivers and Harbors Act of 1946 (H.D. 486). Following authorization, project planning was carried as far as funds permitted until 1950 when the House Appropriations Committee began an investigation of the project. Questions were raised at hearings in May 1951 regarding, among other things, the width of the proposed waterway, and the project's economic justification. The committee subsequently reported that the project was not economically sound, and the Tenn-Tom was removed from "active" status and placed in a "deferred-for-restudy" category. The Tenn-Tom remained in this category for 16 years.

In 1957, the Public Works Appropriation Act included funds for a restudy of the project. The restudy, completed in 1962, produced a benefit-cost ratio of 1.08 to 1. The House Appropriations Committee considered this margin too small and Congress did not appropriate construction funds. Another economic study was authorized in 1964. This time, major unauthorized changes in the project configuration were assumed, including a 300-foot-wide channel all the way to Mobile, and duplicate locks at Coffeeville and Demopolis. By making these unauthorized changes, the Corps was finally able to argue that the project was economically sound. After receiving this restudy in 1967, the chairmen of the Appropriations Committees approved a resumption of project planning.

In 1971, subsequent to the passage of the National Environmental Policy Act, I became concerned that the Tenn-Tom project was not complying with the spirit or clear intent of the NEPA. To remedy this, I introduced an amendment to the appropriations bill which provided that no money would be spent on construction of a number of water resource projects, including the Tenn-Tom, until an adequate environmental statement was filed. This amendment was rejected, and in December 1972, construction began.

For several years the corps reported steadily rising project costs. In January of 1974, the corps' cost estimate was $623 million. However, in October 1974, the corps discovered that in constructing the divide cut, it would be necessary to excavate rock, rather than soil as had been originally assumed for cost calculation. This, among other things, caused project costs to skyrocket to just over $1 billion. The corps realized that, if this increase were to be reported to Congress, the project would be in serious political trouble. Therefore, instead of including these cost increases in the 1976 report, the corps decided to "hold off" making such a report until a new benefit study could be initiated and completed. Accordingly, A. T. Kearney Corp. was hired to overcome the rapidly escalating project costs by finding more project benefits.

In August 1975, as a result of Kearney's work, corps officials made a "surprising" discovery—that the 1966 restudy report was based on an assumed, but not authorized, waterway width of 300 feet all the way to Mobile. The corps had already begun to question the basis for their construction of a 300-foot rather than 170-foot channel north of Demopolis, with the corps' own legal counsel characterizing the authority as "cloudy," "doubtful" or "nonexistent." Now, they simultaneously realized that there was absolutely no authority for widening the existing 200-foot channel south of Demopolis to the assumed 300-foot width.

For any other organization, this one-two, knockout punch would have been a death blow. But not for the ever-resourceful Corps of Engineers. Instead, via the Kearney study, the corps manufactured the extra project benefits they needed to duck the first blow of soaring project costs. They avoided the second punch, lack of authority for widening the 217 miles of channel from Demopolis to Mobile, by claiming that the 300-foot waterway below Demopolis was suddenly a different project. But the Tennessee-Tombigbee itself has never recovered.

When the full cost increases were finally reported to Congress in fiscal year 1977, the benefit-cost ratio had dropped from its all-time high of 1.6 to 1 to a low of 1.08 to 1. Further, even by including the unauthorized 300-foot-wide channel from Demopolis, the southern terminus of the Tennessee-Tombigbee, to Mobile, the ultimate benefit-cost ratio could not regain all of its lost ground.

In February 1977, the Tenn-Tom was included in the Carter administration's major review of water resource projects, because it did not meet the economic and environmental criteria established by the administration. Specifically, the Tenn-

Tom failed to meet the administration's environmental criteria that completion of the project will not result in any major adverse environmental impacts, and it failed to meet their economic standard "that incremental benefits will exceed the remaining costs"—when discounted at a rate of 6⅝ percent. On April 18, 1977, the President released the findings of the Tenn-Tom evaluation:

Environmentally, the project will destroy productive agricultural and forest land, free-flowing streams and wildlife habitat; it will reduce fisheries resource and cause water quality degradation; it will require relocation of 230 families and loss of archeological sites.

Economically, the remaining costs and benefits discounted at the then-current rate of 6⅝ percent resulted in a benefit-cost ratio of 0.87 to 1, clearly not meeting the administration's own standard.

Even so, Federal funding for the Tenn-Tom was not discontinued. I believe the facts make it clear that this unfortunate decision to continue funding the Tenn-Tom was, like so many previous decisions regarding this project, clearly unjustified.

CURRENT STATUS

According to corps estimates, the Tennessee-Tombigbee is now 29 percent complete, with a scheduled completion date of September 30, 1987. However, this percentage represents the amount expended on the project divided by total project costs, and not the percent of physical construction completed. According to affadavits filed with the Federal district court in conjunction with legal proceedings challenging the corps' authority to build the Tennessee-Tombigbee, actual physical construction of the project as of November 1978 has been largely limited to the lock sites, and less than 10 percent of the navigation channels have been constructed at this time.

For example, in the 148-mile river section, only the Demopolis pool has had channel dredging throughout its length, and the remainder of the channel has only received minor dredging, primarily in the approaches to the locks. In the 44-mile canal section, construction has occurred only on locks and dams A and B and on a 1-mile test excavation. At least 38 miles of this section are completely untouched. In the 40-mile divide cut, at least half of the physical environment along the site is untouched. However, this will not last long.

The largest single construction contract of the entire Tennessee-Tombigbee Waterway project is about to be awarded. The $270 million contract for construction of the divide cut which will link the Tennessee and Tombigbee Rivers would obligate 60 percent of the total amount so far expended on the project. To accomplish this linkage, 94 million cubic yards of earth will have to be excavated. I have already written to the Secretary of the Army, asking him to withhold awarding this contract until Congress has had the opportunity to reevaluate the project.

Total corps expenditures through January 31, 1979, are $465 million. For fiscal year 1980 alone the Tenn-Tom budget request is $168 million. The corps currently estimates the total project cost to be $1.67 billion compared to the $323 million price tag when Congress first appropriated construction funds in fiscal year 1971. Thus, this project, which is not even one-third complete, is already 364 percent over budget.

THE TENN-TOM: AN ECONOMIC DISASTER

Congress has mandated that Federal investments in water resource projects must be economically sound, and that the benefits produced by such federally financed projects should at least exceed their costs. In other words, the benefit-to-cost ratio (BCR) must be greater than one.

The Tennessee-Tombigbee Waterway has repeatedly failed to meet this requirement and when the corps' figures have seemed to meet the requirements, their assumptions, legal authority and claimed benefits have been challenged by independent outside experts.

After the Tennessee-Tombigbee's authorization in 1946, the project failed its first economic test in 1951, when the House Appropriations Committee, calculating a benefit-cost ratio of .27 to 1, found it to be economically unsound. It failed again in 1962, when the committee found a benefit-cost ratio of 1.08 to 1 to be unacceptable. Yet another economic reevaluation report was submitted to the committee in 1967 by then Secretary of the Army, Stanley Resor. The text of his cover letter illustrates that the economic foolhardiness of the project was fully recognized by the Secretary:

The Tennessee-Tombigbee project has been under study for many years; in fact the first study can be traced back to 1874. The current report is the fourth on this project by the Corps of Engineers since the end of World War II. In each previous instance the proposed investment was found only marginally justified; and that is also the case with the present study.

Each purpose served by a project such as this must be economically justified. The principal purpose served the Tennessee-Tombigbee Water project is navigation, which accounts for about $311 million of the total first cost. The estimated benefit-cost ratio for those features of the project required solely for navigation is 1.01, although if area redevelopment benefits are added it reaches 1.14.

While the inclusion of redevelopment benefits is not inconsistent with sound economic analysis, I have reservations about the wisdom of investing in a project which demands so heavily on counting local wage payments in calculating the benefit-cost ratio.

Furthermore, if the costs of the project prove to be even slightly underestimated, or the projected waterway traffic slightly overestimated, the present barely favorable benefit-cost ratio will be lost.

All in all, the conclusion is inescapable that the Tennessee-Tombigbee navigation project continues to lack that margin of economic safety which typically marks federal investments in water resource development.

The Bureau of the Budget, in advising that there is no objection to the submission of this report to the Congress, states that it agrees with the conclusion that the project is only marginally justified.

Unfortunately, the Secretary's advice was not followed. Instead of closing the door once and for all on the Tenn-Tom, the Appropriations Committees approved the allocation of $500,000 of corps funds for the resumption of project planning. At this time, the corps had boosted the benefit-cost ratio to 1.2 to 1 by making major changes in the project's configuration, including widening the channel from its authorized 170 feet to 300 feet. By fiscal year 1970, the benefit-cost ratio had reached its alltime high of 1.6 to 1 and it remained there through fiscal year 1972.

The first construction funds were appropriated during this period and construction on the Gainesville lock and dam began in December 1972. This period of economic well-being was not to last. However, between January of 1974, when the project cost was reported by the corps as $623 million, and October of 1974, project cost increases catapulted the total cost over the $1 billion mark. But rather than report that figure to the Congress, as prior procedure dictated, the corps initiated a benefit study and "held off" on reporting the big cost increase for a year while sufficient alleged benefits were uncovered to maintain a positive benefit-cost ratio.

In February 1975, the A. T. Kearney Co. was hired to find sufficient additional benefits to cover the increased costs. Once again, as in the 1967 report, a variety of extremely debatable assumptions were necessary to put project benefits ahead of project costs, barely. When the Kearney study was completed and when the cost increases were finally reported to Congress in spring of 1976, the benefit-cost ratio was down to 1.08 to 1, the figure which had been previously rejected by the House Appropriations Committee in 1962. Since then, the benefit-cost ratio has been inching upward, to 1.15 to 1 in fiscal year 1978, and 1.19 to 1 in fiscal year 1979. However, as I will make clear, the accuracy of these corps' figures is extremely doubtful.

THE ECONOMIC FACTS

The Tennessee-Tombigbee Waterway is a economic bad joke. Its benefits have been created from thin air. Its costs have been consistently understated. And its benefit-cost ratio is computed on the basis of an absurdly low interest rate in violation of the law.

THE CORPS HAS MANUFACTURED PROJECT BENEFITS

In 1975, the corps retained A. T. Kearney, Inc., to do a navigation benefits study. Using this study, which was based on interviews with 121 shippers, the corps came up with a figure of $86 million for average annual navigational benefits. Other annual benefits (for area redevelopment, recreation, and fish and wildlife) totaled $12.9 million. These annual benefits are matched against project annual costs which are currently calculated by the corps as an annual charge of $84.5 million to yield a benefits-to-cost ratio of 1.2 to 1. Thus, the claimed navigational benefits, which constitute 87 percent of the total annual project benefits, are central to the corps claim that the project's benefits will exceed its costs. But a careful and expert examination of the Kearney study reveals a number of questionable calculations. Analyses of the Kearney report by Dr. Joseph L.

Carroll and Dr. Robert Haveman clearly details the inaccuracies and overestimations of projected benefits.

Dr. Carroll, a professor of business administration at Pennsylvania State University, and director of the transportation systems program of the Pennsylvania Transportation Institute, also at Penn State, is a transportation economist by profession with wide experience in public investment economics and transport system analysis, and with particular emphasis on the economics of inland waterway transport. While head of the transportation systems division of the Transportation Institute at Pennsylvania State University, Dr. Carroll served as project director for a major program of research in the area of waterway systems analysis which involved study of the physical and economic characteristics of inland waterways.

This program was sponsored by the U.S. Army Corps of Engineers during the period 1970 to 1974. His work for the corps has involved detailed studies of the operational characteristics of the inland waterway system including studies of lock capacities, tow sizes and operations, physical constraints to barge traffic, and numerous other aspects of inland navigation. Dr. Carroll has detailed personal knowledge of the history and development of the Tennessee-Tombigbee Waterway. His doctoral dissertation at Indiana University was a study of the Tennessee-Tombigbee Waterway (1962).

Dr. Haveman is a professor of economics at the University of Wisconsin, specializing in the economic analysis of Government investments, with particular emphasis on the economics of water resource investments. Within the field of water resource economics, Dr. Haveman is a leading authority on benefit-cost analysis for public works projects and has published numerous books and articles which evaluate Federal investment in Corps of Engineers' designed and constructed projects. In his work as a senior economist with the Joint Economic Committee of the U.S. Congress, as a research associate at Resources for the Future, Inc., and as the author of several publications on the subject, Dr. Haveman has studied extensively the legal requirements, both statutory and regulatory, for calculating the economic benefits and costs for the Corps of Engineers' navigation projects.

As I have said, the vast majority of Tenn-Tom benefits are based on projected navigation traffic, and over 70 percent of those benefits are attributed by the corps to movements of coal from eastern Tennessee and Kentucky to Mobile. Yet the corps' own documents reveal that some project benefits are based on companies which are no longer in business; some on movements which simply cannot occur due to existing long-term contract commitments, some on movements which the shipper itself denies will take place, and some on movements to a nonexistent plant.

The whole tale of phantom shipments, phantom shippers, and phantom rates is carefully spelled out in the expert testimony given in a sworn affidavit by Dr. Joseph L. Carroll. Dr. Carroll has carefully reviewed the Kearney study and working papers which were used as the basis for the corps' new benefit claims in 1976 and their benefit claims ever since. In examining the 121 shipper interviews, Dr. Carroll found that the corps had blatantly violated their own regulations for computing navigation benefits. These violations include:

First. Inclusion of movements which were not existing traffic. Corps regulations permit only existing traffic to be included in the traffic base. Kearny included many movements which did not exist.

Second. Use of hypothetical rates for existing movements instead of the *actual* rate being charged on the alternative mode. By use of a hypothetical rate Kearney was able to claim rate savings in key instances where use of the actual rate being charged would have demonstrated that the existing movement was less costly to the shipper than the Tennessee-Tombigbee, or that the savings via the Tennessee-Tombigbee was much less than claimed.

Third. Complete and total failure to recognize and account for differences in inventory, storage, handling and other logistics costs as between TTW barge and the alternate modes (rail and truck).

Fourth. Where actual rates were not available, Kearney constructed unrealistically high and inaccurate rates for alternative waterway routes, e.g. the Mississippi River, which directly contradicted data in Kearney's possession.

Fifth. As to rates on the TTW, Kearney constructed rates which were unrealistically low and created bloated claims of savings which were contradicted by data in the Corps' and Kearney's possession.

Sixth. In addition there are numerous other errors and inconsistencies in Kearney's benefit calculations.

The result of these violations is to create a mountain of benefits which repeatedly violate the corps' own regulations and which are almost entirely spurious and without factual substantiation. Dr. Carroll concludes:

Based on my study of the entire Kearney/Corps working papers and having identified numerous open fabrications or erroneous assumptions such as noted in the above examples, I can confidently state that there is absolutely no support in the record for the vast majority of the navigation benefits claimed by the Corps.

My professional opinion and conclusion is that at least $60 million of the average annual navigation benefits claimed by the Corps or spurious and wholly fictitious.

Dr. Carroll is not alone in challenging the wishful thinking of the corps as to what will move over the Tennessee-Tombigbee Waterway if it is ever built. Coal Week, a trade publication of the coal industry, which is supposed to be one of the major beneficiaries of the alleged transportation benefits, has challenged one of the corps' major assumptions: That in 1986, 18 million tons would move down the waterway. In a recent special report, Coal Week says:

Most coal operators, sales agents and industry observers in recent interviews say Kearney overestimated the production potential for southern Tennessee.

The Corps is "pipe dreaming" if it anticipates 7-to-8 million tons of export metallurgical coal moving on the Tennessee-Tombigbee Waterway out of southern Tennessee's Sequatchie and Walden's Ridge areas, according to Bill Allison, president of Tennessee Consolidated, a subsidiary of A. T. Massey and one of the largest export met coal producers in the southern mountains.

Moreover, if coal were shipped in the quantities predicted by the corps and its economic consultant, the A. T. Kearney Co., it has been calculated that the recoverable coal reserves in southern Tennessee would be exhausted by the year 2000, well before the end of the project's useful life. The same Coal Week article goes on to point out that:

"An October, 1978 "Coal Resources" study by 3R Corp., for the Corps Mobile District shows that Tennessee's annual production will actually decline from 10.3 million tons in 1977 to 10 million tons in 1986 . . . If coal leaves southern Tennessee at the rate Kearney estimates, all of southern Tennessee's current recoverable reserves would be depleted in 15 years or around the year 2000—well before the end of the 50-year economic life of the canal. (Kearney's studies are based on that 50-year reference)

Finally, many of the assumptions which have gone into the calculation of navigation benefits are either incorrect or illegal. For example, from 1967 to 1975, project benefits were calculated on the basis of a 300-foot-wide channel all the way to Mobile. The corps admits that the project design on which these benefits depend is not authorized and they have gone so far as to reduce the assumed capacity of the river below Demopolis to six-barge tows. I commend their restraint. I point out, however, that according to shippers who have been operating on this stretch of the Tombigbee River for many years, moving six-barge tows is always difficult and sometimes impossible.

In fact, such six-barge tows make up only 8 percent of the traffic on the river today, according to the corps' own economists as explained in a February 1976 memo:

Towing companies reportedly only utilize the 6-barge tow when the tailwater gage at Demopolis reads less than 28 feet. When a high water condition exists the use of the 6-barge tow is discontinued by the tow firms due to control difficulties when moving downstream and insufficient power on upbound tows. Hydrologic records from 1956 to 1972 show that a reading of 28 feet was equalled or exceeded 21 percent of the time. Other factors noted by the towing firms that hinder their use of 6-barge tows on the BWT (Tombigbee below Demopolis) include restrictive horizontal clearances on four bridges across the waterway and numerous sharp bends throughout the waterway. Based on the above information, we do not foresee substantial future increases in the use of the 6-barge tow.

The corps also says that the average tow size on the river below Demopolis is 3.5 barges, which leaves me curious as to the justification for using a six-barge tow as the baseline for this lower segment of the river in the Kearney benefits study.

THE CORPS HAS UNDERSTATED PROJECT COSTS

The charges are not limited to inaccuracies in the calculations of benefits. The cost estimates are equally suspect.

Regarding project costs, one issue is whether or not the costs as reported by the corps, are realistic, especially in terms of the interest rate applied. Ac-

cording to a 1976 Army Audit Agency (AAA) study, performed at the request of the Secretary of the Army when huge cost increases first became apparent.

Project cost estimates (PB-3s) were understated because costs were either not adjusted for price level increases or the adjustments made did not reflect actual market conditions.

The present cost estimate of $1.36 billion is based on the project's current design status, using 1975 prices, and does not realistically reflect the cost to complete the waterway, which is presently estimated to be in 1986.

A second issue is the performance to date of the non-Federal partners in the Tennessee-Tombigbee Waterway, Alabama and Mississippi. The authorizing legislation for the Tenn-Tom specifically states that Alabama and Mississippi will pay the costs of all highway bridges and all highway relocations or alterations, utility crossings, and other costs as stipulated in House Document 486. In the letter of transmittal for House Document 486, the Chief of the Corps of Engineers recommends authorization of the Tennessee-Tombigbee "subject to the condition that local interests construct, maintain, and operate" these facilities.

Thirty years later, in 1976, the Army Audit Agency (AAA) report questioned whether this required non-Federal participation would be forthcoming.

Projected non-federal participation may not materialize. Based on the latest data available, States' (Mississippi and Alabama) participation may fall short by as much as $170 million. Delays in construction could escalate this amount.

In 1970, when Federal construction funds were first appropriated by the Congress, the State's share was $38.1 million. In fiscal year 1980, it is estimated by the corps at $137 million, down from an all-time high value of $219 million in fiscal year 1977.

As of December 31, 1978, Mississippi has obligated something less than $8 million.

However, a good deal more than $9.5 million has been spent by Alabama and Mississippi. These extra dollars for the "local" cost share have come instead from Federal appropriations due to a curious turn of events.

To bail the States out of their local cost-share shortfall, an amendment to the Federal Aid to Highways Act of 1976 was submitted which provided $100 million in Federal funds, ostensibly to aid Federal public works projects in the entire country. In reviewing the legislative history of this amendment, however, the real purpose becomes clear. Commenting on the proceedings of the House-Senate Conference Committee on the Federal Aid to Highways Act of 1976, Senator HOWARD BAKER stated:

During the course of the conference, it became clear that the $100 million authorized by this section was intended to replace bridges over the Tennessee-Tombigbee Waterway project in Mississippi and Alabama.

And, in fact, this purpose has been more than adequately served. Of the $86 million so far provided to the 50 States, the States of Alabama and Mississippi have received nearly $75 million. And of the remaining $14 million, it is likely that the "Tenn-Tom" States will receive the lion's share. So even the local cost sharing, which was the justification for the Carter administration's decision to remove the Tennessee-Tombigbee from its 1977 "hit-list," is now being paid by the Federal Government.

The Army Audit Agency report also raises the issue of the additional work which will be required south of Demopolis to accommodate the Tennessee-Tombigbee's projected traffic.

Although not presently authorized or included in cost estimates, additional locks will be required at Demopolis and Coffeyville, Alabama, and certain sections of the Tombigbee River will have to be widened between Demopolis and Mobile, Alabama. This additional work could increase the federal cost of the waterway by at least $215 million.

I might add that it will increase Alabama's cost share by $104 million. And Alabama has made it clear that they cannot afford this additional cost. In testimony on three separate occasions, Alabama's Director of Highways has stated that:

Because of the difficulty the Highway Department is experiencing obtaining adequate funding and the uncertainty of our future financial situation, it is encouraged that funding of all road and bridge alteration be included in the Corps' obligations.

THE CORPS IS ILLEGALLY RELYING ON A 3¼-PERCENT INTEREST RATE

The corps uses a 3¼-percent interest rate to compute the TTW benefits to costs ratio. The lower the interest rate used in such a calculation, the more project benefits are inflated relative to project costs. For example, the corps has admitted that use of a 6⅞-percent interest rate would drive the project benefit-cost ratio below unity, even if its erroneous benefit and cost projections were accepted as accurate. And, as we all know, no one, including the Federal Government, can borrow money at 3¼ percent.

Furthermore, section 80 of the Water Resources Development Act of 1974 requires that the corps have received satisfactory assurances of local support from non-Federal project sponsors prior to December 31, 1969, in order to rely upon the 3¼ percent interest rate. No such assurances were received, yet the corps continues to rely upon the low interest rate, thereby illegally maintaining a project benefit-cost ratio above unity.

These are but a few examples of the lengths to which the corps has gone to justify this ill-conceived and economically unsound project.

The result is that the true benefits to costs ratio is much less than unity, and not, as the corps claims 1.2 to 1. Instead, Dr. Haveman calculates a benefits to costs ratio of .23 to 1, based on Dr. Carroll's and his own review of the economic benefits claimed by the corps, and by using the legal interest rate of 6⅞ percent. Thus, this project is losing 77 cents on every dollar we sink into it.

As I said at the outset, the waste of Federal funds by the Tenn-Tom project is a primary, but certainly not the only objection. There are other aspects of the Tenn-Tom Waterway which deserve to be investigated in detail, including questions or project authorization, and of environmental damage which will be caused if the Tenn-Tom is completed. Since the authorization issue is currently being decided by the courts, I will not put it before the Senate at present.

THE TENN-TOM: AN ENVIRONMENTAL DISASTER

THE ENVIRONMENTAL FACTS

The Tennessee-Tombigbee Waterway, as currently planned, will produce severe and irretrievable environmental impacts, virtually none of which have been adequately analyzed by the corps.

THE 1971 EIS COVERS ONLY HALF THE PROJECT

The corps is now claiming benefits for a project which stretches from the Pickwick Pool on the Tennessee River south to Mobile, Ala., a distance of 448 miles.

Yet the corps environmental impact statement, filed in 1971, covered only the area between Pickwick and Demopolis, Ala., which is located over 215 miles north of Mobile. Thus the only EIS ever prepared for the Tenn-Tom covers roughly half the area to be impacted by the project.

THE CORPS HAS FAILED TO ANALYZE ADEQUATELY NUMEROUS POST-1971 IMPACTS

In addition to the abject failure of the corps to analyze any impacts south of Demopolis, it has failed to file any sort of supplemental EIS on numerous significant project impacts which have become apparent since 1971.

As of 1976, when the corps conducted a new economic restudy for the project, the project's estimated traffic levels jumped dramatically. If these predictions are true, the number of barges using the Tenn-Tom will significantly and adversely affect the natural regime of the river by creating among other things, long-term resuspension of sediments and recurring shoreline erosion due to prop wash. The corps admits that it has never analyzed these eminently foreseeable impacts.

The latest corps estimate states that the project will require over 105,000 acres. In 1971, the EIS analyzed a project which was to consume only 70,000 acres. Fish and Wildlife Service of the Department of the Interior has recently stated that it is impossible to mitigate the adverse impacts of project construction on fish and wildlife habitat. Yet the corps has never conducted any analysis of the project impacts on the additional 35,000 acres to be affected by the project.

Since 1971, the corps has changed the design for the canal section of the Tennessee-Tombigbee Waterway to include creation of five new impoundments. From their inception, all of these impoundments will consist in significant part of excessively shallow water, and will therefore experience severe water quality problems. Despite this fact, the corps has never filed any supplemental EIS addressing these or any other water quality problems associated with the project.

THE CORPS HAS NEVER ANALYZED IMPACTS ON COMPETING TRANSPORTATION MODES

Finally, the corps has repeatedly admitted that it has never analyzed the impacts of project construction on competing transportation modes. Thus, the negative secondary impacts of project construction on surrounding communities have never been addressed.

DECEPTION OF THE CONGRESS

One final issue is the deliberate deception of the Congress, the President, and the public which has been perpetrated by the Corps of Engineers in promoting this project.

Several instances of deliberate deception have already come to light in discussing the facts and figures surrounding this challenge to the economic justification of the Tenn-Tom Waterway project. I would like to present one more reason to doubt the facts and figures given to us by the Corps of Engineers.

Strong evidence, in the form of corps memos and internal reports, suggest that the corps deliberately deceived the Congress as to the costs of the project.

An October 1974 memo documents the corps' reaction to major increases in costs and a resulting dramatic decline in the benefit-cost ratio. The memo warns that "the project could well have some problems in Congress this year," and notes that there is "a strong possibility of Congress directing a special economic study as a direct consequence of such changes in cost and B/C." The changes referred to were quantified in the same memo as an increase in project costs from $732 million to $1.011 billion in Federal costs, and a sharp drop in the benefit-cost ratio from 1.5 to 1 to 1.2 to 1.

Apparently, the corps felt that the Congress would be unable to exercise good judgment if they were told the true costs. So instead, the corps took it upon itself to censor the information provided to the U.S. Congress.

The previously mentioned AAA study reports this extreme example of deceiving the Congress and the President:

> According to available records, about $344 million in known cost increases were not reported in the fiscal year 1975 PB-3 estimate. The records show increased costs were not reported in order to reduce the "emotional impact" of any big cost increase and to negate the effect that the increase would have on the project's benefit-cost ratio.

And even after the completion of the AAA report, the corps persisted in deceiving the Congress as to the true project costs. Instead of reporting that the costs of the project had been exceeded the $1 billion mark in January 1975, the corps reported a fiscal year 1976 cost of $815 million.

These instances demonstrate the lengths to which the corps has gone in attempting to economically justify this project during its long, sad history. After more than a quarter century of misrepresented costs and unauthorized project expansions to raise project benefits, this project still cannot be justified by any fair, objective standard.

This statement, while somewhat detailed, merely highlights the numerous economic, environmental, and authority problems surrounding the Tennessee-Tombigbee Waterway. In my judgment, it is absolutely essential that hearings be conducted to examine in detail the issues surrounding the project.

Concurrently, there is litigation ongoing in the U.S. District Court for the Northern District of Mississippi to resolve the legal issues relating to the project. By raising these issues today, I wish to emphasize that nothing in this statement is intended to create a legislative history that would in any way affect that litigation or limit the ability and duty of the court to resolve fully the serious issues raised by the plaintiffs. The matters I have raised here are serious issues requiring congressional attention; by the same token, the district court has a duty to resolve the issues in the litigation. Obviously, the court has the constitutional responsibility to decide the issues fully and fairly. In short, neither the raising of these issues nor the appropriation of further funds for the project can be construed by the court as approval of the corps' activities or a limitation on the duty of the court to decide each of the issues in the case.

CONCLUSIONS

Over 30 years ago, a much different Congress, with much different priorities, authorized the Tennessee-Tombigbee Waterway project. Quite obviously, many aspects of our lives have changed since then. In 1946, the country was on the verge of an era of enormous economic development. The most important goal of that time was the creation of an industrial infrastructure—highways, dams, and power supply grids. And the 79th Congress responded by authorizing 60 public works projects, including the Tennessee-Tombigbee.

In 1979, there is one overriding question, and that is whether or not this project is economically justified. It is not. And, it is time the 96th Congress wake up to present realities which demand the responsible management of the Federal public works dollar. A good place to start is with the deauthorization of one of the most expensive public works projects in our Nation's history, the Tennessee-Tombigbee Waterway.

The Tennessee-Tombigbee is an economic disaster. When the 79th Congress first authorized the project, they thought they were committing $117 million in Federal funds. When the 91st Congress first appropriated funds to begin construction, the cost was reported as $323 million, a relatively modest increase over 25 years. The rate of increase is no longer modest. It is, in fact, shockingly immodest. According to the corps, the total cost to the American taxpayer was estimated in fiscal year 1973 at $386 million; in fiscal year 1975, $623 million; in fiscal year 1977, $1.36 billion; and today, in fiscal year 1980, it is $1.677 billion.

Outside experts, however, estimate that the final project costs will be closer to $3 billion by the time the Tennessee-Tombigbee is complete.

Proponents will argue that the project must continue because so many millions of dollars have already been spent. To support this argument, the corps has employed an all too familiar strategy. They obtained approval to begin construction by deliberately misrepresenting the project costs and benefits. They have compounded this deceit by continuing to report less than the full costs of the project and by expanding the size of the project when the costs began to skyrocket. Now that the corps is being challenged, on these and other issues, the Tennessee-Tombigbee is on a speeded-up construction schedule, so that when the Congress is made aware of the facts, the project proponents may simply reply, "Too late."

Congress should not go along with the concept of throwing good money after bad. Yes, $465 million have been spent. But somewhere between $1.2 billion and $2.5 billion have not yet been spent. Further, some of the already spent dollars could be recovered by resale of the project lands.

The evidence is overwhelming that the Tennessee-Tombigbee should be stopped.

● Mr. DOMENICI. Mr. President, I welcome the introduction of this bill and I congratulate the distinguished Senator from Wisconsin (Mr. NELSON) for his leadership on this issue.

The question of the continued authorization of the Tennessee-Tombigbee Waterway poses important issues that affect the entire water resources program. While I am not cosponsoring the bill, I welcome its introduction and hope that it will enable the Committee on Environment and Public Works to give the most careful review of the project, to consider whether we should stop the project now, or whether that would unnecessarily waste expenditures already made.

This is a project that was designed and authorized decades ago. Yet only now is it under construction. The problems created by such long delays in a period of change undermines the credibility of the entire water resources program.

What's important about the Tenn-Tom project is the real question of whether or not it will ever be used. Will it be obsolete before it is finished? While it may prove to be an engineering marvel, it may not prove to be of much value if it is not used. I am told that the barge companies themselves really do not see much value in the Tenn-Tom project. If that is so, why are we spending a likely $2 to $3 billion? Is not this the perfect example of a project where local or user cost sharing should have been imposed as a way to determine if the project had any real need?

I would point out that earlier this year I introduced S. 554, legislation directing that transportation benefiits on navigation projects be calculated by the Department of Transportation. Such an approach might in the future have lent greater credibility to some of the benefit estimates on similar projects.

Mr. President, I look forward to looking into these and related issues at hearings in the near future to see if there is merit in taking the drastic action contemplated by this bill. And I commend again my good friend from Wisconsin

(Mr. NELSON) for his work in developing this bill.●

By Mr. CHURCH (for himself and Mr. MUSKIE):

S. 770. A bill to prohibit trading in potato futures on commodity exchanges; to the Committee on Agriculture, Nutrition, and Forestry.

THE POTATO FUTURES TRADE: MANIPULATING THE MARKETPLACE

● Mr. CHURCH. Mr. President, it is my honor today to reintroduce, with the support of the distinguished Senator from Maine, Mr. MUSKIE, a bill to prohibit trading in potato futures on commodity exchanges.

I introduced this bill over 2 years ago in response to a long history of abuses and manipulations of the potato futures market which work to the disadvantage of the potato grower. Since that time, we have witnessed again the type of trading price manipulataion, predatory schemes and deceptive hedging operations that make it imperative that we ban the trading of potato futures.

Over the years I have pointed out to my colleagues the impact that potato futures trading manipulations have had on the cash price paid to potato growers. Abuses occurring early in this decade in potato and other commodity trading led to the creation by Congress in 1974 of the Commodity Futures Trading Commission.

It is not my purpose today to critique the overall operation of the Commission. Rather, I direct my colleagues' attention to the adverse impact of continued potato futures trading on the growers of potatoes. The repeated instances of abuse in potato futures trading since formation of the CFTC prompted the original introduction of this bill and strong expressions of support for banning potato futures trading by the Potato Growers of Idaho, the Maine Potato Council and the National Potato Council.

Mr. President, the trading of "futures" in commodities such as potatoes is an esoteric transaction that is little understood by the general public. Supporters of potato futures trading claim that such activity serves as a sophisticated marketing tool offering a means of off-setting price risks. Yet the rocky history of manipulations in this small commodity market that is easily dominated by large speculators strongly suggests that this market does not serve the consumer and producer of potatoes. Potato growers from Idaho to Maine are tired of being the innocent victims of speculative powerplays engaged in by the "long" and "short" gamblers.

Two years ago an article appeared in the Potato Grower of Idaho, written by editor Loel H. Schoonover. This analysis was a very lucid explanation of how potato futures trading works and remains a valid explanation today. To assist my colleagues in understanding how potato futures trading works, I shall quote from a portion of Mr. Schoonover's article:

[A] futures contract [is] never ever supposed to be delivered. The purpose of a futures contract is not as a market place, but rather a marketing tool, to establish what the price will be in the future . . .

Why would anybody want to buy, or sell, a contract on a product where they never intended to take or make delivery? The answer is in two words, hedging and speculation. And on the bottom line that reads $$$$.

In brief a hedger, a true hedger, is a person who owns or will own potatoes (either a grower, processor, etc.). And everyone else is a speculator and the name of that game is to take advantage of small fluctuations in the day to day (hour to hour) changes in the market.

As CME [Chicago Mercantile Exchange] says, hedgers and speculators are essential to each other. The speculator assumes the hedger's risk. So what is a hedger that the speculator would take his risk?

Suppose you bet on one rider in a two horse race. Then you find out you haven't the money to pay if you lose, so you hedge that bet by betting on the other horse also. If the odds were even, you wind up even, no winner, no loser, which is better than getting your neck broken cause you can't pay a lost bet.

Hedgers who use the market on the CME are growers, processors, warehousers, and marketers of agricultural products. The futures market is used principally to guarantee or protect the prices at which they will buy or sell listed commodities for cash some weeks or months or in the future. Hedging is someone called insurance. . . .

Used wisely and well, hedging can be insurance against adverse prices. This means the hedger pays someone to take the risk; that someone is the speculator. It is easy to become a speculator, and we will not go into that at this time, except to say the speculators, as a group, develop by contract delivery date the true value of a commodity because it is their business to know all the different things that can affect the price.

It would seem that potato futures trading, on the surface, would be no better nor worse than any other commodity futures trading. Yet we must realize that this market deals only in Maine potato futures. It is a comparatively small market which lends itself to dominance by a handful of speculators. In testimony before the Senate Agriculture and Forestry Committee in 1974, Doyle Burns, Executive Director of the National Potato Council, stated:

Throughout the years there have been many charges that futures trading controls or influences the current cash market, or a case of the tail wagging the dog. This charge has probably been leveled at potatoes more so than any other commodity since potatoes are a lesser commodity and more subject to manipulation plus the fact that potato demand is relatively static, and this results in more fluctuation. Add to these ingredients the perishability factor, and we find potato trading represents a wild, erratic, unpredictable trading pattern that seldom has any relationship to reality but, at the same time, appeals to the gambling speculator."

Mr. President, I will not take my colleagues time to recount the entire history of speculative abuses of potato futures trading. It is enough to know that it continues. On March 9, the New York Mercantile Exchange, halted all trading in spring potato futures. Public accounts indicate that potato growers were narrowly spared a repeat of the 1976 massive default on potato contracts. One or two speculators had acquired an extremely large portion of the spring contracts. The Exchange stated that there were not nearly enough potatoes available to satisfy futures contracts that were outstanding. Potato prices on the Exchange would have soared and many sellers would have defaulted on their contracts. This default would have been a disaster for the potato market. This activity occurred during a time when potato growers across the country are experiencing disastrously low market prices. A default of the magnitude that was developing in the futures market could have bankrupted innocent potato growers across the land by further depressing market prices.

The abolition of potato futures trading is not a unique proposal. Onion futures trading was eliminated in 1957 as a result of the same type of manipulations that have plagued the potato futures market. There is no rational basis to treat potatoes any differently than onions as far as futures contracts are concerned. They are both comparatively small crops and highly perishable. Manipulation of onion futures was easy, as it continues to be with potatoes. Futures trading does not work well with all commodities. I have yet to hear complaints from onion growers that they need or miss the banished onion futures speculators.

Mr. President, ask my colleagues to join with me in removing the burden of speculators who unfairly influence the price received by potato growers. It is time to end this legalized gambling where the farmer always loses.

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

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

S. 770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third sentence of section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking out "Solanum tuberosum (Irish potatoes),".

SEC. 2. The Commodity Exchange Act is further amended by adding at the end thereof a new section as follows:

"SEC. 19. Notwithstanding any other provision of this Act—

"(1) no contract for the sale of potatoes (Solanum tuberosum) for future delivery shall be made on or subject to the rules of any board of trade in the United States, and

"(2) any person who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof be fined not more than $5,000.".

SEC. 3. The amendments made by this Act shall become effective thirty days after the date of enactment.●

By Mr. WEICKER:

S. 771. A bill to establish an energy stamp program which will provide assistance to certain low-income and fixed-income households to help meet residential energy costs incurred by such households; to the Committee on Labor and Human Resources.

ENERGY STAMP ACT OF 1979

● Mr. WEICKER. Mr. President, today I am introducing legislation to establish a comprehensive energy stamp program to provide assistance for low- and fixed-income households to meet their skyrocketing fuel bills.

It is vital to recognize that this is not only a northern program. It is a program for those whose energy costs are too high regardless of where the costs are incurred by virtue of either heating or cooling, be it north, south, east, west, rural, or urban.

Recent domestic and foreign events have only highlighted the need for immediate enactment of this proposal. The political turmoil in Iran has not abated. Indeed, as long as the world experiences a supply reduction in petroleum products, increases in residential fuel bills are certain.

Last week the Nuclear Regulatory Commission closed down, for an indefinite period of time, five nuclear powerplants. This action will only further exacerbate an increase in oil consumption and will result in higher fuel costs for consumers. It will also further frustrate the administration's standby plans to reduce residual fuel consumption by transferring electricity from nuclear-fired powerplants to regions powered by oil-fired utilities.

Both the Congress and the administration have talked, and talked, and talked about this Nation's energy problem for years. And we are as far away from a solution to our energy problems now as we were at the time of the Arab embargo in 1973. Until our Nation becomes energy independent we cannot escape the economic blackmail placed upon us by the OPEC cartel. Until alternative energy sources are sufficiently developed the consumer will face increasing energy costs and decreasing petroleum supplies.

Now is the time for this Congress to act decisively to recognize and to remedy the cruel result of the energy crisis: Our Nation's poor and elderly are being forced to forgo the basis necessities of life in order to meet their increasing fuel costs. The Federal Government has been extremely slow in responding to the needs of these people in coping with their problem. Since the poorest element of our society will be the one most punished, I believe it is the responsibility of the Federal Government to distribute this burden equitably.

I think the Federal Government should become involved when it has become almost common practice for the poor and elderly to lower their thermostats beyond the point of good health practices and are forced to make the choice between staying warm and buying food. In effect, we already have rationing by price, because those who cannot afford today's prices are forced to do without energy fuels.

Mr. President, we must recognize the fact that there are a substantial number of poor people in this country who have been severely affected by soaring energy costs. Based on 1977 Census Bureau figures, 11.6 percent of all individuals live in poverty and 15.4 percent of all inner-city inhabitants are poor. Added to this is the disturbing fact that 27.3 percent of all unrelated elderly individuals live in poverty. What is even more astonishing is that according to a 1973 report by the Senate Select Committee on Nutrition and Human Needs, rent or mortgage payments take up 50 percent or more of the income of our Nation's poor.

It has been argued that this measure will only increase or encourage wasteful consumption of heating fuel. I personally find it difficult to believe that low- and fixed-income families will waste their scarce resources on excessive heating and cooling.

In short, this bill is intended to demonstrate to the American poor and elderly that Congress does indeed have a great deal of concern for their welfare.

With the implementation of this comprehensive energy stamp program, these citizens will not be forced to freeze in their homes as has been the case with so many during the past three winters.

Mr. President, this Congress still faces the awesome burden of addressing the root cause of our energy ills; but until substantial gains are made in that direction, it is our responsibility not to force the poor and elderly in our Nation to suffer the consequences of our failures.

The Wall Street Journal of March 21, 1979 contains an article lucidly expressing what I am stating here today; namely, that the cost of keeping warm poses a real hardship to the millions of poor citizens of this great Nation.

Mr. President, I ask unanimous consent that this article and the text of the bill be printed in the RECORD.

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

S. 771

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 "Energy Stamp Act of 1979".

FINDINGS; PURPOSES

SEC. 2. The Congress finds and declares that because of the rise in the cost of heating fuels and because low-income and fixed-income households must devote a major portion of their income for the purchase of utility services, many of these households are experiencing substantial economic hardships which may seriously affect their health and well-being. It is the purpose of this Act to establish a program to help alleviate this burden by providing assistance to these households in the form of energy stamps.

DEFINITIONS

SEC. 3. As used in this Act the term—

(1) "heating fuel" means electricity, oil, gas, coal, or any other fuel if used by a household as the primary source for heating or cooling a dwelling;

(2) "Director" means the Director of the Community Services Administration;

(3) "local agency" means the community action agencies, and State Economic Opportunity Offices which are established pursuant to the Economic Opportunity Act of 1964;

(4) "household" means—

(A) any group of related individuals who are living as one economic unit for whom heating fuel is customarily purchased in common, directly or indirectly, by undesignated payments in the form of rent, or

(B) any individual living alone who purchases heating fuel, directly or by undesignated payments, in the form of rent;

(5) "coupon" and "stamp" mean any coupon, stamp, or certificate issued pursuant to the provisions of this Act;

(6) "retail heating fuel outlet" means any establishment, including a recognized department thereof, which sells heating fuel for consumption by households;

(7) "wholesale heating fuel outlet" means any establishment, including a recognized department thereof, which sells heating fuel to retail heating fuel outlets for resale for consumption by households;

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(9) "bank" means any member or nonmember bank of the Federal Reserve System;

(10) "landlord" means any person who rents a dwelling which is the principal residence of the tenant and who normally includes the cost of heating fuel in the rental charge to the tenant; and

(11) "vendor" means any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated administrative responsibility in connection with, the issuance of coupons to households.

ENERGY STAMP PROGRAM

SEC. 4. (a) Notwithstanding any other provisions of law, the Director of the Community Services Administration, or his successor in interest, shall not later than 180 days after the date of enactment of this Act, promulgate such regulations as may be necessary to establish a comprehensive energy stamp program to provide assistance to low-income and fixed-income households which presently must devote a major portion of their income for the purchase of utility services.

(b) If the local agency plan described in subsection (g) is approved by the Director, the Director shall establish and maintain an energy stamp program, under which households which are eligible under section 5 will be provided with energy stamps to defray heating fuel costs. The method in which this assistance is provided shall be through energy stamps.

(c) (1) Any eligible household may receive heating fuel coupon assistance—

(A) if such household purchases heating fuels; or

(B) if such household makes undesignated payments for heating fuel in the form of rent.

(2) (A) Coupons received by any eligible household described in subparagraph (1) (A) shall be used to purchase heating fuel only from a retail heating fuel outlet participating in the energy stamp program.

(B) Coupons received by any eligible household described in paragraph (1) (B) shall be used only for payment of the appropriate portion of such household's rent related to heating fuel costs. Landlords shall use such stamps to pay a portion of the applicable fuel bill and shall not increase household rents in connection with or as a result of the issuance of fuel stamps.

STANDARDS

SEC. 5. (a) The Director shall establish uniform national standards of eligibility for participation by households in the energy stamp program. Participation in the program shall be limited to households whose income and other financial resources are determined by the Director to be substantial limiting factors in permitting such households to purchase heating fuel or to make undesignated payments for such fuel.

(b) In establishing standards under this section, the Director shall consider—

(1) any criteria submitted by a local agency that is deemed to be important for the evaluation of energy stamp assistance in the area serviced by such local agency;

(2) the income of households within the area serviced by such local agency;

(3) the number of individuals in such households;

(4) the temperature and other climate conditions in the area in which such households reside;

(5) the type of heating fuel used by such households; and

(6) the extent to which such households have participated in weatherization programs.

(c) Prior to receiving the energy stamps, each participating household must pay to the local agency 33⅓ percent of the total value of the coupons to be received by such household.

(d) The value of the energy stamp assistance provided to an eligible household under this Act shall not be considered to be income or resources for any purpose under any Federal or State law, including any law relating to taxation, welfare, or public assistance programs.

(e) As a minimum, the standards of eligibility shall provide that any household is eligible if such household—

(1) is eligible for benefits under title IV or XVI of the Social Security Act; or

(2) is eligible for benefits under the Food Stamp Act of 1964.

(f) In lieu of, or in addition to, the criteria described in subsection (a) or (b), the Director shall consider any criteria submitted by a local agency to the Director for determining the eligibility of households serviced by such local agency.

PRINTING

SEC. 6. (a) Energy stamp coupons shall be printed in such denominations as may be determined by the Director to be necessary and shall be issued by a local agency only to households which have been certified as eligible to participate in the energy stamp program.

(b)(1) The Director shall by regulation develop an appropriate procedure for determining and monitoring the level of energy stamp inventories maintained by energy stamp vendors for the purpose of insuring that such inventories are at proper levels (taking into consideration, where practicable, the historical and projected volume of energy stamp distribution by such vendors). Any such regulations shall contain procedures to insure that energy stamp inventories maintained by such vendors are not in excess of the reasonable needs of such vendors taking into consideration the ease and feasibility of resupplying such energy stamp inventories. The Director may, at his discretion, require periodic reports from such vendors respecting the level of such inventories.

(2) Any energy stamp vendor, or any officer, employee, or agent thereof, convicted of failing to provide a report required under paragraph (1) shall be fined not more than $3,000, or imprisoned not more than one year, or both.

(3) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any report required under paragraph (1) shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

(c)(1) The Director shall by regulation prescribe appropriate procedures for the delivery of energy stamps to such vendors and for the custody, care, control, and storage of energy stamps in the hands of such vendors in order to secure such energy stamps against theft, embezzlement, misuse, loss, or destruction.

(2) Any energy stamp vendor, or any officer, employee, or agent thereof, convicted of violating any regulations issued under paragraph (1) shall be fined not more than $3,000, or imprisoned not more than one year, or both.

REDEMPTION

SEC. 7. (a) Coupons accepted by any retail heating fuel outlet or any person described in section 4(b)(1)(B) shall be redeemed through wholesale heating fuel outlets or banks, with the cooperation of the Department of the Treasury.

(b) Coupons issued and used in accordance with the provisions of this Act shall be redeemable at face value by the Director through the facilities of the Department of the Treasury.

LOCAL PLANS

SEC. 8. (a) Each local agency desiring to participate in the energy stamp program shall submit a plan of operation to the Director for approval specifying the manner in which and the effective dates of participation during which such program shall be conducted within the area serviced by such local agency. In addition, the local agency may provide information regarding weatherization programs which have been or are now being conducted in the area.

(b) The Director shall approve any local agency plan of operation which satisfies the provisions of subsection (a) and which provides—

(1) that the local agency shall undertake the certification of applicant households in accordance with the eligibility requirements established by the Director under section 5;

(2) safeguards which restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions or regulations of this Act;

(3) that the local agency shall undertake extensive outreach action to inform eligible households and heating fuel outlets as to the availability, rules, regulations, and benefits of the energy stamp program;

(4) for the granting of a fair hearing and a prompt determination thereof to any household aggrieved by the actions of a local agency under any provision of its plan of operation as it affects the participation of such household in the energy stamp program;

(5) that the local agency keep a strict and accurate accounting of all transactions made pursuant to this Act;

(6) a requirement that landlords submit certification that any increase in rent charged to a household is not based solely upon actual or anticipated receipt by that household of energy stamps; and

(7) that the local agency shall coordinate the energy stamp program with weatherization projects.

(c) If the Director determines that in the administration of the program there is substantial failure by a local agency to comply with provisions of his Act or with the plan of operation submitted by such agency, the Director shall inform such local agency of the failure and shall allow the local agency a reasonable period of time for the correction of the failure. Upon the expiration of such period the Director shall order that there be no further distribution of energy stamp assistance in the area serviced by such agency until such time as satisfactory corrective action has been taken.

(d) The Director shall reimburse a local agency for the costs it incurs in administering the energy stamp program. Such reimbursement would be made upon terms and conditions prescribed by rule of the Director. In addition, the United States—

(1) shall finance the printing of energy stamps and the issuing of energy stamps to local agencies; and

(2) shall be obliged for payment of the face value of energy stamps to persons redeeming such coupons in accordance with the provisions of this Act.

CRIMINAL PENALTIES

SEC. 9. (a) Whoever knowingly uses, transfers, acquires, alters, or possesses energy stamps in any manner not authorized by this Act—

(1) shall, if the total value of such coupons is $100 or more, be fined not more than $10,000 or imprisoned for not more than 5 years, or both; or

(2) shall, if the total value of such coupons is less than $100, be fined not more than $5,000 or imprisoned for not more than 1 year, or both.

(b) If a local agency administering the energy stamp program finds (in accordance with the process described in section 8(b)(6) of this Act) that a landlord has increased rent to a household based solely upon actual or anticipated receipt by that household of energy stamps, then the landlord may be fined an amount not more than 12 times the amount of the household's rent increase.

REGULATIONS

SEC. 10. The Director shall issue such regulations as necessary or appropriate for carrying out the provisions of this Act.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 11. For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated, $100,000,000 for the fiscal year ending September 30, 1980, $100,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.

COST OF KEEPING WARM POSES A REAL HARDSHIP TO MILLIONS OF THE POOR

(By John R. Emshwiller)

For most Americans the "energy crisis" is just an annoyance. But Clara Bowers of Lancaster, Pa., felt its full force on a recent cold Sunday.

That day, the 62-year-old, partially blind widow ran out of kerosene for her space heater. Money to buy more had run out earlier. Mrs. Bowers needed about $60 a month for fuel and, what with the cost of rent, food and other necessities, she couldn't scrape it up from her $267 in monthly disability and pension payments. She was forced to leave her home of 42 years and live with her daughter.

Thanks to an emergency fuel shipment arranged through Lancaster County's Office of Aging, Mrs. Bowers is back in her home. But she is worried about the future. "I don't want to leave my home, but it's hard to keep going," she says. "I'm only human and I have to stay warm."

For millions of low-income Americans, it is a struggle just to heat and light their homes. "Poor people are being stretched to the breaking point," says George Grier, a private consultant in Washington who has done a number of studies on the energy problems of the poor.

SIMPLE ARITHMETIC

The reason for this is simple arithmetic. Energy costs are rising far faster than poor people's ability to pay for them. There are roughly 25 million Americans who live below the federal poverty level—$3,140 a year for a single person living in a city ($64 less than Mrs. Bowers' annual income). Among these people it now is common in many parts of the country during the winter to spend 20 percent to 30 percent of monthly income on heating and utility bills.

In thousands of cases, that figure approaches 50 percent. A study by a federally funded antipoverty agency in Milwaukee last winter found that 800 particularly hard-hit households were paying an average of 45 percent of their monthly income on heat and utilities. When rent or mortgage payments were counted, these people paid an average of 93 percent of their income on shelter costs. In one case, the study said, a couple living on $348 a month had $10 left for food and other essentials.

Many poor people, who are often elderly, "must choose between heating and eating," says Bruce Ratner, commissioner of the New

York City Department of Consumer Affairs. Each winter, many poor people simply freeze to death.

This squeeze seems certain to get worse as a result of the present fuel-price surge brought on partly by the hiatus in Iran's oil exports. While those at the bottom of the economic ladder bear the brunt of the suffering, others are starting to feel the repercussions.

"PEOPLE NEED HELP"

Michigan Consolidated Gas Co., which sells natural gas to about 960,000 residential customers in the Detroit area, says writeoffs for unpaid bills have risen nearly fivefold since 1974. That has contributed to a sharp decline in the company's earnings. "We are reaching the point where a lot of people are honestly unable to pay their bills and need help," says a spokesman for American Natural Resources Co., which owns Michigan Consolidated.

So far, help has reached relatively few. Government programs to help poor people pay their utility bills and improve the insulation in their homes have been attacked as underfunded and poorly executed. "Nobody has yet come to grips with the problem," says Richard Saul, chief of energy programs for the Community Services Administration, the federal antipoverty agency.

That's partly due to the speed with which the problem has struck. The cost of home heating oil, for example, is nearly three times what it was in 1970, a rise that dwarfs the increases of the prior two decades.

For most Americans, the impact has been cushioned by the extremely low base that energy costs started at. While higher energy prices are taking bigger chunks of almost everybody's budget, studies indicate that middle-income Americans are still paying only about 5% to 10% of their incomes on heating and lighting.

DRASTIC MEASURES

But the poor never had much of a cushion, and now whatever cushion there was is, in many cases, completely gone. Some poor people are forced to take drastic measures.

Take 59-year-old Rudolph Alexander of Elmira, N.Y., a widower who lives with his ailing mother. With gas and electric bills taking about half his $206-a-month income. Mr. Alexander has cut back to one meal a day to make sure his mother has food. He also never burns more than one light at a time.

A Pennsylvania woman says she has had to sell some of her furniture to meet rising utility bills. "Some of these things have been in my family for 50 years," she says. She asks that her name be withheld to avoid embarrassing her relatives.

More people have started tampering with their electric and gas meters to avoid being charged. Consumer groups tell of women stealing food and clothing for their children because they can't afford to buy them after paying for heat and light. One elderly woman reportedly tried stealing $200 from a bank to pay for her utilities.

Poor people try to cut home energy consumption, but this is often difficult and can be dangerous. Many live in substandard homes that leak heat almost as fast as the radiator turns it out. The Department of Energy estimates that eight million homes of poor people have little or no insulation. For the elderly, letting the temperature in the house drop even into the low sixties can be deadly.

That's because many older people are susceptible to "accidental hypothermia," a rapid drop in body temperature that can be fatal. While firm statistics don't exist, there are estimates that thousands die each year from the condition.

Some relief efforts are being tried. Consumer groups and federal officials are pushing state public-utility commissions to ban cutoffs of heat and light during the winter for nonpayment of bills.

Such shutoffs have increased sharply in many areas. Public Service Electric & Gas Co., which serves most of New Jersey, says its shutoff last year totaled 70,000, a 69% rise since 1973. Cutoffs by Michigan Consolidated Gas have nearly tripled in the past five years.

While winter shutoffs have been curbed in many states, there are few outright bans. Opponents argue that under outright bans, some people who can afford to pay their bills will avoid paying them. "We don't want to give deadbeats a hunting license," says a spokesman for the New York Public Service Commission.

Some of the curbs on cutoffs seem to be dictated by a curiously arbitrary compassion. For instance, Illinois won't allow service to be halted on days when the temperature is 20 degrees or under. However, shutoffs can be made at any temperature above that. You can still get pretty cold at 21 degrees," says Henry Scheff of Chicago, who represents a coalition of consumer groups, churches, and labor unions pushing for state cutoff bans around the country.

Regulators are also trying to alter rate systems that penalize those who use less energy. For instance, a typical Consolidated Edison Co. customer in New York City who uses 150 kilowatts of electricity pays $15.63 in the winter while another customer using 250 kilowatts, 67% more, pays only 54% more.

New Jersey regulators have been unsuccessfully grappling with proposals to reduce rates for the poor, possibly by charging higher rates to others. But it is estimated that such an effort would cost the state or the other customers of the utility $100 million a year. "There is a question of whether we have the power to charge others more because some people can't afford to pay their bills," says Edward Hynes, a commissioner on the New Jersey Board of Public Utilities." It is a tremendous dilemma."

Given the magnitude of the problem, large scale federal help is essential, many observers contend. So far, relatively little has come.

Some adjustments have been made, though, in such existing federal welfare programs as food stamps. And for the past three years Congress, largely through the efforts of some Northeastern legislators, has appropriated $200 million annually to help poor people meet their energy needs during the winter. This program, although it reached some 2.7 million people last year, has been widely criticized.

The main complaint is that the funding level doesn't come close to meeting the need. It is a $200 million non-solution to a problem that needs billions," says Mr. Saul of the Community Services Administration, which administers the program.

The federal government also has a program to improve insulation in homes of the poor. So far, it has made only limited headway. Since 1973, about 500,000 substandard homes have been "weatherized"—about 6% of those estimated to need it. As things stand, it could take decades to do the rest.

The level of future aid is uncertain. The Carter administration is proposing to slash the funds for helping the poor with their winter heating needs to $40 million from the $200 million level of the past three years. Government officials contend that the lower level should be enough to meet a narrower objective currently given the program. That objective, one official says, "is only to deal with emergency situations that pose a danger to people's health and safety."

As for the continuing problem of rising energy bills for the poor, federal policymakers don't believe there are any simple answers. They note that over the past several years, increases in some programs, such as Social Security and welfare, have helped offset energy cost increases. They contend that further help should come through a comprehensive revision of the state-federal welfare system, including higher benefit levels.

Only yesterday an advisory committee to the Department of Energy made public a draft report calling for a new $3.2 billion annual program to help the poor with their home energy needs. "We concluded that current programs are woefully inadequate," says Anthony Maggiore, an antipoverty official in Milwaukee and member of the advisory committee.

But some observers note that large amounts of new help will come any time soon. "Programs for poor people were never popular," says Alan S. Davis, director of energy projects for the National Consumer Law Center. "With the Proposition 13 mentality now in the country, they are probably at their lowest ebb."●

By Mr. DOMENICI (for himself, Mr. TOWER, Mr. DOLE, and Mr. DECONCINI):

S. 788. A bill to establish an Office of Hispanic Affairs in the Executive Office of the President, and in various Federal departments and agencies, and for other purposes; to the Committee on Governmental Affairs.

OFFICE OF HISPANIC AFFAIRS

● Mr. DOMENICI. Mr. President, it is my pleasure to introduce a bill of crucial importance to Hispanic Americans. Today as we witness the growth of this country's second largest minority group, we must pause and reevaluate the socioeconomic policies of the past. To insure the failures of the past are not repeated, our policies must take into consideration the best interest of the Hispanic American. This legislation will insure that future socioeconomic policies will reflect the special needs of all Americans. This bill, an improved version of the legislation that my colleagues Senator TOWER, Senator DOLE, and Senator DECONCINI, and I introduced in March of 1977, has two basic components. First, it would establish an Office of Hispanic Affairs in the Executive Office of the President. This would replace a Cabinet level executive committee for Hispanics that expired on December 31, 1974. Second, the bill establishes offices of Hispanic Affairs throughout the various agencies of the executive branch.

Both components complement each other. An Office of Hispanic Affairs in the White House would insure that Hispanic concerns are heard at the highest policymaking levels of Government. Moreover, the Office could serve as a focal point for gathering and disseminating data on the social and economic status of Hispanic-Americans.

Individual offices in each of the agencies would provide an operational arm to the White House Office. They could implement guidance and decisions made by the White House Office and, in turn, provide the central office with the field experience and data on which to base future policy.

Implicit in the introduction of this bill it is the belief that despite their contributions to American life, the Hispanic community has failed to receive a proportional share of the benefits of American life. Underlining the urgency of this legislation are the following facts:

There are more than 16 million Hispanics in the United States. They comprise the second largest minority group

in the Nation. The Hispanic population is growing at a rate that will make it the Nation's largest minority group before the end of the present century.

The United States has the fourth largest Spanish-speaking population of all the nations of the Western Hemisphere.

Educationally, the average level of attainment among Hispanics is below the national average, and below that of blacks and most other minority groups as well.

The rate of unemployment among Hispanics is nearly double that of the national average.

Twenty-two percent of the Nation's Hispanics live below the poverty line compared to the national average of 9 percent. Hispanics' median income is only two-thirds that of the entire Nation.

Hispanics are continually confronted with a variety of other serious social, economic, and other problems, including high infant mortality and other health problems, limited access to safe and decent housing, unjust treatment by the Nation's criminal justice system and widespread prejudice against Hispanic people.

One and a half million of the 2.8 million jobs in the Federal executive branch are within the competitive Civil Service Merit System, yet Hispanics continue to be underrepresented in many grades of civil service employment, particularly in the higher grades.

We must understand the Hispanics' distinctive cultural and linguistic attributes in order to effectively formulate national policies to solve the varied problems of the Hispanic community. If our failure to implement adequate, effective policies affecting the Hispanic community continues we will neglect a vast resource of rich and varied culture, traditions, and knowledge. Accordingly, I believe that Hispanic needs and perspectives must be integrated into governmental decisionmaking. This bill represents an important advance in this decision.

Last Congress the Senate failed to take action on this. This Congress, I urge that the Senate, specifically my colleagues on the Committee on Governmental Affairs, give its timely support and careful consideration to this legislation which is of vital importance to the future welfare of the Hispanic American.

Mr. President, I ask that the text of the bill be printed in the RECORD.

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

S. 788

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 "Hispanic Affairs Act of 1979".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to—

(1) assure that Federal programs and resources are reaching all Mexican Americans, Puerto Rican Americans, Cuban Americans, and all other Hispanic Americans and are providing the assistance needed by such individuals;

(2) assure that the laws, policies, and practices of the Federal Government provide equal opportunities for Hispanic Americans in all areas, including the areas of employment, education, health, housing, community development, economic development, and grant and contract procurement; and

(3) seek out and develop new programs and resources that may be necessary to handle problems that are unique to Hispanic Americans.

ESTABLISHMENT OF OFFICE

SEC. 3. There is established in the Executive Office of the President the Office of Hispanic Affairs (hereinafter referred to in this Act as the "Office"). The Office shall be headed by a Director (hereinafter referred to in this Act as the "Director") who shall be appointed by the President by and with the advice and consent of the Senate.

DUTIES OF THE DIRECTOR

SEC. 4. (a) The Director shall—

(1) advise Federal departments and agencies regarding appropriate action to be taken to help assure that Federal programs are providing the assistance needed by Hispanic Americans;

(2) advise Federal departments and agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs which focus on the special problems and needs of Hispanic Americans and on the priorities of such policies, plans, and programs;

(3) advise and assist Hispanic American groups and individuals in receiving assistance available under law;

(4) establish and maintain an Hispanic information clearinghouse which shall collect, analyze, and disseminate information concerning the social and economic conditions encountered by Hispanic individuals;

(5) carry out the functions relating to equal employment opportunity for Hispanic Americans transferred to the Director under section 8; and

(6) appraise the laws, policies, and performance of the Federal Government with respect to the achievement or denial of equal opportunities for Hispanic Americans, and report such appraisal annually to the President and the Congress in the report required under section 11.

(b) In carrying out his duties, the Director may (1) conduct, directly or by grant or contract, such surveys, studies, research, and demonstration and technical assistance projects, (2) establish such relationships with State and local governments and the private sector, and (3) promote the participation of State and local governments and the private sector as may be appropriate to identify and assist in solving the special problems of Hispanic Americans.

(c) The Director shall utilize the Special Assistants for Hispanic Affairs established in each Federal department or agency under section 12 to carry out the functions transferred under section 8.

ADVISORY TASK FORCES

SEC. 5. (a) The Director may appoint one or more advisory task forces from among persons who are representative of and involved in the affairs of the Mexican American, Puerto Rican American, and Cuban American communities, and of other elements of the Hispanic American community. Each such task force shall—

(1) advise the Director with respect to his functions under this Act;

(2) be approved by the Committee on Government Operations of the House of Representatives or the Committee on Governmental Affairs of the United States Senate;

(3) be subject to the provisions of the Federal Advisory Committee Act; and

(4) each year and at the time of completion of work of the task force, transmit to Congress and the President a report concerning the activities of the task force.

(b) Each member of an advisory task force appointed under subsection (a) who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of a task force. A member of a task force who is an officer or employee of the United States Government shall serve without additional compensation. All members of a task force shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(c) The Director shall provide staffing and support to any task force appointed under subsection (a) in order to assist the members of the task force in carrying out their duties.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) In carrying out the provisions of this Act, the Director is authorized—

(1) to appoint such personnel as he deems desirable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and to pay such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such title, at rates of pay which do not exceed the rate prescribed for GS-18 of the General Schedule under section 5332 of such title;

(3) to promulgate such rules, regulations, and procedures as may be necessary to carry out the functions of the Office, and delegate authority for the performance of any function to any officer or employee of the Office under his direction and supervision;

(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal departments and agencies and of State, local, and private agencies and instrumentalities, with or without reimbursement therefor;

(5) to enter into agreements with other Federal departments and agencies as may be appropriate;

(6) to operate such regional offices as may be necessary to carry out the provisions of this Act;

(7) without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions of the Office, with any public agency or with any person, and make payments (in advance, by transfer, or otherwise) and grants to any public agency or private nonprofit organization;

(8)(A) to accept voluntary and uncompensated services, without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(B) to accept volunteer service in accordance with section 3111 of title 5, United States Code; and

(9) to request such information, data, and reports from any Federal department or agency as the Director may from time to time require and as may be produced consistent with other law.

(b) Upon request of the Director, the head of each Federal department or agency shall promptly make the services, equipment, personnel, facilities, and information of the department or agency (including suggestions, estimates, and statistics) available to the Office to the greatest extent practicable.

(c) Upon request of the Director, the head of each Federal department or agency shall promptly detail any of the personnel of the department or agency to the Office in accordance with the provisions of section 3341(b) of title 5, United States Code. Any such detail shall be made on a reimbursable basis.

COORDINATION

SEC. 7. In carrying out the provisions of this Act, the Director shall provide leader-

ship and coordination for all Federal departments and agencies, particularly the offices established under section 12, and shall provide such guidance to Federal departments and agencies as the President determines is appropriate in implementing this Act. Each department or agency shall issue appropriate rules and regulations to further the purposes of this Act.

TRANSFERS OF FUNCTIONS FROM THE OFFICE OF PERSONNEL MANAGEMENT

SEC. 8. All functions of the Office of Personnel Management under section 717 of the Civil Rights Act of 1964 and Executive Order No. 11478, issued August 8, 1969, which the Director of the Office of Management and Budget determines relate to equal employment opportunity for Hispanic individuals, commonly known as the Hispanic Employment Program, are transferred to the Director.

TRANSFER OF PERSONNEL AND PROPERTY

SEC. 9. (a) All personnel, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this Act, are transferred to the Office.

(b)(1) Except as provided in paragraph (2), personnel engaged in functions transferred under this Act shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(2) The transfer of personnel pursuant to subsection (a) shall be without reduction in classification or compensation for one year after such transfer.

TRANSFER MATTERS

SEC. 10. (a) All laws relating to any office, agency, or function transferred under this Act shall, insofar as such laws are applicable, remain in full force and effect. All orders, determinations, rules, and regulations made or issued in connection with any function transferred by this Act, and in effect at the time of the transfer, shall continue in effect to the same extent as if such transfer had not occurred, until modified, superseded, or repealed.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any agency, or part thereof, functions of which are transferred by this Act, but such proceedings, to the extent that they relate to functions so transferred shall be continued before the Office.

(c) No suit, action, or other proceeding commenced by or against any office or agency or any officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this Act, but the court, on any motion or supplemental petition filed at any time within 12 months after such transfer takes effect which shows a necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the question involved, may allow the suit, action, or proceeding to be maintained by or against the appropriate office or agency or officer of the United States.

ANNUAL REPORT

SEC. 11. Within six months after the end of each fiscal year, the Director shall submit a report to the President and the Congress concerning the activities of the office during the preceding fiscal year. Such report shall include the appraisal of Federal performance in achieving equal opportunity for Hispanic Americans required under section 4(a)(6) and recommendations for legislative action relating to the achievement of the purposes of this Act.

OFFICES IN VARIOUS EXECUTIVE AGENCIES

SEC. 12. (a) The President shall take such action as may be necessary to establish and maintain an office of Hispanic Affairs in the following Federal departments and agencies:

(1) Department of State;
(2) Department of Treasury;
(3) Department of Defense;
(4) Department of Justice;
(5) Department of the Interior;
(6) Department of Agriculture;
(7) Department of Commerce;
(8) Department of Labor, including programs of the Office of Federal Contract Compliance;
(9) Department of Health, Education, and Welfare;
(10) Department of Housing and Urban Development;
(11) Department of Transportation;
(12) Department of Energy;
(13) Community Services Administration;
(14) Veterans' Administration;
(15) Office of Personnel Management;
(16) Federal Communications Commission;
(17) Small Business Administration;
(18) National Aeronautics and Space Administration;
(19) National Science Foundation;
(20) Federal Home Loan Bank Board;
(21) Equal Employment Opportunity Commission;
(22) Postal Rate Commission;
(23) Environmental Protection Agency;
(24) General Services Administration;
(25) United States Postal Service; and
(26) such other Federal departments or agencies as the President may designate.

(b) Each Office of Hispanic Affairs established under subsection (a) shall be headed by a Special Assistant for Hispanic Affairs, who shall be appointed by the head of the Federal department or agency in which the office is located. The Special Assistant for Hispanic Affairs designated within each department or agency shall assist the Director in carrying out within each department or agency the functions transferred under section 8.

(c) The Special Assistant for Hispanic Affairs of each department or agency may participate in all policy planning and development for all programs of the department or agency to insure the consideration of factors impacting on the various Hispanic communities. The head of each Federal department or agency shall insure the participation of the Special Assistant for Hispanic Affairs in the review of all pertinent and relevant rules, regulations, and guidelines, and other management directives to assure that the laws, policies, and practices of the Federal Government are providing equal opportunities for Hispanics in all areas, including the areas of education, health, housing, community development, economic development, grant and contract procurement, and employment. The Special Assistant for Hispanic Affairs shall make recommendations to the head of the Federal department or agency concerning problems and special needs that are unique to Hispanics, and shall be available to advise and assist Hispanic groups and individuals who seek assistance or services from the department or agency.

FEDERAL REGIONAL COUNCILS

SEC. 13. The President may also take such action as may be necessary to instruct the chairmen of the ten Federal regional councils established pursuant to Executive Order 11647, issued February 10, 1972, to insure that the problems and needs of Hispanics are taken into consideration in decisions related to Federal assistance to State and local governments made by the regional offices of the member agencies. Each member agency of the ten Federal regional councils shall provide data and information to the Federal regional councils relating to problems and concerns of Hispanics, in order to insure equitable consideration of Hispanic needs in pertinent council decisions, and, if necessary, shall use the Hispanic liaison procedures of the agency to generate such information and data.

DUTIES OF THE SECRETARY OF COMMERCE

SEC. 14. The Secretary of Commerce shall take necessary steps to insure that existing information clearinghouse functions within the Department of Commerce encompass the collection and dissemination of Hispanic information in easily accessible form concerning the social, economic, employment, health, and housing needs and conditions of the Hispanic population of the Nation.

BAN ON PARTISAN POLITICAL ACTIVITIES

SEC. 15. No funds authorized to carry out this Act shall be used to finance any activities designed to influence the outcome of any election to Federal office or any voter registration activity, or to pay the salary of the chairperson or any employee of a political committee after the date on which such persons engage in such activity, as determined by the Office of Personnel Management. For the purposes of this section, the term "election" has the same meaning as in section 301(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(a)), the term "Federal office" has the same meaning as in section 301(c) of such Act (2 U.S.C. 431(c)), and the term "political committee" has the same meaning as in section 301(d) of such Act (2 U.S.C. 431(d)).

COMPENSATION OF DIRECTOR

SEC. 16. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(152) Director, Office of Hispanic Affairs."

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. For the fiscal years 1980 and 1981, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 18. The provisions of this Act shall take effect upon enactment, except that the provisions of sections 8 through 10 shall take effect upon the expiration of the first period of 60 calendar days following the date on which this Act is approved by the President, or on such earlier date as the President shall specify by Executive Order.●

By Mr. CRANSTON:

S. 789. A bill to authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to authorize Federal participation in stream rectification on the Trinity River in California. The legislation is identical to H.R. 507 introduced in the House of Representatives by Congressman HAROLD JOHNSON. In the last Congress, we introduced this legislation as S. 3386 and H.R. 13394.

Since completion of the Trinity River Basin of the Central Valley project in 1963, salmon and steelhead populations in the Trinity River have declined dramatically. One of the worst problems has been identified as the accumulation of sediment in the river below Grass Valley.

In 1976 the Trinity River Basin Fish and Wildlife Task Force authorized the California Department of Water Resources to prepare a feasibility study to determine the best means of controlling this sediment. The report which was completed in May 1978 and approved by the task force recommends construction of the Buckhorn Mountain sediment control dam on Grass Valley Creek and per-

formance of sand dredging on the Trinity River. Both of these projects are also supported by the California Water Commission and the Trinity County Board of Supervisors. To my knowledge, no opposition has been expressed by affected local residents.

The bill I am reintroducing today incorporates the recommendations of the task force. It authorizes the Bureau of Reclamation to construct the Buckhorn Mountain Dam, at a cost of $3.5 million. Under the bill, the State of California is required to match the funds provided by the Federal Government.

Mr. President, I believe the Federal Government has a responsibility to assist with mitigation of the fishery problem created by the Federal water project. And I hope that this Congress will support funding of these measures to restore the Trinity River to its former status as one of California's most productive salmon and steelhead streams.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to design, construct, operate, and maintain, or to contract with the State of California for the design, construction, operation, or maintenance of, a sand dredging system on the Trinity River immediately downstream from Grass Valley Creek, a tributary of the Trinity River, and a debris dam and associated facilities on Grass Valley Creek, in Trinity County, California, in general conformity to the plan of development described and set forth in the Grass Valley Creek Sediment Control Study, April 1978, prepared for the Trinity River Basin Fish and Wildlife Task Force.

SEC. 2. The contract authorized by section 1 of this Act shall provide that the State of California, on a dollar-for-dollar basis, will match the funds provided by the Bureau of Reclamation for constructing, operating, and maintaining the sand dredging system.

SEC. 3. There is authorized to be appropriated for fiscal year 1980 and thereafter, to remain available until expended the sum of $3,500,000 (April 1978 price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs indexes applicable to the type of construction involved therein. There are also authorized to be appropriated such sums as may be required for the Federal share of operation and maintenance. All costs incurred pursuant to this Act shall be nonreimbursable and nonreturnable. No funds shall be expended hereunder until the Board of Supervisors of Trinity County adopts adequate timber road and subdivision standards to protect the Grass Valley Creek watershed.●

By Mr. WILLIAMS (for himself, Mr. JAVITS, Mr. RANDOLPH, Mr. MOYNIHAN, Mr. MCGOVERN, Mr. MELCHER, Mr. DURENBERGER, and Mr. SIMPSON):

S. 790. A bill to provide that 20 per centum of the funds appropriated for college work study programs in any fiscal year beginning after September 30, 1979, may be used for promoting cooperative education programs with private employers; to the Committee on Labor and Human Resources.

PRIVATE EMPLOYER AND HIGHER EDUCATION INCENTIVE ACT OF 1979

● Mr. WILLIAMS. Mr. President, I introduce today the Private Employer and Higher Education Incentive Act of 1979, a measure to build constructive partnerships between our colleges and the private sector of the American economy.

This measure would permit colleges, universities and other postsecondary institutions to utilize a limited amount of college work study funds for part-time student employment in the private sector.

In general, the bill would provide opportunities for financially hard-pressed institutions of higher education to create educationally beneficial relationships with business and industry, complementing a similar CWS effort with established public, nonprofit organizations and colleges authorized under title IV of the Higher Education Act of 1965. It would encourage utilization of approaches currently employed in the successful cooperative education program to link education and work.

Specifically, this measure would permit each institution of higher education receiving college work study funds to utilize up to 20 percent of its annual grant to develop college work study arrangements with private industry and business. Aside from granting a college discretion to implement this provision, no major statutory provisions or administrative regulations would be changed. The program would operate in its customary fashion and would require only a supplemental submission by the college to the Office of Education.

No additional authorization of appropriations is necessary. This bill depends on existing and current appropriations of funds to implement this added direction for the CWS program.

Moreover, an institution of higher education would not be permitted to develop part-time jobs in the private sector unless such development is consonant with collective bargaining agreements in force and neither supplants nor substitutes for vacant or planned jobs.

The theory behind this measure may be simply stated: our institutions of higher education should be accorded flexibility to meet student needs for part-time work in cooperation with the private sector, which provides 80 percent of the Nation's paid employment, as well as in the public and nonprofit sectors. To the extent that such flexibility provides incentives and experience furthering collaboration between postsecondary institutions and private employers, the national interest will be served.

The national interest in higher education in the coming decade also will be enhanced by public policy which supports students in the face of spiraling costs and sustains colleges in an era of declining enrollments. The colege work study program's potential for meeting these objectives will be aided by this legislation.

The college work study program will provide part-time employment for approximately 990,000 students in 1979–80. The average job will pay a student $610 for the academic year to assist in paying for both tuition and living expenses. Congress appropriated $550 million for this program in fiscal 1979, and the administration has requested funding at that level for fiscal 1980. Colleges may use up to 80 percent of their work study grant to create part-time jobs, and employers must provide a minimum of 20 percent of support for such jobs. Colleges are free to vary this proportion, but in this measure private employers must contribute at least 50 percent of the cost of each student's job. Colleges may utilize a small proportion of funds available under this bill to manage effective, high quality connections between student earning and student learning.

The Private Employer and Higher Education Incentive Act of 1979 vests in the colleges the authority to collaborate with private employers. It thereby avoids additional regulatory burden. At the same time, the measure permits postsecondary institutions to explore the most productive educational arrangements.

This legislation comes at a time of rapid expansion of educational activity in business and industry. The creation of new jobs and the thrust of developing technology have spurred the private sector to invest heavily in their own higher education facilities and services. Estimates of such investment range from $2 billion a year to $70 billion a year. This measure could serve as an inducement for the private sector to explore the many potential benefits of the Nation's vast network of higher education institutions.

The legislation introduced today, Mr. President, is by no means an untested dream. For the past 5 years, modest Federal support has tested cooperative education across the Nation on a demonstration basis. In 1979, the Federal Government will invest $15 million in that program to establish model cooperative education programs for private and public employers to assist students in college.

A recent cost-benefit study of a national sample of the 1,000 institutions now offering cooperative education was reported to the Congress in 1978. The assessment was conducted by Applied Management Services, Inc., under a contract with the Office of Education. The study disclosed that cooperative education has been satisfying to employers, students and college officials, and a superior means for paying the escalating costs of college. A significant finding was that students in the program earned better grades than those out of it and that such students have a better chance of finding desired work upon graduation.

Accordingly, this measure encourages colleges to administer its provisions in conjunction with the cooperative educational model established under title VIII of the Higher Education Act of 1965. Effective Government programs are eagerly sought by policymakers and taxpayers alike, and utilization of the cooperative education success in this aspect of the college work study program would capitalize upon sound Federal investment in bringing together the worlds of education and work.

Mr. President, I now ask unanimous consent that the text of the Private Employer and Higher Education Incentive

Act of 1979, along with a summary and factsheet, be printed in the RECORD.

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

S. 790

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 Private Employer and Higher Education Incentive Act of 1979.

SEC. 2. (a) Section 443(a) of the Higher Education Act of 1965 is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this part, the Commissioner is authorized to assure that 20 per centum of the funds appropriated under this subsection for each fiscal year beginning after September 30, 1979, are made available for carrying out programs of work study contracts with private employers if the eligible institution desiring to use the funds for the purpose described in this paragraph—

"(A) is otherwise eligible to participate under the provisions of this part; and

"(B) enters into a supplemental agreement in accordance with the provisions of section 444(d).".

(b) Section 444 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) A supplemental agreement entered into pursuant to paragraph (2) of section 443(a) shall—

"(A) provide a rationale for the cooperative education private employer program, setting forth the short-term and long-term benefits anticipated from such program for the eligible institution, any private employer participating in the program, and the students at the eligible institution expected to participate in the program, together with sufficient supporting documentation to show compliance with this clause;

"(B) set forth objectives and standards to be applied in the operation of such program by the eligible institution including but not limited to occupational benefits, skill development benefits, credit-related educational benefits, and other benefits anticipated from the operation of such program;

"(C) specify the activities of the eligible institution to achieve the objectives and standards set forth under clause (B) of this paragraphs;

"(D) specify a design for the evaluation of the program entered into by the eligible institution sufficient to document and measure the impact and benefit of the program upon the eligible institution, any private employer participating in the program, and the students enrolled at the eligible institution participating in the program;

"(E) designate an official of the eligible institution who, in accordance with the objectives, standards, methods, procedures, priorities and evaluation mechanisms under title VIII of this Act, will be responsible for the administration and management of the program, except that the administration and management of this program may be delegated by the eligible institution to the official of that institution responsible for the administration of cooperative education programs carried out under, or substantially similar to, the provisions of title VIII of this act; and

"(F) provide assurances that a written agreement between the eligible institution and any participating private employer will be entered into and that such agreement will contain assurances that work under the program subject to the supplemental agreement will—

"(i) not supplement or supplant any existing position established prior to the date of the supplemental agreement between the eligible institution and the participating employer;

"(ii) not supplement or supplant any position planned prior to such date but established after such date by the participating employer;

"(iii) not be used to fill any vacant position which the private employer would in the normal course of business offer to an employee of that employer;

"(iv) waive any use of any provision of this part providing an exemption to the applicable minimum wage law under the Fair Labor Standards Act of 1938; and

"(v) not violate any collective bargaining agreement entered into between the participating private employer and any appropriate labor organization representing the employees of that employer.

"(2) The Commissioner shall approve a supplemental agreement submitted under this subsection within ninety days after the agreement was submitted to the Commissioner by the eligible institution. If the Commissioner fails to complete action on the supplemental agreement required by this subsection in the time allotted by the first sentence, the agreement shall be deemed to be effective for one year from the date on which it was submitted to the Commission.

"(3) Notwithstanding any other provision of this part, the eligible institution of higher education shall expend from funds made available under this section not less than seventy-five per centum thereof to establish part time work study contracts in conjunction with private employers, and may utilize 25 per centum of such funds for the administration and management of this section as specified in subsection (d)(1)(E) of this section, provided that no part time job shall be established pursuant to this section unless the contribution to support such job made by each participating private employer is fifty per centum or greater of the annual cost of each such part time job."

SEC. 3. The amendments made by this Act shall take effect on October 1, 1979.

THE PRIVATE EMPLOYER AND HIGHER EDUCATION INCENTIVE ACT OF 1979

SUMMARY AND FACTSHEET

I. Summary of the bill

This bill modifies the College Work Study Program, Title IV, Part C, of the Higher Education Act of 1965.

Synopsis

It permits the institutions of postsecondary education receiving grants for programs of college work study under this provision to utilize—at their discretion and under their supervision—up to 20 percent of funds provided through such grants for part-time work study jobs with private employers.

Currently, the bulk of college work study jobs have been established with the recipient colleges and universities, with only an estimated 15 percent of such jobs contracted with off-campus, public and non-profit employers and with work study linkages virtually non-existent.

Purposes

The purposes of this bill are as follow:

1. To encourage part-time employment of disadvantaged and minority college students, the primary clientele of the college work study program, in the private employment sector in conjunction with their studies.

2. To promote more careful planning of educational experiences together with part-time work experiences in postsecondary institutions thus enhancing the education-work linkage.

3. To provide at the discretion of institutions of higher education a means to promote mutually useful collaboration between higher education and the private employment sector in an era of declining college enrollments and enormously escalating college costs.

4. To apply the successful and effective approaches of Cooperative Education to the college work study program on an elective basis at each of the 3,260 institutions of higher education receiving college work study funds.

5. To promote the improvement of the college work study program through a new, permissible activity which can be easily applied without any additional Federal funds.

Provisions

This bill adds private employers as eligible work study settings up to the 20 percent limit authorized in this measure and establishes the following standards for the establishment of such work-study arrangements:

1. All arrangements must be submitted to the Office of Education for approval, although failure to act within 90 days by the Office of Education will result in an automatic approval for a period of one year.

2. All arrangements must be detailed in the form of a supplemental work-study agreement submitted to the Office of Education pursuant to section 443 of the Higher Education Act of 1965 as amended.

3. Such supplemental agreements must satisfy the following standards:

A. Specification of the rationale for the program, including a statement of benefits to accrue to the sponsoring institution of higher education, the student(s) involved, and the private employer(s) involved.

B. A statement of objectives and standards including the educational and skills development benefits planned as a result of such an arrangement.

C. A plan for implementation of such objectives and standards.

D. A plan for evaluation of this aspect of the college work study program.

E. Designation of an official at the sponsoring college or university who will manage this program and a requirement that such management be conducted in accordance with the approaches utilized in the highly successful Cooperative Education Program conducted pursuant to Title VIII of the Higher Education Act of 1965.

4. In addition, the supplemental agreement setting forth arrangements under this bill must meet the following requirements and stipulations:

A. The part time-work study jobs established by colleges and universities under this measure and prohibited from supplanting existing jobs, and cannot fulfill an employer's current vacancies or future hiring plans.

B. All arrangements must recognize and accommodate collective bargaining agreements in force between the private employers participating in this program and the unions representing the employees of a given private employer.

C. Wages cannot be paid below the minimum wage set pursuant to the Fair Labor Standards Act of 1938.

5. Private employers must contribute at least 50% of the cost of each CWS job.

6. Colleges may utilize 25% of the 20% maximum reservation of their annual CWS grant for implementing earning/learning management efforts. Total capitalization of this measure, then, yields $6.00 for job support and $1.00 to achieve effective work-study cooperation for each CWS part time job.

Utilization of Cooperative Education Approaches

In requiring the incorporation of Cooperative Education standards and methods pursuant to Title VIII of the Higher Education Act in college-private employers work study arrangements, this bill builds upon a thoroughly evaluated success in a Federal program linking education and work. The evaluation of the program is set forth in an extensive study, three volumes, "Cooperative Education—A National Assessment" conducted by Applied Management Science, Inc. of Silver Spring, Maryland, under contract

with the Office of Education, No. OE-300-75-0343. An extract of findings is presented below.

Regulatory Burden

With respect to regulation, this bill imposes no burden upon institutions of higher education. Eligible institutions may elect to utilize provisions of this measure. None is required to do so. No other supplementary agreement may be submitted as part of the institution's annual application or at any other convenient time. The supplementary agreement provides an opportunity to plan arrangements between colleges and employers so as to maximize the best linkages possible between student learning and student part-time work. Since the maximum payment to any student under the college work study program is $3,000.00 per year (the average annual earning in 1978 was $610 per student), and since such work is limited to not more than half time, the opportunity for linking learning to earning is much enhanced through the development of a supplemental agreement.

No Additional Authorization of Appropriation Is Required

With respect to authorization of appropriations, this bill requires no additional appropriation. The activities specified in this measure will be conducted with existing funds.

II. Factsheet on the college work study program

Origins

The College Work Study Program, a 1964 antipoverty effort, joined the Higher Education Act of 1965 and has provided part-time jobs for needy college students since that time. It is authorized as Title IV, Part C of the Higher Education Act of 1965 as amended, sections 441, *et seq.*

Number of Students Served and Federal Cost of the CWS Program

The Office of Management and Budget in the Executive Office of the President estimates in the President's budget request for 1980 that 990,000 students will obtain part-time jobs at an average earning of $610.00 per student for the 1980-81 academic year. The total appropriations requested for fiscal 1980 is $550 million, the same appropriation made for fiscal 1979.

Federal and Local Payments in Support of the CWS Program

Under the provisions of the Higher Education Act, grants for college work study are made directly to eligible postsecondary education institutions according to a formula first apportioning available funds to the States.

Once received, the recipient college at its campus implements a program of part time jobs for needy college students. Work may not exceed 20 hours per week. No student may earn above $3,000 per year, although the average earning is only $610 per year. The program is administered by the institution's financial aid office.

Current law permits part-time jobs to be established in the recipient institutions, in non-profit organizations off campus and in public organizations off campus.

The recipient postsecondary education institution is authorized to subsidize part-time student jobs up to 80 percent of their costs, with the local share to pay not less than 20 percent of the cost of such jobs.

These subsidization limits may be varied at the local college. Thus, the recipient college may require a greater local share than 20 percent, but it cannot pay the cost of such part time jobs beyond the 80 percent limit from Federal funds.

Some Selected Program Statistics Describing the CWS Program

The following table provides an historical overview of the major features of the CWS program:

SELECTED PROGRAM STATISTICS, COLLEGE WORK-STUDY PROGRAM [1]

[Fiscal years]

	1974	1975	1976 estimated	1977 estimated	1978 estimated
Appropriation (budget authority, thousands)	$270,200	$420,000	$390,000	$390,000	$435,000
Student awards	570,000	973,000	895,000	852,000	796,000
Average annual earnings (include matching share)	$521	$520	$525	$545	$600
Gross compensation to student (thousands)	$321,842	$506,024	$469,880	$464,065	$477,812
Number of institutions participating	3,154	3,215	3,230	3,230	3,260

Note: Program is 1 yr forward funded, i.e., funds appropriated during a fiscal year are awarded to students the following school year.

[1] Data supplied by the Department of Health, Education, and Welfare.

III. Factsheet on cooperative education

Origins

While the cooperative education movement can be dated from early in the 20th century at several universities and industrial institutes, the growth of efforts to link academic work and paid skills performance is a feature of the 1970's.

The following table presents estimates of development of cooperative education programs in institutions of higher education:

No. of institutions offering cooperative education programs

Year:	
1962	50
1971	250
1973	576
1977	1,000
1979	1,050

Scope of Current Efforts

Currently, over 1,000 institutions of higher education offer cooperative education programs, although the 225,000 (estimated) students enrolled in them are concentrated in a small proportion of such institutions.

For example, 8 percent of institutions of higher education enrolled approximately one-half of all cooperative education students in 1978. These institutions generally provided the older, long-established cooperative education programs and the remaining cooperative education programs have newly been established in response to widely escalating student demand for marketable work skills within the context of higher education pursuits.

Approximately half of the institutions of higher education offering cooperative education are two year colleges. The other half are four year colleges, universities and research universities and graduate and professional schools.

Primary Approach of Cooperative Education

While cooperative education programs vary among the broad array of their sponsoring institutions, the common commitment of all such programs is to integrate academic and on-the-job learning.

A typical device to reach that common commitment is a cooperative education contract entered into by the institution, the student and the part-time employer. The agreement specifies educational objectives, credit-bearing opportunities and requirements, and the work expectations and remunerstion provided by the employer. A coordinator provided by the college monitors all such contracts and certifies accomplishment of their provisions. The employment of students may take place simultaneously with classroom work (the "parallel" plan) or in semesters which alternate with classroom instruction (the "alternate" plan).

The Federal Role in Cooperative Education

The Federal cooperative education program originally was authorized in the 1972 amendments to the Higher Education Act of 1965 and provided grants administered by the Commissioner of Education to institutions of higher education. Such grants are for the purpose of planning, establishing, expanding and implementing programs of cooperative education and for the support of training, research, or demonstration projects. The program was amended in the 1976 amendments to the Higher Education Act to permit part-time student participation in Federally-assisted Cooperative Education Programs.

In fiscal 1979, $15 million was appropriated for this program. The same appropriation has been requested by the President for fiscal 1980.

Federal assistance will go to Cooperative Education Programs in institutions serving approximately 90,000 cooperative education students.

Evaluation of Cooperative Education: Cost-Benefit Assessment

In 1975, the Office of Education contracted for a two year, nationwide, multi-faceted evaluation of cooperative education with Applied Management Sciences, Inc. of Silver Spring, Maryland. The study is entitled "Cooperative Education—A National Assessment," OE-300-75-0343. The study was released in 1978 and concluded that cooperative education students were more satisfied with their studies than were other students and were more likely to experience successful transition from education to work.

The cost-benefit assessment of the Cooperative Education program was most favorable as well. Rates of return compared with financial discount rates up to 35 percent and post-graduate earnings were significantly higher among cooperative education students in many fields when compared with other graduates.

The following tables, extracted from the evaluation study, present data on transition from school to work, average earnings during the first three years of employment, and rate of return of cooperative education for students compared with rates of return for other students.

MEAN TIME IN MONTHS REQUIRED TO FIND 1ST JOB BY GRADUATE AND SAMPLE CHARACTERISTICS AND CO-OP PARTICIPATION[1]

Graduate characteristics	Earnings sample				Previous experience sample			
	Co-op		Non-co-op		Co-op		Non-co-op	
	Number	Mean	Number	Mean	Number	Mean	Number	Mean
Total	610	081	1,252	1.65	77	0.65	340	1.04
Sex:								
Male	500	.72	787	1.63	62	.76	271	1.09
Female	110	1.22	465	1.70	15	.70	69	.88
Race:								
White	569	.74	1,175	1.65	64	.50	314	1.03
Nonwhite	36	1.83	85	1.77	12	1.25	24	1.29
GPA:								
Above mean	402	.72	692	1.50	54	.59	227	1.21
Below mean	208	.98	560	1.84	23	.78	113	.72
Program length:								
2 yr	123	.74	450	1.29	37	.30	188	1.01
4 yr	287	1.05	801	1.86	36	1.08	152	1.09
5 yr	200	.51	0		4	0	0	
Discipline area:								
Engineering and architectural	358	.67	210	1.14	18	1.22	61	.93
Business and management	174	.75	400	1.75	40	.63	146	1.56
Health professions	10	1.30	101	1.64	5	0	38	.37
Liberal arts	48	1.79	451	1.94	10	.20	63	.59
Trade and industrial	7	.71	46	.89	2	.50	18	.89

[1] "Cooperative Education—A National Assessment," exhibit No. 4.4.

MEAN 1ST 3-YR GRADUATE EARNINGS BY SEX, LENGTH OF PROGRAM, DISCIPLINE AREA, AND CO-OP STATUS[1]

Graduate characteristics	Co-op		Non-co-op	
	Number	Mean	Number	Mean
Total	442	$23,811	965	$16,942
Sex:				
Male	363	26,320	579	20,088
Female	79	12,285	386	12,223
Program length:				
2 yr	95	11,869		11,179
4 yr	158	25,252		20,329
5 yr	189	28,609		
Discipline area:				
Engineering and architecture	238	28,751	132	23,652
Business and management	151	19,676	331	16,832
Health professions	8	10,683	91	15,886
Liberal arts	41	13,436	374	14,764
Trade and industrial	4	18,584	37	18,691

[1] Mean 1st 3-yr earnings are in 1969 dollars. "Cooperative Education—A National Assessment," exhibit No. 4.2.

ANNUAL MEAN STUDENT COSTS AND BENEFITS BY COOPERATIVE STATUS AND RATE OF RETURN VARIABLES[1]

Student characteristics	Tuition		Costs[2]		Taxable earnings		Nontaxable income		Student net income	
	Number	Mean	Number	Mean	Number	Mean	Number	Mean	Number	Mean
Total:										
Sex:										
Male	863	999	863	365	872	2,281	871	732	865	1,681
Female	610	796	610	344	617	1,210	616	705	609	799
Program length:										
2-yr	627	367	627	291	635	1,416	634	450	626	1,232
4-yr	674	1,360	674	371	682	1,728	681	965	673	985
5-yr	175	1,128	175	507	175	3,748	175	779	175	2,893
Discipline area:										
Engineering and architecture	340	1,111	340	456	341	2,980	341	796	342	2,198
Business and management	482	829	482	305	488	1,775	487	616	482	1,270
Health professions	150	787	150	288	150	754	150	767	150	457
Liberal arts	307	1,058	307	353	312	1,254	311	892	306	778
Trade and industrial	123	532	123	340	125	1,600	125	523	123	1,335
Total, co-op	651	844	657	400	657	2,669	657	620	651	2,076
Sex:										
Male	414	964	414	400	415	3,187	415	629	414	2,462
Female	237	634	237	401	242	1,781	242	603	237	1,402
Program length:										
2-yr	256	352	256	318	260	1,835	260	368	256	1,568
4-yr	220	1,191	220	408	222	2,796	222	788	220	2,017
5-yr	175	1,128	175	507	175	3,748	175	779	175	2,893
Discipline area:										
Engineering and architecture	246	1,078	246	467	247	3,499	247	726	246	2,697
Business and management	207	823	207	302	208	2 327	208	550	206	1,783
Health professions	27	479	27	255	28	1,065	28	703	28	1,022
Liberal arts	105	603	105	440	106	1,766	106	566	105	1,310
Trade and industrial	34	512	34	357	35	2,395	35	635	34	2,251
Total, non-co-op	825	964	825	317	835	1,173	833	806	823	716
Sex:										
Male	449	1,013	449	333	460	1,447	459	830	451	964
Female	373	899	373	309	375	837	374	776	372	415
Program length:										
2-yr	371	378	371	272	375	1,125	374	506	370	1,000
4-yr	454	1,443	454	353	460	1,212	459	1,050	453	484
Discipline area:										
Engineering and architecture	94	1,195	94	426	96	1,571	96	986	96	921
Business and management	275	834	275	308	281	1,349	280	661	276	888
Health professions	123	854	123	295	122	679	122	781	122	328
Liberal arts	202	1,295	202	307	206	1,000	205	1,072	201	500
Trade and industrial	89	540	89	334	90	1,295	90	528	89	985

[1] Annual mean costs and benefits are in 1976 dollars. "Cooperative Education—A National Assessment," exhibit No. 4.9.

[2] Includes books, tools, supplies, etc. but specifically excludes transportation, food, and housing. ●

By Mr. CRANSTON:

S. 791. A bill to establish the true location of a portion of the northerly boundary of the Angeles National Forest in Los Angeles County, Calif., on the common line between sections 16 and 17, township 4 N., range 10 W., San Bernardino meridian, and to establish the center quarter of said section 16; to the Committee on Energy and Natural Resources.

● Mr. CRANSTON. Mr. President, I am introducing a bill to establish the true location of a portion of the northerly boundary of the Angeles National Forest in Los Angeles County, Calif.

This legislation is urgently needed to provide relief to about 100 Juniper Hills homeowners whose property titles are clouded because of conflicting Government surveys conducted in 1933 and 1973. The Juniper Hills homeowners paid fair market value for their homes and for 45 years have relied upon the 1933 survey. The bill would establish the true boundary of the Angeles National Forest so that the property lines basically fit the lines of usage for over the last 45 years, and the homes of the Juniper Hills residents are on the lands described in their deeds. Any other solution that does not return all the property lines to the location of the 1933 monument will not resolve the problem for the homeowners. There is no guarantee that a new survey would establish the boundary along the lines established in 1933.

Last year the Senate Energy and Natural Resources Committee held hearings on an identical bill which Senator Hayakawa and I sponsored. At that time, the administration proposed as an alternative that we adjust the boundary of the Angeles National Forest and permit the property owners to purchase the 15 acres which overlap national forest lands. However, this proposal would not provide relief for the majority of the 100 families in Juniper Hills. I believe the administration's concern about declaring a possibly erroneous survey as correct and adopting it as the official survey are bureaucratic and unsympathetic. I see no compelling reason not to help out these people who are stuck because of a Government mistake.

Thus, I am reintroducing this legislation. I sincerely hope that the 96th Congress will give it favorable consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The north one-half of section 16, township 4 north, range 10 west, San Bernardino meridian, was conveyed by the United States to Harry M. Miller by Patent recorded August 13, 1923, in book 2511 at page 336, Official Records of Los Angeles County as to a portion thereof, and the remainder to Herbert Colbeck by Patent recorded December 4, 1923, in book 2883 at page 144, Official Records of said county; and

(b) The south one-half of section 16 and section 17 of said township and range are now part of the Angeles National Forest. A question has arisen as to the true location of the common boundary of the Angeles National Forest and the private lands in said section 16; and

(c) The section corners and quarter-corners of said section 16 were established by the United States government surveyors and depicted upon the official plats of said township approved by the United States Surveyor General on April 24, 1905, and December 4, 1917; and

(d) The southeast, northeast, and northwest corners and the north and east quarter-corners have been recovered; however, the southwest corner and the south and west quarter-corners of said section 16 have been thoroughly searched for on several occasions by both public and private surveyors without success; and

(e) The Los Angeles County surveyor, while running the boundary of the Angeles National Forest in 1933, being unable to find the original west quarter-corner of said section 16, set a monument marked "County Surveyor's Monument Forest Reserve Cor. R.E. 62 J-249-FB", at the thoretically correct location of said west quarter-corner to wit: one-half mile south of the found northwest corner and one mile west of the found east quarter-corner of said section 16; and

(f) Numerous surveyors and private parties have accepted said county surveyor's monument marked "Forest Reserve Corner" for the past forty years as the true west quarter-corner of said section 16 and have subdivided, resubdivided, and improved such private lands by constructing houses, roads, well, utilities and pipelines within the north half of said section in relation thereto; and

(g) There are currently numerous parcels of land in private ownership within the north half of said section 16, the boundaries of which would be seriously disrupted should the west quarter-corner of said section be reestablished in any location other than that of the 1933 county surveyor's monument marked "Forest Reserve Corner".

SEC. 2. (a) In order to dispel any uncertainty and to insure that the boundaries of said private land not be needlessly disrupted, it is hereby found and declared that the 1933 county surveyor's monument marked "County Surveyor's Monument Forest Reserve Cor. R.E. 62 J-249-FB", which was set at a point one-half mile south of the northwest corner and one mile west of the east quarter-corner of said section 16, as said corners and monument are shown on the county surveyor's map B-745 on file in the Office of the County Engineer of the County of Los Angeles, is at the true location of said west quarter-corner as originally set by the Government Land Office Surveyor in 1912 and depicted upon the plat of township 4 north, range 10 west, San Bernardino meridian, approved December 4, 1917.

(b) It is further found and declared that the south line of the north half of said section is a line connecting the east and west quarter-corners hereinabove mentioned and that the center quarter-corner of said section is located at the midpoint of the south line of the north half of said section 16 as hereinabove established.●

By Mr. NELSON (for himself, Mr. CULVER, Mr. NUNN, Mr. BAUCUS, Mr. WEICKER, Mr. HATCH, and Mr. PRESSLER):

S. 793. A bill to amend the Small Business Act; to the Select Committee on Small Business.

SMALL BUSINESS LOAN REFORM ACT OF 1979

Mr. NELSON. Mr. President, in behalf of myself, Mr. CULVER, Mr. NUNN, Mr. BAUCUS, Mr. WEICKER, Mr. HATCH, and Mr. PRESSLER, I introduce for appropriate reference a bill to be known as the Small Business Loan Reform Act of 1979.

When fully implemented this legislation will, by even conservative estimates, cut at least 1,000 Federal employees and reduce by $500 million annually the costs of running the Small Business Administration because of reduced personnel costs, increased collections, and reduced subsidy to the program.

This bill will eliminate the need for any SBA personnel to duplicate the loan processing already done at the banks. At the same time, the legislation will result in a reduction of the SBA budget and an improvement in the efficiency of the agency's lending functions.

Since its inception 25 years ago, SBA's primary function has been to provide financial assistance to the Nation's small business community. In fiscal year 1980 the agency will be responsible for providing direct or guaranteed loans totaling over $4.2 billion. Of this amount, 92 percent or $3.9 billion will be furnished via the regular business loan program (also called the 7(a) loan program). Of the $3.9 billion in 7(a) funding, 95 percent or $3.7 billion will be disbursed by commercial banks.

Since the Small Business Committee assumed legislative jurisdiction in 1977, two SBA Administrators have publicly testified that from 66 to 80 percent, or 3,067 to 3,718 SBA personnel, are either directly or indirectly concerned with approving, monitoring, and liquidating SBA's guaranteed and direct loans. Today that loan portfolio totals over $7 billion. For fiscal year 1979, the Administration estimates that at least 61 percent of its personnel are affiliated with the financing division of the agency. Mr. President, I ask unanimous consent that a table showing the allocation of the authorized personnel of the agency for fiscal year 1979 be printed at the end of my remarks.

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

(See exhibit 1.)

Mr. NELSON. We should be relying more heavily on the expertise and experience of the financial community to provide assistance to our Nation's 14 million small businesses. In my own State of Wisconsin, for example, there are only 3 SBA offices, compared to 632 banks and hundreds of other financial institutions in every town in the State. The current SBA procedure imposes delays and increased paperwork on potential borrowers and the Government. Under my proposal, SBA will be able to significantly reduce these impediments, while at the same time getting rid of an unnecessary level of bureaucracy.

Based on these statistics, it can be demonstrated that the regular business loan program costs can be significantly reduced if the private sector is made responsible for making all credit, loan monitoring, collection, and liquidation decisions.

Making the private sector at the local level responsible for administering SBA's major loan activity also reflects the Senate Small Business Committee's and my continuing efforts to more clearly define SBA's mission and streamline the

agency's programs to make them more cost-effective, and more efficient.

Now is the time to encourage SBA to do work they are best equipped to do, such as advocacy and economic research.

The Small Business Loan Reform Act of 1979 would shift day-to-day responsibility for administering the small business loan program from SBA to banks and other private lending institutions.

Under this new program small business would certainly benefit through superior financial assistance without Government redtape, regulations, or delays.

Simply, the Small Business Loan Reform Act of 1979 greatly simplifies the manner in which small business concerns receive financial assistance.

SBA would certify as eligible certain financial institutions that are already regulated by Federal or State agencies and permitted to make guaranteed or insured loans to small business concerns. A financial institution may be certified to participate in this new insured program if its respective regulator verifies that the institution has the necessary expertise and commitment to make small business loans.

The regulators of the financial institutions will be looking only for general portfolio compliance; it is not expected that each loan will be "nitpicked." Instead, the regulator is to merely determine if the financial institution overall has maintained good records, adhered to SBA's size standards, collected payments, and liquidated loans in a reasonable fashion. Since the regulators already examine the financial institutions in these areas, except compliance with SBA size standards, it should not require much additional work to, at the same time, review the outstanding SBA insured loans in the financial institution's portfolio.

If, in the course of one of the routine audits the report made on one of these financial institutions is unfavorable, SBA can decertify the institution.

If the certified financial institution experiences losses above a predetermined level set by SBA, it can also be decertified, until such time as SBA is satisfied that the financial institution's performance has improved. In fact, bankers have told the committee staff that they might be tempted in some cases not to submit some claims to SBA in order to keep their loss experience down.

SBA is currently undertaking an in-depth, sophisticated actuarial study, expected to be completed by September of this year, to determine what type of loss experience can be anticipated. National averages show that banks presently have less than a 0.5-percent loss experience for regular commercial and industrial loans. SBA's guaranteed loans have been experiencing losses of between 7 and 10 percent. The SBA actuarial figure should be higher than 0.5 percent, but considerably lower than the 10-percent levels because of the low recoveries made when the agency is faced with a delinquency or is forced to liquidate a loan.

Once a financial institution is certified to participate in the program, it will be able to make loans to small concerns without SBA interference. Response time to the firm will be greatly shortened and both the borrower and the lender will be freed from the chore of filing numerous and lengthy SBA forms. Now, separate, distinct, confusing and cumbersome SBA criteria must be followed. In fact, even after an institution currently follows the SBA criteria, the agency will often impose additional conditions before it will agree to guarantee a loan. These standards and procedures now act as such a disincentive that fewer than 5 percent of the Nation's banks regularly participate in SBA's existing guaranteed loan program.

Once certified, the financial institution can make up to a 90-percent insured small business loan without prior SBA approval. Loans made must meet certain tests such as is credit on similar terms from any other source. Also terms may not exceed 10 years, and the borrower must be a small business as defined by SBA size standards. In effect, financial institutions would make its small business insured loan on a basis very similar, if not identical to, that of its regular commercial or industrial loan, except that it would involve a lower element of risk on its part.

The total amount of small business loans that could be outstanding in one institution would be determined by an easily determined formula such as a percentage of the institution's total assets.

At the time the loan is closed, the institution would pay to SBA an insurance fee. The amount of the fee would be determined actuarially to cover all anticipated future loan losses. With the program self-liquidating, no additional appropriations for the SBA's revolving fund will be necessary. The institution would be required to file only a single abbreviated report with SBA giving the name, address, SIC identification number and size of the borrower, and the terms, costs, and identification number of the loan.

One of the most important features of the bill is the requirement that all monitoring, collection, and liquidation functions be carried out by the certified financial institution. These duties are now performed by hundreds of SBA employees nationwide under the existing loan program. If there is a default on a loan under the new program, the financial institution must exhaust its collection and liquidation remedies before it can submit a claim on a loss to SBA. Of course, if there is evidence of fraud or misrepresentation by either the borrower or the institution, SBA retains both civil and criminal resource against either party.

If the institution so elects, it can sell the insured portion of the loan in the "secondary market," just as it now does, thereby giving the institution instant liquidity. The insured portion of the loan would still be treated in the same manner as a Government security, and would bear the full faith and credit guarantee of the U.S. Government. The secondary market will continue to function as it does now and a holder in due course will continue to be paid immediately in the event of default. However, even though the certified lender has sold off the insured portion of the loan, it is still obligated to liquidate the loan and try to recoup any losses. If the lender does not liquidate in good faith, it is again subject to losing its certification.

Currently, SBA has a regular business loan interest ceiling that is theoretically designed to protect the small business concern. But in times of tight money such a provision actually works to the small business concern's disadvantage because the ceiling is often pegged at or below prime rate. Since the institution's cost of money dictates that the cost of a small business loan has to be higher than permitted by SBA, institutions frequently refuse to make small business loans, even with the incentive given the bank by the SBA's 90-percent guarantee under the current program. Under this legislation, there will not be any statutorily imposed interest ceiling. Rather, we expect the marketplace to set the interest rates on these loans, just like it does under the regular commercial loans.

It is my belief that it will also be economical for small financial institutions to participate in the new program, as well.

But it is expected that many medium- to large-sized financial institutions will package and service loans on behalf of their correspondent or other related institutions.

Finally, the existing section 7(a) program will be terminated on October 1, 1981. This will provide enough time to acquaint the financial community with the features of the new program and certify a substantial number of institutions. During this transition period guaranteed loans under the existing program will continue to be made to satisfy the financial needs of the small business sector. The new provision, however, will become effective immediately upon enactment to allow the agency to begin certifying firms.

Within 4 years, the Federal Government should begin to fully realize the financial benefits of replacing the 7(a) program with this new program. Historically most SBA loans have gone into default in the third or fourth year—if they are going to go into default at all. Beginning in the fourth year, SBA can begin to significantly reduce its personnel requirements because it will be well along in the process of liquidating those 7(a) loans that will go in default.

Likewise, appropriations needed to repay guaranteed loan losses should fall off sharply after that time because 7(a) losses will have already largely shown up.

Mr. President, this is significant legislation which would radically affect the major portion of the Small Business Administration's activity. I am convinced that this legislation is conceptually correct, and many bankers and Federal officials, including top managers in the Small Business Administration, agree on the approach in this proposal.

This bill, however, is intended to serve as a focus for discussion so that interested parties may express their views on how the proposed legislation can be improved. Some questions undoubtedly will be left unanswered by this draft, and there are significant policy decisions which the Small Business Committee and the Congress will need to address. Nevertheless, this legislation should provide a suffi-

ciently detailed basis from which constructive recommendations can be incorporated. As chairman of the Senate Small Business Committee, I intend to move as expeditiously as possible on this measure, and will schedule hearings on this proposal shortly. The committee would welcome any suggestions on how this legislation may be improved.

Mr. President, I ask unanimous consent that the text of the Small Business Loan Reform Act of 1979 be printed in the RECORD, as well.

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

S. 793

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 "Small Business Loan Reform Act of 1979".

SEC. 2. The Small Business Act is amended by inserting the following new section:

"SEC. 40. (a) The Administration is empowered to guarantee or insure loans to small business concerns made in cooperation with financial institutions, including but not limited to, banks regulated by the Federal Government, other regulated lending institutions and small business lending companies. Such loans shall be subject to the following restrictions and limitations:

"(1) No loan shall be extended if financial assistance is otherwise available on comparable terms from non-Federal sources.

"(2) No loan shall be guaranteed or insured in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

"(3) No loan including renewals and extensions shall be made for a period exceeding ten years, except that such portion of a loan made for the purpose of acquiring real property in connection with constructing or rehabilitating residential or commercial property may have a maturity of twenty years plus such additional period as may be required to complete such construction or rehabilitation.

"(b)(1) A financial institution may make loans under authority of this section only if it has been certified to participate by the Administration. Such certification shall be issued if the financial institution meets published criteria that the Administration has developed in cooperation with appropriate regulatory agencies. Such criteria shall only take into account whether the financial institution is in satisfactory regulatory compliance and has the necessary expertise to make loans that are of such sound value or so secured as reasonably to assure repayment.

"(2) The Administration shall be advised as to whether the certification criteria has been met (a) for insured State nonmember banks (except District banks) by the Federal Deposit Insurance Corporation, (b) for insured national banks and insured District banks, by the Comptroller of the Currency, (c) for insured State member banks, by the Board of Governors of the Federal Reserve System, (d) for all other regulated financial institutions (except small business lending companies) by the appropriate Federal or State regulatory entity, and (e) for small business lending companies, by the Administration.

"(c) Loans made under authority of this section shall not be subject to any Federal or State constitution, statute, court decree, common law, or rule or public policy limiting the amount of interest which may be charged, taken, received or reserved, or the manner of calculating such interest (including but not limited to prohibitions against the charging of interest on interest).

"(d) A small business concern receiving a loan under authority of this section may be charged a loan processing fee provided such fee reasonably reflects the necessary expenses incurred in processing the loan and is not based on a fixed per centum of the dollar value of the loan.

"(e) 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 this section.

"(f) Financial institutions qualifying to make loans under authority of this section shall pay to the Administration a guarantee fee or insurance premiums which is based on sound actuarial projections of anticipated loan amounts that will not be repaid.

"(g) Financial institutions qualifying to make loans under authority of this section shall be responsible for all loan administration functions, including size determination of the small business concern, credit analysis, loan monitoring, and loan collection and liquidation.

"(h) The Administration shall reimburse a financial institution qualifying to make loans under authority of this section for that portion of a guaranteed or insured loan which has not been repaid provided that the Administration is satisfied that the bank or financial institution has made a good faith effort according to commonly accepted banking and lending institution practices to recover all unpaid amounts.

"(i) The appropriate regulatory entity shall in the course of its routine examination or audit, review an appropriate number of outstanding loans made under authority of this section by any financial institution (except for small business lending companies which shall be examined annually by the Administration) qualifying under this section to determine if commonly-accepted lending practices have been followed in making, monitoring, collecting and liquidating such loans. The findings of this review shall be forwarded to the Administration.

"(j) The Administration may revoke its certification of a financial institution if:

"(1) the Administration receives an unsatisfactory report from the appropriate regulatory entity and the Administration determines that the conduct of the financial institution constitutes an abuse of the delegated guarantee or insurance authority, or

"(2) losses rise above a certain fixed per centum as determined by the Administration.

"(k)(1) The Administration shall promulgate only those regulations and criteria that are absolutely necessary to implement the program described in this section. Such regulations and criteria shall be consistent with and nonduplicative of regulations and criteria promulgated by other Federal and State regulatory entities and shall be written in a clear and concise manner.

"(2) A financial institution qualifying under this section shall file only one report with the Administration after the closing of a loan made under authority of this section which provides the name, size, four digit standard industrial classification code and address of the borrower, the amount, costs and term of the loan and a distinctive identification loan number. All other information needed for compliance purposes shall be retained in appropriate form by the financial institution and shall be subject to review by the appropriate regulatory entity described in subsection (b) in the course of its routine examination or audit of the financial institution.

"(3) The Administration may only require a small business concern receiving a loan under authority of this section to certify that it is a small business and that it will not violate the provisions of Title 6 of the Civil Rights Act of 1964, as amended.

"(l) The Administration shall administer this program on a prudent and economically justifiable basis and shall fix a uniform annual fee which it deems reasonable and necessary for any guarantee or insurance issued under this section. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration shall also fix such uniform fees for the processing of applications for guarantees or insurance under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. Any guarantee or insurance under this section shall obligate the financial institution to pay the Administration such portions of the fee as the Administration determines to be reasonable in the light of the relative risks and costs involved.

"(m) There is hereby created within the Treasury a separate fund for guarantees or insurance which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purposes of this section. All amounts received by the Administration shall be deposited in the fund. All expenses and payments, excluding administrative expenses, pursuant to operations of the Administration under this section shall be paid from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this section may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.".

SEC. 3. Effective October 1, 1981, Section 7(a) of the Small Business Act is amended by:

(a) striking the phrase "and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis." and inserting in lieu thereof "and such loans may be made directly.";

(b) striking subparagraphs (2) and (3) in their entirety; and

(c) striking subparagraph (4)(A) and inserting in lieu thereof "(A) no loan made or effected under this subsection shall exceed $350,000.".

EXHIBIT 1

ALLOCATION OF FISCAL YEAR 1979 AUTHORIZED POSITIONS WITHOUT DLM

	Percentage	Positions		
		Total	Direct	Indirect
Finance and investment	61	2,824	1,869	955
Loan processing		851	563	288
Loan servicing		1,532	1,014	518
Neighborhood revitalization		26	17	9
Investment company assistant		54	36	18
Special guarantees		86	57	29
Program support[1]		275	182	93
Management assistance	17	900	534	266
Procurement assistance	15	686	451	235
Minority small business	5	147	169	78
Advocacy and public communications	2	91	60	31
Total major program activities	100	4,648	3,083	1,565
Percent of direct and indirect to total		100	66	34

[1] In the event that any one of the F. & I. related activities were eliminated, an adjustment to program support would have to be made.

● Mr. NUNN. Mr. President, I am pleased to join the chairman of the Senate Select Committee on Small Business (Mr. NELSON) and others in introducing the Small Business Loan Reform Act of 1979.

It is imperative that the committee address the very nature and scope of the largest activity in the Small Business Administration, the regular business loan program. However, while I believe the concept of shifting from the current guarantee to an insurance-type program may have merit, this particular legislation also makes major policy changes that the committee will need to carefully evaluate. The chairman has indicated his intention to hold extensive hearings on this significant shift in the agency's largest program.

Mr. President, I am interested in developing a procedure to make needed Federal financing available to small business in the most beneficial and least complex manner. This proposal may well accomplish that goal. The committee certainly has the expertise and resources available to it to assist in making that decision, and I believe that this measure will provide a good basis for an indepth examination of this issue.●

● Mr. WEICKER. Mr. President, I am pleased to join with my colleague, the distinguished Senator from Wisconsin, Mr. NELSON, in introducing the Small Business Loan Reform Act of 1979. This legislation will have a significant positive impact on the operations of the Small Business Administration and the level of assistance which it provides to this Nation's small business community.

When the Small Business Administration was established in 1953 its mandate was to "Aid, counsel, assist and protect . . . the interest of small business concerns in order to preserve free competitive enterprise." In pursuit of these goals, programs were established and administered by the SBA in a number of areas: management assistance, procurement assistance, minority business; but the largest, most time consuming, most expensive, and, in many respects, most successful of SBA's programs has been the business loan program. The business loan program was established to augment available sources of financing to small businesses, providing many businesses with financing that would not have otherwise been available through the private sector. Conservative estimates indicate that at least 50 percent of SBA personnel are currently involved in the placement or administration of loans.

Too often in our zealousness to provide much needed services we overlook the most efficient and effective means for delivering those services.

This has been the case with the SBA's loan programs.

No one questions the tremendous need for Government support of small business loans. Financing represents one of, if not the, major problem faced by small businesses in this country today. Though SBA's loan programs have aided many businesses in developing and becoming viable enterprises in our economy, the present program is costly, both in level of defaults and in resources applied to loan administration. In addition, other important SBA programs, such as management and procurement assistance, minority business and advocacy have taken a back seat to the loan program because of the tremendous strain this program places on the agency's resources.

The Small Business Loan Reform Act of 1979 is designed to correct many of the problems currently encountered in the administration of SBA loans. This proposal will simplify the process of securing small business loans by reducing Government interference. This legislation will achieve these results with a lower cost to the American taxpayer.

The Small Business Loan Reform Act of 1979 would establish a program of SBA insured or guaranteed loans very different from the program currently in existence. The goal of the act is to eventually replace all guaranteed loans currently administered under the authority of section 7(a) of the Small Business Act with an actuarially sound loan insurance program. The act would transfer responsibility for administration and liquidation of the loans from the SBA to the private sector lender. This lender, having been certified to participate in the program by SBA, would not have to seek prior approval for each loan from the agency, which is the current practice. Each private sector lender would pay an "insurance premium" to the SBA for each loan extended under this program. The proceeds from premiums paid would be used to cover any default on a loan which is insured by SBA. SBA would guarantee payment of 90 percent of any loss the lender incurs as the result of any default on an insured loan.

This legislation would not replace the direct loan program currently being administered by the SBA under section 7(a). It is not our intention to deny assistance to any business which currently qualifies for assistance from SBA. There are many businesses which must rely on the SBA for direct financial assistance, especially new concerns which have not developed a credit rating. Under this legislation that type of direct assistance will still be available.

If this legislation is enacted, we can hopefully expect that SBA personnel could be cut by 45 percent and Government spending cut by $5.5 billion over a 10-year period. We also can expect a higher level of bank participation in the loan insurance program than we currently see in SBA's loan guarantee program.

The proposal we offer today provides the framework for delivery of financial assistance to the 10 million small businesses in this country. I do emphasize, however, that this legislation is only a framework. In the course of the next few months we will be soliciting comments on the proposal from small businessmen, private sector lenders, and Government agencies. It is our hope that this proposal will focus congressional attention on the future direction of the Small Business Administration. I welcome this scrutiny and evaluation.

It is our hope that the review process will lead to a more efficient use of our Government resources. Clearly such a constructive exercise is preferable to the "meat-ax" approach to government which is characterized by the proposition 13 and balanced budget mentality.●

● Mr. HATCH. Mr. President, I am delighted to join with the chairman of the Select Committee on Small Business, Senator NELSON, in cosponsoring the Small Business Loan Reform Act of 1979.

For over 25 years, the Small Business Administration has provided essential assistance and advocacy for small business needs. Assistance in this next fiscal year will provide direct or guaranteed loans of nearly $4 billion under the 7(a) loan program. SBA Administrators have recently testified that from 66 percent to 80 percent (between 3,000 and 3,700) of SBA personnel are directly or indirectly involved in approving, servicing, or terminating outstanding 7(a) loans. The time has come to benefit from the significant cost savings possible by transferring SBA's loan portfolio to the more efficient private sector.

The bill will permit the SBA to certify qualified financial institutions to participate in credit, servicing, collection and liquidation decisions, rather than mere funds disbursement. Once certified, the institution is free from SBA interference, as long as specified guidelines are followed. Guideline compliance will be routinely monitored by those regulators (FDIC, Comptroller of the Currency, or the Federal Reserve Board) which regularly examine the loan portfolios of their member banks.

Mr. President, the effects of this legislation are delightfully pro-free enterprise. This bill will eliminate 2,000 Government jobs and create an equal market in the private sector. An estimated average of at least $560 million in Federal expenditures will be saved each year. Finally, our small business sector will be the recipient of superior private financial assistance without red-tape, regulations, and delay.●

● Mr. PRESSLER. Mr. President, today, with several of my colleagues, I am cosponsoring a bill to sunset the Small Business Administration's regular business guarantee loan program. That program would be replaced with an insured loan program which would be administered independently by SBA certified financial institutions.

The Small Business Administration has come under increasing criticism in the last few years. The number of small businesses that the SBA deals with has grown tremendously, while the number of SBA staff positions has remained the same. Two SBA administrators have testified that from 66 to 80 percent—or 3,067 to 3,718—SBA personnel are either directly or indirectly involved with approving, monitoring, and liquidating SBA's guaranteed and direct loans. If these people are freed of this responsibility, they can focus their energies on advocacy, management, technology, procurement assistance, economic research and analysis, where they are badly needed.

At the same time, small businessmen

would benefit greatly from superior financial assistance free of Government redtape, regulations, and delay.

The small businessmen of our Nation face constant survival problems. This is epecially true of small newspapers. My work with the House Committee on Small Business has made me keenly aware and concerned about the difficulty that small newspapers have just staying in business. Because of this, many small newspapers have been forced to sell out to conglomerates: They simply could not afford to stay in business.

Constitutional restraints, Mr. President, have prevented the Small Business Administration from making loans to newspapers in the past. But the Small Business Loan Reform Act of 1979 would remedy that problem.

Because the SBA would be turning over its decisionmaking authority to the private sector, the Government would no longer be involved in making choice. Because of this, newspapers would be eligible for loan assistance through the SBA, and its first amendment rights would not be in jeopardy.

I urge my colleagues to study this legislation carefully. Keep in mind, though, that this legislation is only a framework, a place to begin. I would be very happy to hear suggestions to make it more workable, as long as the basic premise remains the same.

We cannot forget that small businesses are necessary for the continuation of our free enterprise system.

Corporation ownership of the news media cannot be healthy for a free America: It would be detrimental to limit our news sources to such extremes.

When the same conglomerates control input into our television news, radio news, and newspapers, the ideas that are being generated are limited to the thoughts of only a few.

If small newspapers become eligible for loan assistance through the SBA, there would be a fighting chance.

For that reason, I ask careful consideration of this very important legislation. It can mean a great deal to the survivability of small newspapers and small business everywhere.●

By Mr. LEVIN (for himself, Mr. PERCY, Mr. CHILES, Mr. JACKSON, Mr. COHEN, Mr. RIEGLE, Mr. BURDICK, Mr. MELCHER, Mr. PELL, Mr. HATFIELD, and Mr. NELSON):

S. 794. A bill to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service; to the Committee on Governmental Affairs.

POSTAL SUPERVISOR ARBITRATION ACT

Mr. LEVIN. Mr. President, today I am introducing with Senators PERCY, CHILES, JACKSON, COHEN, RIEGLE, BURDICK, MELCHER, PELL, NELSON, and HATFIELD the postal supervisor arbitration bill.

The Postal Reorganization Act of 1970 provided for a process of "consultation" between the top management of the U.S. Postal Service and a "recognized organization of postal supervisory employees." The consultation was to allow the supervisory employees to participate directly "in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory employees."

The Senate report on the Postal Reorganization Act stated clearly that—

> Employees in the lower levels of supervision and administration in the postal service are not sufficiently separated from the nature of employment of those whom they supervise to justify withholding from them some degree of active representation in the development of employment programs which affect and, in fact, control their livelihood.

The consultation program which was designed to give the supervisory employees that "degree of active representation" has not been functioning as it should. The employees organization has often been required to go to court to enforce the consultation rights granted by the 1970 act. Courts have three times ruled in favor of the employee organization; in one instance, the organization and the Postal Service settled out of court. This bill seeks to make the consultation program work as it was intended originally. The bill would not provide for collective bargaining rights but simply allow for the smoother operation of the consultation procedure which was established by the 1970 act.

The House Post Office and Civil Service Committee in House Report No. 95–567 estimated that the cost of such an arbitration system would be $50,000 in the first year, $33,000 in the second year and $10,000 in each of the next 3 years. While these figures are estimates, they are substantially less than the costs of current litigation. The cost of the system would be shared equally by the Postal Service and the employee organization.

The introduction of this bill is an effort to make real the consultation rights granted to the postal supervisors by the Postal Reorganization Act of 1970. This issue is not new to the Senate or to the Congress. This legislation has been refined since its initial introduction in the 94th Congress. I would expect that it will be subject to additional refining as it is considered by the Senate through the Committee on Government Affairs and hopefully by the full Senate.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1004 of title 39, United States Code, is amended by adding at the end thereof the following subsections:

"(c)(1) If the Postmaster General and an organization of supervisors and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to agree, within 60 days after the organization submits a written notice to the Postal Service, upon a program for consultation or a plan to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters), either party shall have the right to refer the matter to an arbitration board established under the provisions of subsection (d) of this section.

"(2) If the Postmaster General and an organization of supervisors and other managerial employees (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to agree with respect to pay policies and schedules, fringe benefit programs, and other programs related to such employees, which affect all or a substantial portion of such personnel on a long-term or permanent basis, after participating directly in the planning and development thereof, either party, upon a 30-day written notice, may refer the dispute to an arbitration board established under the provisions of subsection (d) of this section.

"(3) If the Postmaster General and an organization of supervisors and other managerial employees (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to reach an agreement as to whether or not a particular issue is subject to consultation or direct participation under this section, either party, upon a 30-day written notice, may refer the issue to an arbitration board established under the provisions of subsection (d) of this section.

"(4) An organization of supervisors and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section, shall have the exclusive right to invoke the arbitration provisions of subsection (d) of this section on behalf of such employees.

"(d)(1) An arbitration board shall be established to consider and decide a dispute arising under subsection (c) of this section and shall consist of three members, one of whom shall be selected by the Postal Service, one by the recognized organization, and the third by the two thus selected. If either of the parties fails to select a member, or if the member chosen by the parties fails to agree on the third person within 5 days after their first meeting, the selection shall be made by the Director of the Federal Mediation and Conciliation Service.

"(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representative as they may elect. Decisions by the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

"(3) Costs of the arbitration board shall be shared equally by the Postal Service and the recognized organization.".

By Mr. MAGNUSON (for himself, Mr. LEAHY, Mr. JACKSON, Mr. HEINZ, Mr. MELCHER, Mr. MCGOVERN, Mr. STEVENS, Mr. NELSON, Mr. PELL, Mr. MATSUNAGA, Mr. WILLIAMS, Mr. SARBANES, Mr. PRESSLER, Mr. BRADLEY, Mr. HATFIELD, Mr. MOYNIHAN, Mr. CULVER, and Mr. RIEGLE):

S. 795. A bill to establish a Federal policy concerning protection of certain

agricultural land; to provide for a land review study by the Secretary of Agriculture; to establish a research and pilot project program relating to methods of protecting certain agricultural land from being used for nonagricultural purposes; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARMLAND PROTECTION ACT

Mr. MAGNUSON. Mr. President, I rise today to introduce a bill designed to preserve and protect this Nation's agricultural farmlands.

As you know, I introduced a bill with a similar purpose in the last session of the 95th Congress. But this bill—the Farmlands Protection Act—is more modest; it is a more realistic reflection of the limits imposed on Government by the times. And, I think, it more directly addresses the central purpose of farmlands legislation: To get our Federal house in order.

This is not Federal land use planning. This is not another example of the Federal Government intruding into the lives of citizens. It is, instead, the establishment of a national policy of retaining and protecting our agricultural land, and it is insurance that all activities of the Federal Government are in harmony with this policy.

The bill is also designed to assist States, counties, and other local governments in their efforts to reduce the amount of farmland being lost to nonagricultural uses. There are strict limitations built into the legislation which prevent the Federal Government from regulating the use of private land or depriving landowners of their property rights. Moreover, the bill does not diminish in any way the rights and responsibilities of the States, and the political subdivisions of the States.

The impetus, the direction, the talent, and the resources must come from the local level, from the people most directly affected by the alarming reduction in our food-producing resource. Under the bill, the Federal Government is there merely to provide technical assistance, and to assist in a few, modest demonstration projects designed to test out various methods of farmland preservation. And most importantly, the legislation is there to insure that activities at the Federal level do not work at cross-purpose with local efforts.

That there is an urgent need for a coordinated undertaking cannot be doubted.

The Soil Conservation Service in the Department of Agriculture estimates that up to 3 million acres of rural land are converted each year to uses that preclude agriculture. Another 1 to 2 million acres a year are becoming uneconomical for agricultural uses because of surrounding urban development.

This decrease in farmland threatens the ability of the United States to produce enough food to meet domestic needs and to help supply food for the rest of the world. This is all the more alarming given the fact that this Nation can no longer rely in technological innovations to increase the agricultural yield on a smaller and smaller amount of land.

Increases in farm production cannot be reliably projected because of changing weather patterns, soil erosion, competition for water, and increased costs of fuels and fertilizers.

The loss of agricultural land has been especially severe near our urban areas. This is a tragedy, because urban agricultural farmlands are a unique resource.

Their loss means an ever-increasing dependency on energy-intensive mechanized farming, with its expensive use of irrigated lands and its high cost associated with long-haul transportation.

Preserving a green belt of farmlands around our urban areas would insure a fresh supply of agricultural products to our city dwellers at a price they can afford.

It would continue to separate the rapidly expanding developed areas with expanses of open, unfettered land, enhancing the natural beauty and the quality of life for everyone.

And it would preserve a rapidly disappearing way of life, by insuring an opportunity for citizens to earn their living on farms, to pass their lands and their heritage on to their children. Having those fertile, green acres producing fruits and vegetables is both an economic and aesthetic asset for everyone.

Unfortunately, State and local governments in many cases do not have the information or the resources necessary to develop programs to protect their farmland. Without some Federal assistance, in the form of research, technical information and some matching funds, the States and local units of government will lose precious farmland as pressures on farmers to sell their land to housing and industrial development increase.

To protect farmland, the Federal Government must work with the States and local governments, not against them.

That is why, Mr. President, I rise today to introduce the Farmland Protection Act. For the United States does not have a very good history of coordinating its agricultural lands policy. Many times the issuing of permits, the making of grants or loans for industrial or home development, for new highways, or powerlines actually works to cover up, to pave over, or to divide precious farmland.

This act would attempt to bring governmental actions into harmony with State and local efforts to protect farmland.

Under the bill, Federal agencies are directed to establish procedures to consider the effects of major Federal actions on agricultural land to assure that those actions do not cause the irreversible loss of farmland—unless other national interests override the importance of preservation.

A key provision requires Federal agencies to conduct programs and regulatory activities in a manner that is consistent with farmland protection programs established by State or local governments.

The act directs the Secretary of Agriculture to launch a 3½-year study of our agricultural lands, their quantity, quality, location, ownership, and financing. The study would address how agricultural land and its use fits into the fabric of our national life, how it relates to the concerns of energy, economy, urban growth and development, foreign relations and trade, and humanitarian aid.

It must be noted, however, that last year in the Appropriations Committee we directed the Department of Agriculture to begin a study of this sort.

The Secretary of Agriculture, Mr. Bob Bergland and the Chairman of the President's Council on Environmental Quality, Mr. Charles Warren, are currently working with other members of the administration to establish the President's Study Commission on Agricultural Land Retention. I want to applaud the administration for its cooperation and farsighted efforts in this area. At this point, I want to make it clear that as soon as the President's Study Committee on Agricultural Land Retention is established I will consider dropping from this bill the provision which directs the administration study, so as to avoid duplication.

This bill is an attempt to back up the policies of the administration, not to compete with them.

The bill would allow local governments to apply for Federal matching funds to conduct demonstration programs testing the newest and most innovative programs for preserving our agricultural lands. This is a modest provision—$49 million over 3 years, and it is strictly limited so that there shall be no funds for more than three projects that acquire interests in land. In addition, the Federal share shall not exceed 25 percent of the total cost of a project, and no demonstration program shall receive more than 15 percent of the total annual appropriation. Some $500,000 is authorized in fiscal year 1983 for an analysis of the demonstration programs.

With this limited approach, we have working projects in the field running coextensively without farmland review study. The empirical data gathered from these projects will be invaluable in obtaining an accurate picture of the problem, and of the best ways to address it. A primary goal of the farmland study and the research projects is to provide State and local officials with useful information for their decisions regarding farmland protection.

To further assist State and local governments, the bill directs the Soil Conservation Service of the Department of Agriculture to provide technical assistance and information concerning methods of protecting farmland, upon request from State and local governments. This provision also authorizes financial assistance to State and local governments to select and develop farmland protection programs. Under this section, State and local governments could apply for up to 25 percent of the cost of preparing their programs.

I should say, Mr. President, that in my home State of Washington, King County has been a pioneer in the preservation of urban, agricultural land. It has been so out of necessity.

In the last three decades, King County has watched its farmlands vanish. Between 1945 and 1974, the number of farms in the county declined from 6,500 to less than 1,400. During that same

period, some 100,000 acres of farmland were lost to development.

Now a proposal is under consideration that would put a halt to the wholesale liquidation of King County farms. It is being proposed and managed by a bipartisan coalition, headed by King County Executive John Spellman, and County Council Member Bernice Stern. Their work in this field has taken great courage, intelligence, and foresight.

I would hope that Congress would provide the leadership at the national level to work in cooperation with those people at the local level who have made a commitment to preserve our landed heritage.

In summary, Mr. President, it is imperative to provide adequate and affordable food supplies for domestic consumption; to provide adequate supplies for exportation, which would offset the rising cost of imported oil and other foreign products, and to insure a stable agricultural economy in the United States.

By approving this act, Congress would recognize the importance of such preservation to the economy, to the quality of the environment, to human health and welfare, and to the position of the United States as an international leader in food production.

In closing, Mr. President, I believe that we should heed the words of my dear friend, Franklin Delano Roosevelt, who noted that—

> The history of every nation is eventually written in the way in which it cares for its soil.

Mr. LEAHY. Mr. President, I am very pleased and encouraged to join with my colleagues today in introducing the Farmland Protection Act. We have set partisan differences aside to address a very serious problem which threatens the bedrock of this Nation's economy and culture. The problem is, of course, the conversion of farmland to nonagricultural purposes.

It is very disturbing that our Nation is losing 2 to 3 million acres of agricultural land every year. This means that 10 square miles of farmland are lost every day. This loss of agricultural land is occurring at alarming rates in every State. In my home State of Vermont, nearly 200 acres of farmland are lost every day, 73,000 acres were lost just last year. At that rate, there will be no farms left in Vermont by the year 2000. If that were to occur, imagine the irony and shame of the most rural State in the country having absolutely no farmland.

The loss of American farms is very disturbing, however, what is even more distressing is that Federal laws and regulations are directly contributing to and responsible for much of the problem. Federal programs and projects are needlessly causing countless thousands of acres of farmland to be taken out of agriculture. I say needlessly because, in many instances, that farmland could have been saved if the preservation of farmland had been taken into serious consideration before those Federal projects were carried out. Farmland could have been preserved without incurring higher Federal costs or limiting any Federal projects.

Mr. President, farmland is so critical to the welfare of this Nation that we should have sound data on various aspects of that land. This information is needed if we are going to make rational and informed decisions as to Federal actions affecting farmland. This legislation would provide that information.

Furthermore, information on U.S. farmland should be available to State and local governments who desire it. This legislation provides that information dispersion service through the Soil Conservation Service of the USDA.

This Nation desperately needs a farmland preservation policy, a policy that would check Federal actions which bring about the loss of farmland. This legislation provides that policy. It is a policy which would mandate that farmland preservation receive serious consideration whenever Federal laws and regulations are promulgated and implemented or Federal programs administered.

It is important to emphasize that this legislation would in no way usurp or limit the sovereign rights of States and individuals over their land. This bill recognizes, respects and protects those rights.

Mr. President, many State and local governments are very interested in establishing and designing their own programs to limit the loss of farmland in their areas. However, these ambitious programs can be incredibly expensive, especially in the initial phases. The Farmland Protection Act would help States to meet a portion of those expenses. The bill provides Federal funds for a limited number of States or locally selected and designed pilot projects to demonstrate innovative methods of preserving farmlands. No demonstration projects could be funded which were not selected and designed by the State and local governments themselves. The bill is designed to help States in their efforts to preserve farmlands, not vice versa. The bill will in no way usurp the rights of individuals, local governments, or States over their lands.

Mr. President, I cannot overemphasize the importance of the Farmland Protection Act. If there are no farms, there is no food. The legislation we present today attempts to deal with this most serious problem in a comprehensive fashion. It provides for research on the loss of farmland, it helps States and local governments in their efforts to preserve farmlands, it provides comprehensive technical assistance to areas wanting to save their farms, and most importantly, it checks Federal actions which contribute to the loss of farmland. For the good of the Nation, it is imperative that the Senate give this bill its prompt and positive attention.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the text of the bill, together with a summary, be printed in the RECORD.

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

S. 795

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 may be cited as the "Farmland Protection Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress hereby finds that—

(1) the decrease in the nation's agricultural land base threatens the ability of the United States to produce food in sufficient quantities to meet the domestic needs of the United States and to help supply the needs of the rest of the world;

(2) the extensive use of agricultural land for nonagricultural purposes in the United States undermines the economic base of many rural areas of the nation;

(3) Federal actions are important determinants in the conversion of agricultural land and often are directly responsible for the conversion of agricultural land to nonagricultural uses;

(4) many State and local governments are interested in developing innovative and effective programs to protect and maintain agricultural land for agricultural uses but lack the financial or technical resources to initiate or develop such programs;

(5) each year an alarmingly high number of acres of land (between two and three million acres), including land in and around urban areas, are being converted from actual or potential agricultural uses to nonagricultural uses;

(6) despite a history of increasing yields per acre, further increases in agricultural production will depend—

(A) upon variable and unpredictable factors such as changing weather patterns, population growth, soil erosion, air pollution, competition for and availability of water, genetic vulnerability, increased costs, and scarcities of fuels and fertilizers, and other factors; and

(B) upon the quantity, quality, location and financing of agricultural land;

(7) urban and industrial encroachment into high productive agricultural areas adversely affects agricultural yields as a result of air pollution and competition for water;

(8) agricultural lands are a unique resource and should be protected because such lands—

(A) provide fresh agricultural products for consumers at affordable prices by means of direct marketing;

(B) provide beautiful and natural scenery and physical separation between developed areas; and

(C) contribute to the quality of life urban residents enjoy;

(9) information on the quantity and location of agricultural land being converted from agricultural uses to nonagricultural uses is incomplete and, therefore, unavailable to States and units of local governments which need such information to make informed decisions concerning the utilization of agricultural land within their respective jurisdictions; and

(10) information on the types of programs that are best suited for protecting and maintaining the quantity and quality of agricultural land is also incomplete and the feasibility and effectiveness of implementing such programs needs to be studied and tested.

(b) It is, therefore, the purpose of this Act—

(1) to establish a procedure requiring Federal agencies to consider the effects of their major actions on agricultural land;

(2) to establish the following programs under the Secretary of Agriculture:

(A) a program to study the quantity, quality, location, availability, ownership, and public financing of agricultural land in the United States and to study the effect of availability of agricultural land in relation

to the national concern for other major problems including energy, the economy, the environment, urban growth and development, foreign relations and trade, and humanitarian assistance to other countries; and to report on efforts by States and localities to preserve farmlands;

(B) a research program to develop, test, and demonstrate methods of protecting and maintaining the quantity and quality of agricultural land;

(C) a program to provide technical assistance to States and units of local government concerning methods of protecting and maintaining the quantity and quality of the agricultural land within their respective jurisdictions and to provide financial assistance to such governments for the purpose of selecting and developing plans to implement methods of protecting and maintaining the quantity and quality of such land.

TITLE I—FARMLAND PROTECTION

DECLARATION OF PURPOSE

SEC. 101. It is the purpose of this title—

(1) to recognize and respect the rights and responsibilities of private landholders in making decisions with regard to the use of their land and the rights and responsibilities of State and units of local government in developing public policies regarding the use of non-Federal lands;

(2) to provide for—

(A) the management of Federal lands in a manner which requires Federal departments and agencies to consider the effects of such management have on nearby agricultural land; and

(B) the coordination of such management with the management of adjacent agricultural lands;

(3) to conduct Federal programs so that such programs contribute to the Nation's short and long range needs for protecting the natural environment and to assure adequate supplies of food, fiber, wood, water, and agricultural land.

(4) to assure that Federal actions do not cause agricultural land to be irreversibly converted to nonagricultural uses unless other national interests override the importance of preservation, or otherwise outweigh the environmental benefits derived from their protection; and

(5) to provide technical assistance and financial support for State and local programs to preserve the quantity and quality of the farmland located in State and local areas.

(6) to assist practicing farmers in protecting their land from pressures that impact on their livelihood.

POLICY

SEC. 102. (a) The Congress authorizes and directs that, to the fullest extent possible—

(1) the policies, regulations, and laws of the United States shall be interpreted and administered consistent with the policies set forth in this title; and

(2) all departments and agencies of the Federal Government shall—

(A) identify and develop methods and procedures, which will insure that presently unquantified agricultural values may be given appropriate consideration in decision-making along with economic, technical, and environmental considerations;

(B) identify the effects of any action they may undertake on agricultural lands and specify in the Federal Register what alternative proposals may be available to such action that would lessen any negative impact upon such agricultural lands;

(C) recognize the worldwide and long-range character of problems concerning agricultural land and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quantity and quality of mankind's agricultural land;

(D) make available to States, units of local government, institutions, Indian tribes, and individuals, advice and information useful in restoring, maintaining, and enhancing the quantity and quality of agricultural land;

(E) promote retention of agricultural land for agricultural purposes in any case in which conversion of any such land (A) is proposed by a Federal department or agency, (B) is licensed by, or requires the approval of, a Federal department or agency, or (C) is inconsistent with State or local government plans regarding the use of such land; and

(F) give public notice in any instance in which any Federal department or agency proposes to use or proposes to authorize the use of any agricultural land for a nonagricultural purpose and solicit the views of interested persons regarding such proposed action.

CONFORMITY OF ADMINISTRATIVE PROCEDURES

SEC. 103. All Federal departments and agencies shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this title and shall propose not later than July 1, 1980, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this title. Administrative proposals shall be published in the Federal Register and legislative proposals shall be submitted to the President.

CONFORMITY OF FEDERAL ACTIONS

SEC. 104. Each Federal department or agency conducting or supporting any activity or development project, or administering a regulatory authority affecting agricultural land in any State, shall conduct such activity or development project, or administer such regulatory authority, in a manner consistent, to the maximum extent practicable, with an agricultural land retention program established by such State or the unit of local government concerned.

TITLE II—FARMLAND REVIEW STUDY

STUDY AND REPORT

SEC. 201. (a) It shall be the duty of the Secretary of Agriculture (hereinafter in this title referred to as the "Secretary")—

(1) to develop, gather, and make available such information as may be necessary to allow States and units of local government to make informed decisions concerning agricultural land; and

(2) to conduct a comprehensive study of—

(A) the quantity, quality, location, availability, ownership, and financing of agricultural land in the United States;

(B) the relationship of such land to the supply, demand, and production of food;

(C) the relationship between the national concern for agricultural land and other national concerns (including energy, the economy, the environment, population growth, urban growth and development, foreign relations and trade, and humanitarian aid);

(D) the effects of urbanization, industrial development, and other nonagricultural activities (such as air and water pollution, soil contamination, and losses due to theft, trespassing, and vandalism) on agricultural land, including the productivity of such land;

(E) the effects of existing Federal laws and regulations on the use of agricultural land, including the productivity of such land;

(F) the effects of variable and unpredictable factors (including climate, agricultural technology, air pollution, genetic vulnerability, availability of future supplies of energy and fertilizer, and soil salinity) on productivity of agricultural land;

(G) the acquisitions of agricultural land by persons who are not engaged in farming activities in the United States (including acquisitions by agricultural land investment funds, trusts, foreign citizens or agents of foreign citizens, or other similar entities) and the effects of such acquisitions on agricultural production;

(H) the effects of competition for water between agricultural and nonagricultural users;

(I) methods of protecting and improving agricultural land, including an analysis of the relative costs and benefits of such methods; and

(J) methods of reducing the amount of argicultural land, especially in and around urban areas, being converted from agricultural uses to nonagricultural uses.

(b) Within 42 months after the effective date of this Act, the Secretary shall transmit to the President and to the Congress the results of the study conducted under subsection (a) (2) of this section. In preparing such report, the Secretary shall hold public hearings and invite public comment on such study.

(c) Such report shall include findings, conclusions, and recommendations of the Secretary concerning—

(1) Federal policies, programs, regulations, and laws which affect the quantity or quality of agricultural land in the United States;

(2) identification and coordination of activities (such as issuing permits and making grants or loans) which are being carried out by Federal departments and agencies and which affect agricultural land;

(3) methods of ensuring that major actions of the Federal Government are consistent with the retention, protection, and improvement of agricultural land; and

(4) methods of retaining, protecting, and improving the quantity and quality of agricultural land and the relative costs and benefits of such methods.

TITLE III—RESEARCH PROGRAM

DEMONSTRATION PROJECTS

SEC. 301. The Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") shall, during the three-year period beginning on the effective date of this Act, provide financial and technical assistance to States and units of local governments for the purpose of developing, demonstrating, and testing methods of reducing the quantity of agriculture land (including agricultural land in and around urban areas) being converted from agricultural uses to nonagricultural uses.

APPLICATION

SEC. 302. Any State or unit of local government interested in conducting a project, developing, demonstrating, or testing a method of reducing the quantity of agricultural land being converted from agricultural uses to nonagricultural uses may submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may, by rule, require. Such application shall, at least, contain a description of the proposed project.

APPROVAL OF APPLICATIONS

SEC. 303. (a) The Secretary shall establish and publish in the Federal Register within 4 months of the enactment of this Act, criteria for selecting applicants to receive assistance under this title. Such criteria shall give priority to applications which the Secretary is satisfied will:

(1) Provide timely and new information useful to the Secretary in carrying out his duties under this Act at a reasonable cost;

(2) provide the Secretary with a broad range of projects to study in terms of geographical locations and methods of reducing the quantity of agricultural land being converted from agricultural uses to nonagricultural uses.

(b) The Secretary may only provide assistance under this title with respect to an application—

(1) which meets the criteria established under subsection (a) of this section;

(2) which provides the Secretary with satisfactory written assurance from the applicant that the applicant has the ability to finance its share of the cost of carrying out such project and the capability of carrying out such project;

(3) which demonstrate that the applicant has agreed to—

(A) make good-faith efforts to cooperate with any Federal study on the conversion of agricultural land to nonagricultural uses.

(B) transmit to the Secretary such reports and evaluations at such times, in such form, and containing such information as the Secretary determines are necessary to carry out the purposes of this title; and

(C) provide such fiscal control and accounting procedures as the Secretary determines are necessary to assure proper disbursement and accounting of Federal funds appropriated to carry out the purposes of this title.

(c) The Secretary may provide financial assistance under this title only for projects which he determines will no longer be dependent upon Federal funds for their operation after assistance under this title has terminated. In no case may assistance be made available for any project for more than three years.

(d) The Secretary shall provide assistance under this title for a broad range of methods for reducing the quantity of agricultural land being converted to nonagricultural uses. The Secretary may provide assistance for no more than three demonstration projects that acquire an interest in land. The Secretary shall give highest priority to new techniques and methods of reducing the conversion of agricultural land to nonagricultural purposes.

AMOUNT OF ASSISTANCE

SEC. 304. (a) Subject to the provisions of subsection (b) of this section, the amount of assistance which may be provided under this title with respect to any project shall be determined by the Secretary except that in no case may such amount exceed an amount equal to 25 percent of the total cost of preparing, establishing, demonstrating, conducting, and testing such project. The remainder of such costs shall be the responsibility of the applicant and shall be provided in a manner which the Secretary determines is satisfactory. In determining the share of costs provided by the applicant, the Secretary shall include the value of services provided by the applicant in planning, preparing, and issuing reports concerning such project.

(b) Not more than 15 percent of the funds appropriated to carry out the purposes of this title in any fiscal year may be used with respect to any one project being carried out under this title during such year.

(c) In providing assistance under this title, the Secretary may make payments as the projects progress toward completion.

REPORT OF THE SECRETARY

SEC. 305. On or before September 30, 1983, the Secretary shall prepare and transmit a report to the President and to the Congress. Such report shall contain a detailed statement of the findings and conclusions of the Secretary concerning the effectiveness of methods of reducing the quantity of agricultural land being converted from agricultural uses to nonagricultural uses, together with the Secretary's recommendations for such legislation or administrative action as the Secretary considers appropriate to reduce the quantity of agricultural land being so converted.

TITLE IV—TECHNICAL ASSISTANCE PROGRAM

AUTHORIZATION FOR PROGRAM: TECHNICAL AND FINANCIAL ASSISTANCE

SEC. 401. (a) The Secretary, acting through the Soil Conservation Service of the Department of Agriculture, shall provide to States and units of local government upon their request—

(1) technical assistance concerning methods of protecting agricultural land and reducing the quantity of such land being converted from agricultural uses to nonagricultural uses; and

(2) financial assistance to enable such governments to select and develop plans for implementing methods of protecting agricultural land and reducing the quantity of such land being so converted.

(b) As a part of the technical assistance provided under this section, the Secretary shall disseminate the latest information available concerning the study and other activities being carried out by the Secretary under title II of this Act and concerning the research projects being conducted under title III of this Act.

(c)(1) The amount of financial assistance which the Secretary may provide to any State or unit of local government under this section shall not exceed 25 percent of the costs of developing a program for protecting agricultural land and reducing the quantity of such land being converted in such State or unit from agricultural uses to nonagricultural uses.

(2) Such financial assistance shall be subject to such conditions and requirements (including fiscal control and fund accounting procedures) as the Secretary may determine to be reasonable and consistent with the objectives of this section.

(3) The Secretary shall provide no financial assistance under this title for the implementation or continuation of local or State farmland protection plans.

TITLE V—GENERAL PROVISIONS

DEFINITIONS

SEC. 501. For purposes of this Act—

(1) the terms "agricultural land" and "farmland" mean any land (including cropland, pastureland, rangeland, or forest land but excluding urban land or water) which—

(A) has the combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, or a specific food or fiber crop, and is also available for any such use;

(B) has the soil quality, growing season, and moisture supply needed to economically produce sustained yields of food, fiber or wood when treated and managed, including water management, according to acceptable farming methods;

(C) has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity and acceptble salt and sodium content;

(D) is permeable to water and air;

(2) The term "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(3) The term "unit of local government" means the government of a county, municipality, town, township, village, other unit of general government below the State level (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes), or a combination of local governments acting through an areawide agency which under State law or joint exercise of power agreements have responsibilities for the formulation of regional development policies and plans.

LIMITATIONS

SEC. 502. Nothing in this Act authorizes, or may be construed to authorize, the Federal Government or any department or agency, or official thereof—

(1) to restrict or otherwise regulate in any way the use of privately owned land;

(2) to deprive landowners of their rights to property or to income from the sale of property;

(3) to abrogate, restrict, or in any way diminish existing authority and responsibilities of the various States and units of local government respecting land use, zoning, taxation, or any other aspect of the regulation, utilization, and disposition of public or private lands within their respective jurisdictions; or

(4) to violate the right of privacy of any person in carrying out the programs and studies provided for in this Act.

EFFECTIVE DATE

SEC. 503. The provisions of this Act shall become effective October 1, 1979.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 504. (a)(1) To carry out the provisions of title III of this Act, there is authorized to be appropriated $9,000,000 for the fiscal year ending September 30, 1980, $25,000,000 for the fiscal year ending September 30, 1981, and $15,000,000 for the fiscal year ending September 30, 1982.

(2) There is authorized to be appropriated $500,000 for the fiscal year ending September 30, 1983, for the preparation of an analysis and comparison of demonstration projects carried out under title III of this Act.

(b) To carry out the provisions of title IV of this Act, there is authorized to be appropriated for the fiscal year ending September 30, 1980, and each of the three succeeding fiscal years such sums as may be necessary.

SEC. 505. If any provision of this Act, or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SUMMARY OF THE FARMLAND PROTECTION BILL

INTRODUCTION

The decrease in farmland threatens the ability of the United States to produce enough food to meet domestic needs and to help supply food for the rest of the world. The Soil Conservation Service in the Department of Agriculture estimates that between two and three million acres of farmland are being converted to nonagricultural uses each year. This is all the more alarming given the fact that this Nation can no longer rely on technological innovations to increase the agricultural yield on a smaller and smaller amount of land. Increases in farm production cannot be reliably projected because of changing weather patterns, soil erosion, competition for water, and increased costs of fuels and fertilizers.

Unfortunately, the United States does not have a coordinated policy to preserve farmland. In many cases, Federal actions, such as grant and loan programs for industrial or home development, for new highways, or for powerlines cover up, pave over, or divide precious farmland.

The Farmland Protection Act would establish a policy to ensure that the activities of the Federal government are consistent with the need to protect farmlands. The Bill is also designed to assist states, counties and other local governments in their efforts to reduce the amount of farmland being lost to nonagricultural uses. The Farmland Pro-

tection Act is not a Federal land use bill. There are strict limitations built into the legislation which prevent the Federal government from regulating the use of private land or depriving landowners of their property rights. Moreover, the bill does not diminish in any way the rights and responsibilities of the states and the political subdivisions of the states.

TITLE ONE—FARMLAND PROTECTION POLICY

The Congress, recognizing the importance of the protection of farmland to the economy, to the quality of the environment, and to the position of the United States as an international food-producing leader, declares that it is the policy of the Federal government, in cooperation with the states and the political subdivisions of the states, to promote the retention of farmland.

To implement this policy, Federal agencies are directed to establish procedures to consider the effects of major Federal actions on agricultural farmland unless other national interests override the importance of preservation. The policy also calls for technical assistance and matching funds for state and local farmland protection programs.

A key provision of this title requires Federal agencies to conduct programs and regulatory activities in a manner that is consistent with farmland protection programs established by a state or local unit of government.

TITLE TWO—FARMLAND REVIEW STUDY

This title directs the Secretary of the Department of Agriculture to develop, gather and make available information necessary to assist states and units of local government making decisions concerning agricultural lands. The focus of this effort will be a three and one-half year study of the quantity, quality, location, ownership and financing of agricultural land; the relation of such land to the supply, demand, and production of food; the relationship between the national need for agricultural land and other national concerns; and the effects of Federal actions on the use of farmland. The report would also identify methods of protecting and improving farmland, including an analysis of the relative costs and benefits of such methods.

TITLE THREE—RESEARCH PROGRAM

Under this title, state and local governments could apply to the Secretary of Agriculture for matching funds to conduct demonstration programs testing methods to reduce the quantity of farmland being converted to nonagricultural uses. The Secretary shall give priority to applications that provide timely and new information on a broad range of methods for reducing the loss of farmland.

The Secretary may not provide funds to programs that will require Federal assistance after the expiration of this title (three year period). Moreover, the Secretary may provide assistance for no more than three demonstration projects that acquire interests in land. Finally, the Secretary shall give highest priority to new techniques of reducing farmland conversion to nonagricultural uses.

The amount of assistance for any demonstration project will be determined by the Secretary and shall not exceed 25 percent of the total cost of the project. No demonstration program shall receive more than 15 percent of the total annual appropriation under this title. The Act authorizes $9 million in FY '80, $25 million in FY '81, and $15 million in FY '82. $500,000 is authorized in FY '83 for the analysis of the demonstration programs.

TITLE FOUR—TECHNICAL ASSISTANCE PROGRAM

The Soil Conservation Service in the Department of Agriculture is authorized to provide technical assistance to States and local governments on methods of protecting farmland.

The Secretary may also provide financial assistance to States and local governments for up to 25 percent of the costs of developing a program to protect agricultural land. No funding is available under this title for the implementation of farmland protection programs.

For further information, please contact: Ed Sheets of Senator Magnuson's Office 224-0220, Ken Pierce of Senator Leahy's Office 224-2413, Larry Phillips of Senator Jackson's Office 224-9389, or Mike Kintner of Senator Heinz's Office 224-6324.

● Mr. HEINZ. Mr. President, it is with great pleasure that I rise today to join my distinguished colleagues, Senator MAGNUSON, Senator LEAHY, Senator STEVENS, Senator PRESSLER, and others in introducing the Farmland Protection Act. The importance and necessity of preserving this Nation's agricultural land is perhaps best illustrated by the broad geographic scope of the support for this bill. From Pennsylvania to Alaska, from the Midwest to the Northeast—there is a consensus—action is needed to protect this Nation's farmland.

There can be little disagreement on the importance of our agricultural land. Farmlands provide the economic base of our rural communities. The land is the key resource in our agricultural production. It provides employment not only for the farmer and farm laborers, but also for the myriad of farm supply and equipment dealers, small businessmen, and service industries in our rural communities.

An adequate supply of farmland is also essential to our entire food supply. Thanks to the industriousness, resourcefulness, and expertise of the American farmer, we as a nation enjoy an abundance unmatched in the world. Our fertile croplands and agricultural communities have also allowed us to help alleviate international food shortages. I, for one, look with great pride on America's humanitarian commitment to feed the hungry and alleviate starvation in countries throughout the world.

The agricultural sector plays a key role in our entire economy. For example, farm exports are crucial to the U.S. balance of payments, as well as to farm prices and income. In 1978, the United States had a trade deficit of $34.1 billion. Bad as this figure is, can you imagine the consequences to America if farm exports had not totaled $27.3 billion in 1978? This deficit without the positive impact of farm exports would have been a staggering $45 billion. A deficit of this magnitude clearly would have further weakened the dollar, exacerbated inflation and led to higher unemployment.

Given the importance of an adequate farmland base, I have grown increasingly concerned over the conversion of prime agricultural land into other uses. Statistics reveal that each week, the United States loses 35,000 acres of its agricultural land base. According to a recent Soil Conservation Service study, between 1967 and 1975, not only did cropland decline in this country from 431 million to 400 million acres, but also some 25 million acres, about 3 million acres a year, of rural land were converted to urban uses or inundated by water. Of this, 13 million acres were in high soil capability classes that is prime farmland. In addition to land actually developed or inundated, the same study found another 24 million acres of land were being held for future urban or other nonagricultural uses. Of this, about half was considered high quality cropland, but was not being used to its full potential because the land had been isolated by urban development, zoned for future development, or otherwise found to be uneconomic to crop because of nearby development.

This cropland conversion has taken place in all areas of the country. For example, between 1967 and 1975, 1.38 million acres of prime farmland were converted in the Corn Belt States, 1.06 million acres in the Northeast, and 1.38 million acres in the Southeast.

Now, there are those that say that the conversion of prime farmland to nonagricultural uses is of little concern, that the United States has unlimited potential cropland. Again the statistics reveal cause for concern. On the basis of a survey using 1967 data, the Soil Conservation Service originally estimated that 266 million acres were available for cultivation. However, based on 1975 data, the SCS has developed new estimates. The Agency now concludes that only 111 million acres may be available. Seventy-eight million acres are high potential lands, yet, only 35 million acres of this land could be brought into production immediately. The other 43 million acres of high potential lands have problems, such as wind and water erosion, which would require installation of conservation practices. Most of the 33 million acres of medium potential lands in the 111 million acres available require significant investment if they are to be converted to cropland.

Frankly, I find these statistics disturbing. We are clearly losing millions of acres of prime farmland. Our reserves are not as extensive as we once thought. Will we be able to meet all the demands on our food supply in the 21st century? Will we be able to continue to help feed a world whose population continues to skyrocket? Will we be able to continue to offset our staggering oil imports with agricultural exports? These are unanswerable questions. But, I believe, they illustrate the importance of coming to grips with the need to preserve our farmland.

The bill I am introducing today is an effort to address the growing problem of the loss of farmland. Essentially it has four provisions. First, in order to answer many of the questions raised by this issue, it directs the Department of Agriculture to undertake a study which will include an analysis of the quantity, quality, location, and availability of agricultural lands in the United States; an examination of the interrelationships between agricultural land and other national concerns such as energy, the economy, and the environment; an assessment of the impact on agricultural land of various Federal laws; and a thorough review of methods and techniques to preserve prime farmland.

Second, the bill makes clear that it is

the policy of the Federal Government, in cooperation with the States, counties, and local governments, to promote the retention of farmland. In order to implement this policy, Federal agencies are directed to establish procedures to insure that programs and regulatory activities are consistent with farmland protection programs at the State or local levels and do not contribute to the loss of farmland unless other national interests override the importance of preservation.

Third, the bill provides technical and financial assistance to State, county, and local governments to develop programs to protect farmland. This provision will be administered by the Soil Conservation Service through their district offices. SCS has a long and excellent record in working closely with farmers, rural residents, and local officials and I am confident it will be able to provide the technical information and guidance requested by communities seeking ways to preserve their agricultural base.

Finally, the Farmland Protection Act provides Federal matching funds for a limited number of demonstration projects to develop information on techniques to protect farmland. This section is a key part of the bill. The projects will be diverse with a wide range of geographic locations and methodology. A strong commitment at the local or State level will be needed since the Federal Government will provide only one-quarter of the necessary funding. In addition, projects will have to be completed within 3 years and all Federal funds will be withdrawn at that time. The programs funded will provide badly needed information on various techniques to preserve prime farmland and allow interested areas a means to take the necessary first step to protect their agricultural economy.

Some of my fellow Senators have raised questions whether the Farmland Protection Act is a Federal land use bill. Frankly if it was, I would not be a supporter of the bill. In drafting the bill, I insisted that we make clear from the start that the bill in no way interfere or override the rights and responsibilities of private landowners in making decisions about the use of their land. Nor will the bill conflict with State and local units of governments decisions in developing public policies regarding the use of land in their jurisdictions.

Let me speak briefly on the growing problem of agricultural land conversion in my home State of Pennsylvania. Pennsylvania's agricultural base, which contains some of the richest soils in the Nation, embraces about one-fourth of the State. A strong agricultural economy is central to the future of much of rural Pennsylvania. Agriculture is one of the leading industries in the Commonwealth and due to the hard work of our farmers generated $4.6 billion of economic activity in 1976 and provided employment to over 250,000. Pennsylvania is among the top 10 States in the production of 12 major agricultural commodities, including milk and other dairy products, apples, livestock, and poultry. The total value of the State's crops and livestock amounted to nearly $1.8 billion in 1976.

Pennsylvania's agricultural land is increasingly coming under severe pressure and disturbing trends are emerging. Since 1960, State farmland has declined from 12.3 million acres to 10 million acres and the number of farms has dropped from 106,000 to 72,000. Much of the former farmland, approximately 35,000 acres a year, is considered to be irreversibly lost to basic food production. It has been covered by highways, shopping centers, industrial plants, and housing developments.

The greatest amount of conversion is occurring in south central and southeastern Pennsylvania. Perhaps the best example of this situation is Lancaster County, the Commonwealth's most important agricultural area. The urbanized area of the city of Lancaster grew from a relatively compact 8 sqare miles in 1950 to nearly 40 square miles in 1970, an increase of almost 400 percent. During the same period, there was a corresponding reduction in land used for agriculture and other rural land uses. I am deeply concerned over these trends. Lancaster County ranks fourth in the Nation in poultry production, fifth in the number of dairy cows, and third in farms with sales of more than $2,500. There is simply no sense in allowing the agricultural economy of Lancaster County to decline through the indiscriminate conversion of prime farmland.

I wish I could report that the problem is confined to Lancaster County. Yet, much of the State is facing the same problem of the disappearance of agricultural land. Twelve of the Commonwealth's 20 leading agricultural counties contain standard metropolitan statistical areas where urbanization pressures are greatest. Erie County, 13th in the Nation in grape acreage, Bradford County, 4th in clover-timothy hay mixtures, Chester, 1st in mushroom production, Bucks and many other counties confront the same difficulties. Pennsylvania agriculture is important to its farmers; important to the Northeast; and important to the country. I want to help insure its continued viability.

I urge my fellow Senators to examine this bill closely and give it their support. Agricultural land can no longer be treated as a bottomless reservoir on an inexhaustible source of land for urbanization, industry, and energy. There are plenty of rural acres which are not good farmland for needed growth and development. Cropland, however is growing scarce. In a world of continuously growing demand for food, farmland must be viewed as an irreplacable resource—a resource which should not be paved over or otherwise taken out of production unless pressing circumstances or conscious public policy dictate.

In closing let me pass on some comments from Assistant Secretary of Agriculture Robert Cutler who, in pointing out the dangers of agricultural land conversion, recently wrote:

It is folly to endanger our long-term productivity, even with today's record harvests and grain reserves. We must not steal the farmland base from tomorrow's children. We dare not forget that floods, droughts, and plagues are always with us, carrying their potential for devastation.

It is folly to shift prime farmlands out of agricultural use while trying to make up the lost production by draining and plowing up wetlands and other fragile environmental areas. Prime farmland, by definition, gives the best yields with the least input. . . .

It is folly to force ourselves to cultivate mountainous and other marginal land. Such land takes more gas and oil to produce crops than does existing farmland being lost to non-agricultural use. The need for energy efficiency is just as urgent on the farm as in town.

It is folly to endanger the agricultural economy that is the base of most rural communities. A strong agricultural business community is the key to making rural areas attractive. The strongest rural economy is based on sustained quality yields from long established productive farmlands.●

● Mr. NELSON. Mr. President, I am very pleased today to join my colleagues Senators LEAHY, HEINZ, and MAGNUSON in introducing the Farmland Protection Act. This is urgently needed legislation, and it is my hope that the Senate will act quickly to pass it.

The bill would do three things. First, it would establish a Federal research program to study the quantity, quality, location, availability and ownership of agricultural land in the United States. The information and expertise acquired by this study will then be used to provide technical assistance to State and local governments seeking ways to protect farmland. Second, it would establish as policy for the Federal Government that any agency taking actions which would have the effect of removing farmland from production or potential production notify appropriate State and local officials of their plans. The agencies, where possible, must also identify alternative courses of action that would have less detrimental effects on the farmland. This prenotification requirement would provide local people with the opportunity to review and in some cases to protest Federal actions which would reduce the amount of farmland in an area. Finally, it would provide $25 million annually in demonstration grants for State and local governments instituting especially meritorious farmland preservations programs.

These are modest proposals. I believe that it may well be that when more information is available on the extent to which we are losing farmland, Congress may want to take stronger action to protect this irreplaceable resource. This bill, however, is a good start.

There is no question that we are losing farmland at a disturbing rate. Between 1950 and 1974, the United States lost a total of 26 million acres of cropland and 20 million acres of range and pastureland. This represents 3 percent of the total range and pastureland and 6 percent of the cropland. The Soil Conservation Service estimates that we are continuing to lose 1,000,000 acres of cropland annually. Moreover, they estimate that there are only 33 million acres in reserve—acres that could be converted to farmland without tremendous expense. In my own State of Wisconsin, between 1954 and 1974 the acreage in production

dropped from 22 million acres to 17 million acres.

These figures are alarming enough, but consider what they mean; 26 million acres of cropland could have produced about 200 million bushels of wheat, 30 billion pounds of rice, 550 million bushels of corn, and 9 billion pounds of peas—enough to provide New York City with these commodities for a decade.

In the past, we have not been very concerned about the loss of farmland because we were able to produce more on the land we did have. In this decade, however, the great increases in productivity have virtually stopped. The favorable weather of the last 20 years, many climatologists believe, is giving way to more unpredictable weather for the next few decades. World food demand is rising, and the United States is relying increasingly on its food exports to balance its energy imports. If we have reached a technological plateau in agricultural production, then the only way we can assure an adequate food supply in the coming decades of rising demand and uncertain weather is to assure that enough farmland is in production.

Unfortunately, there is no national effort to do this. Urban growth is clearly the main cause of the disappearance of farmland, yet projections by the Senate Interior Committee a few years ago predicted that by the year 2000 we will have doubled the amount of land devoted to urban uses. That would mean an area as large as New Hampshire, Vermont, Massachusetts, and Rhode Island would have been consumed by urban sprawl. As much as one-half of this land will be cropland, since the features that make land good for farming often make it good for development as well.

Much urban growth is beyond the control of the Federal Government, but much of it is not—in fact, much urban growth is caused by Government policies. Highway construction, for instance, has consumed 21 million acres of rural land, an amount equal to all the farmland in Wisconsin. Many of these highways are federally funded. When the Government builds a highway, development around the highway inevitably follows. Frequently, this highway building has taken little heed of the needs of farmers. Roads are built along diagonals crosscutting existing farms, or are built in prime farm areas instead of areas of limited farming potential.

Federal grants and loans for water and sewer construction, for industrial park development, or for housing development often encourage growth in prime farmland areas, while Federal dollars to build airports extend the urban fringe to rural areas.

Certainly no one would advocate that the Federal Government stop doing all these things altogether. What is needed, and what this bill provides, however, is that when a project is being considered, its effects on agricultural land should be considered as well. Appropriate local officials should be notified of the plans in advance so that alternatives may be considered. In many cases, it will be possible to find ways to accomplish the same development purposes with substantially less effect on farmland.

Other Federal programs destroy farmland as well. Water development projects of the Corps of Engineers and the Bureau of Reclamation take hundreds of thousands of acres annually. Altogether 10 million acres have been inundated by the Government, much of this rich bottomland. In the Oahe and Garrison projects in the Dakotas, for instance, the Bureau of Reclamation proposed to build irrigation projects that would remove more land from production than the projects would irrigate. Congress has stopped the Oahe project and the administration is proposing large cutbacks in the Garrison project, but these examples illustrate the need for a greater Federal sensitivity to the issue of the loss of farmland. This bill would establish a process to help assure that sensitivity.

The Federal Government, however, cannot be the main source of action on this issue. Land use is an issue that State and local government must decide. Many States have already instituted farmland preservation programs. A few localities purchase the development rights for farmland so that farmers will not be tempted to sell to developers, while many States have agricultural use zoning statutes to prevent development in farm areas. I am proud to say that Wisconsin has enacted a State law that is widely considered to be the best farmland preservation program in the country. Under the Wisconsin law, a farmer can sign a contract with the State agreeing not to develop his land for a specific time. In return, the farmer receives income tax credits of up to $4,200 a year, depending on the amount of property tax he pays and the size of his family's annual income, as well as whether or not his country has created an agricultural land preservation program. After 1982, only farmers in counties with agricultural preservation plans consistent with the guidelines of the State program are eligible for the credits. If a farmer develops his land or sells it to someone who does, he must pay back the tax credits he received.

This program is working well. In the first 7 months of operation, 1,628 farmers had already signed up. Hopefully, other States will follow Wisconsin's lead. This bill encourages that in two ways. First, the bill calls for a national study of the problem of the disappearance of farmland, since information on this problem is still very inadequate. The study will also include evaluation of State and local programs, so that States interested in adopting their own programs can know which work best. In addition, the bill provides $25 million annually in demonstration grants for State and local governments to help finance projects which could serve as models for other States and localities.

As I stated before, this bill is only a modest first step toward saving our precious agricultural land, but it is an important one and I urge its speedy passage.●

● Mr. WILLIAMS. Mr. President, I am delighted to join Senator MAGNUSON and several other Senators in introducing the Farmland Protection Act. This bill would declare a national policy to promote the retention of agricultural land. In carrying out this policy, it would require all Federal agencies to consider the effects of their actions on agricultural land and to make sure that their activities are consistent with State and local farmland protection programs. The bill would direct the Secretary of Agriculture to conduct a study of the quantity, quality, and ownership of farmland and to identify methods of protecting and improving it. The bill would make $49 million available in matching grants to States and local governments over a 3-year period for demonstration programs to test methods of preventing the conversion of farmland to other uses. In addition, the Soil Conservation Service would provide technical assistance to States and local governments in their farmland protection efforts.

Mr. President, my appreciation of the need for such legislation stems largely from the experience of my own State, the most densely populated in the Nation. New Jersey farmland is the most expensive in the Nation, with correspondingly high prices for farm equipment and supplies. Air and water pollution have had an impact of farm productivity.

At the same time, developers have applied increasing pressure on New Jersey farmers to sell their choice land for residential and commercial uses. In the 1960's such pressures were causing the loss of an average of three farms a day.

Despite all of these factors which make it difficult to continue to farm, New Jersey is still one of the Nation's leading producers of a number of crops. In 1976, it was second in the Nation in blueberry production, third in cranberries, fourth in tomatoes, spinach, and green peppers, and fifth in peaches and asparagus. New Jersey clearly makes a substantial contribution to our Nation's food supply. Its farms provide a nearby source of fresh food or the largest metropolitan area in the Nation.

The State has taken steps through its tax laws and through the work of its department of agriculture to protect its valuable farmland, but my State is not alone in facing this critical problem. Nationwide the conversion of agricultural land has reached alarming proportions. Between 1967 and 1975, 23 million acres were converted to other uses, and another 2 to 3 million acres more are lost each year. I believe that we must begin now to develop the information and the expertise we need to curb this trend. The legislation which I am pleased to join in sponsoring today would be an important step in that direction.●

By Mr. CANNON (by request):

S. 796. A bill to reform the economic regulation of railroads, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RAILROAD DEREGULATION ACT OF 1979

Mr. CANNON. Mr. President, today I am introducing by request of the President and the Department of Transportation legislation that will amend those parts of the Interstate Commerce Act

that authorize the economic regulation of the railroad industry.

The financial difficulties of the rail industry are well recognized. Because of the fundamental crisis in the rail industry, the Federal Government has been obliged to contribute over $1 billion annually to the preservation of the rail freight system. Continuation of the trends to smaller traffic shares, increased deferred maintenance, and decreasing returns on investment could result in an industry facing enormous capital shortfalls and increasing dependence on the financial support of the Federal Government.

Mr. President, I am convinced that maintenance of a healthy and efficient private sector rail freight transportation system is essential if this mode of transportation is to continue to play its vital role in our Nation's transportation network. The rail crisis must be solved. However, I do not believe that increasing direct Federal assistance can be the answer. In October of this year, the Secretary of Transportation issued a report entitled, "A Prospectus for Change in the Freight Railroad Industry." That report analyzed the causes and implications of the present state of the rail industry and concludes that a major contributor to the industry's problems is the total Interstate Commerce Commission's authority to regulate railroad rates and services. The administration believes that the legislation I am introducing today at its request will solve the problems by establishing a system of regulation that allows rate flexibility and encourages rail innovation, but also provides a mechanism which corrects abuses should they occur.

Mr. President, I believe that the rail crisis is real, immediate, and deserving of the Commerce Committee's highest priority and closest consideration. In this regard, the committee will conduct a series of hearings beginning on April 12, 1979, with an overview of the administration's proposal which will also serve as a foundation for subsequent and more detailed hearings on the specific issues addressed in the bill.

Mr. President, I ask unanimous consent that the text of the bill, along with the Secretary's letter of transmittal, a section-by-section summary, a DOT fact sheet, and a DOT paper entitled "Frequently Asked Questions About Railroad Regulatory Reform Legislation" be printed in full in the RECORD following my remarks.

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

S. 796

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 "Railroad Deregulation Act of 1979".

RAILROAD TRANSPORTATION POLICY

SEC. 101. RAILROAD TRANSPORTATION POLICY.—(a) Add a new section 10101a to title 49, United States Code, immediately following section 10101 of title 49, United States Code, to read as follows:

"§ 10101a. Railroad transportation policy

"To assure the development and maintenance of a healthy, efficient freight transportation system, in the private sector, in which the various modes of transportation are subject to impartial regulation, the Interstate Commerce Commission shall consider the following as being in the public interest:

"(a) maximum reliance on competitive market forces and on actual and potential competition among all transportation modes to provide transportation services at fair prices and to enable efficient and well-managed carriers to earn adequate profits and to attract capital;

"(b) avoidance of undue concentrations of market power;

"(c) reduction of regulatory barriers to entry into and exit from the industry;

"(d) maintenance of fair wages and working conditions;

"(e) operation of transportation facilities and equipment without detriment to the public health and safety; and

"(f) development and maintenance of a transportation system responsive to the needs of the public, in which regulatory decisions are reached fairly and expeditiously.".

(b) Section 10101 of title 49, United States Code, is amended by striking the first word, and adding at the beginning the following: "Except where policy may have an impact on rail carriers, in which case the principles of section 10101a of this title shall govern, to".

(c) Amend the index to chapter 101 of title 49 by adding the following after the first line:

"10101a. Railroad transportation policy.".

RATEMAKING

SEC. 102. MAXIMUM AND MINIMUM RATE REGULATION.—(a) Section 10701 of title 49, United States Code, is amended as follows:

(1) The title is amended by inserting "other than for rail carriers" after the word "practices".

(2) Subsection (a) is amended by adding the words "subchapter I (other than a rail carrier), II or III of IV of" after the word "under" in the first sentence.

(3) Subsection (b) is stricken.

(4) Existing subsection (c) is renumbered as subsection (b) and amended by adding the words "(other than a rail carrier)" after the words "either of those subchapters".

(5) Existing subsection (d) is renumbered as subsection (c).

(b) A new section 10701a of title 49, United States Code, is inserted immediately after section 10701 of title 49, United States Code, to read as follows:

"§ 10701a. Standards for rates and conditions of service for rail carriers

"(a) GENERAL RULE.—Subject to the provisions of subsection (b) (from January 1, 1980, through December 31, 1984) and of subsection (c) of this section, a rail carrier subject to jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate and condition for transportation or other service provided by the carrier. In addition, one or more rail carriers may, by contract, agree with one or more purchasers of rail services on specified rates and conditions for specified services. Such agreements or contracts shall not be subject to the provisions of subsections (b) and (c) of this section.

"(b) TRANSITION PERIOD—REGULATION OF RATE INCREASES.—(1) From January 1, 1980, to December 31, 1984, any rail carrier rate that exceeds the base rate, increased by 7 percent annually, shall be subject to the provisions of subparagraphs (2) through (7) of this subsection. The base rate is the rate in effect for substantially similar services on January 1, 1980, adjusted by multiplying the rate by a fraction, the enumerator of which is the latest published Quarterly Implicit Price Deflator for Gross National Product compiled by the United States Department of Commerce (or any successor index) (the 'GNP Deflator') and the denominator of which is the same index for the fourth quarter of 1979. The base rate for services for which there was no commodity rate on January 1, 1980, and for rates established under paragraph (5) of this subsection shall be such rate adjusted by multiplying the rate by a fraction the numerator of which is the latest published quarterly GNP Deflator and the denominator of which is the same index for the quarter immediately preceding the establishment of the base rate.

"(2) From January 1, 1980, to December 31, 1981, one or more rail carriers may put into effect a rate increase described in section 10703(a)(3)(B) so long as that increase does not exceed the base rate. The base rate is the rate in effect for services substantially similar to those affected by the increase on January 1, 1980, adjusted by multiplying the rate by a fraction, the numerator of which is the latest published quarterly GNP Deflator and the denominator of which is the same index for the fourth quarter of 1979.

"(3) During the period January 1, 1980, to December 31, 1984, the Commission may, subject to subparagraphs (4) through (8) of this subsection, order a reduction in the amount of a rate increased in excess of those described in subparagraph (a) of this subsection, except where such increase raises the rate to a level at which it covers only the incremental cost of providing the service, as defined in section 10102(11) of this title. A rate may be reduced only upon investigation initiated on petition of a complaining purchaser of transportation service or an organization representing a complaining purchaser. Before an investigation may be initiated, a complaining purchaser must demonstrate on the record that—

"(A) it will be or has been competitively damaged by imposition of the rate complained of; and

"(B) it is likely to prevail on the merits of any investigation actually undertaken.

"(4) In any such investigation, the complaining purchaser must demonstrate, on the record, by clear and convincing evidence, that it has no reasonable alternative to transportation by the carrier proposing the increase. The complaining purchaser must address and the Commission must make a specific finding on each of the following:

"(A) transportation services and associated rates offered by rail carriers other than the rail carrier proposing the increase, by other common carriers of other modes and by combinations of modes;

"(B) the possibility of and cost of private carriage; and

"(C) the existence of alternative markets for or sources (as appropriate) of its goods.

In making its determination under this subparagraph, the Commission must find that the complaining purchaser has a reasonable transportation alternative if comparable motor carriage is available at rate not in excess of 125 percent of the rail rate at issue or if carriage by rail and water or rail and motor carrier is available at a rate not in excess of 110 percent of the rail rate at issue, or if comparable traffic from that purchaser has moved at a rate in excess of the rail rate at issue during the year prior to the effective date of the rail rate at issue.

"(5) If the Commission finds, taking into account all the factors listed, that the complaining purchaser has no reasonable transportation alternative, then the rail carrier establishing the increase shall bear the burden of proving, by clear and convincing evidence, on the record, that the increase is reasonable.

"(6) If the Commission finds that the complaining purchaser has no reasonable transportation alternative and that the rate at is-

sue is not reasonable, it may order the rate reduced. However, no rate may be reduced by the Commission below the level required to assure the rail carrier revenues which are (A) adequate to cover total operating expenses, including an allocable share of indirect costs and depreciation and obsolescence incurred, and (B) which, when considered in the context of revenues received by the affected carriers from other sources, will yield an overall adequate return on capital, as defined in section 10102(1) of this title. In no instance, however, may the Commission set a rate which yields a return on the capital used to provide the service which is greater than twice the overall rate of return as calculated pursuant to section 10102 (1) of this title. In addition, the Commission may not reduce the rate below that which could be established under subparagraph (1) of this subsection.

"(7) Any rate reduction ordered by the Commission shall apply only to the portion of the rate to the nearest interchange point at which a water carrier or two or more rail carriers that have not discussed the rate at issue operate, unless such interchange point is more than 50 miles from the origin or destination of the shipment, in which case the reduction may be for the entire rate. In addition, any rate reduction ordered by the Commission shall apply only to the complaining purchaser and affiliated entities. The complaining purchaser and affiliates may ship at the reduced rate only as long as they ship all output that can practicably be moved by rail, container-on-flat-car, or trailer-on-flat-car between the points covered by that rate via the rail carrier or carriers affected by the rate reduction.

"(8) Notwithstanding any other provision of this section, no increase in a rate previously reduced under this subsection may be proposed to be effective less than 12 months after the effective date of the Commission's order reducing the rate.

"(9) An action under this subsection may be brought by a group of similarly situated purchasers, but the showing required by paragraph (3) must be made for each member of the group before such member may benefit from a rate decreased.

"(c) RATE DECREASES.—No rail carrier shall, with the intent to eliminate a competitor, set a rate below a level that contributes to the establishing carrier's going concern value. Any rate that covers incremental cost, as defined in section 10102 of this title, shall be found to contribute to going concern value. Upon a determination, based on the record after opportunity for hearing, that a protestant has demonstrated that a rate is in violation of this section, the Commission may order such rate to be raised only to a level that contributes to the going concern value of the carrier.

"(d) DEMAND-SENSITIVE RATES.—A rail carrier may establish a tariff, for any movement or group of movements, under which rates may be raised or lowered, between published minimum and maximum levels, on publication, in response to either expected or actual fluctuations in demand for rail service. The conditions under which rates shall be raised or lowered, and upper and lower limits on the rates, shall be set forth clearly in the tariff. From January 1, 1980, to December 31, 1984, except where a complaining purchaser can show that a particular rate level covered by such tariff remained in effect for more than 120 days in any 150-day period, in which case subsections (b) and (c) of this section shall apply with respect to such rate, subsections (b) and (c) of this section shall apply to the unweighted average rate actually charged under such tariff in any 6-month period during which it is in effect. For purposes of this subsection, a given rate level shall be deemed to include rates up to 3 percent above and 3 percent below any given level.".

(c) Amend the index to chapter 107 of title 49 by adding the words "other than for rail carriers" after the word "practices" in the line dealing with section 10701 and by adding a new line immediately following the line to read as follows:

"10701a. Standards for rates and conditions of service for rail carriers.".

SEC. 103. INVESTIGATION OF RATES AND ORDERS SETTING RATES.—(a) Section 10704(a)(1) of title 49, United States Code, is amended by changing the period at the end of the first sentence to a comma, by adding immediately thereafter the words "subject to the provisions of section 10701a.".

(d) Section 10707(a) of title 49, United States Code, is stricken.

(c) Section 10704(f) of title 49, United States Code, is renumbered subsection (e) and amended as follows:

(1) Change the period at the end of the first sentence to a comma and insert immediately thereafter the words "except that with respect to a rail carrier, the Commission may begin an investigation only upon complaint.".

(2) Change the comma after "of this title" in the second sentence to a period and strike the remainder of the sentence.

(d) Section 10707(a) of title 49, United States Code, is amended as follows:

(1) In the first sentence thereof, strike the words "on its own initiative or" and insert the words "containing the allegations required by section 10701a" after the words "interested party".

(2) Insert the following sentence after the first sentence: "No investigation may be ordered with respect to any rate increase that becomes or is scheduled to become effective after December 31, 1984.".

(e) Section 10707(b)(1) of title 49, United States Code, is amended as follows:

(1) In the first sentence thereof, strike "7th" and insert in lieu thereof "4th", and strike everything after the word "after" and insert in lieu thereof "a complaint is filed.".

(2) Strike the second sentence.

(3) Strike subparagraphs (A) and (B) and insert in lieu thereof "remains in effect.".

(f) Section 10707(c) of title 49, United States Code, is stricken.

(g) Section 10707(d) of title 49, United States Code, is renumbered 10707(c) and amended as follows:

(1) The first sentence is amended by striking all before "the Commission shall require" and inserting in lieu thereof "With respect to any rate increase investigated under this section," and by deleting all after the words "under the increase until the Commission completes the proceeding or until" and by inserting in lieu thereof the following: "4 months after a complaint is filed, whichever comes first.".

(2) The third sentence is amended by inserting after the words "final action" the words "in favor of a complaining purchaser" and by striking the period and inserting at the end of the sentence, "and may assess attorneys' fees and costs of the complaining purchaser, or any portion thereof.".

(3) The fourth sentence is amended to read as follows: "If the Commission determines that an action under this section was initiated or continued in bad faith, it may assess the complainant the costs and attorneys' fees incurred by the carrier, or any portion thereof.".

(h) Section 10707(e) of title 49, United States Code, is stricken.

(i) Section 11701(a) of title 49, United States Code, is amended by striking the initial word and inserting in lieu thereof "Except as otherwise provided, the".

SEC. 104. JOINT-LINE RATES AND THROUGH ROUTES.—Section 10705 of title 49, United States Code, is amended as follows:

(a) Subsection (a)(1) is amended as follows:

(1) Strike the first word and substitute the following in lieu thereof: "The Interstate Commerce Commission may prescribe through routes among rail carriers and between rail carriers and other common carriers subject to the jurisdiction of the Commissioner under subchapter II (except a motor common carrier of property) or III of chapter 105 of this title. In addition, except as provided in subsection (b) of this section, the".

(2) Strike the number "I".

(3) Strike the last sentence.

(b) Subsection (a)(2) is stricken.

(c) Subsection (a)(3) is renumbered (a)(2) and amended by striking the words "or joint rate applicable to it" in subparagraph (B) thereof.

(d) Renumber subsection (b) as subsection (c) and add the words "subchapter II or III of" after the word "under" the first time it appears and strike the words "of a rail or" after the words "joint rates of.".

(e) Renumber subsection (c) as subsection (d).

(f) Renumber subsection (d) as subsection (e)(1), amend it by striking the words "rail or" in the first sentence, striking the second sentence (including all subparts thereof), and adding a new subsection (e)(2) to read as follows:

"(2) Unless the participating carriers agree otherwise, a joint-line rate involving a rail carrier shall be increased or decreased by the absolute amount of any increase or decrease in the rate of any participating carrier for its portion of the traffic, and the amount of the increase or decrease shall be added to or subtracted from the share of revenues of the carrier establishing the new rate. Any participating carrier may, however, elect to cancel the joint line-rate in such event.".

(g) Renumber subsection (e)(1) as subsection (f), strike "(b)" in the first sentence and insert "(c)" in lieu thereof, and strike all of subsection (e) after the first sentence, including all of subsections (e)(2) and (e)(3).

(h) Renumber subsection (f) as subsection (g).

(i) Add a new subsection (b) to read as follows:

"(b)(1) Rail carriers subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may among themselves, and with carriers of other modes, establish joint-line rates for through services on any route, and may agree on any division of revenues from such rates on such routes.

"(2) In the event rail carriers participating in any through route involving a rail carrier that is established by the Commission pursuant to subsection (a) of this section, are unable or unwilling to agree on joint-line rates and divisions of revenues, the applicable rate for service on the through route shall be the sum of the local or proportional rates established by each participating carrier for its portion of the route, and each carrier shall receive revenues in accordance with its local rate.

"(3) Unless the participating carriers agree otherwise, the originating carrier on any through route involving a rail carrier shall collect all revenues for the service and shall divide the revenues according to the local rates or the divisions established, as the case may be.

"(4) Nothing in this subsection shall be deemed to require the cancellation of any joint-line rates or divisions of revenue in effect on the effective date of this subsection.".

SEC. 105. RATE BUREAUS.—Section 10706(a) is amended as follows:

(a) Add a new subsection (a)(1)(C) to read as follows:

"(C) 'practicably participate in that movement' means—

"(i) as to a revision of an existing joint-line rate, that a carrier has, during the 12 months preceding the discussion, agreement, or vote, actually carried traffic under the joint-line rate at issue, or

"(ii) as to a joint-line rate proposed for a movement never before conducted, or for which no joint rate was previously in effect, that a carrier has agreed to carry any traffic tendered to it under the joint-line rate at issue during the 12 months following the date on which the joint-line rate becomes effective.".

(b) Amend subsection (a)(2)(A) by adding the words "or publication of them" after the words "establishment of them," and by striking the number "10101" and inserting in lieu thereof "10101a.".

(c) Amend subsection (a)(3)(A) by adding a new sentence after the first sentence to read as follows: "Such organization shall provide that all of its meetings, except those dealing with personnel or purely internal administrative matters shall be open to the public and recorded or transcribed (a legible copy of a transcription to be available to any member of the public on payment of reasonable costs of reproduction), and that all votes and agreements shall be open, recorded, and not secret.".

(d) Amend subsection (a)(3)(A)(i) by adding the words "discuss or," after the words "rail carrier to".

(e) Effective 2 years after the effective date of this Act, subsection (a)(3)(B) is stricken in its entirety.

(f) Subsection (a)(3)(C) is renumbered as (a)(3)(B).

(g) Add a new subsection (a)(4) to read as follows:

"(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Commission approval, that provides solely for compilation, publication, and distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Commission may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope and upon a finding that they have, issue such orders as are necessary, including an order dissolving the agreement, to assure that actions taken pursuant to the agreement are limited as provided in this paragraph.".

SEC. 106. ANTIDISCRIMINATION.—(a) Section 10741 of title 49, United States Code, is amended by striking subsection (a) and inserting in lieu thereof:

"(a) No carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may discriminate in price, directly or indirectly, between competing purchasers of like and contemporaneous transportation service under similar transportation conditions unless—

"(1) the cost of the service differs as between purchasers and the charges reflect only the difference; or

"(2) the degree of competition to provide the purchasers with transportation services differs as between the purchasers.

"(b) Upon petition of a purchaser of transportation services, or of a lawful representative of a locality, port, gateway, or transit point, alleging that a rail carrier has charged different prices for like and contemporaneous services under similar transportation conditions, and that such action has resulted in competitive harm to the petitioner, or, in the case of a locality, port, gateway, or transit point, to a purchaser doing business in that locality, port, gateway, or transit point (a represented purchaser), the Commission may order an investigation of the alleged discrimination. To obtain relief—

"(1) a petitioner must demonstrate, on the record, by clear and convincing evidence that different rates were charged, that the petitioner or a represented purchaser has been damaged by the alleged discrimination, not simply by the rate charged, and that the injured purchaser is in competition with the favored purchaser; and

"(2) a petitioner alleging that a rail carrier has discriminated against it by failing to offer to enter into a contract for rates and services similar to that into which another purchaser has entered must prove, in addition to the proof required in subparagraph (1) of this subsection, that the injured purchaser or represented purchaser would have been ready, willing, and able to accept substantially similar contract terms at a time essentially contemporaneous with the period during which the carrier offered the contract to the favored purchaser. The rail carrier shall have the burden of proving, by clear and convincing evidence, the cost justification for price differentials or differing degrees of competition. Costs developed in accordance with the accounting system promulgated by the Commission under section 11142(b) of this title shall be accepted as proof of cost.

"(c) A rail carrier may be found to be in violation of subsection (a) of this section with respect to a price charged for services for which a joint-line rate is in effect only if the carrier is an indispensable party to the route covered by the joint rate and if it has refused to provide the portion of the service on its route at a nondiscriminatory rate.

"(d) A rail carrier found to be in violation of subsection (a) of this section shall be required to establish nondiscriminatory rates, within the meaning of this section, for the traffic involved and to pay an injured purchaser or represented purchaser damages equal to the difference between the rate charged that purchaser and the rate charged the favored purchaser from the date the complaint was filed until the date on which the Commission issues its decision, plus interest at a rate equal to the average yield (on the date the complaint is filed) of marketable securities of the United States having a duration of 90 days. In addition, if violation is found to be willful, the Commission may order a carrier to pay the complainant's attorneys' fees and costs. If the Commission determines that an action under this section was initiated or continued in bad faith it may assess the complainant the costs and attorneys' fees incurred by the carrier, or any portion thereof.".

(b) Amend existing section 10741(b) of title 49, United States Code, by inserting the words "(except a rail carrier)" after the words "of this title".

(c) Renumber existing subsection 10741(b) of title 49, United States Code, as subsection 10741(e), and renumber all following subsections accordingly.

(d) Section 10742 of title 49, United States Code, is amended by adding a new sentence at the end thereof as follows: "A carrier subject to this section may require a connecting line to pay the incremental cost of providing any facilities or services required under this section.".

(e) Section 10726 of title 49, United States Code, is amended by deleting the words "I or" in subsection (a)(1), by striking subsection (c) in its entirety, and by renumbering subsection (d) as subsection (c).

SEC. 107. NOTICE AND PUBLICATION.—Section 10762 of title 49, United States Code, is amended as follows:

(a) Add a new sentence after the first sentence of subsection (a)(1) to read as follows: "A rail carrier that has entered into a contract to provide a purchaser of rail services with specific services at specific rates shall publish and file with the Commission the essential terms of such contract, as required by the Commission. In setting the terms to be published, the Commission, to the maximum extent consistent with the purposes of this section, shall not require publication of the name or other identifying characteristics of the purchaser of rail services.".

(b) Strike the initial word in subsection (b)(1), and insert in lieu thereof "Except with respect to the tariffs of a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, the" and delete the number "I" in that subsection.

(c) Strike paragraph (b)(1)(B) and renumber succeeding subparagraphs accordingly.

(d) Add new subsections (b)(2) and (b)(3) to read as follows:

"(2) With respect to the tariffs of a rail carrier, the Commission may prescribe the information to be included in a published tariff, but it may not prescribe the format. 'Format' includes, but is not limited to, such items as type face, spacing, and type of index, and location of information in such tariffs.

"(3) With respect to the tariffs of a rail carrier, the word 'publish' shall mean that the tariff is generally available to the public (a) while it is in effect and (b) during the notice period set out in subsection (c)(3) or (c)(4) of this section, as applicable, except as that notice period is modified pursuant to subsection (d) of this section.".

(e) Renumber existing subsection (b)(2) as (b)(4).

(f) Strike the first word of the second sentence of subsection (c)(3), and insert in lieu thereof "Except with respect to rates under a tariff described in subsection 10701a (d), a" and add a new sentence at the end of that subsection to read as follows: "However, a tariff described in subsection 10701a (d) may not take effect until 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section.".

(g) Add a new subsection (c)(4) to read as follows:

"(4) Notwithstanding the provisions of subsection (c)(3) of this section, until the first anniversary of the effective date of the Rail Transportation Act of 1979, new or changed rates of rail carriers may become effective 21 days after notice thereof is published, except that rates described in the second sentence of subsection 10701a(a) may become effective immediately upon publication. Upon the first anniversary of the effective date of such Act, new or changed rates may become effective 14 days after notice thereof is published. Upon the second anniversary of the effective date of such Act, new or changed rates may become effective 7 days after notice thereof is published. Upon the third anniversary of the effective date of such Act, rates may become effective upon publication of notice thereof.".

(h) Amend subsection (d)(1) by deleting "30-day" and inserting in lieu thereof "notice".

SEC. 108. MISCELLANEOUS RATE PROVISIONS, INCLUDING RATES ON GOVERNMENT TRAFFIC, RELEASED VALUE RATES AND THE COMMODITIES CLAUSE.—(a) Section 10721 of title 49, United States Code, is stricken.

(b) Section 10727 of title 49, United States Code, is stricken.

(c) Section 10728 of title 49, United States Code, is amended by striking subsection (b) in its entirety and deleting the letter "(a)".

(d) Section 10729 of title 49, United States Code, is amended to read as follows: "Not-

withstanding the provisions of any other sections of this title, any rate that became effective under this section prior to January 1, 1980, shall remain in effect in accordance with its terms, but for no longer than 5 years from its effective date, unless the parties agree otherwise. During that period, the Commission may, however, order the rate revised to a level equal to the incremental cost of providing the transportation if the Commission finds that the level then in effect reduces the going concern value of the carrier.".

(e) Section 10730 of title 49, United States Code, is amended by striking all that precedes "establish" and inserting in lieu thereof "A carrier may" and by inserting a period after "written agreement" and striking the remainder of the section.

(f) Section 10746 of title 49, United States Code, is stricken.

(g) Sections 10781 through 10786 of title 49, United States Code, are stricken.

(h) Amend the index to chapter 107 of title 49 to strike the lines referring to sections 10721, 10727, 10746, and all of subchapter V.

SEC. 109. STUDIES.—(a) At the end of the second year after the effective date of this Act, the Secretary of Transportation shall prepare and submit to the Congress a preliminary study of competition in the provision of transportation services. Specifically, the Secretary of Transportation shall address the extent to which all forms of competition are available in connection with the transportation of goods and commodities between and within all regions of the country. The study will identify factors such as types of commodities or movements that could preclude effective actual or potential competition, and determine what, if any, rail traffic is not subject to competition.

(b) At the end of the fourth year after the effective date of this Act, the Secretary of Transportation shall prepare and submit to the Congress a final study describing experience under the maximum rate regulation provisions of this Act, relating that experience to the results of the earlier study, summarizing the effects of that experience on carriers of all modes, shippers, and consumers, and recommending any legislation necessary to provide users of the freight transportation system with the benefits of competition.

(c)(1) For the purposes of the studies authorized by subsections (a) and (b) of this section, carriers of all modes, shippers, and other persons shall, upon request of the Secretary of Transportation, provide information and data relevant to the study. Such data may include, but is not limited to: traffic flows by mode and commodity between and within specified regions; relevant costs, rates, and revenues associated with the provision of existing and alternative transportation services; and existing and alternative marketing patterns for the commodities studied.

(2) Any information or documentary material provided to the Secretary or his representatives under this section, to the extent it contains or relates to trade secrets, processes, operations, or style of work or the identity, confidential statistical data, amount of source of any income, profits, losses, or expenditure of any person, firm, partnership, corporation, or association, shall be exempt from disclosure under section 552 of title 5 and no such data may be made public except as part of the projections, statistical studies, analyses, and related activities required under this section (in which case identifying characteristics shall be deleted to the maximum extent possible), and as may be relevant to any administrative or judicial action or proceeding.

(d)(1) The Secretary is authorized to request from any department, agency, or instrumentality of the Federal Government such statistics, data, program reports, and other materials as he deems necessary to carry out his functions under this section; and such department, agency, or instrumentality is authorized and directed to cooperate with the Secretary and to furnish such statistics, data, program reports, and other materials to the Department of Transportation upon request made by the Secretary. Nothing in this paragraph shall be deemed to affect any provision of law limiting the authority of an agency, department, or instrumentality of the Federal Government to provide information to another agency, department, or instrumentality of the Federal Government.

(2) The head of any Federal department, agency, or instrumentality is authorized to detail, on a reimbursable basis, any personnel of such department, agency, or instrumentality to assist in carrying out the duties of the Secretary under this section.

STRUCTURE

SEC. 120. ENTRY.—(a) Section 10901 is amended to read as follows:

"(a) Any rail carrier or other entity, including but not limited to a State or local government, a shipper, or shipper association, but not including a carrier subject to the jurisdiction of the Commission under subchapter II, III, or IV of this chapter, may—

"(1) construct and operate over a new railroad line, including an extension of an existing railroad line;

"(2) construct and operate over a railroad line that crosses another railroad line, provided that—

"(i) the construction does not unreasonably interfere with operation of the line crossed,

"(ii) the operation does not materially interfere with the operation of the line crossed, and

"(iii) the owner of the crossing line shall pay the owner of the crossed line a fair market rental or for the easement provided.

If the carriers are unable to agree on the amount or terms of payment, or operation, either party may submit the issue to the Commission for binding arbitration.

"(b) Subject to the provisions of sections 11342 and 11343 of this title, any rail carrier or other entity, including but not limited to, a State or local government, a shipper or shipper association, but not including a carrier subject to the jurisdiction of the Commission under subchapter II, III, or IV of this chapter, may acquire an existing rail carrier and operate over its railroad line.

"(c) A rail carrier providing service within a given Standard Metropolitan Statistical Area (SMSA), as defined by the Department of Commerce, shall provide switching service in a nondiscriminatory manner, at a charge not to exceed the fully-allocated cost of providing such service, to all carriers originating or terminating traffic within that SMSA.".

(b) Section 10902 of title 49, United States Code, is stricken.

(c) Amend the index to chapter 109 of title 49 by striking the line dealing with section 10902.

SEC. 121. ABANDONMENT AND DISCONTINUANCE OF SERVICE.—(a) Section 10903 of title 49, United States Code, is amended as follows:

(1) Strike the last sentence of subsection (a).

(2) Strike the dash and the number "(i)" after the word "shall" in paragraph (b)(1), and strike subparagraph (b)(1)(A)(ii) in its entirety.

(3) Renumber paragraph (b)(2) as paragraph (b)(3) and insert after paragraph (b)(1) a new paragraph to read as follows:

"(2) The Commission shall find that the public convenience and necessity require and permit the abandonment or discontinuance if—

"(A) no objection to the abandonment or discontinuance is filed, prior to 30 days prior to the date proposed in the application for the abandonment or discontinuance to become effective, by a shipper or other person that has made significant use (as determined by the Commission) of the railroad line involved during the 12-month period before the filing of the application, or by a State or political subdivision of a State in which any part of the railroad line is located;

"(B) the applicant carrier demonstrates that revenues attributable to the line or service, as the case may be, do not meet or exceed the 'full cost' of operating the line or service, as defined in section 10905(a)(1) of this title; or

"(C) the Commission determines that the benefit to the applicant carrier from abandonment or discontinuance, including any benefit arising from the ability to put capital used on the line or service to other railroad use, exceeds the detriment to the protestant and others similarly situated from loss of service, taking into account any impact the abandonment or discontinuance may have on rural and community development.".

(4) Amends subsection (c) to read as follows:

"(c) A certificate issued under this section shall be effective on the 31st day after its issuance.".

(b) Section 10904 of title 49, United States Code, is amended as follows:

(1) In subsection (a)(2)(A), strike the word "and" after the semicolon, renumber subparagraph (B) as subparagraph (C) and insert after subparagraph (A) a new subparagraph (B) to read as follows:

"(B) a statement that the line is available for subsidy or sale in accordance with section 10905 of this title, an estimate of the subsidy and minimum purchase price required to keep the line in operation, calculated in accordance with section 10905 of this title, and the name and business address of the person who is authorized to discuss sale or subsidy terms for the carrier; and"

(2) Subsection (b) is amended as follows:

(A) Strike the first word, and insert in lieu thereof the following: "Except with respect to applications that have been approved by the Secretary of Transportation as part of a plan or proposal under section 401 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654 (a) through (d)), the".

(B) Add a new sentence following the last sentence to read as follows: "An application approved by the Secretary of Transportation as part of a plan or proposal under section 401 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654 (a) through (d)) shall be approved by the Commission unless a protestant demonstrates on the record by a preponderance of the evidence, that the detriment to the protestant and others similarly situated from the abandonment or discontinuance exceeds the transportation benefit from the plan or proposal as a whole, as determined by the Secretary of Transportation.".

(3) Amend paragraph (c)(1) as follows:

(A) In the first sentence, delete the comma after the word "shall"; and delete the words "petition, and may, on its own initiative," after the word "on" and insert in lieu thereof the words "objection described in section 10903(b)(2)(A) of this title".

(B) In the last sentence, insert a period after the word "party" and delete the remainder of the sentence.

(C) Add a new sentence at the end of the paragraph to read as follows: "An investigation commenced under this section shall be completed within 90 days of the date on which the Commission issues the order to investigate.".

(4) Paragraph (c)(2) is amended to read as follows:

"(2) If an objection described in section 10903(b)(2)(A) is not filed within 30 days of the filing of an application to abandon or discontinue service, the Commission shall act under section 10903(b) of this title immediately upon the expiration of the 30th day after the application is filed. If an investigation is conducted, the Commission shall issue a certificate under section 10903(b) of this title, if the application is approved, when the investigation is completed: *Provided, however,* That if the investigation is not completed within 150 days of the date the application was filed, the Commission shall issue a certificate approving the application.".

(c) Section 10905 of title 49, United States Code, is amended as follows:

(1) Delete paragraph (a)(2), renumber paragraph (a)(1) as paragraph (a)(2), and insert a new paragraph (a)(1) to read as follows:

"(1) 'full cost' means the avoidable cost of providing rail freight transportation on a line, plus an adequate return on capital attributable to the line, as defined in section 10102(1) of this title.".

(2) Amend subsection (b) by striking the number "30" and inserting in lieu thereof the number "10" and by deleting everything after the words "after the publication," and inserting in lieu thereof the following: "the carrier has received an offer of subsidy under subsection (c) of this section or an offer to purchase under subsection (e) of this section, any certificate issued by the Commission authorizing the abandonment or discontinuance shall have no effect for the line or, in the case of a purchase offer, of the portion of the line covered by the offer: *Provided, however,* That if an offer of subsidy or sale is made and the sale or subsidy agreement is not consummated within 100 days after notice is published under subsection (b) of this section, the Commission shall issue a new certificate authorizing the abandonment or discontinuance.".

(3) Delete subsection (c) in its entirety and insert in lieu thereof new subsections (c) through (i) to read as follows:

"(c) During the 10 days following the date notice is published under subsection (b) of this section, any financially responsible person may offer to pay the carrier a subsidy that covers the difference between revenues attributable to the line and the full cost of continuing service. Such offer shall be filed concurrently with the Commission. If such offer is for less than the carrier's estimate provided in the notice issued under section 10904 of this title, the offer shall explain the basis of the disparity. The full cost of continuing service shall be determined by the carrier and the offeror in accordance with subsection (a) of this section. The carrier shall promptly make available to all potential offerors who request such information all information that the Commission by regulation deems necessary to allow a potential offeror to calculate an adequate subsidy offer. If the carrier and the offeror cannot agree on 'full cost' or other terms of the subsidy, either party may, within 30 days after the offer is made, submit the dispute to the Commission for binding arbitration, except that the offeror may withdraw his offer after the close of arbitration in which case—

"(i) the offeror shall pay to the operator the full cost of operation of the line, as previously determined by arbitration, for any time the line was operated or is required to be operated subsequent to the 30th day after notice was published under subsection (b) of this section, and

"(ii) the Commission shall issue a certificate authorizing the abandonment or discontinuance.

"(d) If a dispute is referred to the Commission for arbitration under subsection (c) of this section, the Commission shall have 60 days to render its decision (which shall be effective immediately upon the Commission's decision and which shall provide for the subsidy payments to be retroactive to 30 days after the date notice was published under subsection (b) of this section).

"(e) During the 10 days following the date notice is published under subsection (b) of this section, a financially responsible person (including a governmental entity) who intends to continue service on the line may offer to purchase the line or any portion thereof (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services) for at least its fair market value when used to provide rail services. Such offer shall be filed concurrently with the Commission. If such offer is for less than issued under section 10904 of this title, the offer shall explain the basis of the disparity. Except as otherwise agreed by the parties, a sale under this subsection must be consummated within 100 days after notice was published under subsection (b) of this section. If the carrier completes such sale, it may not discontinue service on the line or on the portion purchased, if only a portion was purchased, until the purchaser commences service or 30 days after consummation of the sale, whichever occurs first.

"(f) If at any time prior to 30 days after notice was published under subsection (b) of this section, the carrier and the offeror cannot agree on the purchase price (which shall be no lower than the fair market value of the property when used for railroad purposes) or other terms of sale, either party may submit the dispute to the Commission for binding arbitration which shall be final as between the carrier and the offeror. The Commission shall have 50 days to render its decision, and the carrier shall continue service at its own expense during the arbitration period unless the carrier and the offeror agree that the offeror shall begin service during the arbitration period.

"(g) If a carrier receives more than one offer to purchase or subsidize, it shall, prior to the 40th day after the date notice was published under subsection (b) of this section, choose the offeror with whom it wishes to deal and complete the sale or subsidy agreement or submit the dispute to arbitration in accordance with this section.

"(h) No purchaser of a line or portion of line sold under this section may transfer or seek to discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

"(i) Any subsidy provided under this section may be discontinued on 60 days' notice. Unless, within the 60-day period, another financially responsible party enters into a subsidy agreement at least as beneficial to the carrier as that discontinued, the Commission shall, at the carrier's request, immediately issue a certificate authorizing the abandonment or discontinuance of service on the line.".

(d) Section 10906 of title 49, United States Code, is stricken.

(e) Section 10907 of title 49, United States Code, is amended by striking "sections 10901 and 10902" and inserting in lieu thereof "section 10901," in subsection (a) and by striking "under sections 10901–10906 of this title" in subsection (b).

(f) Section 10908 of title 49, United States Code, is amended by striking "train or" in the title and wherever else it appears.

(g) Section 10909 of title 49, United States Code, is amended as follows:

(1) Strike "train or" in the title and each time it appears in subsections (a) and (b).

(2) Add a new subsection to read as follows:

"(d) The procedures governing abandonment, discontinuance, and changes in services provided by rail carriers subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title are exclusive and may not be modified by a State except where service is provided, without interstate through service including service via one or more connecting railroads, wholly within that State.".

(h) The index to chapter 109 of title 40 is amended by striking the words "train or" in the lines dealing with sections 10908 and 10909, and by striking the line dealing with section 10906.

SEC. 122. MERGERS and CONSOLIDATIONS.—(a) Section 11341 of title 49, United States Code, is amended by striking the first word and inserting in lieu thereof "Except as otherwise provided in this subchapter, the".

(b) Section 11342 of title 49, United States Code, is amended as follows:

(1) Strike "this section" in subsection (d) and insert "subsections (a), (b), and (c) of this section" in its place.

(2) Add a new subsection to read as follows:

"(e)(1) Notwithstanding subsections (a) through (d) of this section, the Commission shall approve and authorize any transaction involving one or more rail carriers that provides for the coordination of services, exchange of markets, joint use of facilities, granting of trackage rights, or transfer of substantially less than all rail assets of any such carrier unless, on the basis of comments received from interested parties and a hearing if the Commission so orders, the Commission finds that—

"(A) as a result of the transaction, there is likely to be a substantial lessening of competition, creation of a monopoly, or a restraint of trade in freight surface transportation in any region of the United States; and

"(B) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In evaluating any transaction under this subsection, opponents of the transaction shall have the burden of proving the reduction or elimination of competition, and the party defending the transaction shall have the burden of proving that transportation needs outweigh such anticompetitive effects.

"(2) In making its findings under this subsection, the Commission shall accord substantial weight to any recommendation of the Secretary of Transportation. Upon receipt of an application and upon the making of any finding under this section, the Commission shall publish notice thereof and shall provide a copy of such application or finding to the Secretary of Transportation.

"(3) Unless the Commission determines, within 30 days after an application is filed, that a proposal submitted under this section is of regional or national transportation significance, the Commission must issue its finding under this section within 120 days after an application is filed. The Commission must issue its finding under this section within 365 days after an application is filed where the transaction has been found to be of national or regional transportation significance.".

(c) Section 11343 of title 49, United States Code, is amended as follows:

(1) In subsection (a), add the words "except a transaction involving only two or more rail carriers" after the words "of this title".

(2) Add a new subsection at the end of the section to read as follows:

"(e) The approval and authorization of the Commission is not required for any merger, acquisition of control, transfer of all or substantially all of a rail carrier's railroad

assets to another rail carrier or to a company that controls or is controlled by a rail carrier, or corporate consolidation involving only one or more rail carriers or companies that control or are controlled by rail carriers. However, no such transaction shall be effective unless the Commission certifies that the transaction is in compliance with the provisions concerning employee protection arrangements contained in section 11347 of this title. Such transactions shall be subject to the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 14 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a), the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.). No service may be abandoned or discontinued in connection with a transaction under this section except in accordance with the procedures specified in subchapter I of chapter 109 of this title.".

(3) Strike paragraph (6) of subsection (a) and strike subsection (d)(2) in its entirety and the number "(1)" in subsection (d).

(d) Section 11344 of title 49, United States Code, is amended as follows:

(1) Revise subsection (a) by inserting "(a)" after "11343" and by inserting the words "(unless such transaction involves only two or more rail carriers)" after the word "transaction" in the last sentence.

(2) Strike paragraph (2) of subsection (b) and renumber paragraphs (3) and (4) as (2) and (3), respectively.

(3) Strike the last sentence of subsection (c).

(e) Sections 11345 and 11346 of title 49, United States Code, are stricken.

(f) Section 11347 of title 49, United States Code, is amended to read as follows:

"§ 11347. Employee protection arrangements in transactions involving rail carriers

"Employee protective arrangements in transactions, under subchapter III of chapter 113 of this title involving a carrier or carriers by railroad, shall be certified by the Commission as fair and equitable in the circumstances of each transaction. No such arrangement shall be certified unless it contains levels of protection for the interest of employees who may be affected at least as protective of those interests as those provided by this section before February 5, 1976, and section 565(b) of title 45, including the issuance to affected employees of 90-day notices of intended changes and the negotiation and execution of implementing agreements prior to the effectuation of changes resulting from the transaction that may affect employees.".

(g) Section 11348 of title 49, United States Code, is amended by striking "sections 11344 and 11345" and inserting in lieu thereof "section 11344" in subsection (a) and by further striking "11711" wherever it appears.

(h) Section 11350 of title 49, United States Code, is stricken.

(i) Section 11912 of title 49, United States Code, is amended by striking "11345, 11346,".

(j) Amend the index to chapter 113 of title 49 by striking the lines dealing with sections 11345, 11346, and 11350.

FINANCIAL STRUCTURE

SEC. 130. RAIL SECURITIES SUBJECT TO THE SECURITIES LAWS OF THE UNITED STATES.—(a) Section 11301 of title 49, United States Code, is amended by revising subsection (a)(1) to read as follows:

"(1) 'carrier' means a corporation or other entity described in section 11302(a) of this title, but does not include a rail carrier.".

(b) Subchapter IV of chapter 113 of title 49 (49 U.S.C. 11361 through 11367), is stricken.

(c) The index to chapter 113 of title 49 is amended by striking the words "Subchapter IV" and everything following.

OPERATIONS

SEC. 140. CAR SERVICE.—(a) Section 11121 of title 49, United States Code, is amended to read as follows:

"§ 11121. Criteria, compensation and practice

"(a) Rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish and publish an agreement that sets and provides an enforcement mechanism for uniform, industrywide rules covering safe and adequate car service and related practices, demurrage rates, and charges for a rail carrier's use of rolling stock owned by another rail carrier and other equipment used in rail transportation. Such agreement may not provide for joint decisions on car distribution as it relates to specific shippers, ports, or localities. Such agreement shall be submitted for approval, to the Commission, which shall approve it if it is limited to those items described in the preceding sentence and contains the procedural provisions required by this subsection. If approved, the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. All discussions, agreements, and voting of the carriers relative to the collective establishment of such rules, practices, and rates shall be open to the public, not secret, and recorded or transcribed (a legible copy of a transcription to be available to any member of the public on payment of reasonable costs of reproduction). The Commission may, on its own initiative or on petition, investigate whether the parties to an agreement approved under this subsection have exceeded its scope and upon a finding that they have, issue such orders as are necessary, including an order revoking approval of the agreement, to assure that actions pursuant to the agreements are limited as provided in this subsection.

"(b) If the rail carriers cannot reach agreement on any or all car service, car hire, demurrage, or related practices, any rail carrier may submit the dispute to the Commission for arbitration that shall be binding as to the carriers. The Commission shall render its decision (which may be retroactive) within 90 days.

"(c) The establishment of an industrywide agreement shall not preclude a rail carrier from negotiating different terms with another rail carrier or with an individual shipper provided that if agreement between such carriers or between carrier and shipper cannot be reached, the relevant uniform industrywide rates and provisions established pursuant to subsections (a) and (b) of this section shall apply.

"(d) Rail carriers may not agree among themselves as to the terms of compensation for use of cars owned by an entity other than a rail carrier. Each rail carrier shall be free to enter into an agreement with any such car-owning entity covering all terms and conditions affecting such compensation.".

(b) Section 11122 of title 49, United States Code, is stricken.

(c) Section 11123 of title 49, United States Code, is amended as follows:

(1) Revise the title to read as follows:

"§ 11123. Transportation emergencies requiring immediate action to provide adequate rail transportation".

(2) Revise subsection (a) by—

(A) striking "Interstate Commerce Commission considers" and inserting "President of the United States finds" and by striking "Commission" and inserting "Secretary of Transportation";

(B) striking the word "and" in paragraph (3); striking the period at the end of paragraph (4) and replacing it with a semicolon and the word "and"; and adding a new paragraph (5) to read as follows:

"(5) require the handling, movement, and routing of traffic that cannot be transported by the rail carrier to which it is offered in a manner that serves the public, over one or more other railroad lines to promote commerce and service to the public, on terms of compensation the carriers establish between themselves subject to subsection (b)(2) of this section.".

(3) Revise subsection (b) by—

(A) striking "Commission" and inserting "Secretary of Transportation" and by striking "its" and inserting "the Secretary's";

(B) by adding a new paragraph to read as follows:

"(3) The Secretary of Transportation shall compensate a rail carrier for any costs incurred by it in complying with orders issued pursuant to subsection (a) of this section if such costs are not otherwise recovered, and funds are authorized to be appropriated for that payment. The Secretary shall issue regulations establishing procedures to be followed to receive compensation under this section.".

(d) Sections 11124, 11125, and 11126 of title 49, United States Code, are stricken.

(e) Section 11128(a)(1) of title 49, United States Code, is amended by striking "Interstate Commerce Commission" and inserting in its place "Secretary of Transportation" and by striking "Commission" and inserting in its place "Secretary of Transportation".

(f) Amend the index to chapter 111 of title 49 by striking the lines dealing with sections 11122, 11124, 11125, and 11126, adding a comma and the words "compensation and practice." at the end of the line dealing with section 11121, and by changing the line dealing with section 11123 to read as follows:

"11123. Transportation emergencies requiring immediate action to provide adequate rail service.".

SEC. 141. COMMON CARRIER OBLIGATION.—Subsection 11101(a) is amended by inserting, immediately after the first sentence, two sentences that read as follows: "As to a rail carrier, 'reasonable request' shall mean a request for service at a rate not found unlawful under section 10701a. A rail carrier cannot be found to have violated this section solely because it provides different frequencies or qualities of service at different prices, or offers to contract to provide service in some circumstances but not under significantly different circumstances, or fails to provide prompt service during periods of peak demand where such failure is due to prior commitment of equipment.".

ACCOUNTS AND REPORTS

SEC. 150. DEFINITIONS.—(a) Section 10102 of title 49, United States Code, is amended as follows:

(1) Add a new subsection before subsection (1) to read as follows:

"(1) 'adequate return on capital' means (a) a return on debt capital equal to the actual cost of the debt associated with capital assets employed in providing a specific service or movement or, where such cost cannot be calculated, the mean embedded cost of debt of a given railroad, plus (b) a return on the equity capital adequate to attract and retain new equity capital. To

attract and retain new equity capital, the rate of return must be at least equal to rate of the return an investor could earn on equity issues of other firms of comparable capital structure and risk.".

(2) Add a new subsection after existing subsection (9) to read as follows:

"(11) 'incremental cost' means that amount by which a firm's cost change as a result of a change in the quantity of a specific service or movement provided. For purposes of this definition, a service or movement is one provided under specified conditions and circumstances, between specified origins and destinations or at a specified location or locations. For a service or movement not expected to continue beyond the life of the existing assets used to provide that service or movement and that will not be used in other service, the cost of those existing assets shall not be included in the computation of incremental cost of that service or movement, except to the extent of their salvage values.".

(3) Renumber existing subsection (1) as subsection (2) and renumber all following subsections (except new subsections) accordingly.

(b) Within 4 years after the effective date of this Act, the Commission shall revise all reporting requirements affecting carriers subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to require the minimum amount of information necessary for the Commission to properly perform its duties under this subtitle.

SEC. 151. FINANCIAL AND COST ACCOUNTING SYSTEMS.—Section 11142 of title 49, United States Code, is amended as follows:

(a) Strike the words "cost and revenue" in subsection (a) and insert in lieu thereof "financial".

(b) Amend subsection (b)(1) to read as follows: "Not later than 1 year after the enactment of this Act, the Commission shall prescribe, for rail carriers providing transportation subject to this subtitle, a Uniform Cost Accounting and Reporting System, which shall be separate from the financial accounting system described in subsection (a) of this section. Such system shall identify and define, for each cost center—

"(A) operating and nonoperating revenues;

"(B) direct costs, including labor, materials, and direct overhead; and

"(C) indirect costs.".

(c) Add a new subsection (2) to read as follows:

"(2) The fololwing definitions shall apply to this subsection:

"(A) 'cost center' shall mean each activity, segment of line, asset, yard, shop, station, or geographic location large enough to provide accounting data sufficiently discrete to allow the costing system to yield data on specific services and lines; and

"(B) 'direct costs' are those costs that can be attributed to a specific cost center without resort to arbitrary allocation.".

(d) Add a new subsection (3) to read as follows:

"(3) The Commission shall require carriers to collect and retain data on an individual cost center basis but must by regulation establish levels of aggregations of cost centers that shall be used in providing data for public reports.".

(e) Renumber subsections (b)(2) and (b)(3) as subsections (b)(4) and (b)(5), respectively.

COMMISSION ORGANIZATION

SEC. 160. ARBITRATION PANELS.—(a) Add a new subchapter IV to chapter 103 of title 49 to read as follows:

"SUBCHAPTER IV—ARBITRATION PANELS

"§ 10351. Scope of functions

"Wherever in this title provision is made for 'arbitration by the Commission,' such arbitration shall be conducted according to this subchapter. It shall be assumed in all arbitration that the public interest lies solely in completing the proceeding by reaching an expeditious agreement (within the time stated in each specific arbitration authorization) in conformity with the standards set forth in each specific arbitration authorization.

"§ 10352. Establishment of panels

"(a) A party authorized to call for arbitration by the Commission shall do so by filing with the Commission, in a form established by the Commission, a notice of request for arbitration. Such notice shall include names of a Commissioner and an alternate chosen by the calling party to serve on the arbitration panel. The notice shall simultaneously be served on all other parties to the proposed argeement.

"(b) Within 5 days after the notice is served, the party to the proposed agreement other than the calling party shall file with the Commission, in a form established by the Commission, a response to the notice, which response shall include designation of a second Commissioner and an alternate to serve on the arbitration panel: *Provided, however,* That where there are more than two parties to the proposed agreement, all noncalling parties together shall, within 10 days after the notice is served, respond and designate.

"(c) Within 5 days after the response is served, the two designated Commissioners shall designate a third person, who may be a Commissioner, to serve on the panel.

"(d) If a designated or alternate Commissioner is unable to serve, all parties shall be immediately notified and the party that had designated such Commissioner shall, within 5 days of notification, designate another Commissioner.

"(e) Except with respect to arbitration conducted pursuant to section 10903 of this title, the Commission may grant such extensions of time as are necessary, but a decision in an arbitration proceeding must be promulgated no later than 1 year after the date on which the arbitration is called for under subsection (a) of this section.

"§ 10353. Arbitration procedures; precedent; appeal

"(a) The Commission shall establish procedures for arbitration under this subchapter, except that—

"(1) Arbitration proceedings shall be open only to the panel and its staff, the parties and their representatives, and witnesses and their representatives.

"(2) The decision rendered shall consist of the agreement reached and supporting rationale. The decision shall be available to the public.

"(b) An arbitration decision shall not be considered a decision of the Commission and shall not be considered precedent for future Commission or arbitration proceedings.

"(c) An arbitration decison shall be appealable to the United States district court for the district in which any of the parties resides or does business: *Provided, however,* That implementation of an arbitration decision may not be stayed or enjoined pending judicial review except where the petitioner alleges and proves that there has been fraud in the arbitration process. The findings and decision of the arbitration panel shall be presumed correct and may be set aside, in whole or in part, or remanded to the panel, only if:

"(1) if the decision does not conform to the substantive requirements of the section of this title under which the arbitration was authorized;

"(2) the proceedings were not substantially in conformity with this subchapter and regulations promulgated by the Commission thereunder; or

"(3) the decision was procured by corruption, fraud, or undue means or there was evident partiality or corruption in the arbitrators, or any of them.

"§ 10354. Compensation; conflict of interest

"(a) The Commission may designate one or more employees appointed under section 3105 of title 5 to advise and assist the arbitration panels established under this subchapter.

"(b) The members of a panel and any employees designated to assist them under subsection (a) of this section may administer oaths, subpena witnesses, and the production of records, and take depositions under section 10321 of this title related to matters for which the panel was established.

"(c) When carrying out their duties under this subchapter, panel members shall receive an allowance for travel and subsistence expenses as the Commission shall provide. In addition, each member of an arbitration panel who is not a Commissioner or other employee of the United States Government, shall receive a per diem compensation in an amount not to exceed the daily equivalent of the annual rate of basic pay for GS-18.

"(d) A member of an arbitration panel may not have a pecuniary interest in, hold an official relation to, or own securities of, a party to the arbitration.".

(b) Amend the index to chapter 103 of title 49 as follows:

(1) Renumber subchapter IV as subchapter V and subchapter V as subchapter VI.

(2) Add the following:

"SUBCHAPTER IV—ARBITRATION PANELS

"10351. Scope of functions.

"10352. Establishment of panels.

"10353. Arbitration procedures; precedent; appeal.

"10354. Compensation; conflict of interest.".

FEDERAL-STATE RELATIONS

SEC. 170. STATE AUTHORITY.—Section 11501 of title 49, United States Code, is amended as follows:

(a) Strike the first word of subsection (a)(1) and insert in lieu thereof "Where the Interstate Commerce Commission under other sections of this title has the authority to do so, the".

(b) Strike the word "shall" in subsection (b)(2) and insert in lieu thereof "shall, but only when authorized under sections 10701a or 10741 of this title,".

(c) Add at the end of the section a new subsection (d) to read as follows:

"(d) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, charges, routes, classifications, rules, practices, services (including abandonments or discontinuances of service), or financial structure of a rail carrier with respect to transportation described in section 10501(a)(2).".

EFFECTIVE DATES AND CONFORMING AMENDMENTS

SEC. 180. EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act shall take effect on January 1, 1980.

SEC. 181. ANTI-INJUNCTION PROVISION.—Nothing in this Act shall be construed to confer on any court the power to grant injunctive relief with respect to any of the regulatory matters dealt with in this Act.

SEC. 182. AMENDMENTS RELATING TO BANKRUPTCIES.—(a) Section 1170(b) of title 11, United States Code, is amended by amending the second sentence to read as follows: "The Commission shall report its action on the application to the court 120 days after the application is filed.".

(b) Section 1170(c) of title 11, United States Code, is amended by striking the words "or the expiration of the time fixed under subsection (b) of this section, whichever occurs first,".

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., March 23, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is legislation, the Railroad Deregulation Act of 1979, to amend those parts of the Interstate Commerce Act that deal with economic regulation of railroads. The legislation would diminish significantly the powers of the Interstate Commerce Commission ("Commission") to regulate the railroads and, in some cases, phase out such powers.

The legislation stems from a zero-based examination of the current rail regulatory system. It represents a coherent, economical, efficient, but carefully limited, regulatory scheme.

The legislation reflects our conviction that we face a real and immediate crisis in the railroad industry. The industry, as currently structured, but excluding Conrail, faces a potential capital shortfall of $13–16 billion through 1985. There are three railroads already in bankruptcy, two surviving only because of Federal subsidies, and several others whose financial condition is marginal. Last year the industry-wide rate of return was only 0.83 percent—far too small to attract private unsecured investment. And yet, America's industrial economy would not function without its railroads. The railroads carried almost a billion and a half tons of freight in 1977—36 percent of all freight movements. The railroads received more than $20 billion in revenues and employed a half million workers.

The rail crisis can be solved. The purpose of this legislation is to help assure that the solution comes primarily from the private sector, not from continuing infusions of Federal dollars, or from nationalization. The private sector solution means dramatic change, but its long-run effects are far less costly, and far more productive, than the alternatives.

The legislation falls into five major categories: rate regulation; rate bureaus; discrimination; industry structure; and service regulation.

With respect to maximum rate regulation, Commission authority would be entirely phased out over a five-year period. During the transition, rate increases falling within a prescribed zone would not be regulated, but increases outside the zone would be regulated in accordance with a two-part test that determines whether the shipper or receiver facing a rate increase had reasonable transportation alternatives, and whether the rate was reasonable. The Department would submit studies to the Congress after the second and fourth years describing experience under the legislation and the efficacy of competition as a regulator of rail prices, thus addressing the so-called "captive" shipper issue.

Rate decreases would be regulated in accordance with antitrust standards that prohibit pricing intended to drive competitors out of the market. Generally, rates covering the incremental costs of the service (that is, the amount by which the railroad's costs change as a result of a change in the quantity of service provided) could not be found to violate that standard.

The legislation limits rate bureau functions. Rates for services provided by a single carrier could no longer be discussed, agreed, or voted on. With respect to joint-line rates (those requiring two or more carriers), discussion, agreement, and voting would be limited to those carriers who have actually carried traffic covered by the rate within the previous 12 months, or who hold themselves out to carry the traffic if it, or the rate, is new. Antitrust immunity would be granted by the Commission only as outlined above, and, after two years, could not be granted for industry-wide general rate increases. All rate bureau meetings (including voting, but excluding purely administrative matters) would be open to the public, and rate bureaus would continue to publish rates.

The anti-discrimination provisions of the Interstate Commerce Act are rewritten to clarify existing law and to prohibit railroad discrimination between shippers, localities, ports, types of traffic, and connecting carriers of any mode, unless the railroad incurs different costs or faces different competitive circumstances in providing services to these parties. Enforcement powers under this provision would remain with the Commission.

Industry structure would be affected by new provisions governing entry, abandonments, and mergers and lesser consolidations. Entry would be essentially free, and would include provisions that help many shippers served by only a single carrier. Abandonments would be treated as they are now in the sense that the ICC would be required to find that the public convenience and necessity (P, C & N) permit or require abandonment, before it could occur. P, C & N would automatically be found if the railroad shows that the line is losing money. For other lines, the ICC would balance the costs and benefits of abandonment, although abandonments proposed as part of restructuring proposals would receive favorable consideration. Even if a line is approved for abandonment, continued service would be required if those using the line (or State or local governments) paid the costs of its operation through subsidy or purchase.

Mergers would be governed by the same antitrust laws applied to all other (nontransportation) industries, and smaller-scale restructuring proceedings would be accelerated.

Commission authority over most aspects of rail service, such as car service orders, charges for cars among railroads, and similar management prerogatives would generally be repealed. Powers to deal with emergencies would be vested in the Secretary of Transportation. The common carrier obligation to serve anyone requesting service at the prevailing rate would be retained (albeit modified to reflect diminished rate regulation), and rail management would be given greater discretion to control the timing of service. The legislation also continues labor protection provisions substantially similar to those contained in existing legislation so as to assure fair treatment of workers affected by mergers and abandonments.

The benefits of this legislation are clear, and the need for them urgent. The legislation will foster rail productivity increases, increased rail revenues, improved rail service, and greater efficiency in the transportation industry as a whole. These gains, in turn, will help to lessen and eventually eliminate rail reliance on massive Federal subsidy and to avert the prospect of nationalization. I believe that prompt passage of this legislation is imperative if the private sector solution is to work.

The Office of Management and Budget advises that submitting this legislation to the Congress is in accord with the Administration's program.

Sincerely,

BROCK ADAMS.

Enclosures.

SECTION-BY-SECTION ANALYSIS

SECTION 101. RAILROAD TRANSPORTATION POLICY

Explanation

The existing National Transportation Policy dates from the Transportation Act of 1940, and has been interpreted to emphasize protection of each mode of transportation through regulation rather than the benefits to service that can result from competition among and between the modes. This has, especially in the case of the railroads, resulted in failure to accomplish one of the goals of the policy, namely to "encourage sound economic conditions in transportation."

There is need for a new statement to cover situations in which there are impacts on rail carriers. This new statement emphasizes equality of regulation, the encouragement of free and fair competition among and between carriers of all modes. In addition, it requires regulatory policy with respect to railroads to take into consideration the impact of that policy in the context of the whole surface transportation system.

Description

Subsection (a) adds a new section 49 U.S.C. 10101a to govern rail policy. That section states that the ICC shall consider, as in the public interest, maximum reliance on competitive market forces, avoidance of undue concentrations of market power, reduction of barriers to entry and exit, maintenance of fair wages and working conditions, and encouragement of safe transportation operations. In addition, the Commission is required to be responsive to the needs of the public and to issue decisions fairly and expeditiously.

Subsection (b) limits 49 U.S.C. 10101, Transportation Policy, to situations not impacting on rail carriers.

Subsection (c) is a technical conforming change.

SECTION 102. MAXIMUM AND MINIMUM RATE REGULATION

Explanation

For nearly a century, the ICC has investigated and altered rate increases and decreases proposed by railroads. This power has, in the past, been used to hold down some rail rates to geographical areas or particular shippers that were believed to be economically disadvantaged, and to hold up other rail rates to protect the competitive positions of other modes. At the same time, and somewhat unconsistently, the Commission has been required to consider the effect of particular rates on the railroads' overall revenue levels. As shown in part by the enormous spread between the 10.6% rate of return the Commission has determined to be adequate for 1978 and the 0.83% rate of return actually achieved by all railroads, the latter goal has not been met.

The Railroad Revitalization and Regulatory Reform Act of 1976 ("4R Act") made several changes in this scheme, the most important being (i) the requirement that the Commission actually determine "adequate revenue levels" for railroads and assist the railroads in achieving it; (ii) the establishment of a requirement that the Commission could regulate maximum rates only if it first determined that a railroad had "market dominance" with respect to the traffic or movement at issue; and (iii) the restriction of minimum rate regulation to rates above that rate which "contributes to going concern value." Unfortunately, the expected benefits of those changes, including greater reliance on market forces, have not been realized, in part because the 4R Act reforms were modest with a complex system basically left intact, in part because

of restrictive ICC interpretations of provisions meant to liberalize ratemaking, and in part because of railroad hesitancy or lack of resources to exact the largest possible benefit from the Act.

The new provision is based on the theory that competition for the provision of surface transportation services, of which rail services are only a part, is pervasive and that free market forces, not the Federal Government, should determine the prices to be paid for and the conditions of service. In addition, there are no "infant industries" left in the surface transportation business—each mode should be subject to the full effects of free and fair competition. In many areas, most particularly agricultural carriage by motor and water carrier and bulk carriage of such items as coal by water, rail carriers are totally regulated and their competitors are not. In the near term, there must be a zone within which business decisions on pricing can be made without intervention or fear of intervention. In the long-term, complete deregulation of rates is proposed. A five-year transition period is provided to allow shippers and receivers to adjust existing rail-related investments, contract for future rail services and develop alternate marketing patterns. The new provision also removes some archaic features of prior law caused by almost a century of successive statutory accretions.

Description

Subsection (a) removes rail carriers from the general ratemaking provisions of the Interstate Commerce Act that would remain applicable to other modes.

Subsection (b) contains the new rate regulation provisions applicable to rail carriers. Subsection (a) of new section 49 U.S.C. 10701a sets forth the general rule that any rail carrier can set its rate for services at market-determined levels. In addition, contracts for rates and services, entered into by a carrier or carriers and a purchaser of rail services (either a shipper or receiver), are explicitly permitted. Such contract rates are not subject to challenge under either the minimum or maximum rate regulation sections.

In subsection (b) of the new section, a transition rule for maximum rate regulation in the period January 1, 1980 to December 31, 1984 is set out. During that period, rates may be raised, with no regulatory investigation or interference, by 7% per year, in constant 1980 dollars. New rates or rates previously reduced may also be raised by 7% per year, in constant dollars. For a two year period, until December 31, 1981, general rate increases would be permitted, but only to cover economy-wide inflation. General rate increases are included in, not in addition to, other increases within the zone. (Of course, any economy-wide regulations on prices would supercede these rules.)

Outside the "zone of reasonableness", the Commission may undertake an investigation of the rate upon allegation of a purchaser that it has been competitively damaged by the rate increase and is likely to prevail on the merits in any subsequent investigation. Competitive damage means damage to a purchaser's competitive position, and not simply the economic fact of higher transportation costs.

In order to obtain relief, a complaining purchaser or an organization representing it must prove that it has no reasonable transportation alternative. In so doing, both the complainant and the Commission must address other existing and potential transportation opportunities, private carriage, and the existence of alternative markets for the purchaser's goods. Even if no alternative is available, the carrier increasing its rate may still avoid a rate reduction by proving the rate at issue to be reasonable. In proving reasonableness, a carrier would be expected to address such issues as its costs, and the competitive circumstances.

If there is no transportation alternative and the rate is found unreasonable, the Commission may, for the benefit of the complaining purchaser only (no other purchaser having shown that it had no transportation alternative), order the rate reduced, but not below that level necessary to cover costs and provide an adequate return on capital, when considered in the context of other revenues. In no instance, however, may the Commission set a rate that yields a rate of return on the capital involved that is greater than twice the overall rate of return calculated pursuant to section 10102(1). Thus this section provides protection to the railroad against unfairly low rates and to the "captive" shipper against excessively high rates. (See Sec. 150 (a), below). The reduced rate would, in general, be applicable only over that part of the movement where there was no rail or water competition. In order to protect purchasers, no rate lowered by Commission proceeding can be raised for twelve months after the effective date of the Commission's order. On the other hand, a purchaser receiving the benefit of a reduced rate must ship all affected output by rail (including Trailer-on-Flat-Car and Container-on-Flat-Car). Provision is made for joint actions by groups of purchasers, but in order to obtain relief, lack of reasonable transportation alternatives must be shown as to each purchaser.

Subsection (c) of the new section sets forth the general policy on rate decreases. The general policy is that a railroad may not, with the intent to eliminate a competitor, set a rate below a level that contributes to the firm's going concern value. A rate set at or above "incremental cost" as defined in 49 U.S.C. 10102(11) (see Section 150(b), below) shall be deemed to contribute to going concern value. (The definition of "incremental cost" includes a "fire sale" provision that would allow a railroad to price a service at an even lower level if it can prove that the affected line or service is going out of business.) On demonstration, the Commission may order the rate increase only to a level covering incremental cost. The Commission may assess damages for violation of this subsection under section 11705(b)(3) of this title.

Subsection (d) of the new section states that a carrier may establish a tariff that contains minimum and maximum rates and that provides for rate fluctuations within these limits in accordance with actual or predicted fluctuations in demand. Rates under such tariffs, during the transition period, will be subject to minimum and maximum rate regulation only with respect to the average rate actually charged over six-month's time, unless a given rate within the tariff range stays in effect for more than 120 days in any 150 day period. The purpose of the section is to allow a carrier to establish rates that fluctuate either by the calendar (in response to predicted seasonal changes in demand) or by, for example, the number of carloads tendered in a week or other indicia of actual demand. No advance notice beyond the publication of the tariff is required to put a rate into effect. This will allow rate fluctuations in response to peak and seasonal demands, and allow railroads to flatten peaks and troughs of demand and to compete effectively for this traffic with trucks and barges, which regularly engage in rapid price fluctuations.

Subsection (c) is a technical conforming change.

SECTION 103. INVESTIGATIONS OF RATES AND ORDERS SETTING RATES

Explanation

The ICC now has the authority, on its own or on request, to investigate a proposed rate change, and may suspend a rate on complaint. The 4R Act amended these provisions to require a complainant to show a rate likely to be unlawful before the Commission could suspend and to limit a suspension to seven months, unless the Commission explained to Congress the need for further delay. However, the provision continues to limit the railroads' ability to respond quickly to changing conditions and thus, to compete with unregulated competitors. In addition, much time, energy, and legal fees are wasted in responding to protests, frivolous and otherwise. The failure of the act to provide for collection of suspended rates later found lawful, while requiring refund of collected rates later found unlawful, merely encouraged suspension requests.

The new provision eliminates the Commission's power to suspend rates, and limits its power to investigate to situations in which an injured party requests an investigation. (Investigations of rate increases are further limited by the requirements established by new section 49 U.S.C. 10701a. See description of section 102 above.) To discourage railroad abuse of the no-suspend provision, a railroad charging a rate later found to be unlawful may, in addition to refunding the excess revenue collected and interest, be required to pay a complaining purchaser's attorneys' fees and costs.

Description

Subsection (a) requires that Commission orders on railroad rate proposals, made after investigation, conform to the provisions of section 49 U.S.C. 10701a. This limits the amount of increase or decrease that may be ordered and restricts the benefits of a Commission order to the complaining purchaser.

Subsection (b) repeals the existing section requiring the Commission to consider rate relationships among ports, commodities, etc., and the competitive damage a proposed rate will have on complaining purchasers in determining whether a proposed rate is lawful. Consideration of rate relationships was valid when railroad rate regulation was an instrument of social policy to protect certain segments of the country or certain commodities. Under deregulation, marketplace economics and efficiencies will serve the function of resource allocation. Competitive harm to shippers is one of the factors the Commission must consider under new section 10701a, and harm caused by discriminatory rates will be remedied under new section 10741. See Section 106, below.

Subsection (c) restricts the Commission to investigations into railroad affairs on complaint, repealing the Commission's power to order an investigation on its own initiative. Rate investigations may not be added to ongoing investigations in other areas.

Subsection (d) requires that rate investigations be started only on complaint, and that the allegations required by new section 10701a be contained in any applicable petition for investigation. The subsection also provides that no investigations may be made of rate increases that become effective after December 31, 1984.

Subsection (e) requires all rate investigations to be completed and a final decision issued within four months after a complaint is filed. If a decision is not made within that time, the rate protested is conclusively lawful. The provision allowing an extension of time upon notification to Congress is deleted.

Subsection (f) repeals the Commission's power to suspend a rate.

Subsection (g) provides that a carrier must refund to the complaining purchaser any portion of an increased rate later found to be unlawful, plus interest and, at the Commission's discretion, the complainant's costs and attorneys' fees. Technical changes are made to reflect repeal of the suspension power.

Subsection (h) deletes the existing provision that places the burden of proof on a protestant in a suspension proceeding as un-

necessary in light of repeal of the suspension provision.

Subsection (i) conforms the general provision regarding Commission initiated investigations to the new rules on rail investigations that prohibit the Commission from undertaking such investigations on its own initiative.

SECTION 104. JOINT-LINE RATES AND THROUGH ROUTES

Explanation

Some of the most lengthy and difficult proceedings in railroad ratemaking stem from the Commission's authority to require carriers to set one rate (joint-line rates) for service on a route that requires the participation of two or more carriers (through routes). The requirement for joint-line rates leads to the issue of how revenues earned under such rates are to be divided between participating carriers—so-called division of revenue proceedings. Division proceedings may last as long as 15 years. Furthermore, the ultimate conclusion has generally tended to favor railroads with long relatively simple hauls over shorter haul carriers, particularly the Eastern railroads.

While it will continue to be useful for the Commission to designate through routes so that shippers can be assured of through service without carrying on multiple negotiations, it is not necessary for the Commission to continue to require joint-line rates. On any through route, a rate can be calculated by adding the rates of each carrier on its portion of the route (rates called "local" or "proportional"). This will avoid entirely the divisions issue. On the other hand, where there are economies or good marketing techniques that favor point-line rates, carriers should be allowed to set such rates and agree on divisions if they are able, and even to agree to determine divisions by commercial arbitration rather than by Commission proceedings. Both the sum of locals and joint rates could be published to provide shippers quick access to full point-to-point rates. The new section is based on these principles.

Description

Subsection (a) confirms the Commission's power to establish through routes involving rail carriers, but eliminates its power to set joint-line rates involving rail carriers.

Subsection (b) repeals restrictions on the type of rail through routes that may be established as unnecessary in light of the repeal of authority to require joint-line rates.

Subsection (c) conforms the prohibitions against the Commission's prescription of certain joint-line rates and through routes to reflect the repeal of authority to require railroad joint-line rates.

Subsection (d) removes the Commission's power to set divisions with respect to joint rates involving one or more rail carriers.

Subsection (e) is a technical conforming change.

Subsection (f) repeals the Commission's authority to suspend or investigate a cancellation of a joint-line rate involving a rail carrier. Since establishment of such rates is entirely voluntary, cancellation should also be permitted without restriction. The subsection also adds a new subsection (e)(2) to 40 U.S.C. 10705, providing that in the event any carrier that is a party to a joint-line rate unilaterally increases or decreases its rate for its part of the movement, the joint-line rate shall be automatically increased or decreased by the absolute increase or decrease for the part. A participating carrier would, however, have the right to cancel the joint-line rate instead.

Subsection (g) contains technical amendments to reflect the repeal of the Commission's authority to set or adjust divisions.

Subsection (h) is a technical conforming change.

Subsection (i) establishes the ground rules under which rail carriers may establish joint-line rates. The section provides (i) that railroads and connecting carriers of other modes may establish through routes, joint rates, and divisions; (ii) that as to Commission-prescribed through routes, if an associated joint-line rate cannot be agreed upon, traffic will be carried on a rate equal to the sum of the rates established by each carrier for its portion of the route; and (iii) that unless carriers agree otherwise, the originating carrier shall collect and divide the revenues earned under a joint or summed rate. The subsection also provides that existing joint-line rates and divisions may continue in effect unless the carriers decide otherwise.

SECTION 105. RATE BUREAUS

Explanation

Rate bureaus are groups of carriers that meet to discuss and vote on proposed rate and routing changes. In addition, the bureaus, by requiring notice of a proposed rate change in advance of the time the change would be filed with the Commission, provide an informal forum for complaints and comments by shippers and other carriers about the proposed changes. The bureaus also publish the tariffs of their member carriers.

Many rate bureau activities, most notably the setting of uniform rates on different routes between two locations, would violate the antitrust laws were they not granted immunity from such laws by the Commission. The Commission's authority to grant immunity started in 1949 with the Reed-Bulwinkle Act, passed over President Truman's veto, and continued, although in somewhat restricted form, under the 4R Act.

The Commission has recently exercised its powers under the 4R Act to attempt to minimize the anticompetitive effects of the bureaus' price-setting power, while holding out the possibility that the bureaus can continue to serve their valid administrative functions if they comply with the Commission's rules, the most significant of which would open all meetings and votes of the bureaus to the public. The new section builds on the Commission's decision, while retaining the Commission's authority to deny antitrust immunity altogether should other changes in the statute, such as the abrogation of the requirement for joint rates, make the bureaus unnecessary or if the bureaus cannot prove that their operations are in furtherance of the national transportation policy.

Description

Subsection (a) sets limits on a carrier's right to participate in discussion and voting on a joint-line rate by requiring that the carrier actually have carried traffic under the joint-line rate during the last twelve months (if the proposal is to change an existing rate), or must hold itself out to carry traffic under the rate at issue (if the proposal is for a new joint rate).

Subsection (b) makes explicit a rate bureau's right to publish rates, and is a clarification of existing law.

Subsection (c) requires that all bureau meetings, except those of a purely administrative nature, be open to the public, and that a transcript be available. All votes must also be open and recorded.

Subsection (d) removes the rate bureaus' authority to discuss single-line rates. The 4R Act prohibited voting on such rates, but permitted them to be discussed. Since a single carrier has the ability to alter these rates unilaterally, joint discussion tends only to result in tacit agreements or to assure that such rates are held up to the level of less efficient routes or carriers. Proposed changes in the antidiscrimination laws (see section 106, below) make discussion of single line rates to avoid violation of those laws unnecessary.

Subsection (e) removes, after two years, the Commission's authority to grant antitrust immunity to rate bureau agreements that provide for general rate increases or decreases or broad tariff changes. It is expected that the result will be that the industry will cease setting prices on an industry-wide basis. Thus, like all other industries, the railroad industry would be required to set and change prices competitively, rather than collusively. A single firm would, however, be permitted to raise all of its own rates simultaneously if it wished to.

Subsection (f) is a technical conforming change.

Subsection (g) permits a group of carriers to enter into an agreement limited to compiling, publishing and distributing rates, but not establishing them. The agreement can be entered into and carried out without Commission approval but with immunity from the antitrust laws. The Justice Department and the National Commission for the Reform of the Antitrust Laws have indicated that such agreements would not violate the antitrust laws in most cases, but the statutory provision will remove uncertainty. In order to prevent abuse of this provision, the Commission is authorized to investigate whether parties to the agreement have exceeded its authority and, if necessary, to abrogate the agreement.

SECTION 106. ANTIDISCRIMINATION

Explanation

The antidiscrimination sections of the Interstate Commerce Act, now codified at 49 U.S.C. sections 10726, 10741, and 10742, but commonly known as "sections 2, 3 and 4," are some of the most misunderstood, archaic, and misused sections of the act. In general, section 2 (49 U.S.C. 10741(a)) prohibits one railroad from charging two shippers different rates for the same service over the same line and between the same origin and destination. Section 3(1) (49 U.S.C. 10741(b)) prohibits a carrier from charging different rates to different shippers, ports, localities and districts, if the different rates result in undue preference or prejudice among the competing parties. This section, for example, is concerned with situations in which two shippers in different cities, shipping to a single destination by the same railroad, are charged different rates even though the distance is approximately the same from both origins. Section 3 also prohibits discrimination by a railroad against its connecting carriers (49 U.S.C. 10742).

Section 4 prohibits a carrier, except in special circumstances, from charging more for a short-haul than for a long-haul over the same route. This, for example, restricts a carrier's ability to give discount rates to a shipper willing to fill a car that would otherwise return to its origin empty. Another part of section 4 prohibits a rail carrier from raising a rate previously lowered to meet water competition after the water competition is no longer operating.

With the exception of the long-haul/short-haul provision, which appears to function mainly as an excuse (by either a railroad or the Commission) not to engage in competitive pricing, and which is frequently waived, the provisions have a continuing economic basis. However, interpretation has been inconsistent, and frequently unpredictable. Furthermore, the Commission has often used the provisions in ways that are contrary to development of an efficient transportation system. For example, when rail carriers shipping grain to New Jersey wanted to lower their rates to compete with motor carriers, the Commission required them to lower their rates on grain to New England also, although New England carriers face less competition from trucks. The carriers responded by not lowering the New Jersey rates, contending the wider reduction would have been too costly.

The new provision would repeal the long-haul/short-haul clause, and make more explicit the law's policy that cost and competitive differences justify different rates. It also permits ports and localities to challenge rates on the basis of their discriminatory effect when the port or locality can demonstrate that a purchaser of rail services doing business within the port or locality has been competitively injured. The water carrier protection of section 4 is subsumed by the general minimum rate regulation section, new section 10701a(c). In addition, a rail carrier's willful manipulation of rates to put a competing water carrier out of business is, if not within the scope of the Interstate Commerce Act, as amended by this bill, subject to the antitrust laws.

Description

Subsection (a) amends 49 U.S.C. 10741 by adding new subsections (a) through (c), combining old sections 2 and 3(1). New subsection (a) of 49 U.S.C. 10741 provides that a carrier cannot discriminate between competing purchasers of like and contemporaneous transportation service unless cost or competitive differences exist. "Like and contemporaneous transportation services" means service of approximately the same amount and character, such as transportation of three covered hoppers of grain per week—offered at approximately the same time.

New subsection (b) of 49 U.S.C. 10741 establishes procedural requirements for obtaining relief under subsection (a). These are that the purchaser or his representative must show that a carrier has charged different prices for like and contemporaneous transportation services under similar transportation conditions, and that the purchaser has been competitively harmed. The purchaser has the burden of showing different rates, damage, and that he is in competition with the favored purchaser. The carrier has the burden of proof on cost justification and differing competitive conditions.

New subsection (b) also provides that a purchaser alleging that he has been injured by being denied an opportunity to contract for services provided to another, must show, in addition to the requirements above, that he was ready, willing, and able to enter into a similar contract during the period the carrier was offering the contract terms to the allegedly favored purchaser.

New subsection (c) of 49 U.S.C. 10741 codifies present case law to the effect that a carrier may be found to discriminate on a joint-line rate only if it has refused to provide a non-discriminatory rate on its part of the service.

New subsection (d) of 49 U.S.C. 10741 sets the penalty for violation of the antidiscrimination sections at the difference between the rate charged the complainant and that charged the favored shipper plus interest. The Commission is authorized to assess attorneys' fees and costs against the carrier for a willful violation and against the complainant for a complaint brought or continued in bad faith. In addition, the carrier must render the rates non-discriminatory, within the meaning of this section. Thus, he may raise the low rate or lower the high one, and may have different rates if there are cost or competitive differentials that have been shown during the proceeding challenging the initial rate.

Subsection (b) makes the existing antidiscrimination provisions inapplicable to rail carriers, which are now subject to the new provisions described above.

Subsection (c) makes technical conforming changes.

Subsection (d) retains existing law requiring non-discriminatory connections and makes clear a carrier's right to charge a connecting carrier for the cost of facilities and services required to make the service provided to the connecting carrier nondiscriminatory.

SECTION 107. NOTICE AND PUBLICATION

Explanation

Current law requires rail carriers to give 30 days notice of rate changes, and to publish tariffs in accordance with complex rules, many of which were developed by the Commission prior to the advent of sophisticated data processing, transmittal, and retrieval systems. At the same time, some of the railroads' most important competitors—motor carriers carrying raw agricultural products such as grain and water carriers carrying bulk commodities including grain and coal—do not have to give notice or publish rates. The result has been that the rail system is overpriced during much of the year and not used, and underpriced and overburdened during periods when prices on the other modes increase. Increases may be the result of large harvests, but they can also arise from foreign grain sales, fluctuations in the domestic grain market or currency fluctuations.

The new provision recognizes the desirability of publishing rates, in part because complete pricing information improves the functioning of the marketplace, and in part so that shippers can assure themselves that carriers are not engaging in illegal discrimination. However, there is also a need to allow the industry to publish in the best way modern technology provides. In addition, the notice period is reduced, over a three-year phase-in period, so that rail carriers can compete effectively with unregulated carriers. Decreased rates will be effective on notice and increased rates after a one-day lag. Peak and seasonal rates, established under section 49 U.S.C. 10701a(d) (see section 102, above), immediately may provide for increases and decreases on one-day and no notice, respectively.

Description

Subsection (a) requires that the essential terms of contracts for rates and services allowed under new section 49 U.S.C. 10701 a(a), be published and filed with the Commission. This will assist smaller carriers and shippers in the development of innovative agreements, and will also make possible enforcement of the antidiscrimination provisions. Essential terms, to be defined by the Commission, include carrier(s), general origin and destination, commodity shipped, rate and minimum shipment requirements. The Commission, to the maximum extent consistent with the purpose of the section, is not to require shipper names or other identifying data.

Subsection (b) removes rail carriers from the general rules on notice and publication of rates.

Subsection (c) makes a technical conforming change.

Subsection (d) establishes new rules for publication of rail rates: the Commission can prescribe what must be in a tariff, but not its format, and "publish" means only that a rate is generally available to the public while it is in effect and during the notice period. It is expected that the freedom provided by this section will encourage either the carriers or another entity to establish a system that makes tariffs easily and promptly available, whether via computer terminal or in some other fashion, to shippers, other carriers, and freight agents. Carriers will still have to file tariffs with the Commission.

Subsection (e) makes a technical conforming change.

Subsection (f) amends the existing 30-day notice provision to provide that a particular peak or seasonal rate, established under new section 49 U.S.C. 10701a(d), may take effect immediately for decreases and on 1-day's notice for increases. However, the overall tariff, containing the upper and lower rate limits, requires a 30-day notice period. This will allow for immediate carrier flexibility to respond to changes in demand for services, and to compete with unregulated carriers but will also allow purchasers of rail services time to understand and make transportation plans based on the proposed rates.

Subsection (g) establishes the phased-in decreasing notice period for all railroad rates. Contract rates will immediately be able to become effective on publication. For other rates, for the first year after the effective date of this act, rates may go into effect on 21-days' notice; during the second year, 14-days' notice; and during the third year, 7-days' notice. After 3 years, increases may go into effect on 1-day's notice and decreases upon publication. Of course, good business practice may well require carriers to provide shippers with more advance notice, particularly of major rate changes.

Subsection (h) makes a technical conforming change.

SECTION 108. MISCELLANEOUS RATE PROVISIONS, INCLUDING RATES ON GOVERNMENT TRAFFIC, RELEASED VALUE RATES, AND THE COMMODITIES CLAUSE

Explanation

Because of the age of the Interstate Commerce Act, and the multitude of uses to which it has been put, the act contains myriad obsolete provisions designed to use railroad rate regulation to achieve various social goals. Many of these have not been used in years and either clutter the act needlessly, or permit the ICC to require railroads to subsidize other industries or areas. Others, while technically obeyed, are avoided through well-known ruses.

This section deletes, or, where necessary, amends these provisions.

Description

Subsection (a) deletes the provision allowing U.S. government traffic to travel at reduced rates. There have been two justifications for this clause—that the railroads owe it to the government because of the land grants on which they were built, and that it is essential in an emergency. The act provides extensive powers to the Secretary of Transportation to compel rail service in time of war, threat of war, or other national or local emergency. See section 140, below. In addition, studies show that on any reasonable calculation of the value of the land grants, the railroads' provision of reduced rate transportation services to the government repaid the grants before the end of World War II. If the railroads are to operate under a free market system, the government, like any other shipper, must negotiate rates that reflect the cost of the service and the competitive conditions faced by the railroads.

Subsection (b) deletes the Commission's mandate to establish rules for demand-sensitive rates. Such rates will be set, as the railroads believe useful, under the provisions of new section 10701a(d), described above at section 102.

Subsection (c) deletes the Commission's authority to establish rules for distinct service pricing (i.e., unbundling services from tariffs and pricing them separately). In a free market system, carriers and shippers should be free to set rates applicable to the services demanded by the individual shipper subject only to the antidiscrimination provisions.

Subsection (d) deletes a provision added by the 4R Act allowing a carrier to file a special rate in response to a related capital

investment of $1 million or more by the carrier or a shipper. The provision has been the subject of an enormous amount of litigation during its short history and contains numerous ambiguities and loopholes. Again, the market is a better judge of when a reduced rate should be established for service using shipper-supplied capital than is the government. The subsection provides protection, however, for capital incentive rates established before the effective date of this Act, since such rates were to be guaranteed for 5 years.

Subsection (e) frees carriers and shippers to agree on reduced rates in situations where the railroad shifts to the shipper part of the loss should the cargo be destroyed. Railroads now are usually required to bear the full cost of lost cargo and any damage caused by its loss. As claims have risen, insurance has been harder and harder to obtain, and many railroads face substantial losses in the event valuable cargo, particularly of hazardous materials, is lost or damaged. On the other hand, shippers have, in many instances, the resources to insure at least part of the loss themselves. The Commission has been reluctant to allow reduced rates when the risk is shifted. Carriers and shippers should be allowed to agree on a fair rate for all service provided, explicitly taking into account the risks of loss or damage.

Subsection (f) strikes the so-called commodities clause that forbids a railroad to transport property owned by it except as the property is used in the business of the carrier. The clause is honored only in the breach, since the prohibition does not apply to commodities sold by the railroad at, for example, the mouth of a mine, and then transported by the railroad that owns the mine.

Subsection (g) repeals the subchapter dealing with valuation of carrier property. The valuation procedure is extremely time-consuming and reports produced are generally sufficiently out-of-date as to be of little value. Furthermore, the cost accounting system mandated in section 11142, as amended by section 151 of this bill, coupled with cost-based ratemaking in those instances where the Commission will retain some authority over rates, makes the valuation procedure unnecessary.

Subsection (h) makes a technical conforming change.

SEC. 109. STUDIES

Explanation

The new system of railroad rate regulation established by the bill will have substantial effects on both carriers and shippers. Some amount of confusion and dislocation, while both carriers and shippers learn to cope with the new system, is likely. This section requires the Secretary of Transportation to carry out two studies, due two and four years after the Act's effective date, of the short run and longer run effects of the Act.

Description

Subsection (a) requires the Secretary to prepare and submit to Congress a two-year status report on competition in the provision of transportation services. This report will analyze, in greater detail than previously possible, the factors that guide shippers into one or another mode of transportation and the actual inter- and intra-modal competition in the system. It will be particularly useful as a first-level assessment of the magnitude of the so-called "captive shipper" problem.

Subsection (b) requires the Secretary to prepare and submit a final study of the experience under the maximum rate provision of the Act, including recommendations for legislative action, if necessary, to assure that users of the freight transportation system will have the benefits of competition, through either competition or regulation. This study will allow Congress to assess the actual experience of shippers under an essentially free market system.

Subsection (c) requires carriers, shippers and others to provide to the Secretary information needed to carry out the studies mandated. The section also provides that the Secretary shall keep confidential the proprietary data in the information provided. Such data may be used anonymously in the studies required under this section.

Subsection (d) authorizes and directs other agencies to cooperate, through the provision of data and in other ways, with the Secretary in producing the reports.

SEC. 120. ENTRY

Explanation

Entry into the railroad industry, like exit from it, has been restricted by the Commission under a "public convenience and necessity" standard. This regulation dates from the early part of this century and was a response to the massive overbuilding of that period. While the regulation served a worthwhile purpose in the past, it now has the effect of restricting the possibilities for increased intra-modal competition.

It is generally agreed that the cost of both land and construction now severely restrict the construction of major new segments of rail line. Open entry should, therefore, not result in the overbuilding that restricted entry was meant to prevent. On the other hand, there are places where construction of a few miles of line, with a switch or crossover at another carrier's line, will provide substantial new rail-rail competition. This is particularly true in some port areas.

The new provision would free entry, by construction or acquisition, from restrictions other than those applicable to mergers, except with respect to entry by a regulated carrier of another mode. (Intermodel ownership issues will be considered in other legislation.) The new provision specifically allows construction crossing a rail line, as long as construction and operation can be accomplished without undue interference with the operation of the crossed line and a fair price is paid for the easement.

The new provision also contains a section expanding slightly and making applicable to all parts of the country so-called "reciprocal switching agreements" under which a railroad must agree to pick up and deliver cars on behalf of another carrier at a standard switching charge. This too, should expand the possibilities for intra-modal competition.

Description

Subsection (a) amends the railroad entry provision to allow free entry, by construction or acquisition, to anyone except a regulated carrier of another mode. The subsection also provides that new track may be constructed crossing another carrier's track. A fair price must be paid for the easement, and Commission arbitration is provided if the parties cannot agree. See section 160, below. In addition, construction cannot "unreasonably interfere" with the operation of the crossed line, and operation cannot "materially interfere." It is expected that construction will restrict service on the crossed line for the minimum time feasible and at times most convenient to the crossed carrier. Operation of the crossing line is expected to interfere minimally, if at all, with operation of the crossed line.

Subsection (a) also requires all carriers operating within a Standard Metropolitan Statistical Area to switch, at a standard charge not to exceed fully-allocated cost, the cars of all other carriers originating or terminating traffic within the SMSA.

Subsection (b) strikes the provision dealing with adequacy of service. In a free market economy, what service is "adequate" is a question to be resolved by buyer and seller, and is defined by price. Other sections of the Interstate Commerce Act, as amended, will provide the Secretary of Transportation power to assure that national or local transportation emergencies do not interfere with essential services. See section 140, below. The Department of Transportation's authority over rail safety continues unchanged.

Subsection (c) makes a technical conforming change.

SEC. 121. ABANDONMENTS

Explanation

Under current section 10903, railroads may not abandon a line or discontinue service without first obtaining from the Commission a certificate declaring that the "present or future public convenience and necessity require or permit the abandonment or discontinuance." The quoted phrase is undefined, and the law makes no attempt to relate this standard to whether a line is compensatory or not.

A carrier seeking abandonment has the burden of proof and it also has the burden of fulfilling a fairly complex and lengthy set of procedural requirements. Carriers must submit applications at least 60 days prior to the proposed effective date of the abandonment. However, the statute also provides in section 10904 that if the certificate of abandonment is opposed by those making significant use of the line during the 12 month period prior to the application or by a state or locality, the Commission may issue an abandonment certificate only if the line was described on a diagram filed with the Commission at least 4 months prior to the date of the application and showing lines for which the carrier plans abandonment.

Once an application is filed, the Commission can order an investigation and postpone the abandonment "for a reasonable period of time necessary to complete the investigation." The statute imposes no absolute deadline on this process. If the Commission finds that a certificate should be issued, it may still postpone the issuance of the certificate for a period of up to six more months if it finds that a "financially responsible person" has offered assistance equal to the difference between the revenues attributable to the line and the "avoidable cost" of providing the service, plus a reasonable return on the value of the line.

Experience to date under the current standard and procedures illustrate how vague and cumbersome the program is. The ICC has attempted to issue interpretive regulations, but substantial parts of these regulations have been found unlawful. According to information supplied by ICC staff, the ICC received 341 abandonment applications in the period from February 1976 to December 1978. Of the 341 applications (covering about 7,700 miles), 120 (4200 miles) are still pending, 6 (189 miles) were denied, 192 (2,806 miles) were granted, 3 (37 miles) were partially granted, and 20 (460 miles) were withdrawn or dismissed. The time elapsed in the proceedings averaged 259 days, but the individual times ranged from 8 to 750 days. The existing abandonment procedures provide no compenastion to railroads for the losses incurred in operating their lines while the abandonment process is taking place. This noncompensated loss occurs even after the Commission finds that a certificate should be granted but is still awaiting subsidy from a "financially responsible person." These losses are in addition to any costs, which may be quite considerable, of the abandonment regulatory process itself.

Description

The amendment contained in this section retains the basic requirement that the Commission find that the public convenience and

necessity (PC&N) permit or require an abandonment or discontinuation of service, but the criteria under which the Commission must find PC&N are defined, and more definite time limits are provided. A provision is also included to allow service to continue on a line if it is subsidized or purchased, but strict limits are placed on the time a railroad can be forced to continue losing operations while a subsidy or purchase agreement is being negotiated. However, to avoid the feature in the 4R Act provisions that essentially allows a recalcitrant railroad to refuse to accept a subsidy, the section requires binding arbitration at the Commission in the event that offeror and railroad cannot agree on a subsidy or purchase price.

Subsections (a) and (b) amend 49 U.S.C. 10903 and 10904 to define the conditions under which the Commission must find PC&N, and the time within which actions must be taken. Where no objection to the abandonment or discontinuance is forthcoming within 30 days after the application is filed, the Commission must immediately issue a certificate approving the abandonment or discontinuance. Where objections are forthcoming, the Commission must, within 30 days, start an investigation. The Commission must find PC&N, and approve the application, if the revenues attributable to the line do not cover the full cost of providing service—the avoidable costs of the service plus an adequate return on the capital used to provide the service. In other cases, the Commission is required to weigh the benefit to the railroad, including benefits that would arise from not having to use capital on the line (so-called "opportunity costs") against the detriment to the protestant and others similarly situated.

The railroad is required to show that it is losing money, and on a non-money-losing line, the burden is on the carrier to show that benefits outweigh costs. However, section 121(B)(2) amends section 10904 of title 49 to provide that where an abandonment is proposed as part of a merger, consolidation or rationalization proposal approved by the Secretary of Transportation under section 401 of the 4R Act, the abandonment will be presumed to meet PC&N, and to overcome the presumption, the opponent must show that the detriment to himself and others similarly situated outweighs the benefit of the 401 proposal, taken as a whole. The Secretary of Transportation, in approving proposals under section 401, brings into the process and takes into account the interest of shippers, employees, and state and local governments, among others. On the other hand, the proposals are valuable in large part because they cover a number of interrelated actions. To consider the effect of any one of those actions of outside the context of the entire proposal would substantially reduce the efficacy of the 401 process.

Subsection (b) also amends section 10904 to place strict time limits on the abandonment process. The Commission must initiate an investigation on the objection of a substantial user or state or locality, but such an investigation must start within 60 days of the date an application is filed, and must be completed 90 days later. If the investigation is not completed within the time given, a certificate approving the abandonment or discontinuance must be issued.

Subsection (c) amends section 10905 of title 49 to alter the system under which a line can be kept in operation through subsidy, and provides a new purchase alternative to subsidization. Once the Commission declares that PC&N has been shown, it must (as under current law) publish a notice of that fact in the Federal Register. A potential subsidizer or purchaser must make an offer within 10 days of publication.

The new subsection 10905(c) provides the condition for subsidy. The offer of subsidy must be received from a "financially responsible person" who offers to pay a subsidy "that covers the difference between revenues attributable to the line and the full cost of continuing service." "Full cost" is defined in new subsection 10905(a)(1) as the avoidable costs of the line, plus a reasonable return on capital attributable to the line. "Avoidable cost" is defined as in present law, which has been interpreted in *Chicago & North Western Transportation Co.* v. *United States*, — F.2d — (7th Cir. 1978), *cert. denied*, —— U.S. —— (1979).

This subsection provides that if the parties cannot agree on the amount of subsidy, either party may submit the dispute to the Commission for binding arbitration, which must be completed, and the agreement consummated, (according to subsection (d)) within 60 days. The subsidy shall be effective starting on the 30th day after the Commission's decision is published. Provision is made for an offeror to rescind its offer after arbitration, at which time the Commission must immediately issue a certificate authorizing the abandonment or discontinuance.

In new subsection (e)-(f) the procedures for an offer to purchase are provided. The offer to purchase must be: (1) for all the facilities in the line or a portion thereof; (2) at least for the fair market value of the line or portion when used to provide transportation services, and (3) made by a financially responsible person. If the parties cannot agree on a price, either party may submit it to arbitration, and the Commission is required to reach a decision within 50 days. The sale must be consummated within 10 days of the arbitration decision. If there is a consummated sale, the railroad is required to continue service, at its cost, for an additional 30 days, unless otherwise agreed.

New subsection (g) provides that if more than one offer of sale or subsidy is made, the carrier must, within 40 days of the date the notice is published by the Commission, either accept an offer or choose one offeror with which to go to arbitration.

New subsection (h) provides that a purchaser of a line noticed for abandonment may not transfer the line or seek to discontinue service for two years after the purchase was consummated, and that for three additional years, transfer may only be made back to the carrier that sold the property. This is to reduce the windfall profits potentially available to a purchaser of a line, the right-of-way of which is more valuable than the line itself. New subsection (i) states that when a line noticed for abandonment or discontinuance is kept running on subsidy, the subsidy may be discontinued on 60 days' notice, and that the Commission must approve the abandonment or discontinuance effective immediately thereafter.

Subsection (d) of this amendment strikes the existing purchase section. The rest of the amendment contains minor technical changes.

SEC. 122. MERGERS AND CONSOLIDATIONS

Explanation

Under present law, the ICC has authority to approve rail mergers and consolidations, and such an approved transaction is exempt from the antitrust laws. Currently, there are two alternative rail merger procedures and standards. Under the first test, in essence the test in place before the 4R Act was enacted and now found in section 11344, a consolidation must be approved by the ICC when it is "consistent with the public interest." In determining when this standard is met, the Commission is statutorily directed to consider several matters. The courts have interpreted these statutory directions to require consideration of the effects of the merger on competitors and on the general competitive situation in the industry. In addition, and very importantly, this procedure allows the ICC to consider modifications of the proposal suggested by opposing parties, including requests by other railroads for inclusion in the merger.

Traditionally, because of these inclusion applications and the vague public interest standard, merger cases have taken an inordinate amount of time. This problem led Congress, in the 4R Act, to enact time limits for the traditional merger procedure, and also to enact an alternative procedure and test. (Although time limits were imposed, the statute specifies that if the Commission fails to decide within the prescribed limits, a written notice and explanation must be sent to Congress. Thus, there is a question of exactly how binding the time limits are.)

Under the second test and procedure, found in section 11346, the initial analysis of the transaction is made by the Secretary of Transportation, who is directed to consider several broad factors such as the environmental impact of the proposal and its impact upon shippers, consumers, and employees. In the event that the transaction is submitted to the Commission for approval either by the Secretary or the railroads, the Secretary is then directed to report his findings to the Commission, and the Commission is directed to give "due weight and consideration" to the Secretary's report and to determine whether the transaction is in the "public interest." This is the same phrase as is used in the pre-4R standard, but in determining the "public interest" under this second test, the Commission must review each application on its own merits and there is no provision for inclusion. The 4R Act also placed a two year time limit upon Commission consideration of merger and consolidation petitions under the new procedure, although the statute did not specify what would occur if the Commission failed to reach its decision within the prescribed time.

In summary, although some attempt was made in the 4R Act to expedite the merger process, we are still confronted with a vague test whose relationship to the traditional antitrust standards in other areas is quite unclear, and a process that is time-consuming and expensive.

Description

The thrust of this bill is to place railroads under the same rules as apply to other business as much as possible except where unique circumstances dictate otherwise. This section extends that philosophy into the rail merger area. With respect to rail-rail mergers, including mergers among companies controlled by or in control of railroads, this section would delete the special standards and procedures for mergers and would require these transactions to be reviewed under the antitrust laws that apply to all other (non-transportation) industries. (Intermodal mergers would still remain subject to Commission scrutiny.) A proposed merger could not, however, be effected unless the Commission certified it to be in compliance with current labor protection provisions.

A different course is proposed for rail restructuring proposals of lesser magnitude. Such proposals include coordination of services, exchanges of markets, joint use of trackage, or transfers of substantially less than all rail assets of any rail carrier. There is a great deal of excess plant in the rail industry, and there is an urgent need for rationalization. This amendment would preserve the authority to approve such transactions in the Commission pursuant to a type of balancing test. Under this test the Commission would have to weigh the anticompetitive effects of any proposed consolidation against the public interest in meeting significant transportation needs. It would have to approve such a transaction if the benefits outweighed the possible anti-competitive effects. This section would also set a definite time limit of 120 days for

Commission consideration. A detailed description of the section follows.

Subsection (a) amends 49 U.S.C. 11341 to make clear that where a merger transaction, as one between two rail carriers (see subsection (c), below), is not subject to Commission jurisdiction, standard processes to which such transactions are subject in other industries apply.

Subsection (b) amends the section dealing with Commission authority over pooling, etc. agreements, to incorporate new standards relating to coordination, consolidation, market swap and other similar transactions involving rail carriers. The Commission is to consider such agreements under a standard much like that in the Airline Deregulation Act of 1978—is the transaction anticompetitive under traditional antitrust standards and if so, do the transportation benefits nevertheless outweigh the anticompetitive effects. The Commission has 120 days within which to deny permission for the transaction unless, within 30 days, it determines that the transaction is of regional or national (as opposed to local) transportation significance. In the case of these more important transactions, the Commission must make its decision in 365 days. The Commission must accord the views of the Secretary of Transportation substantial weight in making its decision. It is expected that the Secretary's findings in connection with an application developed under the procedures of section 401 of the 4R Act will be accorded special deference.

Subsection (c) exempts mergers and acquisitions of control or of substantially all the assets of one rail carrier by or into another from the requirement that they be approved by the Commission, and expressly provides that such transactions shall be subject to the antitrust and securities laws of the United States. However, no such transaction may be effected without certification by the Commission that the terms of the transaction protect labor to the extent required by new section 11347. See subsection (f), below.

Subsection (d) amends the section governing Commission procedure in a consolidation or merger case to make clear its inapplicability to a transaction involving only two or more rail carriers, and also eliminates, for all transactions involving rail carriers, the Commission's direction to consider applications for inclusion.

Subsection (e) strikes the two sections of the title that deal with rail-rail mergers, thereby repealing the Commission's authority over such transactions.

Subsection (f) governs employee protection arrangements in connection with rail mergers, consolidations, and abandonments. It is essentially a recodification of existing law, providing protection certified by the Commission to be at least at the level specified in the agreement entered into under the Rail Passenger Services Act, including provisions for notice and the execution of implementing agreements prior to any adverse action.

Subsection (g) is a technical conforming change.

Subsection (h) repeals the requirement that the Secretary of Transportation issue a report in connection with the expedited rail-rail merger procedure as unnecessary in light of the repeal of the Commission's authority over such transactions.

Subsection (i) is a technical conforming change.

SEC. 130. RAIL CARRIER SECURITIES SUBJECT TO THE SECURITIES LAWS OF THE UNITED STATES

Explanation

Securities issued by rail carriers are currently subject to regulations of the Interstate Commerce Commission as well as to some portions of the Securities Act of 1933. The division of responsibility for monitoring and regulating such securities between the Securities and Exchange Commission and the Interstate Commerce Commission has not been beneficial to the carriers or investors and has contributed to the non-comparability of rail carrier financial documents with those of other industries.

The new section would repeal the ICC's authority over rail carrier securities, leaving their regulation subject to all provisions of the securities laws of the United States.

Description

Subsection (a) repeals the ICC's authority to approve various types of rail carrier securities, including equipment trusts.

Subsection (b) deletes ICC authority to monitor and approve a change in the financial structure of rail carriers. The Commission does not have this authority with respect to any other type of carrier.

Subsection (c) is a technical conforming change.

SEC. 140 CAR SERVICE

Explanation

The Interstate Commerce Commission now has the authority to set rules and regulations for the handling of rail cars and to approve and, if necessary, determine the charges each railroad makes for use of its cars by another railroad (per diem) and for use of its cars by a shipper or receiver (demurrage). All of these issues are essentially economic decisions that should be left to negotiations between railroads or between railroads and shippers. (Safety, of course, is regulated separately by the Department of Transportation).

Both per diem and demurrage are important to the efficient functioning of the rail system. If per diem is too high, railroads are discouraged from holding cars owned by other carriers for loading; if it is too low, there is inadequate incentive for carriers to purchase sufficient rolling stock of their own or to return cars owned by others expeditiously. If demurrage charges are too low, rail cars tend to be used by shippers as storage space; if they are too high, shippers are penalized if railroad service is poor.

Car service orders issued by the Commission constitute direct intervention into the management of railroads, and, in the past year in particular, have been issued without sufficient consideration of their implications. Often they have solved one problem only by creating another. For example, in 1978 the Commission restricted the number of grain cars that could be used in unit trains (trains going from origin to destination without addition or subtraction of cars). The result was to make more cars available for small shippers, but since cars in unit trains are vastly more efficient than single service cars, the order substantially reduced the amount of grain that actually could be transported, and artificially reduced railroad operating efficiency and revenues.

The new section would continue to allow the railroads, under a Commission grant of antitrust immunity, to set standard per diem and demurrage payments by consensus. All meetings, agreements and votes of the group setting such rates must be open to the public. In the event that agreement cannot be reached, arbitration by the Commission is provided. While this system would retain the convenience of system-wide standard charges, any two carriers (in the case of per diem) or any carrier and shipper or receiver (in the case of demurrage) could agree on different rates and terms. Payments by railroads to shippers for use of shipper-owned cars must be individually negotiated in light of individual circumstances. The railroads would not be permitted to set a standard charge for use of shipper-owned cars.

Industry-wide agreement on car service rules would, as now, be permitted. Again, all meetings on such issues must be open to the public. In the interrelated rail system, agreements on such items as gauge (width) of track, definitions of car types, and interchange procedures are essential. Allowing the carriers to continue this activity rather than requiring a government agency to be involved will have beneficial effects outweighing any anticompetitive implications.

In local and national transportation emergencies, however, government intervention may be necessary. Examples are the bankruptcy of a carrier that results in temporary cessation of service, or a natural or war-related disaster. The new section provides that orders relating to the operation of carriers may be issued by the Secretary of Transportation but only upon Presidential finding that a national or local transportation emergency exists. This will restrict the use of this power to situations in which there is a clear public interest.

Subsection (d) repeals the Commission's authority to issue various types of car service and directed service orders. These are now covered by section 11123.

Subsection (e) transfers authority to issue orders relating to priority of transportation in times of war or threatened war from the ICC to the Secretary of Transportation.

SEC. 141. COMMON CARRIER OBLIGATION

The common carrier obligation and its enforcement, are at the heart of the Commission's service rules. In general, common carriers are required to provide service, within a reasonable time, to all who request it and are willing to pay the published rates. While common carriers in all modes are technically subject to the obligation, it is generally agreed that the burden of enforcement falls mainly on the railroads. Combined with rate regulation, the result has been that the railroads have become the stand-by carrier, required to provide service at times when carriers of other modes have priced themselves out of the market or have refused to abide by their common-carrier obligation.

The new section retains the requirement that carriers not refuse to provide service for personal or other non-market reasons, but allows price and service variations. In addition, those contracting in advance for equipment would (as is the case today with coal unit trains) have first call on available equipment if the contract is so provided.

Description

The section amends 49 U.S.C. 11101(a), the common carrier obligation section, to add two sentences dealing solely with rail carriers. The first provides that a service requirement can be enforced if the shipper is willing to pay the associated rate and that rate has not been found unlawful under 49 U.S.C. 10701a, dealing with maximum and minimum rate regulation. See section 101, above. The second sentence states that it shall not be a violation of the common carrier obligation to provide different types of service at different rates, to refuse to offer a contract to a prospective purchaser under different circumstances than those under which a contract is offered to another, or to fail to provide prompt service when the failure is due to prior commitment of cars.

SEC. 150. ACCOUNTING DEFINITIONS

Explanation

Rate regulation of any sort and the determination of the proper subsidy level in an abandonment proceeding require consideration and application of difficult accounting concepts. This is particularly the case in the railroad industry when notions of "cost" are involved for two reasons: first, the industry has historically collected cost data only on a firm-wide basis and not with respect to provision of a particular service, and second, a large part of a rail carrier's costs are not attributable to any one service

("joint" or "common" costs) and must, therefore, be allocated, more or less arbitrarily, in order to determine the full cost of a given service. For example, the cost of service on a branch line includes not only the cost of maintaining the line and of labor and fuel each time a train operates on the line, but also, among other things, a part of the cost of the cars on the line (but only a part of the cost because the cars may operate elsewhere at other times), part of the cost of switching cars at the junction point, and part of the general and administrative expenses of the firm.

The 4R Act recognized many of these problems, and tried to pinpoint many of the concepts involved using new terms. Except in rare instances, definitions of those terms were not provided, and the Commission has just started a proceeding to establish the necessary definitions. How the terms are defined can have a substantial impact on the operation of the provisions of the Act employing those terms.

The new section statutorily defines the most important accounting terms used in the Act. While further refinement by the Commission may be required, such definitions will give more guidance and will help make sure that the intent of the Act is carried out.

Description

Subsection (a) contains definitions. New paragraph 49 U.S.C. 10102(1) defines "adequate return on capital," a term used in both maximum rate regulation (see section 102, above), and abandonment subsidy determinations (see section 121, above). An adequate return on capital consists of the sum of two parts—the cost of debt associated with assets used to provide a specific service or movement plus the cost of equity associated with those same assets. The cost of debt is calculated based on the actual debt payment required or, where that is not calculable (because, for example, the assets falls under several blanket mortgages), the mean imbedded (actual) cost of debt of the railroad. The cost of equity is calculated on the basis of what it costs to keep and obtain investment. This is to be based on the return an investor could receive on equity securities of a firm of comparable capital structure and risk—the so-called comparable earnings standard.

New paragraph 49 U.S.C. 10102(11) defines "incremental cost," a term used in minimum rate regulation. (See section 102, above.) Incremental cost is the additional cost to a railroad of providing a greater quantity or different type of service, including the cost of moving from no service to some service. The calculation must be based on, for example, the specific initial quantity of service, including origin, destination and frequency, and the specific new quantity, defined the same way. The incremental cost of traffic on what would have been an empty backhaul movement, for example, will be comparatively small since the only new costs are the costs of loading, unloading, and any extra fuel or wear and tear incurred by reason of a car traveling loaded rather than empty.

In recognition of the fact that railroads may have substantial segments of excess capacity and that service on those lines should not cover the cost of replacing those lines, a "fire sale" provision has been added to the definition. Thus, if service will not continue beyond the life of the assets used in providing the service, and the assets will not be used elsewhere, the cost of those assets (except salvage value) shall not be included in the incremental cost of the service.

Subsection (b) requires the Commission to analyze its reporting requirements and, within four years of the effective date of this Act, revise them to require the minimum amount of information necessary to enable the Commission properly to carry out its duties.

SEC. 151. FINANCIAL AND COST ACCOUNTING SYSTEMS

Explanation

As discussed in the explanation of section 150, above, accounting plays a major role in, particularly, rate and abandonment issues. The ICC has, for many years, regulated railroad accounting. In general, the Uniform System of Accounts (USOA) used provides information about an entire firm's financial condition. It does not provide accurate information about the cost of providing specific services. The 4R Act directed the Commission to establish a new "cost and revenue accounting system." So far, the Commission has revised the USOA, but has made minimal progress on a costing system.

Since almost all the regulation that will remain with the Commission after enactment of this Act requires cost information, speedy development of such a system is essential. In addition, the Commission has taken the position that since a cost system is not explicitly required by the 4R Act, it need not officially publish its efforts or accept comments. The new section would explicitly require development of a cost accounting system, separate and apart from the financial accounting system represented by the Uniform System of Accounts. The Commission is expected to solicit public comments on the system during the course of its development.

Description

Subsection (a) makes explicit the distinction between the financial accounting system represented by the USOA, and the cost accounting system required by this act.

Subsection (b) requires the Commission, within one year of enactment of this Act, to develop a cost accounting system, based on the principle that all costs associated with a specific service or facility should be ascertained, and that indirect costs should be apportioned on a basis related to direct costs.

Subsection (c) defines "cost center" as an activity or facility large enough to provide meaningful accounting data, and "direct costs" as those costs associated with a cost center that do not have to be allocated.

Subsection (d) requires the Commission to permit carriers, in order to ease the reporting burden and to protect proprietary data, to report data only in aggregate groups, although the data must be collected by cost center.

Subsection (e) makes technical conforming changes.

SEC. 160. ARBITRATION PANELS

Explanation

Although the thrust of this Act is to minimize the degree of ICC regulation over the rail industry, there are situations in which the public interest requires that there be some mechanism available to solve in a prompt manner such issues as the fair market value of an easement provided to a railroad to cross the right-of-way of another road, the purchase price of a line for which an abandonment notice has been filed, or the industry-wide per diem standard. In order to provide such a mechanism without involving the sort of lengthy procedures that accompany formal Commission action, this section establishes a Commission arbitration procedure.

The procedure would function much like commercial arbitration. Each side to the proceeding would choose a Commissioner, and those two would choose a third person (who need not be a Commissioner) to serve with them on the arbitration panel.

Although arbitration proceedings would be carried out in private, the agreement and supporting analysis would be made public. Decisions would be appealable to the United States District Court in the District in which any of the parties resides, but the decision of the arbitration panel could not be stayed. Two important facets of the arbitration process are that a panel's decision would not be considered a decision of the Commission and would have no value as precedent, and that the public interest is declared to lie solely in consummation of an agreement according to the standards, such as fair market rental, set out in each section of the statute that authorizes arbitration.

Description

Subsection (a) adds a new subchapter IV to the chapter of title 49 that deals with organization of the Interstate Commerce Commission. New section 10351 states that the procedures under this subchapter shall be used wherever "arbitration by the Commission" is authorized. The section also states that the public interest lies solely in consummation of an agreement in accordance with the statutory standards; the arbitration panel is not free to decide, for example, that continuation of service on a branch line proposed for abandonment is so important that a subsidy of less than the amount specified in section 10903 is permissible.

New section 10352 establishes the procedure for establishing an arbitration panel. A party desiring arbitration must file a notice to that effect, naming a Commissioner to serve and an alternate. The other party to the agreement (the "non-calling party") has five days in which to respond and to name another Commissioner (and alternate) to serve. The two designated Commissioners must designate a third person within five days. The third person need not be a Commissioner, and it is expected that much of the work burden of the proceeding will be carried by that person.

Provision is made for Commissioners unable to serve and for extensions of time, except that in the case of abandonment proceedings, both parties must agree to the extension. This is to prevent extended arbitration being used as a substitute for subsidization or purchase of a line. It is assumed that any agreement to extend time in an abandonment case will include an agreement as to the party to pay for service during the extended period. In all arbitration cases, the decision must be promulgated no later than a year after arbitration is called for.

New section 10352 allows the Commission to determine procedures for arbitration panels, but the procedures must provide that arbitration proceedings will be conducted in private and that the agreement and supporting rationale will be available to the public. The section also establishes that an arbitration decision is not a Commission decision and is not precedent, and that it is appealable to the United States District Court for the district in which any of the parties resides or does business. The decision may not be stayed pending judicial review, except where there is an allegation and proof of fraud in the arbitration process. A decision of an arbitration panel is presumed correct and may be overturned only if the panel exceeded its authority or deviated from procedural requirements or if the decision was procured by fraud, duress, undue means or by partiality or corruption on the part of the panel.

New section 10354 provides that the Commission may designate staff to serve the arbitration panels, gives the panels the right to administer oaths, subpoena witnesses and documents and take depositions, and establishes that panel members shall receive travel and subsistence allowances as the Commission establishes and that non-government members of the panel shall receive per diem compensation. The section also provides that a member of an arbitration panel may not have any interest in a party to the arbitration.

Subsection (b) makes a technical conforming change.

SEC. 170. STATE AUTHORITY

Explanation

Under present law the Interstate Commerce Commission has jurisdiction regard-

ing the economic regulation of interstate rail transportation and the states have jurisdiction only with respect to intrastate rail matters. The Interstate Commerce Act does not specifically exclude the states from regulating the interstate transportation, but the courts have held that the Federal regulatory system is so comprehensive as to not allow state economic regulation of interstate transportation or of certain intrastate transportation.

In many parts of the bill, significant restrictions are placed upon the ICC and a question may be raised whether the states could fill the "vacuum". This section would prevent such action by the states while not affecting the power they now have to regulate intrastate traffic.

Description

Subsection (a) is a technical change to conform to the fact that under this bill, the ICC's authority to prescribe rates, classifications, rules, and services for rail carriers has been reduced.

Subsection (b) is a technical change of similar nature to that in subsection (a).

Subsection (c) preserves the existing Federal/state relationship and specifically prohibits the states or localities from imposing any type of economic regulation upon the interstate activities of railroads. This section is not intended to change the existing Federal/state relationship in the areas of environmental regulation, safety or taxes, however.

SECTIONS 180–182. EFFECTIVE DATE AND CONFORMING AMENDMENTS

Explanation

As a result of the substantial change in the structure of economic regulation of the railroad industry that is made by this bill, several other laws dealing with the industry are affected. This section makes conforming changes in those laws.

Description

Section 180 sets an effective date for most sections of the Act of January 1, 1980. While it is important to give shippers, carriers, the Commission and others time to prepare for the changes brought about by the Act, the condition of the industry demands that these reforms be implemented as soon as possible.

Section 181 provides that the "vacuum" left by repeal of some of the ICC's economic regulatory authority may not be filled by injunctive actions in court. This conforms to the scheme of the antitrust laws under which private actions are permitted for damages, but not for injunctions.

Section 182 amends 11 U.S.C. 1170, the section of the bankruptcy law dealing with railroad abandonments, to conform it to the new abandonment procedures. Thus, a fixed time period of 120 days is established for the Commission to report to the court on an abandonment application. Any decision to sell or accept a subsidy will be made by the court.

RAILROAD DEREGULATION ACT OF 1979

BACKGROUND

The freight railroad industry today is in a struggle for survival. Its rate of return on investment last year was less than one percent. Yet the need for railroads to play a continuing vital role in our nation's transportation sector is unquestioned. They transport more than a third of all intercity freight in this country and are the principal carriers of coal, grain, pulp and paper products, food stuffs and chemical products, among other commodities.

The Administrations' legislation, prepared by the Department of Transportation, seeks to reform the economic regulation of railroads to foster the development and maintenance of a healthy, efficient private freight transportation system, with a maximum reliance on competitive forces in the transportation marketplace.

HIGHLIGHTS

Rates

The DOT proposal calls for decreasing maximum rate regulation by the Interstate Commerce Commission during a transition period of five years, from Jan. 1, 1980 to Dec. 31, 1984. After that date there would be no maximum rate regulation. Minimum rate regulation would continue as would rules prohibiting rate discrimination

During the transition period, railroads will have a regulation-free zone within which most pricing decisions can be made with regard only to the transportation marketplace.

Also, under the legislation, the ICC loses its authority to suspend a rate increase or decrease. During the transition, the Commission may, however, investigate rates upon complaint by a shipper. It then could order the railroad to change the rates and pay damages if the rates are found to be unlawful.

Railroads will continue to be required to fulfill common carrier obligations when applicable. However, the purchaser of the service must pay the going rate for the service, and prior commitments of equipment, for example under long term contracts, would take precedence over demands for common carrier obligated service.

Rate Increases—During the transition period, individual rates may be raised with no regulatory investigation or interference by seven percent each year (in constant 1980 dollars). Industry-wide increases will be permitted for two years, but may only cover the economy-wide rate of inflation.

For larger rate increases, the ICC may investigate the increase only if a user of rail services, such as a shipper, can show it has been hurt competitively by the rate increase. The user also must show it has no reasonable transportation alternative. After investigation, the ICC may order the railroad to reduce its rate, if the railroad cannot show the rate was reasonable. But the rate cannot be reduced below the level necessary to cover the railroad's costs to provide the service and produce an adequate return for the carrier. The rate reduction would apply only to the complaining purchaser. An upper limit is also provided on rates set under this provision.

Rate Decreases—To prevent predatory rate making, the DOT proposal stipulates that a railroad may not set a rate below a level which covers the incremental cost of the service, including an adequate return on capital used. After investigation, the ICC may order the rate increased and may assess damages for violation of this regulation.

Peak and Seasonal Rates—A railroad may establish specific rates that vary within a set maximum and minimum in response to such changes in demand as seasonal peaks. This provision will allow railroads to compete more effectively with unregulated trucks and barges, that regularly offer seasonally or demand sensitive adjusted rates.

Rate Investigations and Suspensions—The DOT proposal eliminates the ICC's authority to initiate its own investigations and its power to suspend rates. The Commission would be empowered to investigate rates only upon request by an injured party.

To discourage a railroad's abuse of the no-suspend provision, a railroad charging a rate later found to be unlawful would be required to refund any excess revenue collected, plus interest, and could be required to pay the complaining purchaser's attorney's fees and costs.

The legislation requires that all rate investigations must be completed and a final decision issued within four months after a complaint is filed. If a decision is not made within that time, the rate is considered lawful.

Rate Bureaus—After two years, the Department proposes to remove the ICC's authority to grant antitrust immunity to rate bureau agreements that provide for general rate increases or decreases, broad rate changes. Discussion on single line rates would be prohibited immediately.

The DOT proposal also requires that all bureau meetings, except those of a purely administrative nature, to be open to the public, and that a transcript be made available. All votes must be open and recorded.

Notice and Publication—Current law requires rail carriers to give 30 days notice of rate changes, while many competing modes are not required to give any notice of rate changes.

The DOT proposal recognizes the desirability of making rates public because complete pricing information improves the functioning of the marketplace and shippers can make certain that carriers are not engaging in illegal discrimination. The notice period will be reduced over a three-year transition period to allow rates to be effective immediately upon publication.

Entry

Entry into and exit from the railroad industry have been restricted by the ICC under a "public convenience and necessity" standard. This regulation dates from the early 1900s and was a response to the massive overbuilding of that period. While the regulation served a worthwhile purpose in the past, it now has the effect of restricting the possibilities for increased competition among railroads.

The DOT proposal allows free entry, by either new construction or acquisition, to anyone except a regulated carrier of another transportation mode.

While significant new construction is not anticipated, open entry will encourage increased competition in such areas as ports, where construction of a few miles of line would provide substantial new rail-to-rail competition. The legislation specifically allows construction across a competitor's line, as long as construction and operation can be achieved without undue interference with the crossed line and a fair price is paid for the easement.

The DOT legislation also extends to all metropolitan areas so-called "reciprocal switching agreements" under which a railroad must agree to pick up and deliver cars on behalf of another carrier at a standard switching charge. This will allow a shipper to deal directly with more rail carriers than just those on whose lines the shipper is located, and thus provide greater competition.

Abandonments

Under current regulations, railroads may not abandon a line or discontinue service without first obtaining from the ICC a certificate declaring that the "present or future public convenience and necessity require or permit the abandonment or discontinuance."

DOT's legislation continues this requirement, but defines more precisely the public convenience and necessity standard. If no substantial user or state or local government objects to the abandonment application within 30 days, the ICC must approve abandonment immediately. If there is an objection by a government or by a substantial user, the Commission must begin an investigation within 30 days of that objection.

In deciding whether to approve an application, the Commission is required to weigh the benefits to the railroad of service discontinuance against the damage to the objecting party and others affected by the service. Except where an application has been approved by the Secretary of Trans-

portation, the railroad has the burden of proof.

However, if the Commission finds that the revenues generated by the service do not cover the costs of the service plus an adequate return for the railroad, then abandonment must be approved. If the ICC investigation is not completed within 90 days, the abandonment must be approved.

Once the ICC has approved an abandonment, notice must be published in the *Federal Register*. A potential subsidizer or purchaser has 10 days from the date of publication to make an offer to subsidize or buy the abandoned line.

DOT's legislation provides that if the railroad and the potential subsidizer or purchaser cannot come to terms, either may submit its proposal to the ICC for binding arbitration. The ICC must then act within 60 days. An arbitration decision can be appealed to the United States District Court.

Mergers and consolidations

Mergers—Under present law, the ICC has the authority to approve rail mergers and consolidations, and such an approved transaction is exempt from the antitrust laws. DOT would revise rail merger procedures to require mergers and other large-scale transactions to be reviewed under the antitrust laws that apply to all other industries. The DOT bill would keep inter-modal mergers under ICC scrutiny.

In addition, a proposed merger could not occur unless the Commission certified it to be in compliance with current labor protection provisions.

Consolidations—The DOT proposal would preserve the ICC's authority over such transactions as coordination of services, exchanges of markets, joint use of trackage, or transfers of substantially less than all rail assets of any rail carrier. The Commission must weigh the anti-competitive effects of the transaction on the relevant regional freight transportation market against the transportation benefits arising from the transaction. If the Secretary of Transportation has approved the transaction, his opinion must be given substantial weight by the Commission.

The legislation sets a 120-day time limit for action by the ICC unless the consolidation is of regional or national transportation significance, in which case the Commission must act within 365 days.

FREQUENTLY ASKED QUESTIONS ABOUT RAILROAD REGULATORY REFORM LEGISLATION

Question. The railroads were originally regulated to protect the public from abuse of monopoly power. Why should the railroads now be given so much freedom?

Answer. During the 1800's and early 1900's, railroads were true monopolies, and were regulated as such to protect the public interest. Since that time, however, water and truck transportation has grown substantially, much of it unregulated and benefitting from substantial federal-financing of river and road systems, only part of which has been repaid. The ubiquitous highway system brings trucks virtually to the doorstep of almost every shipper—a fact reflected in trucks' surpassing railroads in share of the freight market.

Today, there are few, if any, rail-served areas that are not also served by barges, trucks, or both. We believe that this competition will effectively prevent the railroads from engaging in unfair or monopolistic practices. However, in those cases where a shipper is actually "captive" to a railroad, our proposal provides for protection against unreasonably high rail pricing for a transition period during which the shipper can plan for alternative transportation services or markets or enter into a long term contract with the railroad. Competing carriers who fear monopolistic railroad practices will be protected by the bill's prohibition, enforceable at the ICC, against below-cost pricing.

Question. How will the Administration proposal solve the shippers' most severe problem: unsatisfactory service?

Answer. Relaxing regulation of rail pricing will stimulate more effective marketing by the railroads, who face vigorous competition from other modes for nearly every commodity they haul. The explosive growth of premium truck and air services in the last decade provides ample proof that price alone is not the sole criterion by which shippers choose a mode of transportation. Rather, shippers will choose the mode or carrier offering the most effective price *and* service combination for their needs.

By fostering innovative and specialized price and service alternatives for shippers, we expect substantial growth in unique rail services at a wide range of rates. In effect, by getting away from the "average" pricing that is a practical consequence of the current regulatory system, we expect services and prices to become progressively more responsive to individual shipper needs—and by making such services more unique and identifiable, they can be more readily subject to quality control by the providing carrier. The bill would specifically allow railroads and shippers to contract for desired services.

In addition, several provisions of the bill should result in decreased costs and overall increases in productivity. We expect that this will encourage renewed investment in physical plant and facilities, a necessary development if service is to improve.

Question. What protection does the shipper who must ship by rail—the so-called captive shipper—have if the railroad decides to increase his rates unreasonably?

Answer. If a shipper really must ship by rail, and there is only one railroad on which he can ship, he will, for the first five years after the bill becomes effective, be able to file a protest with the ICC seeking to have his rate lowered. The shipper must show he is captive, but if he does so, the burden shifts to the railroad to show the rate to be reasonable. If the railroad fails, the ICC can lower the rate, but not lower than the cost to the railroad of providing the service, including an adequate return on capital used. Setting the rate at that level will assure that other shippers do not have to help pay the cost of the "captive shipper's" service. The Department of Transportation is required to perform two studies, due at the end of the second and fourth years after the bill is effective, to inform Congress and the public how the provision is working and whether there are "captive shippers" who have been hurt by greater railroad pricing flexibility.

Because the bill as a whole is directed toward creating a more efficient, more competitive freight transportation system, many shippers who today think of themselves as captive will find opportunities for better freight transportation without making use of the ICC's protection. For example, long term contract rates will be permitted for rail services, allowing a shipper to buy the service he really wants, at a price he negotiates, and thus to protect himself from unexpected price and service variations.

In addition, restrictions on railroad rate bureau activities and increased opportunities for entry into the industry should increase rail-rail competition. Product and market competition, and the expanding opportunities for truck competition, resulting in part from recent ICC decisions, will also increasingly expand a shipper's choice of carriers.

Question. Once the Administration's bill passes, what protections will exist to protect the shipper from discriminatory pricing and how will the railroads be stopped from engaging in anticompetitive practices?

Answer. The Administration's bill will continue to require the railroads to price on a non-discriminatory basis. That is, the same rate must be offered for the same service, performed at the same time, taking into account cost and competitive differences. A shipper or other entity, such as a port acting on a shipper's behalf, will be able to bring an action before the ICC to enforce this requirement. On the other hand, the Administration's bill will allow railroads to take advantage of such economically sound practices as backhaul pricing (charging less for shipping goods using cars that otherwise would have returned home empty), and responding to lower prices charged by local competitors, as long as the railroad does not intentionally price below its incremental cost for providing the service.

If the railroads engage in anticompetitive practices not within the scope of the anti-discrimination and predatory pricing provisions of the Interstate Commerce Act, as amended, they will continue to be subject to the economy-wide antitrust restraints of the Sherman Act. But in most, if not all, rail-served markets, competitive pressures from other modes will prevent the railroads from engaging in such practices. Even if a railroad was able, through below-cost pricing, to drive competitors out of the market in the short-term, when the railroad sought to raise its price again, motor or water carriers would reenter. The presence of barge or truck service will force the railroads to compete fairly by offering good service at fair rates.

Question. If the railroads have more freedom to abandon their branch lines, can small industry, communities and agricultural interests expect wholesale losses of rail service? What effect would this have?

Answer. The railroad industry can no longer carry the burden of subsidizing uneconomic service, and the eased abandonment procedures of the legislation are designed to make abandonment a simpler, shorter, and less expensive process. However, existing studies make it clear that the effects of abandonment on shippers and surrounding communities usually are not severe. This reflects the fact that abandonments are generally the result of a loss of traffic and demand for the service not the cause of that loss.

In most areas likely to be affected by abandonments the highway network is so extensive that short-haul trucking to consolidated rail terminals can readily replace branch lines lost through abandonments. For example, in Iowa, a successful program has been underway for some time on a cooperative carrier-shipper basis to consolidate service and create larger trainloading facilities. Through this program, farmers are able to benefit from the economies of scale in rail operations, while railroads can abandon (without opposition) lightly-used lines that are a drain on resources. We believe such programs can be adapted to suit the needs of other areas as well. Regions with small coal mines could be excellent candidates for projects of this kind.

The state rail planning agencies can ease the period of adjustment following branch line abandonment through the local rail services continuation assistance program of the FRA. Money available from this program may be used for temporary operating subsidies, for rehabilitation or purchase of lines, and for construction of substitute service facilities.

Finally, should a state or community decide that abandonment *will* have a severe impact on the affected area, they may choose to offer the railroad a subsidy to continue operations. If the subsidy offered covers the cost of providing rail service, our legislation will require the rail carrier to continue the line in operation. Alternatively, a state, locality or group of shippers may purchase the line to continue operations. The railroad

must accept a purchase offer that at least equals the fair market value of the line when used for rail service.

Question. Will the Administration's bill give the Northeast a break? Can the Northeast expect better service and an alternative to Conrail, or will the bill result in a service cutback and more money down the drain?

Answer. Both the Northeast and the rest of the nation will benefit from more reliable and innovative rail service. The Administration's bill will provide the railroads with the management discretion and pricing freedom to tailor service to the specific needs of shippers and communities. At the same time, the increased earnings potential and new cost-cutting measures available to railroads will encourage renewed investment in industry fixed plant and facilities. We expect that the rejuvenated marketplace environment for railroading which this legislation will permit will signal a new era of reliable, efficient rail freight transportation for the Northeast as well as all other regions of the country.

The Department is acutely aware that the Northeast is unique among the regions insofar as the availability of competitive rail service is concerned. Much of this region is wholly dependent on Conrail for the movement of goods by rail and we know, from both shippers and railroads which connect with Conrail, that the quality of this service in many areas has been less than acceptable. But we believe it best to deal with this problem by considering the structure and health of the Northeast rail system, rather than to tailor the regulatory reform proposal to fit specific regions, or for that matter, any other special concerns. Ultimately, the same economic rules apply in the Northeast as elsewhere. By monitoring and, if necessary, by recommending adjustments to the Northeastern system, we believe we can guide the region into a much healthier, more efficient structure. Conrail, the Department, and the United States Railway Association are all working on such a program. The program probably will result in changes in service and changes in employment. The Administration policies will be designed to achieve these changes with minimum dislocation and minimum expenditures.

The Federal Government's investment through Conrail in the continuation of essential rail service in the Northeast is substantial. To a lesser degree we have also provided financial assistance to other railroads for needed capital and maintenance expenditures so that necessary rail service could continue. Without fundamental change in Federal regulation of the railroads, our financial investment in their future will continue to grow. The Administration's bill recognizes that such reform is key to both the long term prosperity of the railroads and to the end of continuing Federal subsidies of that industry. In the case of Conrail, the passage of this bill, together with successful implementation of any additional restructuring of that railroad which may be warranted, should provide the environment for a successful Northeast railroad system unsupported by Federal funds.

Question. Our national energy policy encourages a shift from petroleum fuels toward alternatives such as coal. Won't the railroads, under your proposals, increase coal rates to the point of making it uneconomic as alternative?

Answer. We do not believe the railroads will raise rates to the point where coal will be displaced by other energy sources. Insensitive pricing could result in less coal being shipped by railroad, and negate the railroads' substantial investments in coal-related equipment and fixed plant.

Coal rates undoubtedly will increase in the future; railroads must generate the funds to invest in new facilities as coal traffic continues to grow. In a very real sense, coal producers and railroads are partners in achieving America's energy goals. Railroads are and will continue to be affected by the cyclical swings in coal production and demand, although the bill would enable both shippers and carriers to plan more effectively for such changes by long-term contracting. The crucial economic fact is, however, that railroads are dependent on the ability of coal producers to meet competition, and, as such, it is in the economic interest of a railroad to maintain its customer's vitality in the marketplace by sensible pricing actions.

Question. We need to cut energy consumption and our highways are deteriorating. Will the Administration's bill put more traffic on the highways or take it off?

Answer. Both. We believe that increased price and service flexibility will divert long-haul and heavy traffic from the highway back to the rails. Much of this diversion is likely to be in the form of "piggy-back" or "TOFC" traffic, that is, a highway trailer on a railroad flatcar. Piggy-back service combines the convenience of truck pick-up and delivery with the economies of rail line haul, and will rid the highways of some of the traffic they are least able to handle. In addition, it is energy-efficient, using on the average only one-third to one-half the energy needed for an all-highway haul.

On the other hand, there will probably be some increase in short-haul trucking as motor carriers—with relatively low fixed costs—replace rail service in areas where there is too little traffic to cover the railroads' high fixed costs. Trucks will also increase their share of the market in those instances where light density trackage is abandoned, although many of those truck hauls will probably be to consolidated rail terminals.

In accordance with priorities developed by the States, the Department's branch line assistance program can provide funding for the construction of intermodal facilities. These facilities permit rapid transloading of commodities from trucks to rail cars and vice versa. From the standpoint of resource allocation and fuel consumption, such intermodal service is frequently the most efficient use of all resources—fuel, highway, and railroad.

Over a longer period, and as the railroads adjust to their new marketing freedom, we believe that economic forces (including the increased cost of energy) will compel a net diversion of freight from the highway to the rails. The benefits of this include less wear on the highways, more efficient use of transportation fuels, and a reduced need for federal aid to the railroad system.

Question. Some observers have suggested that the result of rail deregulation, unlike airline deregulation, will be higher rates and ultimately higher prices for the consumer. What is your estimate of the inflationary impact of this bill?

Answer. Freight rate increases represent one source of additional revenue for railroads and selective rate increases may be an initial consequence of deregulation. Any increases will, of course, be evaluated in terms of the Administration's voluntary price guidelines. In the long run, marketplace adjustments uninhibited by regulation will be less inflationary than the alternative of continued taxpayer subsidy of the preservation of unprofitable services. Our present policies can lead only to increasing Federal assistance to railroads.

Deregulation will provide the market environment necessary for an efficient allocation of resources and a more productive transportation sector. It will provide an opportunity for railroads to earn a fair rate of return, enabling them to continue to offer services where they are the most efficient mode, while allowing them to abandon services where they are not. Some aspects of deregulation may be directly and immediately effective against inflation in certain instances. For example, arrangements such as contract rates, increased use of seasonal and peak-load pricing, and more individualized price and service packages may lead to reduced shipping costs. In addition, to increased revenue from existing customers, the bill will allow railroads to seek additional traffic by offering lower rates and improved services to potential customers.

On balance, we believe that the more efficient use of our transportation resources over time will have a greater and more beneficial economic impact than short term price changes.

Question. What provisions are included in the Administration's bill to protect rail labor and how much will labor protection cost the taxpayer?

Answer. The bill continues the present statutory requirements for employee protection for employees who are adversely affected by a merger, consolidation or abandonment. A protected employee is provided with up to six years of protection from the date he is adversely affected. The protection takes several forms. In the event of a separation, the employee is entitled to a separation allowance of up to twelve months pay. If an employee is reassigned to a position with the railroad at less pay, he is entitled to a differential, known as a "displacement allowance," based on his average earnings for the twelve months immediately preceeding the change in status. In order to maintain his protected status, an employee must accept employment if a position is offered within his seniority district and within the employee's craft or class. The legislation anticipates that the full cost of employee protection will be paid by the railroad, as is the case under present statutory employee protection requirements.

By Mr. JACKSON (by request):

S. 797. A bill to provide for the timely management of the spent fuel from nuclear reactors; to the Committee on Energy and Natural Resources.

SPENT NUCLEAR FUEL ACT OF 1979

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to provide for the timely management of the spent fuel from nuclear reactors.

Mr. President, this draft legislation was submitted and recommended by the Department of Energy, and I ask unanimous consent that the bill, the executive communication, and a section-by-section analysis which accompanied the proposal from the Secretary of Energy be printed in the RECORD at the conclusion of my remarks.

Mr. President, I also wish to associate myself with the remarks of the distinguished senior Senator from Colorado regarding the cooperation between the Environment and Public Works Committee and the Energy and Natural Resources Committee in this area of mutual interest and concern. Mr. President, I ask unanimous consent that an exchange of letters between myself and the distinguished chairman of the Environment and the Public Works Committee regarding this matter be printed in the RECORD.

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

S. 797

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 "Spent Nuclear Fuel Act of 1979."

SEC. 2. Section 161 of the Atomic Energy Act of 1954, as amended, is amended by adding the following subsection:

"x. Enter into contracts, for such periods of time as the Secretary of Energy deems necessary or desirable, to take title to, and to provide interim storage and ultimate disposal of spent fuel from foreign and domestic nuclear reactors: *Provided*, That (i) charges for services under this subsection shall be established on a nondiscriminatory basis; (ii) charges shall be subject to prepayment; and (iii) charges established under this subsection shall defray all costs of storage and ultimate disposal; *And provided further*, That contracts entered into pursuant to this subsection may provide for refund of an appropriate portion of the charges in the event that it is determined that spent fuel may be reprocessed and the spent fuel is returned to the former owner or reprocessed in the United States."

SEC. 3. Chapter 19 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following sections:

"SPENT FUEL STORAGE AND DISPOSAL FUND

"SEC. 264. a. The Secretary of Energy (hereinafter referred to as the Secretary) is authorized to establish a fund to be used as a revolving fund to finance activities relating to the storage and disposal of spent nuclear fuel (hereafter referred to as the Fund). The Fund shall consist of (1) all receipts, collections, and recoveries of the Secretary in cash from the exercise of the authority granted to him under subsection 161x of this Act; (2) proceeds from the investment by the Secretary of any moneys of the Fund; and (3) all proceeds derived from the sale of bonds by the Secretary pursuant to section 265.

"b. The Secretary may make expenditures from the fund without fiscal year limitation, but within such specific directives or limitations as may be included in appropriate acts, for any purpose necessary or appropriate to the conduct of the Secretary's functions and activities for the provision of services for the interim storage and ultimate disposal of spent fuel from foreign and domestic nuclear reactors, including but not limited to, the acquisition, construction, operation, maintenance and surveillance of facilities and real property for the itnerim storage or ultimate disposal of spent fuel from foreign and domestic nuclear reactors, the procurement of spent nuclear interim storage services for such periods of time as the Secretary deems necesesary or desirable; the making of refunds under contracts executed pursuant to subsection 161x. of this Act; and for paying the interest on, and principal of all bonds issued under Section 265 of this Act; *Provided, however*, that until expressly authorized by Congress, no expenditures can be made from the Fund for the construction of a repository for the ultimate disposal of spent fuel from foreign and domestic reactors.

"c. The provisions of the Government Corporation Control Act (31 U.S.C. 841 *et seq.*) shall be applicable to the Secretary in his utilization of the Fund in the same manner as they are applied to the wholly-owned Government corporations named in Section 101 of such Act (31 U.S.C. 846).

"d. If the Secretary determines that the monies of the Fund are in excess of current needs he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations of the United States with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturities comparable to the maturities of such investments; *Provided*, however, that the interest rate on such invetments shall not exceed the average interest rate applicable to existing borrowings."

"SEC. 265. REVENUE BONDS

"a. The Secretary is authorized to issue and sell to the Secretary of the Treasury from time-to-time, bonds, notes, and other evidences of indebtedness (collectively referred to herein as "bonds") to assist in financing the acquisition, construction, operation, maintenance and surveillance of facilities and real property for the interim storage or ultimate disposal of spent fuel from foreign or domestic nuclear reactors; the procurement of spent nuclear fuel interim storage services and to issue and sell bonds to refund such bonds. Such bonds shall be in such forms and denomination, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for triple-A rated nongovernment utility bonds and the useful life of the facilities for which the bonds are issued. Any refunding provisions may be prescribed by the Secretary. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rate in the prevailing market for triple-A rated nongovernment utility bonds. The aggregate principal amounts of any such bonds shall not exceed $300,000,000. All borrowing authorized in the subsection shall be available only to such extent or in such amounts as contained in appropriations acts.

"b. The Secretary of the Treasury shall purchase any bonds issued by the Secretary under this section and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the bonds issued by the Secretary under this section. The Secretary of the Treasury may, at any time, sell any of the bonds acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated as public debt transactions of the United States."

MARCH 7, 1979.

Hon. JENNINGS RANDOLPH,
U.S. Senate, Washington, D.C.

DEAR JENNINGS: As you know, the President has transmitted to the Congress his proposed legislation for a program of away-from-reactor storage of spent fuel from commercial nuclear reactors.

The Executive communication has conveyed the legislation in the form of two bills. One bill covers the matters of financing, constructing and operating the storage facilities and is predominantly within the jurisdiction of the Committee on Energy and Natural Resources. The other measure relates to the licensing of waste disposal facilities and is predominantly within the jurisdiction of the Committee on Environment and Public Works.

I would suggest that these bills, when they are introduced, be referred in accordance with the predominant jurisdiction. I would also suggest that, as our two committees proceed to consider the bills, we maintain close coordination to insure to the extent possible that they are compatible. Furthermore, I would propose that we review the circumstances when either of the bills, or any other measure dealing with away-from-reactor storage of spent fuel, is reported to the Senate. I also propose that we have an understanding that prior to Senate action on either bill we will consult as to the possibility of re-referral of a bill to the other committee for consideration of those matters that may be found to relate to the predominant interest of that committee.

I recognize that any future re-referrals would require the consent of the Senate, but I believe that the specific reasons for such re-referral would be more obvious at that time. I can assure you of my own cooperation in this matter.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

UNITED STATES SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C., March 21, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, United States Senate, Washington, D.C.

DEAR SCOOP: Thanks for your letter regarding the respective interests of our Committees in the Preisdent's proposed legislation with respect to away-from-reactor storage of spent fuel.

Your suggested arrangements for referral and subsequent consideration of the legislation are satisfactory to me and to the Chairman of the Subcommittee on Nuclear Regulation, Senator Hart. We could also consider joining into a single measure any bills dealing with away-from-reactor storage that are developed by our respective Committees. We look forward to working closely with you on this basis.

Truly,

JENNINGS RANDOLPH,
Chairman.

DEPARTMENT OF ENERGY,
Washington, D.C., February 24, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting herewith the proposed "Spent Nuclear Fuel Act of 1979", a measure designed to assure timely management of the spent fuel from nuclear reactors in a manner which is economically efficient, environmentally sound, and protects public health and safety. Also enclosed is a companion bill to provide for the licensing of Department of Energy facilities used primarily for the receipt and storage of commercial spent fuel. Section-by-section analyses accompany each of the bills.

As you know, in October 1977 the President announced as Administration policy that the United States would accept for storage and disposal: (a) domestic commercial spent fuel, in cases where concern for safety, the environment and responsible management of the electric supply system warrant such action; and (b) limited quantities of foreign spent fuel, where such acceptance serves our nonproliferation objectives. At the same time he stated his intention to work with the Congress to effect that policy. We have been working since that time with other interested parties to develop the best means of implementing the Presidential decision. The proposed "Spent Nuclear Fuel Act of 1979" would provide the authority and framework for that implementation.

In preparing this legislation, we have considered environmental analyses from three

draft environmental impact statements, copies of which are enclosed. The public comment period for these documents closed on February 15, and the final documents are scheduled to be published this spring and will be transmitted to the Congress at that time. This legislation is consonant with the supporting environmental analysis. In the event that subsequent comment or analysis indicates a significant change, we will inform you of that fact.

The Department of Energy (DOE) would be authorized to accept domestic and foreign spent fuel for interim storage and permanent disposal in return for a non-discriminatory one-time charge which recovers all costs of the program. A range of possible values for the storage and disposal fee was explored by DOE and published in July of 1978. A copy of this document is enclosed for your information.

A commitment or contract for the acceptance of spent fuel from abroad would, under subsection 131.a of the Atomic Energy Act of 1954, as amended, constitute a "subsequent arrangement." Thus, prior to entering into such commitments or contracts, DOE would be required to follow the procedures (including State Department concurrence) required by that subsection. We will also be forwarding generic planning criteria for acceptance of foreign spent fuel for storage as provided by this legislation.

The proposed "Spent Nuclear Fuel Act of 1979" would provide DOE with sufficient authority and flexibility to manage the program, while affording appropriate oversight by the Congress. The mechanism proposed for financing the Department's functions and activities for the management of spent fuel is the establishment of a revolving fund. Revenues for the fund would be derived from (1) the charges for spent fuel storage and disposal; (2) proceeds from fund investment; and (3) proceeds derived from the sale of bonds to the Treasury. DOE's authority to sell up to $300 million worth of bonds to the Treasury is subject to such prior Congressional approval as may be contained in appropriation acts.

The fund would be available for expenditures for Away-from-Reactor interim storage and related facilities without fiscal year limitation, but would be subject to specific directives or limitations which Congress might include in annual appropriation acts. Initially, expenditure from the fund would be for activities related to Away-from-Reactor interim storage of spent fuel. Accordingly, his legislation is drafted to prevent expenditures for the construction of a repository for the permanent disposal of spent fuel until expressly authorized by the Congress.

Finally, the proposed companion bill expressly authorizes the Nuclear Regulatory Commission (NRC) to license any DOE facility used primarily for the storage of foreign spent fuel or domestic spent fuel resulting from an NRC-licensed activity. The NRC has taken the position that it already has authority to license such facilities, but would welcome clear Congressional recognition to that authority. Therefore, this proposal is intended to clarify any remaining ambiguity with respect to the NRC's authority. This provision would not extend NRC's licensing authority to facilities used for the storage of nuclear waste from DOE's defense and research activities.

The proposed legislation is part of the ongoing effort of the Administration to address the issues of nuclear waste management and the risk of nuclear weapons proliferation. We believe that a sound and flexible approach in management of our domestic nuclear waste and prudence in our pursuit of international nonproliferation objectives require that an initial Away-from-Reactor storage capability be available by 1983. Because of the significance of this effort, we urge prompt consideration of the draft legislation. We look forward to working with you in this important matter. The Office of Management and Budget advises that the enactment of this legislation would be in accord with the President's program.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

Enclosures.

SECTION-BY-SECTION ANALYSIS OF THE SPENT NUCLEAR FUEL ACT OF 1979

1. Section 2 of the bill would amend the Section 161 of the Atomic Energy Act of 1954 (hereinafter called the Act) by adding Subsection x., which would authorize the Secretary of Energy (hereinafter called the Secretary) to enter into contracts to provide interim storage and ultimate disposal of spent fuel from foreign and domestic nuclear reactors.

2. The first proviso in the proposed Subsection x. would require that charges for services provided would be established on a non-discriminatory basis, that such charges be subject to prepayment, and that such charges shall defray all the Government's costs of storage and ultimate disposal.

3. The second proviso in the proposed Subsection x. would authorize the inclusion in contracts entered into pursuant to that subsection of a provision for the refund of an appropriate portion of the charges in the event that it is determined that spent fuel may be reprocessed and the spent fuel is returned to the former owner or reprocessed in the United States.

4. Section 3 of the bill would add Sections 264 and 265 to the Atomic Energy Act of 1954, as amended. Subsection a of the proposed Section 264 would authorize the Secretary to establish a revolving fund to finance DOE functions and activities relating to the storage and disposal of spent fuel. The Fund would consist of (1) all of DOE's receipts, collections, and recoveries derived from activities associated with the storage and disposal of spent fuel pursuant to the authority contained in Subsection 161 x.; (2) proceeds from the investment of Fund monies; and (3) proceeds derived from the sale of bonds by the Secretary pursuant to Section 265.

5. Subsection b of the proposed Section 264 would provide that expenditures from the fund could be made only for purposes necessary or incident to DOE's provision of services pursuant to authority granted in Section 161 x. The fund would be available for expenditure without fiscal year limitation, but would be subject to specific directives or program limitations which Congress might include in appropriation acts. Monies in the Fund could be used for either operating or capital expenditures. The proviso in this subsection prohibits expenditures from the Fund for the construction of a repository for ultimate disposal of spent fuel until explicitly authorized by subsequent legislation.

6. Subsection c of the proposed Section 264 would apply the Government Corporation Control Act to the utilization of Fund monies. This would specify that the Fund will be operated on a businesslike basis.

7. Subsection d of the proposed Section 264 would make provision for investment of Fund monies in public debt securities with maturities suitable for the needs of the Fund and bearing interest at the lower of prevailing market rates or the average interest rate applicable to existing borrowings. Such investment could be made when the Secretary determines monies of the Fund are currently in excess of current needs.

8. Subsection a of the proposed Section 265 would authorize the Secretary to issue revenue bonds, the proceeds of which would be used for Fund purposes. The Secretary of the Treasury would prescribe the form, denomination, maturities, interest rates and other terms and conditions of the bonds. The section would place a ceiling on the amount of bonds which could be issued and specifies that borrowing authority must be provided in appropriation acts.

9. Subsection c of the proposed Section 265 would require the Secretary of the Treasury to purchase bonds issued by the Secretary pursuant to Section 265. This subsection also would authorize the Secretary of Treasury to sell any bonds acquired from the Secretary.●

By Mr. HART (by request):

S. 798. A bill to provide for the licensing of Department of Energy Facilities primarily used for the receipt and storage of commercial spent fuel; to the Committee on Environment and Public Works.

● Mr. HART. Mr. President, I am introducing, by request of the Secretary of Energy, a companion bill to the proposed Spent Nuclear Fuel Act of 1979. This companion measure would provide for licensing by the Nuclear Regulatory Commission of any Department of Energy facilities primarily used for the receipt and storage of commercial nuclear spent fuel. The construction of such "away from reactor" (AFR) storage facilities would be authorized in the other bill, which is being introduced today by the distinguished Senator from Washington, Mr. JACKSON.

As chairman of the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works, I am pleased to cooperate with Senator JACKSON in consideration of legislation that deals with an important element of the nuclear waste problem. As Secretary James R. Schlesinger stated in the message that accompanied these two bills, the away-from-reactor approach "is designed to assure timely management of the spent fuel from nuclear reactors in a manner which is economically efficient, environmentally sound, and protects public health and safety."

These are very important objectives, and the Congress will have to give close scrutiny to the AFR proposal to determine whether it, in fact, is the best approach to managing highly radioactive spent fuel prior to permanent disposal. Both I and the distinguished Senator from West Virginia, Mr. RANDOLPH, chairman of the Committee on Environment and Public Works, have communicated to Senator JACKSON our desire to work closely with him, and he has agreed to join us in maintaining close coordination between our two committees on any legislation dealing with away-from-reactor storage of spent fuel. Chairmen JACKSON and RANDOLPH exchanged letters on this subject, and I ask unanimous consent that the text of these letters be inserted at this point in the RECORD.

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

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C., March 21, 1979.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SCOOP: Thanks for your letter regarding the respective interests of our Committees in the President's proposed legislation with respect to away-from-reactor storage of spent fuel.

Your suggested arrangements for referral and subsequent consideration of the legislation are satisfactory to me and to the Chairman of the Subcommittee on Nuclear Regulation, Senator Hart. We could also consider joining into a single measure any bills dealing with away-from-reactor storage that are developed by our respective Committees. We look forward to working closely with you on this basis.

Truly,

JENNINGS RANDOLPH,
Chairman.

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., March 7, 1979.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR JENNINGS: As you know, the President has transmitted to the Congress his proposed legislation for a program of away-from-reactor storage of spent fuel from commercial nuclear reactors.

The Executive communication has conveyed the legislation in the form of two bills. One bill covers the matters of financing, constructing and operating the storage facilities and is predominantly within the jurisdiction of the Committee on Energy and Natural Resources. The other measure relates to the licensing of waste disposal facilities and is predominantly within the jurisdiction of the Committee on Environment and Public Works.

I would suggest that these bills, when they are introduced, be referred in accordance with the predominant jurisdiction. I would also suggest that, as our two committees proceed to consider the bills, we maintain close coordination to insure to the extent possible that they are compatible. Furthermore, I would propose that we review the circumstances when either of the bills, or any other measure dealing with away-from-reactor storage of spent fuel, is reported to the Senate. I also propose that we have an understanding that prior to Senate action on either bill we will consult as to the possibility of re-referral of a bill to the other committee for consideration of those matters that may be found to relate to the predominant interest of that committee.

I recognize that any future re-referrals would require the consent of the Senate, but I believe that the specific reasons for such re-referral would be more obvious at that time. I can assure you of my own cooperation in this matter.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

Mr. HART. Mr. President, perhaps no other issue connected with generating electricity from nuclear powerplants causes the American people deeper concern than the disposal of the wastes from these plants. And it is no wonder. Unless properly shielded and contained, the radioactive materials contained in the spent fuel are toxic beyond imagination. Unless properly safeguarded, these materials can be processed and used in atomic bombs.

For these reasons, I have made nuclear waste licensing and control the top item on the agenda of the subcommittee. Chairman RANDOLPH shares my sense of urgency. This contributed to the unique and gracious step he has taken to serve as a member of the subcommittee in this Congress. His active participation at the subcommittee, as well as the full committee, level will help to insure that strong, well-considered legislation will be acted on without delay.

The subcommittee will address the nuclear waste problem for the first time in the 96th Congress during hearings on April 23 and 30. At that time, we will consider reports that have been prepared by the Nuclear Regulatory Commission at our direction on two crucial aspects of the issue: the appropriate role for States in Federal decisionmaking on moving and storing wastes within their borders, and the extent to which NRC licensing authority should be extended to wastes managed by the Department of Energy. I am now drafting legislation dealing with these and other aspects of licensing and controlling nuclear wastes, and I will introduce it soon.

In the meantime, Mr. President, I am pleased to introduce the companion bill to the proposed Spent Nuclear Fuel Act of 1979, at the request of Secretary Schlesinger, without making any commitment as to the merits of either measure. I ask unanimous consent that the text of the companion bill be printed at this point in the RECORD.

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

S. 798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(3) of the Energy Reorganization Act of 1974 is amended to read:

"(3) Facilities used primarily for the recept and storage of high-level radioactive wastes or spent fuel resulting from activities licensed under such Act or spent fuel from foreign reactors transferred under a subsequent arrangement authorized under such Act."●

By Mr. SCHMITT:

S. 799. A bill to increase the duty on imported copper by an amount which offsets the cost incurred by copper producers in the United States in meeting domestic environmental requirements; to the Committee on Finance.

COPPER ENVIRONMENTAL EQUALIZATION ACT OF 1979

● Mr. SCHMITT. Mr. President, I am introducing today, legislation entitled "the Environmental Equalization Act of 1979."

This bill is designed to insure that the United States is not "exporting" pollution when we purchase foreign produced copper for domestic consumption. To accomplish this, the bill would impose a duty on imported copper equal to the cost advantages employed by foreign producers who are not subject to environmental regulations comparable to those in effect here. The bill will contribute to the preservation and protection of the world's environment by encouraging foreign copper producers to adopt environmental standards similar to those employed in the United States.

All nations of the world should recognize a responsibility not to pollute the environment that we all must share. The governments of the United States and of the copper producing States within this country have faced up to this responsibility by imposing stringent air and water quality control laws and regulations, and domestic copper producers have responded by investing more than $1 billion in pollution control facilities. However, many foreign copper pollution of the environment, with minimal investment in control facilities and with resulting degradation of the world's atmosphere.

Moreover, foreign copper producers who are not subject to reasonable environmental standards save substantial costs and thereby obtain an extremely unfair competitive advantage over our domestic industry. It has been estimated that domestic producers spend up to 10 cents for each pound of copper they produce to comply with environmental regulations. This cost represents a significant percentage of the price at which copper can currently be sold in the U.S. market. The current copper duty of only 0.8 cents per pound affords domestic producers no significant protection against foreign producers with this enormous cost advantage.

As a result of the low prices currently being charged for copper on the world markets and sharply increased copper imports, the domestic producers have recently curtailed operations with the result that many American workers have been laid off for varying periods nationwide in recent months.

Having imposed costly environmental requirements on our own copper producers, we can do no less for them and their workers than to give them an opportunity to compete in our American markets on an equal footing with foreign producers who are not subject to comparable regulations.

I ask unanimous consent that the final text of this bill be printed in the RECORD.

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

S. 799

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 "Copper Environmental Equalization Act of 1979".

SEC. 2. The purposes of this Act are—

(1) to enhance the world's environment by encouraging foreign copper producers to adopt environmental measures substantially equivalent to those employed in the United States; and

(2) to offset the cost advantage obtained by foreign copper producers who do not employ environmental measures substantially equivalent to those imposed on domestic copper producers.

TITLE I—AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES

SEC. 101. The Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof a new part 4 as follows:

"PART 4.—ENVIRONMENTAL EQUALIZATION DUTIES

Item	Articles	Rates of duty 1	Rates of duty 2
	Part 4 headnotes: 1. The duties provided for in this part are cumulative duties which apply in addition to the duties, if any, otherwise imposed on the articles involved. Unless otherwise stated, the duties provided for in this part are effective until suspended or terminated. 2. The duties provided for by items 960.00 and 962.00 may be adjusted as provided in section 201 of the Copper Environmental Equalization Act of 1977.		
960.00	Copper bearing ores and materials (provided for in items 602.28, 602.30, 603.49, 603.50, 603.54, and 603.55 of part 1, schedule 6).	10¢ per pound on copper content.	10¢ per pound on copper content.

Item	Article	Rates of duty 1-a	Rates of duty 1-b	Rates of duty 2
962.00	Copper, its alloys, and their so-called basic shapes and forms (provided for in items 612.02 through 612.06, inclusive, and items 612.15 through 613.18, inclusive, of part 2C, schedule 6).	10¢ per pound on copper content.	10¢ per pound on copper content.	10¢ per pound on copper content."

TITLE II—ADJUSTMENTS TO COPPER EQUALIZATION DUTY

SEC. 201. (a) The President shall, under the circumstances described in subsection (b), adjust the duty imposed on an article of copper by section 101 of this Act.

(b) The President shall, based upon determinations of the various environmental costs of production by the Administrator of the Environmental Protection Agency (hereinafter in this Act referred to as the "Administrator") under section 203—

(1) increase the duty imposed by section 101 on an article of copper by an amount equal to the amount by which the excess of—

(A) the United States environmental costs of production, over

(B) the foreign environmental cost of production,

of such article exceeds 10 cents per pound;

(2) decrease the duty imposed by section 101 on an article of copper, by an amount equal to the amount by which the excess of—

(A) the United States environmental cost of production, over

(B) the foreign environmental cost of production,

of such article exceeds 10 cents per pound.

SEC. 202. (a) The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall by regulation prescribe a procedure by which interested parties may propose an adjustment in the rate of duty which is imposed on an article of copper by section 101. If the Secretary finds pursuant to such procedure that there may be cause to make an adjustment under section 201, he shall request the Administrator to make a determination under section 203 of each of the environmental costs of production required to be made by such section.

(b) The Secretary shall promulgate any necessary regulations for the assessment and collection of duties imposed by this Act. In the collection of such duties, there shall be an identification of each portion of a shipment which may be subject to a different rate of duty under this Act so that the appropriate duty may be applied accordingly. If a shipment contains portions of articles of copper subject to the duty imposed by section 101 which, because of commingling, cannot be readily identified for purposes of imposing duties, the Secretary shall collect a duty on such portions equal to the highest duty which may be imposed on any portion of such shipment.

SEC. 203. (a) The Administrator shall by regulation prescribe a method or methods for the determination of environmental costs of production for the articles of copper subject to the duty imposed by section 101, which shall include a method or methods for the determination of the foreign environmental cost of production of such an article of copper in cases in which environmental costs of production have been incurred in more than one country.

(b) When requested by the Secretary under section 202, the Administrator shall, applying the methods prescribed under subsection (a), determine—

(1) the environmental cost of production for each phase of the processing of each article for which such request is made, with respect to each country in which such processing occurs, and

(2) the comparable environmental cost of production of such article in the United States for each such phase.

The foreign environmental cost of production shall be computed with respect to each such article for each combination of countries in which such article may be processed for importation into the United States.

SEC. 204. The President shall have no authority under any provision of law to reduce the duty which is imposed on articles of copper by section 101, except as provided in this title.

SEC. 205. For purposes of this title—

(1) ENVIRONMENTAL COST OF PRODUCTION.—The term "environmental cost of production" means the cost incurred in mining, milling, smelting, refining, or in any other phase of the processing of an article of copper which is subject to the duty imposed by section 101, or which would be subject to such duty if imported into the United States, which is attributable to compliance with a law or regulation of the country in which such process occurs which is for the purpose of protecting the environment.

(2) UNITED STATES ENVIRONMENTAL COST OF PRODUCTION.—The term "United States environmental cost of production" means the aggregate of the environmental costs of production of an article of copper which would be subject to the duty imposed by section 101 if it were imported into the United States, for which each phase of the processing occurs in the United States

(3) FOREIGN ENVIRONMENTAL COST OF PRODUCTION.—The term "foreign environmental cost of production" means the aggregate of the environmental costs of production of an article of copper subject to the duty imposed by section 101 which is imported into the United States.

TITLE III—AMENDMENT TO THE TRADE ACT OF 1974

SEC. 301. Subsection (c)(1) of section 503 of the Trade Act of 1974 is amended—

(1) in subparagraph (F), by striking out "and";

(2) in subparagraph (G), by striking out the period at the end thereof, and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(H) copper articles which are subject to the duty imposed by section 101 of the Copper Environmental Equalization Act of 1977.".

TITLE IV—EFFECTIVE DATE

SEC. 401. The provisions of this Act shall be effective with respect to articles subject to the duty imposed by section 101 which are imported into the United States after the date of the enactment of this Act.●

By Mr. MATHIAS:

S. 800. A bill to amend the Rail Passenger Service Act in order to improve cost allocating procedures and the method of determining the amount of Federal assistance to be provided the National Railroad Passenger Corporation for operating costs; to the Committee on Commerce, Science, and Transportation.

AMTRAK COST ALLOCATION ACT OF 1979

● Mr. MATHIAS. Mr. President, I believe that the time has now come for the Congress to provide guidelines for Amtrak's management that clearly specify the objectives which we expect Amtrak to achieve.

We say that Amtrak should provide dependable service at a reasonable cost. Yet in the 8 years since the creation of Amtrak, we have been unable to define the level of service or what a reasonable cost might be. Until these definitions are explicitly stated, understood, and agreed upon, there can be no improvement in our national rail passenger service.

The legislation that I am proposing provides guidelines on which to evaluate Amtrak's performance. The legislation provides a formula which explicitly defines the public service value of rail passenger service to the Federal Government. For the first time, Congress and the administration would specify what should be an acceptable subsidy level for each route and each passenger carried on the Amtrak system.

Establishing such a public service value would provide Amtrak management with a clear objective on which to evaluate and determine route and service changes. The concepts embodied in this legislation have precedent in the urban mass transit legislation passed in the 95th Congress where the Federal mass transit subsidy is determined by ridership rather than by mileage. I am proposing the extension of this model to the Amtrak arena.

Currently Amtrak operates 41 routes on its 27,000-mile system. On a fully allocated cost basis, the "best route" loses almost $700,000 annually, whereas the "worst route" loses $63,000,000. At the same time, the ridership on these routes varies widely from a low of 40,000 per year to a high of 3.5 million. The cost for providing these services has continued to escalate at an alarming rate. To a large extent, Amtrak has been un-

able to deal in a businesslike fashion with this issue of increasing costs.

In particular, decisions relating to the level of service provided and the route structure have become so politicized that indecision seems to be the path of least resistance.

At present, Amtrak uses several formulas and criteria for determining cost on its 41 routes. First it assigns costs for items such as maintenance-of-way and labor, which are solely attributable to a particular route to that route; these costs amount to about 50 percent of the total system costs.

Amtrak then assigns the other 50 percent of its costs for items such as system-wide management, upkeep of stations, and marketing across the board to its routes based mostly on train frequency or train miles.

This present amalgam of formulas does not rely on a uniform standard for allocating costs. As a result, all Amtrak routes, under the present accounting procedure, register deficits, some more than others. The Federal operating subsidy, which Amtrak annually requests, is based on a projected yearly operating loss throughout the system.

Thus, the Congress is presented with an annual deficit picture from Amtrak for all its routes with no sign of improvement. It is little wonder, then, that Congress has become less and less enthusiastic about helping support a national rail passenger system which annually presents such a bleak picture.

Under the public service value formula which I am proposing in this bill, Amtrak would adopt an accounting system based on total number of passengers carried per route. Under this new accounting procedure, at least half of the existing 41 routes would show a public service profit annually. We could then take steps, such as fare restructuring, schedule changes, or equipment improvements which could turn that situation around.

The public service value formula in my bill contains two basic elements. The first element is operating contribution (OC) which amounts to 50 percent of the fully allocated loss experienced on each of Amtrak's 41 routes. The percentage of Federal operating contribution (50 percent) would remain constant over time. The OC is the Federal Government's recognition of the high cost inherent in the operation and maintenance of national rail service.

The second component of the formula consists of a ticket subsidy. Under this component the Federal Government's subsidy to Amtrak would be directly tied to the number of riders carried on each of the routes. If the ticket subsidy is set at a fixed level across routes, its effect would be to encourage Amtrak's management to promote ridership on the most cost-effective routes.

Under the proposed formula, 50 percent of the total Federal operating subsidies would be derived from the operating contribution and 50 percent from the ticket subsidy.

Let me briefly outline some of the benefits to be gained by the adoption of a public service value funding mechanism as proposed in this legislation.

First, the Congress and the executive branch would have explicitly agreed on the value of Amtrak service; that is, on what ticket subsidy should be provided per passenger. This would permit Amtrak's management to determine the public service value and cost of each route relative to the congressionally established criteria.

Second, Amtrak's management, for the first time, could establish marketing goals in terms of the number of riders for each of the routes not showing a public service profit in order that these routes might become socially profitable. In addition, Amtrak could establish equipment and ticket pricing policies in order to achieve public service profits for the various routes.

Third, Amtrak's management could be rewarded for performing better than anticipated by permitting the Corporation to invest excess profits (that is, where fares plus appropriated funds exceed expenses in capital improvements).

Fourth, major capital improvements, such as the Northeast Corridor, and other corridor development programs, could be evaluated against the benefits derived. Thus, for the first time, a cost benefit analysis could be performed on these proposed improvements.

Fifth, Congress could determine on a yearly basis the actual ticket subsidy as a measure of the current public service value of passenger train service. Furthermore, this ticket subsidy level could be easily understood by constituents in terms of the Government's contribution to rail passenger service.

Sixth, Amtrak's route and service decisions would be aimed at increasing ridership rather than focusing on cost-cutting regardless of the service consequences.

Seventh, Amtrak's management performance would be evaluated on the extent to which they realized an excess profit over revenues from tickets and the Federal operating subsidy. They would also be evaluated on the extent they were able to convert routes from "public service loss" to "public service profit."

The concept of public service value would cause a change in the perception of Amtrak. Decisions would now be focused on the social cost and benefits of certain routes rather than the overall deficit nature of the operation. The amount of service provided would be a major determinant in making route and service decisions.

The adoption of a funding formula such as this does not imply that routes experiencing a public service loss would automatically be eliminated. On the contrary, money-making routes would subsidize a certain number of losing routes that would be retained for the social benefits that they provide and/or the future market potential of these routes. Such "loss leader" routes could be viewed as temporary deficit routes where fare policy, equipment, and service scheduling improvements should be focused in order to attract additional ridership and, hence, increase revenues.

The formula would provide a single index of route performance. We would be able to ask Amtrak management, for instance, what it would take, in terms of equipment, ridership and fare policy to make a route socially profitable. Thus, for the first time we would be able to determine whether public service profit is, in fact, possible for each route.

The bill, furthermore, provides for a certain discipline on the part of Amtrak's management. Amtrak is required, under the provisions of the bill, to submit a 5-year plan with its budget. The 5-year plan requires Amtrak to identify its levels of service and route structure given the 50 percent operating contribution and a ticket subsidy at last year's level.

Therefore, if Amtrak received $15 per ticket as a ticket subsidy in fiscal year 1979 on 20 million tickets sold for a total of $300 million, and a 50 percent operating contribution of $300 million for fiscal year 1979, then for fiscal year 1980 they would have to inform the Congress of the service they can provide with the 50 percent operating contribution and the $15 ticket subsidy.

It should be noted that this does not require Amtrak to live within the same budget for 5 years. It means that if their ridership increases, as we all hope it will, then they will be able to realize additional revenue from the ticket subsidy—in my example an additional $15 per ticket for each ticket sold in fiscal year 1980. Additionally, the 50 percent operating contribution would change depending upon the costs incurred and would, thus, provide a partial offset against inflation.

The adoption of this legislation would help bring order to an otherwise chaotic process. It would clearly establish goals and objectives for Amtrak, which has had none since its inception. It would provide an incentive for efficient management and the generation of additional ridership. It would provide Congress with a yardstick to measure route performance. It would provide a mechanism for identifying routes which cannot, under any circumstances, provide a positive public service profit. And finally, it would permit Amtrak's management to develop a 5-year plan that reflects Congress concern with containing the costs and providing maximum service per tax dollar.●

By Mr. DANFORTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, and Mr. DOMENICI):

S. 801. A bill to increase the tax on cigarettes; to the Committee on Finance.

TAX ON CIGARETTES

● Mr. DANFORTH. Mr. President, today, I together with Senators MOYNIHAN and CHAFEE am introducing a bill which will raise the Federal tax on a pack of cigarettes by 10 cents—one dime. The tax is now 8 cents a pack and it has been at that level since 1951, more than 25 years. Although a dime is not a great deal to pay, it will raise $2.9 billion—enough revenue to finance the Federal share of a catastrophic health insurance bill I introduced yesterday with Senator DOLE and Senator DOMENICI. Whether our version of catastrophic health insurance is enacted or some other version, I believe it is absolutely justified for the

cigarette tax to be increased and for the revenue so generated to be targeted to pay for catastrophic health costs.

Three things have happened since the cigarette tax was set at 8 cents a pack in 1951. First, we have had tremendous inflation. Eight cents in 1951 would be the equivalent of 20 cents today. In 1951, the Federal excise tax represented about one-third of the average cost of a pack of cigarettes. Today, the Federal tax represents only one-seventh of the cost. On its own, therefore, it makes sense to raise the tax.

The second thing that has happened since 1951 was the Surgeon General's report. We now have strong, direct evidence linking cigarette smoking with a whole range of catastrophic illnesses—lung cancer, strokes, emphysema and so on, and it is now the pronounced public policy of our Nation to combat smoking.

And third, since 1951, medicare and medicaid were enacted as was the disability insurance program of social security and the supplemental security income program. It has been estimated that $8.2 billion a year is spent directly on health care costs attributable to smoking. Since medicare and medicaid pay 40 percent of the Nation's hospital bills, that translates to a $3.3 billion cost to taxpayers generally. Similarly, 1.5 million individuals collect social security disability payments as a result of lung or heart ailments and a large number receive SSI payments as well. As a result, the American people—nonsmokers as well as smokers—are subsidizing the real costs associated with cigarette smoking. We are now talking about expanding the Federal Government's role in the health area through some form of catastrophic health insurance legislation. If we do pass such legislation without a concomitant increase in the cigarette tax, we are asking the American people to subsidize even further the real costs associated with smoking.

I am not hopeful that a 10-cent increase in the cost of cigarettes will discourage many people from smoking. Nevertheless, to the extent that the tax deters anyone from smoking, it seems to me we would be making an important, direct contribution to our Nation's health.

For all these reasons, I hope this bill is speedily enacted.●

By Mr. CHURCH (by request):

S. 802. A bill to further amend the Peace Corps Act; to the Committee on Foreign Relations.

PEACE CORPS ACT

● Mr. CHURCH. Mr. President, I introduce by request a bill to amend the Peace Corps Act.

The bill has been requested by the Director of ACTION and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the analysis of the bill, and the letter from the Director of ACTION to the President of the Senate dated March 13, 1979.

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

S. 802

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled, That this Act may be cited as the "Peace Corps Act Amendments of 1979.".

SEC. 2. Section 3 of the Peace Corps Act (22 U.S.C. § 2502) is amended—

(a) in subsection (b) by striking out the matter before the first proviso and inserting in lieu thereof the following:

"There are authorized to be appropriated to carry out the purposes of this Act (1) for the fiscal year ending September 30, 1980 not to exceed $105,404,000 and (2) for the fiscal year ending September 30, 1981 such sums as may be necessary:"; and

(b) in subsection (c) by striking out "year 1979" and by inserting in lieu thereof "years 1980 and 1981".

ACTION,
Washington, D.C., March 13, 1979.

Hon. WALTER F. MONDALE,
President of the United States Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill, and section-by-section analysis which will permit the Peace Corps to continue its activities on behalf of world peace and understanding in the fiscal years ending September 30, 1980 and September 30, 1981.

The proposed bill authorizes the appropriation of $105,404,000 for activities under the Peace Corps Act in fiscal year 1980, and such sums as may be necessary for that purpose in fiscal year 1981. It also authorizes the appropriation of such sums as may be necessary in each of those fiscal years for increases which may be authorized by law in salary, pay, retirement and similar employee benefits. The bill would also discontinue the earmarking benefits for the United Nations Volunteer programs. While Peace Corps will continue its support of the valuable activities of the United Nations Volunteer programs, the amount of the contribution should be determined annually on a programmatic basis without a restrictive specific $1,000,000 earmark. Furthermore, this earmarking could divert funds from the maintenance of existing Peace Corps programs.

Continuation of the activities of Peace Corps Volunteers in improving the quality of life for persons living in countries and areas most in need is an important and valuable activity. I urge the speedy passage of this legislation which will permit our Peace Corps Volunteers to continue their useful activities.

The Office of Management and Budget has advised that there is no objection to submission of this draft legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

SAM BROWN,
Director.

SECTION-BY-SECTION ANALYSIS

Sec. 1 contains the short title of the Act, "Peace Corps Act Amendments of 1979".

Sec. 2 amends Section 3 of the Peace Corps Act (22 U.S.C. § 2502) (hereinafter the "Act") to:

(1) Authorize the appropriation of not to exceed $105,404,000 in the fiscal year ending September 30, 1980, and such sums as may be necessary for the fiscal year ending September 30, 1981, to carry out the purposes of the Peace Corps Act.

(2) Strike out the requirement that $1,000,000 of the Peace Corps appropriation be used to support United Nations Volunteer programs. ACTION considers support of the United Nations Volunteer programs to be an important and productive activity. However, the amount of the contribution should be determined annually on a programmatic basis without a restrictive specific earmark. Furthermore, the reservation of this amount for expansion of the United Nations Volunteer program could jeopardize the ability of Peace Corps to provide adequate support to its existing volunteer programs.

(3) Authorize the appropriation of such sums as may be necessary for increases in salary, pay, retirement, or other employee benefits which may be authorized by law in fiscal years 1980 and 1981.●

By Mr. DURKIN:

S. 805. A bill to repeal changes in the exclusion of sick pay made by the Tax Reform Act of 1976, and for other purposes; to the Committee on Finance.

● Mr. DURKIN. Mr. President, today I am introducing legislation to set up a new tax rule that restores the exclusion for sick pay as it was before Congress approved the Tax Reform Act of 1976. This measure eliminates the current disability requirement and income phaseout for tax-free sick pay. Since both standards went into effect on January 1, 1978, my bill recommends their retroactive repeal by 1 year. For those relatively few people who prefer the 1976 act rules, they may elect to apply them in taxable year 1978.

In my view, elimination of the sick pay exclusion was an ill-advised and unnecessary decision. The law as amended has seriously limited the ability of people who are receiving sick pay from claiming the tax exclusion. Only those who are under 65, have retired on disability, and are permanently and totally disabled are eligible.

These are not the only people who need this help. The effect of illness and injury on an individual and his family is profound, regardless of whether the condition is permanent. And the resulting loss of income may be equally devastating for those who are not totally and permanently disabled.

Mr. President, as you well know, the sick pay exclusion was repealed by the Tax Reform Act of 1976. This specific provision was never taken up for floor debate and vote in either House but rather, cleared Congress as a Senate-House conference committee agreement. Subsequently, Congress did address the issue of sick pay. Not once, but twice it agreed by an overwhelming vote to postpone the effective date of the 1976 changes in the sick pay exclusion. Without any further delay, sick and disabled taxpayers are now realizing that the exclusion benefit does not exist for them. Even those people who are certified as being permanently and totally disabled cannot benefit from the exclusion if their gross income, including disability payments, are in excess of $15,000.

My bill is aimed at helping every American worker who, for reasons of injury or illness, finds himself caught in

the financial squeeze of a reduced income and increased costs which are associated with medical care. It provides a maximum $100 a week ceiling on excludable benefits, without regard to gross income. This $5,200 limit is a very modest proposal when you recall that it is the same figure approved by Congress back in 1954. It is not lavish in relation to the present cost of living, but it is much needed.

If sick pay received is 75 percent or less of the regular weekly rate and the taxpayer is hospitalized for 1 day during the period, my bill allows the exclusion to apply immediately. Should sick pay received be more than 75 percent of the regular weekly rate, the waiting period is 30 days whether or not the taxpayer is hospitalized during the period. As with the old law, there are other strict waiting period rules that will have to be met to qualify for the sick pay exclusion in effort to prevent extreme abuses.

I strongly urge my colleagues to vote for the enactment of the legislation I introduce today. Equity argues that changes in the tax treatment of sick pay are needed, and it is incumbent upon Congress to make them now. No American household has escaped the wrath of inflation, but it is a particularly trying time for that family who has severe financial worries in addition to serious concern over the health and future well-being of one of its loved ones.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (d) of section 105 of the Internal Revenue Code of 1954 (relating to certain disability payments) is amended—

(1) by inserting "Sick Pay and" after "Certain" in the caption.

(2) by striking out so much of paragraph (1) as precedes "income" and inserting in lieu thereof "(1) In general.—Gross."

(3) by striking out "permanent and total disability" in paragraph (1) and inserting in lieu thereof "personal injuries or sickness"

(4) by striking out paragraphs (3) and (5),

(5) by striking out so much of the text of paragraph (6) as precedes "for purposes of section 72" and inserting in lieu thereof "(6) Coordination with section 72.—In the case of a taxpayer who—

"(A) has not attained age 65 before the close of the taxable year, and

"(B) retired on disability and, when he retired, was permanently and totally disabled,", and

(6) by adding at the end thereof the following new paragraph:

"(7) Special rules for initial period.—

"(A) Payments in excess of 75 percent.—Paragraph (1) shall not apply with respect to amounts attributable to the first 30 calendar days of any such period, if such amounts are paid at a rate which exceeds 75 percent of the regular weekly rate of wages of the employee (as determined under regulations prescribed by the Secretary).

"(B) Payments not in excess of 75 percent.—If amounts attributable to the first 30 calendar days of any such period are paid at a rate which does not exceed 75 percent of the regular weekly rate of wages of the employee, then—

"(i) paragraph (2) shall be applied by substituting '$75' for '$100' for that period, and

"(ii) paragraph (1) shall not apply to amounts attributable to the first 7 calendar days in such period unless the employee is hospitalized on account of personal injuries or sickness for at least one day during such period.".

SEC. 2. (a) Any election made under section 104(d)(6) of the Internal Revenue Code of 1954, or under section 505(d) of the Tax Reform Act of 1976, for a taxable year beginning in 1978 may be revoked (in such manner as may be prescribed by the Secretary of the Treasury) at any time before the expiration of the period for assessing a deficiency with respect to such taxable year.

(b) In the case of any revocation made under subsection (a) the period for assessing a deficiency with respect to any taxable year affected by the revocation shall not expire before the date which is 1 year after the date of the making of the revocation, and, notwithstanding any rule or rule of law, such deficiency, to the extent attributable to such revocation, may be assessed at any time during such one-year period.

SEC. 3. The amendments made by the first section of this Act shall apply with respect to taxable years beginning after December 31, 1977, but shall not apply—

(1) with respect to any taxpayer who makes or has made an election under section 105(d)(6) of the Internal Revenue Code of 1954, or under section 505(d) of the Tax Reform Act of 1976, for a taxable year beginning in 1978, if such election is not revoked under section 2(a) of this Act, nor

(2) with respect to any taxpayer (other than a taxpayer described in paragraph (1)) who has an annuity starting date at the beginning of a taxable year beginning in 1978 by reason of the amendments made by section 505 of the Tax Reform Act of 1976, unless such person elects (in such manner as the Secretary of the Treasury may prescribe) to have such amendments apply.●

By Mr. DURKIN:

S. 806. A bill to amend the Internal Revenue Code of 1954 to make certain wood gasification equipment eligible for the residential energy credit; to the Committee on Finance.

● Mr. DURKIN. Mr. President, I am today introducing legislation to make wood gasification equipment eligible for the residential renewable tax credits written into the tax code last year. Wood gasifiers represent such a potentially great energy source in wood-rich regions of our Nation, such as New Hampshire and New England, that the tax credit for renewable energy systems should be extended to cover this developing technology. Last year Congress made solar, wind, and geothermal energy systems eligible for a tax credit of 30 percent of the first $2,000 and 20 percent of the next $8,000 for a maximum of $2,200. If my bill is passed and signed into law, wood gasifiers will be eligible for the same tax credit.

Wood gasifiers are simple devices that gasify wood in the form of wood pellets by heating wood in an oxygen-free environment. When wood pellets are heated in an oxygen-free environment, a medium BTU methane suitable for burning is produced. This gas can then be burned in existing natural gas stoves, water heaters, or furnaces or used to produce clean industrial process heat. Wood gasification also offers great promise for the generation of electricity. Since wood in a gasified form is free of the water and high ash of unprocessed wood, it is more suitable for use in the large, high temperature boilers that turn electric turbines.

This credit would provide immediate aid to those enterprising groups and individuals in New England and elsewhere that are working to bring this technology to the point of commercialization. In years ahead this tax credit will provide homeowners all across America the sort of nonbureaucratic broad-based tax incentive that is so effective in commercializing new energy technologies.

Wood and especially advanced wood technologies like wood gasification, have been the orphan of our energy policy in this country. Wood deserves the full commitment that we have in the past afforded oil, gas, and nuclear technologies. In New England wood could make a substantial contribution to our national effort to develop sustainable domestic energy sources. This tax credit, if passed, would provide the sort of incentive that this young but extremely promising technology needs today to compete with the heavily subsidized conventional technologies that are far more environmentally destructive and are in limited supply. It also will help cut down on our oil import bill, so damaging to our economy, and especially to New England.

I urge the support of my colleagues for this measure, and I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (5)(A) of Section 44c(c) of the Internal Revenue Code of 1954 (relating to the definition of the renewable energy source property) is amended by adding at the end thereof the following new clause:

(iii) energy from burning gasified wood, or wood residues or products, including systems for the gasification of wood, wood residues and wood products, and including all controls, pipes, and ducts necessary for the safe and efficient operation of any such property.

SEC. 2. The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1978.●

By Mr. DURKIN:

S. 807. A bill to amend section 5(e) of the Food Stamp Act of 1977 to remove the ceiling on the excess shelter expense deduction, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. DURKIN. Mr. President, today I am introducing legislation which I believe will correct a very serious deficiency in the food stamp program. This amendment to the Food Stamp Act of 1977 will remove the arbitrary limit placed on shelter deductions for food stamp recipients so recipients in areas with high shelter costs will not suffer from an unfair reduction in benefits.

The food stamp program, started in the 1960's and greatly expanded in the 1970's, is certainly one of the most significant and worthwhile public-service efforts the Federal Government has today. It attacks the very substantial problem of hunger in the United States and gets nutritious meals to millions of Americans who might otherwise go hungry.

Despite its many successes, this program, like many others that grew rapidly in a short time, developed serious shortcomings. Those problems were the genesis of the Food Stamp Act of 1977. In addition to correcting some of the abuses of the past food stamp program, this bill had the dual purpose of eliminating from the program altogether recipients with the highest income levels and, in turn, getting food stamps to the neediest people by abolishing the purchase requirement for the stamps.

I wish to commend my colleagues for the reforms they made to the original food stamp legislation. In revamping the law, they were acutely aware of the real worth of this program, that the Federal Government has a commitment to people who, for one reason or another, cannot adequately feed themselves. On the whole, my colleagues did an excellent job under very difficult circumstances, but I do believe they erred by placing a ceiling on shelter cost and child care deductions, which now stands at $80 a month.

Under the previous food stamp program, the normal household costs—such as rent, utilities, and medical expenses—were subtracted from a recipient's income to determine the level of eligibility for food stamps.

In an effort to simplify and streamline the program, the individual deductions were taken out of the 1977 act and replaced with one standard deduction—now at $65—to take those expenses into account. The new act also placed a maximum, now at $80, on the deduction on combined shelter and child care costs.

As all of my colleagues are aware, shelter costs are not uniform throughout the United States. Shelter costs are much higher in New Hampshire and the Northeast and in urban areas than they are in the South, for instance. In my home State of New Hampshire, it is not uncommon for a family to spend several hundred dollars a month on heating oil to fend off the winter cold. With heating oil approaching 70 cents a gallon and electrical costs increasing almost daily, this limit on shelter deductions has placed an extreme hardship on some of my constituents.

The sole reason for deductions in the food stamp program is to acknowledge that households have expenses other than food. There are other necessities which must be paid for out of a household's monthly pay check or welfare payment. As a result, the food stamp program wisely attempts to base eligibility and benefit levels on disposable income after other necessary expenses have been met.

To place an arbitrary "cap" on those deductions simply means that we are attributing to those households income they simply do not have. In the case of the shelter deduction, we are closing our eyes to reality by stating that no more than $80 a month may be deducted for excess shelter, no matter what those costs might be.

By removing this arbitrary ceiling on shelter costs, my amendment merely recognizes the high cost of shelter in various parts of the country—whether it be in the Northeast or in urban areas—and attempts to compensate for the inequities in this nationwide program.

In my home State of New Hampshire, the new regulations governing the food stamp program have caused hardship to a particularly large segment of those receiving the assistance.

According to figures supplied me by the New Hampshire Division of Welfare, out of 15,000 active food stamp cases in February, 1,000 of those households lost their benefits entirely as a result of the new regulations and 11,000 had their allocations reduced when the new rules went into effect on March 1. I know of other States facing a similar situation.

My amendment will not solve every hardship case created by the new legislation. Estimates I have received indicate it could restore up to 60 percent of the benefits lost as a result of the new legislation.

This legislation is by no means a cure-all for the very real problems that some people must now face as a result of the change in the food stamp program, but it is a way of mitigating some of those problems.

I ask that my colleagues join me in support of this worthwhile endeavor.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clause (1) of the fou-th sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended to read as follows: "(1) a dependent care deduction, the maximum allowable level of which shall be $80 a month, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education which is preparatory for employment, except that households in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States shall be allowed maximum dependent care deductions determined by the Secretary and such maximum shall vary from the maximum level prescribed for the forty-eight contiguous States and the District of Columbia to the same extent that the standard deduction prescribed for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States vary from the standard deduction prescribed for the forty-eight contiguous States and the District of Columbia, and".

(b) The fourth sentence of section 5(e) of such Act is further amended by striking out the colon preceding the proviso and all that follows down through the end of such sentence and inserting in lieu thereof a period and a new sentence as follows: "The maximum level of the dependent care deduction under clause (1) shall be adjusted annually (commencing January 1, 1980) to the nearest $5 increment to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the twelve month period ending the preceding September 30.".●

By Mr. DURKIN:

S. 808. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

● Mr. DURKIN. Mr. President, today I am introducing legislation that authorizes a separate pension system for all World War I veterans and their surviving spouses. My legislation recommends a minimum monthly pension of $135 to every veteran of the First World War who establishes eligibility or elects participation in this special pension program under the existing VA pension structure.

During the last Congress, I worked hard to assure Senate and House approval of the $800 maximum annual rate increase for World War I vets under the Pension Improvement Act. That increase went only to those World War I veterans currently receiving a pension. The measure I introduce today enacts an unrestricted pension to all World War I veterans, many of whom receive no pension whatsoever.

Simply stated, these men, who currently number about 600,000, were never afforded many of the advantages which have been available to veterans of subsequent wars, such as entitlement to employment counseling, readjustment and GI educational benefits. The average age of our World War I veterans is 80 years old. With this in mind, I not only believe that he has earned our help but, more important, I believe he needs it now.

While no American household has escaped the wrath of inflation, the fight to make ends meet is taking its greatest toll on our senior citizens who often live on a fixed income. As I am sure you agree, it is the elderly who suffer most when the economy worsens. It is the elderly who are hurt most during the cold months when fuel costs rise. And, it is the elderly who sacrifice most when food prices rise.

My bill would not require World War I veterans to demonstrate their need for pension assistance and it operates without regard to current VA requirements of disability. World War I veterans may be entitled to hospital, domiciliary and medical care for nonservice, as well as service-connected disabilities under the provisions of this measure. Furthermore, the legislation permits outpatient treatment of World War I vets by a Veterans' Administration facility under any circumstance. If it is determined that travel to and from a VA medical center imposes medical or financial hardship on the veteran, then the cost of medical treatment which is provided outside of Veterans Administration facilities may be reimbursed by the VA.

Mr. President, I hope we can take immediate action on this legislation. It would give World War I veterans deserved recognition for their service

and provide them with compensation rightly earned a half century ago.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter II of chapter 15 of title 38, United States Code, is amended by adding immediately after section 512 the following new section:

"§ 513. Certain World War I veterans.

"(a) For purposes of this section—

"(1) The pension and other benefits provided by this section shall be deemed, for all purposes, to be in payment of the debt owed by the Nation to the beneficiaries thereof for services rendered by them and shall not, for any reason, be considered to be a gratuity.

"(2) The term 'World War I' means the period beginning on April 5, 1917, and ending on July 2, 1921.

"(b) The Administrator shall pay to each veteran who served in the active military, naval, or air service at any time during World War I and who is not eligible for pension under section 521 of this title pension at the rate prescribed by this section.

"(c) (1) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, the monthly rate of pension shall be $150.

"(2) If the veteran is unmarried (or married but not living with or reasonably contributing to the support of his spouse) and has no child, the monthly rate of pension shall be $135.

"(d) If the veteran is in need of regular aid and attendance, the monthly rate of pension payable to him under subsection (c) shall be increased by $125.

"(e) If the veteran has a disability by reason of which he is permanently housebound but does not qualify for the aid and attendance rate payable under subsection (d), the monthly rate payable to him under subsection (c) shall be increased by $50.

"(f) (1) Any veteran entitled to pension under this section is entitled to hospital, domiciliary, and medical care under chapter 17 of this title for any non-service-connected disability.

"(2) Notwithstanding any other provision of law, the Administrator shall pay on behalf of any veteran receiving pension under this section the cost of any medical services provided outside of Veterans' Administration facilities to such veteran by any physician if the Administrator finds that travel to and from a Veterans' Administration medical facility for such services would impose a medical or financial hardship on the veteran.

"(g) The pension, medical and hospital benefits, and reimbursement for medical costs provided for by this section shall be paid, or provided, as the case may be, without regard to (1) any income of any kind or from any source payable to the veteran or his spouse, and (2) the corpus of the estate of the veteran or his spouse.

"(h) Any veteran who is eligible for pension under section 521 of this title shall, if he so elects, be paid pension, and provided the other benefits, prescribed by this section. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(b) The analysis of such chapter 15 is amended by adding immediately after

"512. Spanish-American War veterans."

the following:

"513. Certain World War I veterans.".

SEC. 2. (a) Subchapter III of chapter 15 of title 38, United States Code, is amended by adding immediately after section 537 the following new section: § 538. Widows of certain World War I veterans

"(a) The Administrator shall pay to the widow of each veteran of World War I who at the time of his death was receiving pension under section 513 of this title pension at the rate prescribed by this section, if the widow is not eligible for widow's pension under any other provision of this subchapter.

"(b) (1) If there is a widow and one or more children, the monthly rate of pension shall be $150.

"(2) If there is not child, the monthly rate of pension shall be $135.

"(c) No pension shall be paid to a widow of a veteran under this section unless she was married to him—

"(1) before December 14, 1944; or

"(2) for one year or more; or

"(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

"(d) The pension provided by this section shall be paid without regard to (1) any income of any kind or from any source payable to the widow, and (2) the corpus of the estate of the widow.

"(e) Any widow who is eligible for pension under section 541 of this title shall, if she so elects, be paid pension prescribed by this section. If pension is paid pursuant to such an election, the election shall be irrevocable.".

(b) The analysis of such subchapter III is amended by inserting immediately after

"537. Children of Spanish-American War veterans."

the following:

"538. Widows of certain World War I veterans.".●

By Mr. STEVENS (for himself, Mr. BAYH, Mr. DOMENICI, Mr. DOLE, Mr. FORD, Mr. GARN, Mr. HATCH, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. METZENBAUM, Mr. MORGAN, Mr. MOYNIHAN, and Mr. THURMOND):

S. 809. A bill to amend title 38, United States Code, to provide that a member of a Reserve component of the Armed Forces shall not be denied certain employment because of membership in such Reserve component; to the Committee on Veterans' Affairs.

Mr. STEVENS. Mr. President, I am today introducing a measure that would make it illegal for an individual to be denied employment because of membership in a Reserve unit of the Armed Forces or the National Guard.

This is a companion measure to Congressman BOB TRAXLER's bill H.R. 2290. I am pleased to have Senators BAYH, DOMENICI, DOLE, FORD, GARN, HATCH, HUDDLESTON, HUMPHREY, METZENBAUM, MORGAN, MOYNIHAN, and THURMOND join me in introducing this measure in the Senate. The National Guard Association of the United States, the Reserve Officers Association of the United States, the Naval Reserve Association, and the Air Force Sergeants Association have also announced their support for this legislation.

As my colleagues are aware, many employers are hesitant to hire a reservist because of their obligation to participate in summer and weekend drills. Although 356,000 employers have signed a statement in support of the Guard and Reserve, there is no Federal law prohibiting them from discriminating against reservists. Enactment of this legislation would help to correct this situation.

With our All-Volunteer Force and increased reliance on a total force policy it is increasingly important to rebuild the strength of our military—particularly our Reserve units. Today, Reserve forces are involved with their active duty counterparts in exercises and practice military operations. The increased involvement and dependence on reservists in our national defense posture to provide direct combat arms and maintenance support in event of conflict commands our immediate attention to the assurance of an adequate Reserve system. Therefore, it is essential to make military service a viable, alternative career by creating incentives to recruit and retain membership in the Reserve and active duty forces.

Mr. President, I urge my colleagues to act promptly in approving this bill. I ask unanimous consent that the text of the bill be printed in the RECORD in its entirety at the conclusion of my remarks.

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

S. 809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2021 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) No person shall be denied employment (other than employment by an employer having not more than ten employees) because of obligation as a member of a Reserve component of the Armed Forces."

SEC. 2. Section 2022 of title 38, United States Code, is amended by striking out "or (b) (3)," and inserting in lieu thereof "(b) (3), or (d),".

SEC. 3. The amendments made by this Act shall apply with respect to individuals who are denied employment on or after the date of the enactment of this Act.

By Mr. STEVENS:

S. 810. A bill to amend section 1102 of the Education Amendments of 1978; to the Committee on Labor and Human Resources.

Mr. STEVENS. Mr. President, the bill I am introducing today would amend section 1102 of the ESEA bill which we passed in the closing days of the 95th Congress.

The House version of the education amendments contained a formula to change the distribution of Johnson-O'Malley funds which are used to provide supplemental services to Indian students in public schools. I opposed the House formula and thanks to the efforts of the distinguished Senator from New York, Mr. JAVITS, the formula was deleted from the conference version of the legislation. The House, however, insisted on bill language requiring the Secretary of the Interior to revise the distribution formula. Included in the language is a requirement that the tribes vote on several options and that the Secretary certify such vote and implement the formula receiving the largest vote.

Due to time constraints, the conferees apparently gave little thought to the problems involved with requiring the formula be voted on by the tribes. Should each tribe receive one vote? If so, a tribe of 100 people would have a vote equal to that of the entire Navajo Nation. If the vote were weighted on the basis of population, there is no way to insure the equity of the distribution as the four or five largest tribes could determine the formula. We also face a problem with respect to Alaska where we do not have tribes. If each village were allowed one vote, that would give the State of Alaska more than 200 votes, yet the village councils are the closest things we have to tribal governments.

Mr. President, there is no other Federal program that I can think of where we submit the distribution formula to the recipients for a vote—these decisions are usually worked out by the Congress for many of the same reasons that we have problems with determining how the tribes will vote.

My bill would repeal that section of the law requiring the Secretary to conduct a vote on the formula options. Instead, I would substitute the process now commonly used that would require the Secretary to take into consideration the testimony received from the tribes and Alaskan Natives at the field hearings being held this month and the comments received in response to the publication of the options in the Federal Register in determining which formula is most equitable to the entire Native American community when distributing Johnson-O'Malley funds.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 1102 of the Education Amendments of 1978 (95-561; 92 Stat. 2143) is amended by striking out subsection (b) and inserting in lieu thereof the following:

(b) Having taken into consideration the views of the tribes obtained during the field survey and the public comment period, the Secretary shall establish and publish the formula in the Federal Register no later than July 1, 1979. Such formula shall be used for the distribution of the funds appropriated pursuant to such Act beginning on or after October 1, 1979. The Secretary may, in accordance with procedures consistent with those prescribed herein, revise such formula periodically as necessay.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. CRANSTON, the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 7, the Veterans' Health Care Amendments of 1979.

S. 15

At the request of Mr. LEVIN, the Senator from Montana (Mr. MELCHER) and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 15, to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of geography in the issuance and use of credit cards.

S. 43

At the request of Mr. HATCH, the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 43, a bill to promote safety and health in skiing and other outdoor winter recreational sports.

S. 75

At the request of Mr. NELSON, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 75, to amend the Internal Revenue Code to allow a retirement savings deduction for persons covered by certain pension plans.

S. 79

At the request of Mr. HELMS, the Senator from New Mexico (Mr. SCHMITT) and the Senator from Utah (Mr. GARN) were added as cosponsors of S. 79, a bill to amend the Internal Revenue Code of 1954 to reinstate the nonbusiness deduction for State and local taxes on gasoline and other motor fuels.

S. 110

At the request of Mr. NELSON, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 110, to amend the Internal Revenue Code to provide accelerated and simplification depreciation for small business.

S. 210

At the request of Mr. RIBICOFF, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor to S. 210, the Department of Education Organization Act of 1979.

S. 223

At the request of Mr. DANFORTH, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 223, a bill to amend the Antidumping Act, 1921, the Tariff Act of 1930, section 801 of the Revenue Act of 1916, and for other purposes.

S. 270

At the request of Mr. BUMPERS, the Senator from Idaho (Mr. CHURCH) and the Senator from New Hampshire (Mr. HUMPHREY) were added as cosponsors of S. 270, to amend the Occupational and Health Safety Act to insure equal protection of the laws for small business and to provide that any employer who successfully contests a citation or penalty shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

S. 380

At the request of Mr. DURKIN, the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. EXON), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 380, a bill to amend the Bank Holding Company Act of 1956, to limit the property and casualty and life insurance activities of the bank holding companies and their subsidiaries.

S. 518

At the request of Mr. BUMPERS, the Senator from Alabama (Mr. HEFLIN) and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 518, to amend the Poultry Products Inspection Act to restrict authority of the Secretary of Agriculture to regulate the speed of processing poultry on the basis of State, region, or other area, or on the basis of a lack of inspectors.

S. 533

At the request of Mr. HEINZ, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 533, the Buy American Act of 1979.

S. 538

At the request of Mr. HEINZ, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 538, to amend the Tariff Act with respect to the imposition of countervailing duties, and for other purposes.

S. 655

At the request of Mr. WEICKER, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 655, the Small Business Investment Incentive Act.

S. 697

At the request of Mr. SASSER, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 697, a bill to reduce by $500 million the amount which may be obligated for travel and transportation of officers and employees in the executive branch during fiscal year 1980.

S. 720

At the request of Mr. DURKIN, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 720, to amend the Internal Revenue Code to make certain woodburning equipment eligible for the residential energy credit.

SENATE JOINT RESOLUTION 43

At the request of Mr. DURKIN, the Senators from Rhode Island (Mr. PELL and Mr. CHAFEE) were added as cosponsors of Senate Joint Resolution 43, to proclaim March 21, 1980, "National Energy Education Day."

SENATE RESOLUTION 49

At the request of Mr. SCHMITT, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of Senate Resolution 49, to disapprove Amtrak route terminations.

SENATE RESOLUTION 98

At the request of Mr. BENTSEN, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. PRYOR), the Senator from Nevada (Mr. LAXALT), the Senator from New Mexico (Mr. SCHMITT), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of Senate Resolution 98, opposing the President's standby gasoline rationing program.

SENATE RESOLUTION 112

At the request of Mr. WEICKER, the Senator from Arizona (Mr. GOLDWATER) was added as cosponsor of Senate Resolution 112, to establish a Select Committee on Presidential Financial Transactions.

SENATE CONCURRENT RESOLUTION 10

At the request of Mr. JEPSEN, his name was withdrawn as a cosponsor of Senate Concurrent Resolution 10, authorizing the wearing of the red beret by Army airborne units.

AMENDMENTS SUBMITTED FOR PRINTING

IMPARTIAL OBSERVERS OF THE FORTHCOMING ELECTION IN RHODESIA—SENATE CONCURRENT RESOLUTION 8

AMENDMENT NO. 125

(Ordered to be printed and to lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to Senate Concurrent Resolution 8, a concurrent resolution providing for impartial observers of the forthcoming election in Rhodesia.

ENERGY EMERGENCY PREPAREDNESS—SENATE RESOLUTION 78

AMENDMENT NO. 126

(Ordered to be printed and to lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to Senate Resolution 78, a resolution expressing the sense of the Senate with respect to the immediate need for energy emergency preparedness in the United States, in light of world oil supplies and the situation in Iran.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, on March 29, 1979, at 9:30 a.m. the Small Business Committee will hold a markup session on S. 388, a bill to promote the ownership of small business by their employees, and for other purposes.

Mr. President, on April 5, 1979, at 2 p.m. the Small Business Committee will hold a hearing on two programs of the Small Business Administration. In the first hour, the committee will review the Small Business Development Center program. In the second hour, the committee will review the agency's implementation of the new minority assistance legislation, Public Law 95-507. Senator NUNN will chair both parts of the hearing.

HEARINGS ON THE FARM ENTRY ACT, S. 582

Mr. NELSON. Mr. President, on April 3, 1979, the Select Committee on Small Business will hold hearings on S. 582, the Family Farm Entry Act. This bill would create a cooperative Federal-State program to assist well-qualified, but low-asset farmers get started in farming.

Mr. President, I would like to explain the committee's participation in this issue. In December, the committee held field hearings in Wisconsin on the general problem of entry into farming. After those hearings, Senator MCGOVERN, who has had a longstanding interest in this issue, joined with me in drafting legislation to address the problem of entry into farming. The resulting bill, S. 582, was recently introduced in the Senate by 13 Senators and referred to the Senate Committee on Agriculture, Nutrition, and Forestry. That committee, in turn, referred the bill to its Subcommittee on Credit and Rural Electrification. That subcommittee has scheduled hearings for April 3, and the Small Business Committee has requested the opportunity to participate in those hearings. The subcommittee has agreed.

Persons seeking additional information about these hearings should contact the Small Business Committee staff at 224-5175.

SUBCOMMITTEE ON GOVERNMENT PROCUREMENT

Mr. NELSON. Mr. President, on April 3 and 12, the Small Business Subcommittee on Government Procurement will hold hearings on the impact on small businesses of the International Procurement Code being negotiated as part of the multilateral trade agreement.

The hearings will begin at 10 a.m. on April 3 and at 9:30 a.m. on April 12 in room 424, Russell Office Building.

Testimony will be received on April 3 from Ambassador Robert S. Strauss, Special Representative for Trade Negotiations, and from representatives of several State agencies responsible for export assistance.

On April 12, the subcommittee has invited Juanita M. Kreps, Secretary of Commerce, and Frank A. Weil, Assistant Secretary of Commerce for Domestic and International Business, and A. Vernon Weaver, Administrator, Small Business Administration, to testify with regard to the impact of the proposed code and the development of special programs to assist small firms in selling to foreign governments. Representatives of small business organizations have also been invited to testify on this day.

The committee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. Persons desiring additional information should contact committee staff at 224-2130.

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Wednesday, April 4, 1979, at 10:30 a.m. in room 4232 Dirksen Senate Office Building, on the nomination of Marjorie Fine Knowles, of Alabama, to be Inspector General, Department of Labor.●

SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION

● Mr. ZORINSKY. Mr. President, I wish to announce that the Subcommittee on Agricultural Credit and Rural Electrification of the Senate Committee on Agriculture, Nutrition, and Forestry has scheduled a hearing on S. 582, the Farm Entry Assistance Act. The bill would provide Federal guarantees for State programs which extend financial assistance to qualified individuals who wish to become full-time farmers.

The Committee on Small Business will also participate in the hearing. S. 582 was introduced by Senator GAYLORD NELSON, chairman of the Committee on Small Business.

The two committees will hear from a list of invited witnesses on Tuesday, April 3, beginning at 10 a.m. in room 322 Russell. Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.●

SUBCOMMITTEE ON ANTITRUST, MONOPOLY, AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly, and Business Rights will hold an additional day of hearings on S. 390, the Antitrust Procedural Improvements Act of 1979, on April 2, 1979. The hearings will begin at 10 a.m. in room 5110 of the Dirksen Senate Office Building.

Also, Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly, and Business Rights will hold hearings on April 6, 1979, on the impact of market concentration on rising food prices. The hearing will begin at 9:30 a.m. in room 5110 of the Dirksen Senate Office Building.●

PRIVATE PENSION SUBCOMMITTEE

● Mr. BENTSEN. Mr. President, on April 3 the Private Pension Subcommittee of the Senate Finance Committee will hold hearings on the tax treatment of employee pension contributions and Individual Retirement Accounts.

I ask unanimous consent to have printed in the RECORD a copy of the Finance Committee press release announcing the hearing.

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

FINANCE SUBCOMMITTEE ON PRIVATE PENSION PLANS AND EMPLOYEE FRINGE BENEFITS SETS HEARINGS ON EMPLOYEE TAX DEDUCTIBLE CONTRIBUTIONS TO QUALIFIED RETIREMENT PLANS AND INDIVIDUAL RETIREMENT ACCOUNTS AND ON RETIREMENT SAVINGS BY HUSBANDS AND WIVES

Senator Lloyd Bentsen (D.-Tex.), Chairman of the Subcommittee on Private Pension Plans and Employee Fringe Benefits of the Senate Committee on Finance, announced today that the Subcommittee will hold hearings on April 3, 1979 on several bills to encourage Americans to save for retirement.

The hearing will be held in Room 2221 Dirksen Senate Office Building and will begin at 10:00 A.M.

One of the bills, S. 75, introduced by Senator Robert Dole (R.-Kan.), would allow individuals to claim as much as a $1,000 tax deduction for certain contributions to a company retirement plan or an individual retirement plan.

Another bill, S. 94, introduced by Senator Bentsen, would give the same tax break to homemakers which wage earners now receive for establishing individual retirement accounts.

The third bill, S. 557, introduced by Senator Bentsen, would allow individuals to claim as much as a $1,500 tax deduction for certain contributions to a company pension plan or to an individual retirement account.

In addition, the Subcommittee will receive testimony on sections 201 through 204 of S. 209, introduced by Senator Williams (D.-N.J.), and Senator Javits (R.-N.Y.), which would provide certain tax deductions and credits for pension contributions and would amend the lump sum distribution rules of the Internal Revenue Code.

"It is clear that our laws need to provide more incentives than now exist for people to save for their retirement years," Bentsen said.

"The April 3 hearing will examine these legislative proposals for achieving that goal."

Witnesses who desire to testify at the hearings should submit a written request to Michael Stern, Staff Director, Committee on Finance, Room 2227 Dirksen Senate Office

Building, Washington, D.C. 20510 by no later than the close of business on March 23, 1979.

Legislative Reorganization Act.—Senator Bentsen stated that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress, "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Witnesses scheduled to testify should comply with the following rules:

(1) A copy of the statement must be filed by noon the day before the day the witness is scheduled to testify.

(2) All witnesses must include with their written statement a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-size paper (not legal size) and at least 100 copies must be submitted by the close of business the day before the witness is scheduled to testify.

(4) Witnesses are not to read their written statements to the Committee, but are to confine their fifteen-minute oral presentations to a summary of the points included in the statement.

(5) Not more than fifteen minutes will be allowed for oral presentation.

Written Testimony.—Senator Bentsen stated that the Subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length and mailed with five (5) copies by April 20, 1979, to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, March 28, 1979, to hold a hearing on the trucking industry economic regulation oversight.

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

SUBCOMMITTEE ON HEALTH AND SCIENTIFIC RESEARCH

Mr. ROBERT C. BYRD. Mr. President, the following request has also been cleared.

I ask unanimous consent that the Health and Scientific Research Subcommittee of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate today and Wednesday, March 28, 1979, beginning at 3 p.m. to hold a markup session on S. 570, the hospital cost containment bill.

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

ADDITIONAL STATEMENTS

PUSH FOR JESSE JACKSON'S EXCELLENCE

● Mr. McGOVERN. Mr. President, most of the time our newspapers are filled with stories of tragedy and misfortune. Yesterday, however, I was pleased to see a different kind of story; an article that gives hope for the future. I am referring to the Washington Post article by Bill Curry describing the Rev. Jesse Jackson's "Push for Excellence" program; a program which attempts to motivate students to excel in school.

Too often our society has tried to solve its problems by throwing millions of dollars at them, or by calling in a team of experts to give "technical assistance," or by mandating a study to find a solution. Reverend Jackson needs no expert, no study, and very little money to make his program work. What he needs is a student's commitment to hard work, self-discipline, and good education, combined with strong support from teachers and parents. He is successful in getting this commitment largely because of his inspirational preachings which instill in students a sense of pride, and make them realize that they are important and have an opportunity to succeed.

Our country is indebted to Reverend Jackson, whom I am pleased to count among my personal friends. His program has inspired young people who otherwise may have dropped out of school and wasted their lives, to become responsible, productive members of society.

I ask that this inspiring and hopeful article be printed in the RECORD.

The article follows:

[From the Washington Post, Mar. 26, 1979]

JESSE JACKSON: A MAGNET FOR REVIVING YOUNG PRIDE

(By Bill Curry)

AUSTIN, TEX.—Like most of the Rev. Jesse Jackson's crowds, this one was on its feet the other day, gladly and loudly reciting his oath:

"I *am* somebody. I *am* somebody. Respect me. Protect me. Never neglect me. My mind is a pearl. I can learn anything in the world. I *am* somebody."

It has happened before. But the crowd this time was a joint session of the Texas legislature, and the magnetic Jackson, preaching a rather conservative gospel of self discipline, good education and racial harmony, brought down the house. And the senate.

As he rode away, Jackson elbowed a visitor and whispered his own disbelief: "The . . . Texas . . . state . . . legislature!"

Just the night before in New Orleans, he had similarly roused a crowd of 65,000 students, teachers, parents and others, overwhelmingly black, in the Superdome as he inaugurated his "Push-for-Excellence" (Push-Excel) school program in two high schools in that city. He exacted from students raised-hand promises of harder study and greater discipline and from their parents an oath to better supervise their children's schooling.

Largely untested, its long-range impact unknown as yet, Push-Excel is nonetheless reaching across America into a growing number of troubled and in some cases desperate schools. These school grounds have become battle grounds, as Jackson puts it.

Increasing amounts of money are being put into local schools for Push-Excel. The federal government has given $425,000 already to Jackson and contemplates $3 million more over the next three years. In some quarters there is a fear that if this approach doesn't help the schools after years of unsuccessful innovations, then maybe nothing will.

Much of Jackson's success lies in the common appeal of his mesage to blacks and whites, liberals and conservatives: through hard work, self discipline and equal educational opportunity, blacks can get ahead; then jobs and paychecks will replace welfare and crime.

He denounces dope, pornography, teen-age sex and a general national pursuit of pleasure as barriers to achievement.

To blacks he preaches racial pride, to whites equal opportunity.

It is not so much a school program as a set of values. It meshes with a growing national conservatism in politics and individual behavior as well as a return to basics in schools.

"We feel like it's a movement," says Marie Langie, director of Push-Excel in New Orleans.

"We're going into this with our eyes open," said Louisiana school superintendent Kelly Nix of Push-Excel's untested impact and of past educational innovations now being discarded.

The broad appeal of Push-Excel was illustrated in Louisiana. Nix was elected state superintendent in 1976 after calling for a return to teaching basic skills (two years of high school English have since been added). Then the legislature's black caucus asked Nix, a conservative white, to support Push-Excel programs in the state.

He did, the governor did, and the legislature voted $300,000.

"We needed something to motivate the lower socio-economic groups," Nix said. Eventually, six schools in the state, with black, Cajun and poor white students, will have such programs.

"We hope to see results," Nix said the other night at the Superdome, with partial results visible in the crowded stands around him. "But we may never know. If this doesn't work, there really is not a great deal left. But I think it will work."

In Los Angeles, Push-Excel has been accompanied by reductions in absenteeism, tardiness, vandalism and assaults on teachers.

The program itself is a blend of packaging, payroll and personality.

The wrapping is signed pledges by teachers, parents and students to do more and to do better, for students to turn off the television and the radio and the telephone in favor of homework, and for parents to get to know their children's teachers and to take a more active role in school affairs.

Money pays a teacher's aide to hold group counseling sessions with students, to raise each one's belief in his or her abilities. A fulltime paid community liaison worker helps parents keep their part of the bargain, because Push-Excel, though offered in schools, is basically a voluntary effort.

But the personality is all Jackson's. The 37-year-old civil rights minister can show up in an open-necked two-piece bush-cut suit in New Orleans one night and in a three-piece gray Givenchy here the next day—and get identical responses from different audiences.

For three years he has been spreading the word of Push-Excel, the educational effort of his Chicago-based People United to Save Humanity. Push-Excel is at work in perhaps 12 to 15 communities.

One of this state's most formidable lobbying groups, the Texas Automobile Dealers Association, provided plane and pilot to fly Jackson from New Orleans.

Al Edwards, a black freshman state representative from Houston, arranged for Jackson's visit here to promote educational programs and budgets now facing the legislature but not a specific Push-Excel program yet.

While Jackson's movement is aimed at education, it is also a civil rights movement.

Students, he says, should be given a diploma in one hand and a voter's registration card in the other. "That is the way," he tells his audiences, "to stop being 'them' or 'those students' in the eyes of politicians and to become 'my distinguished constituents.' "

And so in Austin, Republican Gov. William P. Clements canceled a trip to hear Jackson's speech. In New Orleans, U.S. Rep. David Treen, a Republican candidate for governor, attended a luncheon with 1,200 Jackson followers.

"No side of town has a monopoly on genius," Jackson told his mostly black audience in New Orleans. To that he added in Austin: "No side of town has a monopoly on dope, no side of town has a monopoly on family breakups."

Part of the difficulty in assessing the impact of Push-Excel lies in the broad nature of Jackson's challenge. "We are now trying to shift the winds," Jackson said in an interview, "to shift prevailing attitudes, to shift prevailing values."

"Hands that picked cotton in 1960," he told the Superdome, "will pick presidents in 1980." Evidence of the possibly changing winds was the 6-year-old girl who introduced Jackson and brought 65,000 people to a standing cheer: "I am somebody," she recited. "I can learn anything. I can achieve."●

THE UNIVERSITY OF MINNESOTA HOCKEY TEAM

● Mr. DURENBERGER. Mr. President, for the third time since 1974 the University of Minnesota hockey team has brought glory and national recognition to the State and to the university. On Saturday, March 24, the hockey Gophers of the University of Minnesota captured the NCAA championship.

A large measure of the credit for this outstanding achievement is the University of Minnesota Athletic Director Paul Giel and Hockey Coach Herb Brooks. Coach Brooks has been at the University of Minnesota for 7 years. In that short time he has directed his teams to national championships in 1974, 1976, and again this year. In addition, the Gophers were national runners-up in 1975.

Perhaps most significantly in this day of "professional amateurs" playing major college sports is the makeup of Coach Brooks' team: All of the 26 members of the team are from Minnesota. Athletic Director Giel and Coach Brooks would be among the first to compliment the outstanding athletic and recreation programs operated by schools and communities throughout the State of Minnesota. These programs have given youths of all ages an opportunity to participate in all sports, including hockey. The quality of these programs is demonstrated by the university's home-grown national hockey champions.

The people of Minnesota join in congratulating Athletic Director Giel, Coach Brooks, and the 26 members of the hockey team who have represented the State so well in NCAA championship play.●

PORT OF LONG BEACH COMMENDED

● Mr. HAYAKAWA. Mr. President, yesterday the Port of Long Beach in California was the recipient of the E Flag award in 1974 for its excellent export service. Today, an even higher award is being bestowed upon the harbor by the Department of Commerce—the E Star—for the port's continued outstanding contributions to export expansion.

It gives me particular pleasure to note that this southern California port has become the leading west coast port in export commodities, exporting 6½ million tons this year, a 13½ percent increase over last year. This has been achieved, not only because of the port's desire to maintain a solid business, but because the Port of Long Beach has the national interest at heart.

For 10 years, port officials have understood America's need for increased exports to counteract the drain on the balance of payments and to strengthen the dollar.

They have done a good job. Port employees have aggressively participated in overseas trade missions to personally insure foreign trading companies a smooth flow of commodities from industry to cargo ships to foreign shores. And the port officials have maintained a good relationship with local industry by modernizing terminals to handle their products as efficiently as possible.

I am honored to be the U.S. Senator from the State which houses the Port of Long Beach and I wish the port continued success.●

FARM ENTRY ASSISTANCE ACT

● Mr. McGOVERN. Mr. President, recently, along with my colleague from Wisconsin, Senator GAYLORD NELSON, and 11 other Senators from both sides of the aisle, I introduced S. 582, the Farm Entry Assistance Act. The bill would encourage States to create their own programs to assist qualified new farmers get started in farming by providing Federal guarantees of credit extended to program beneficiaries. Under the bill, the Secretary of Agriculture would be empowered to provide 90 percent guarantees for payments on land sale contracts, leases, or loans for land or equipment.

Unlike other Federal programs, however, the Farm Entry Assistance Act would be run by the States. States would create their own programs, blending the kinds of guarantees most appropriate to their situations with whatever additional features they might want to add on their own, such as State tax breaks for sellers who agree to sell their land to a beginning farmer at a lower price, or State deferred loans to help defray some of the early interest costs of a beginning farmer. The States would then submit the program to the Secretary of Agriculture, who would approve or disapprove the program on the basis of whether it was fiscally sound and would help to preserve family farming in the area. If he approved the program, the State would select the applicants and administer the guarantees itself.

This program would provide a low-cost, but effective, approach to an increasingly serious problem. In recent years, entry into farming has become extremely difficult. Despite the Farmers Home Administration program to help people get started in farming, new starts in farming have declined from about 60 percent of all land sales in 1956 to only 20 to 25 percent in 1976. In the last 40 years, the number of farms declined from 6.8 million to 2.3 million, and by the year 2000, agricultural experts expect this number to be cut in half. The decline of the family farm evidenced by these data is a serious policy problem for this country, for it is beyond question that the family farm unit is not only the most efficient producer of food, but it is absolutely essential to the quality of rural life. I consider entry financing for young farmers to be perhaps the largest credit obstacle to the preservation of the family farm as we know it, taking into consideration that the average age of American farmers is now 55 years.

With typical family farm units requiring investments of $200,000 to $600,000, however, it is easy to understand why more and more land is sold to farmers expanding their operations, land speculators, corporate factory farmers, and land developers. If the new entrant is shut out, where will the family farmers of the next generation come from?

By passing this bill, Congress would encourage a creative Federal-State partnership to address this crucial issue. One State, Minnesota, has already set up its own program. With a staff of only three people, Minnesota helped 86 new farmers get started in only 14 months. Unfortunately, most States lack either the constitutional ability to guarantee loans or other credit, or lack the resources necessary for such guarantees. Federal guarantees could fill this void, while the States could use their familiarity with local problems to design effective programs and administrative approaches.

Recently the Washington Star printed an editorial endorsing this bill. It is most unusual for a city newspaper such as the Star to print a lead editorial on farming, and I think their comments deserve attention. I submit the text of the editorial to be printed in the RECORD.

The editorial follows:

RESCUING THE FAMILY FARM

The contribution of family farmers to the development and stability of the United States hardly needs recounting. Suffice it to say that throughout the country's history, the social values of farm life have been almost as important as the foodstuffs they produced.

Yet, the number of farms is dwindling at a rapid rate. In the past 40 years, the number has dropped from 6.8 million to about 2.3 million, which means that farms are becoming larger and farmers fewer. The average age of farm owners is about 55, which means that young people either see no future in agriculture or don't have the means to pursue it.

What is the result of this trend? In many cases, it means absentee farm owners, who do not participate in local affairs and who take their profits elsewhere. Sometimes it means overworking the soil and using excessive amounts of fertilizer and pesticides to produce bigger yields and bigger profits. It means the decline of many rural communities and businesses that depend on family farmers for survival.

It means migration of people from rural areas and additional burdens thrown on urban centers. It means national farm policies increasingly oriented toward large farms and corporate operations, policies which aggra-

vate the problems of small farmers and accelerate farmland consolidation.

The concentration of farmland in fewer hands proceeds apace despite government studies showing that the family farm is the most efficient unit in terms of production cost and return on investment.

Can anything be done to slow or reverse the trend? Sen. Gaylord Nelson and 12 other senators think they have at least a partial solution.

Recognizing that high costs of land and equipment have made entry into farming virtually impossible for persons without substantial assets—the cost of starting a family-sized farm from scratch is estimated at $250,000 to $500,000—they have introduced a bill entitled the "Farm Entry Assistance Act."

Basically, the bill would provide loan guarantees for persons who want to become farmers but don't have the necessary capital or can't get loans on their own. To qualify, a person would have to be able to operate a farm, would have to be entering farming on a full-time basis for the first time within the past 10 years and could have a net worth of no more than $75,000. A family farm would be defined as one that can be maintained and operated by a farmer and members of his or her family with no more than the equivalent of one full-time hired helper.

This would not be a grant program nor a program under which loans would be made from the federal treasury. It would be a repayment "guarantee" program for loans made from private sources. The sponsors claim the program would cost the federal government little since it would be expected that most loans would be repaid. In instances in which loans might be defaulted and the government had to pay them off, there would be farm assets on which the government could foreclose. Federal administrative costs, they say, would also be kept at a minimum because the program would be administered for the most part by the states.

The bill states that "the maintenance of a farm system dominated by family-sized units is and should be a basic goal of American agricultural policy."

That's a worthy goal and Senator Nelson's bill seems worthy of consideration as a way to reach it. We hope the bill doesn't gather dust on some committee shelf.●

SALT II AND THE BACKFIRE BOMBER

● Mr. GARN. Mr. President, with the signing of the Middle East peace treaty by Israel and Egypt, President Carter will be pushing hard to conclude negotiations with the Soviet Union regarding the SALT II Treaty. One of the key weaknesses of the nearly completed SALT II Treaty involves the issue of the Soviet Backfire bomber. The Backfire bomber issue is a perfect example of the fundamentally inequitable nature of the SALT Treaty that President Carter intends to submit to the Senate for its ratification.

Two principal issues held up final agreement between the United States and the Soviets on the Vladivostok accord: The cruise missile and the Backfire bomber. The Carter administration, in its inimitable bargaining style, has resolved the critical issue by accepting range limitations on ground- and sea-launched cruise missiles while excluding the Backfire from the proposed ceilings on launch vehicles.

It is incomprehensible to me how this administration saw fit to disregard the advice of the Joint Chiefs of Staff on the need to restrict the Backfire. Gen. David C. Jones, Chairman of the Joint Chiefs of Staff, has testified before Congress on more than one occasion that—

The United States military high command wanted the Backfire counted within the numerical ceilings on strategic nuclear weapons of the strategic arms limitation treaty (SALT) because it is capable of intercontinental bombing missions.

Mr. President, this administration ignores the advice of its own military leaders, and relies instead on the assurances of Soviet leaders who have demonstrated time and time again their readiness to break agreements whenever it was deemed in their interests to do so.

Last month, the Honorable Thomas C. Reed, former Secretary of the Air Force, presented an incisive and cogent analysis of the Backfire issue. Former Secretary Reed correctly concluded that—

SALT II, without curbs on Backfire, consigns the United States to permanent strategic inferiority, and makes nuclear blackmail inevitable.

Mr. President, the American people are not opposed to arms control—they are, however, opposed to unilateral giveaways disguised as mutual restraint. The Soviet Backfire is an intercontinental bomber, and should not be excluded from the terms of SALT II. Former Secretary Reed has provided a formidable case against the administration's position, and I ask that it be printed in the RECORD.

The statement follows:

THE SOVIET BACKFIRE AND SALT II

This administration is about to present to the American public a SALT II agreement which ignores the lessons of a half century of history. It disregards the opportunities offered and the dangers posed by the manned bomber.

On the one hand, this President has cancelled production of the American B-1, after fifteen years of work and three billion dollars spent, without any quid pro quo of any sort by the Soviet Union. He places his reliance on studies of a new bomber and in the meantime on obsolete B-52's that cannot penetrate the Soviet Union in the 1980's and in fact are not likely even to escape their home bases in the event of surprise attack because of their slow start and departure characteristics and their vulnerability to electromagnetic pulse damage.

On the other hand, he now proposes to sign a SALT II agreement with the Soviets that does not recognize the threat posed by their Backfire heavy bomber, a bomber three-quarters the size of our B-1, with the ability to strike any target in the U.S. and recover in Cuba without any inflight refueling.

He proposes by separate letter to allow the Soviets to produce Backfires at a rate not to exceed thirty per year. At that rate of production (which they now exceed) and at the rate the U.S. must retire its aging B-52D's, by 1982 the Soviets will finally surpass us in one of the last remaining measures of strategic force—numbers of manned bombers.

This administration further ignores reality by relying on Soviet assurances that Backfire will not be given the capability to operate at intercontinental ranges, and that it will not be deployed for such use.

The unfortunate facts are:

1. The Backfire already has intercontinental range, even without inflight refueling.

2. Every picture of a Backfire I have seen shows the aircraft equipped with an inflight refueling probe.

3. There is every indication that the Soviets have begun testing the launch of cruise missiles from the Backfire.

4. Aircraft are very mobile weapon systems. Backfires based in European Russia today can show up across the Bering Sea from Alaska tomorrow if world geopolitics so require.

Given the virtually nonexistent U.S. defenses against manned bomber attack, the Backfire will give the Soviets and excellent reserve force, allowing them to use more of their central rocket forces in any first strike against the U.S.

SALT III envisions force reductions—something we would all like to see. But what are the implications for the future, for SALT III, of an unconstrained force of Soviet Backfires, proliferating at the rate of thirty per year, outside of any SALT constraints at all?

This administration should not sign, and the United States Senate should not ratify, any SALT agreement that does not recognize and constrain the Soviet Backfire Bomber.

THE SOVIET "BACKFIRE" AND SALT II: AN APPRAISAL

If we are to believe the reports, a new Strategic Arms Limitation Treaty, SALT II, will shortly be concluded. Although not all the terms of the proposed treaty have been made public, enough has been released to enable us to form some conclusions. Reliable sources indicate that the treaty will not constrain the production or use of one of the most formidable Soviet strategic weapons—the Backfire bomber. Designated the TU-26 by the Soviets, this recently developed supersonic bomber is named "Backfire" by NATO. Failure to include Backfire in the SALT II accord permits the Soviets to manufacture as many as they like.

The Soviets insist that Backfire is not a strategic bomber, and therefore should not be covered under SALT II. Backfire's mission, according to the Soviets, is to strike targets in the People's Republic of China and Europe making it a "theatre" rather than a strategic weapon. Some Backfires perform an anti-shipping role, and would be used in the Mediterranean, the Atlantic Ocean, and the Pacific Ocean. The Soviets claim the size and range of the Backfire, together with the location of its bases, make it unsuitable for attacking targets in the United States. The Soviets have also indicated a willingness to sign an agreement with President Carter to limit production to current levels and to prohibit basing of Backfires at Arctic airfields, closer to the U.S.

Backfire raises significant defense problems for the United States; and its capabilities reflect on the desirability of SALT II as a whole. If Backfire has genuine strategic capability, and if it is excluded from the treaty, the treaty can be viewed as fatally flawed. The United States cannot afford to enter into an agreement which pretends to limit strategic weapons but actually grants the Soviet Union unilateral authority to circumvent the very principles of arms limitation. To determine whether or not the Backfire presents a realistic strategic threat to the United States, we must examine its characteristics and capabilities.

The Backfire-B (the most common subtype) is a supersonic bomber with a maximum speed of over twice the speed of sound. It is 132' long, 33' tall, and has a wing span of 113' when the swing wing is swept forward. The gross weight at takeoff is 285,000 lbs., and its two engines generate over 92,000

lbs. of thrust in full afterburner. The plane can carry a maximum payload of about 25,000 pounds of missiles and bombs, though a normal strategic load would be two AS-6 nuclear air to surface missiles with a high kiloton or even megaton size warhead. Protection is provided by two radar-directed 37 mm cannons in the tail, plus very advanced electronic warfare equipment, including radar homing and warning receivers, jammers, chaff, flares and possibly other infra-red and optical countermeasures. With a combat load of two AS-6 missiles, Backfire has an unrefueled radius of action of 3,250 nautical miles according to International Defense Review. This puts the total unrefueled one-way range at 6,500 nautical miles. If a Backfire is refueled in mid-air, the radius of action increases to 4,700 nautical miles, and the range to 9,400 nautical miles. The vital statistics of an aircraft can be very revealing. In the case of the Backfire, they reveal it as a heavy, strategic bomber and as such should have been included in the SALT II agreement.

SALT II counts the Soviet Bear and Bison, as well as the American B-52 and B-1, as heavy bombers. Although Backfire is excluded from the definition of heavy bombers, it in fact compares favorably with aircraft which meet that definition. Backfire is two and a half times the weight of the FB-111, with which it is often compared, and is nearly as heavy as the Bear. Backfire's maximum payload, 25,000 lbs., is equal to that of the Bear, 25% more than Bison, and more than twice that of the FB-111. Backfire's range is greater than Bison and very near that of Bear. In fact, it is even greater that our B-1 superbomber, cancelled in 1977. By comparison with recognized heavy bombers as regards the standard criteria of weight, payload and range, Backfire meets the definition of a heavy bomber. Yet the Soviets have insisted that Backfire not be counted as a heavy bomber. That the U.S. negotiators accepted the Soviet viewpoint in the face of available evidence is both surprising and alarming.

The Soviets are permitted under the terms of SALT II, to build a Backfire force limited only by their own burgeoning defense budget. This force has the potential to inflict devastating damage on the continental United States—damage that should not be dismissed as sheer "overkill." The Backfire can use its terrain-following and navigation radar to hit targets with precision accuracy. With the flexibility of the manned bomber, they can inspect the results of an ICBM strike and destroy whatever might otherwise have survived.

The Backfire's capability to strike a devastating blow at America has not been reduced by ignoring them in SALT II. It has been argued that Backfires could not attack the U.S. from their present bases, unrefueled, and return to the Soviet Union: thus, there is no need to include the Backfires in the SALT II agreement and agreement on basing will suffice.

This argument relies on unsubstantiated assumption. First, while present Backfire bases are not ideal locations from which to mount an attack against the United States, the Soviets can still fly to Arctic bases, refuel in minutes, and then take off for the attack on America. Second, air refueling has been a standard operational procedure for decades, and the Soviets have a significant air tanker fleet. If the Soviets were to attack, it would doubtlessly be planned and coordinated so as to take full advantage of available air refueling resources. Third, we must not assume that Soviets planners would have as an absolute requirement the return of the bombers to Soviet soil. One-way missions are nothing new in the nuclear age, nor are they peculiar to fanatical airmen. Crews of the U.S. Strategic Air Command's bomber force have lived with the doctrine for many years that they will proceed even if there is only enough fuel to reach the target. Fuel for a return is optional, not a necessity. Are we to believe that the Soviets are more timid than we? Backfires attacking the United States could continue on to Cuba, or perhaps neutral nations. Backfire crews could conceivably simply land at military or civilian airfields in the United States. If Russia wins the war, the crews would be returned as heroes. If they lose, their condition will certainly be no worse than if they returned to their home base.

The number of Backfires we would have to deal with is difficult to determine. The Soviets release no information on the numbers of weapons at their disposal. Intelligence estimates vary from best case to worst case, with the real figure possibly somewhere between the extremes. "Best case" estimates puts the present Backfire deployment at 120 or more, with a production rate of about 36 a year. Other "worst case" estimates place the production at over 100 per year, and the present inventory at 300 or more. The Washington Post recently put the number of Backfires presently deployed at 400, but this is probably an excessive figure. The real number is likely to be somewhat lower, probably between 150 and 200. The production rate question presents a unique problem. While present production may be as low as the Administration's estimate of 36 a year, a second Backfire factory has been built at Kazan next to the first plant. Although thus far it has not gone into production, reliable intelligence indicates that it is prepared to begin production at any time. At this point, Backfire production will at least double.

The Administration appears willing to accept a separate (non-SALT II) agreement with the Soviet limiting Backfire production. This may be anything from a "firm" 30 Backfires a year, or may be a limit of "no more than the present rate of production." The date chosen to represent this present rate then becomes quite important. It is difficult enough to accept a rate of 30 per year. To accept 72 to 100 new Backfires a year would be a cynical affront to the principle of arms control.

There are a significant number of Backfires deployed today, and in the next several years there will be even more. How many? The Administration feels there will be 300 to 400 with 360 often cited as a target inventory. There are reasons to doubt such a low figure. The Soviets already are approaching the lower figure, if, indeed we accept estimates toward the low end of the inventory. The crucial question is: If production is supposed to level off, then why have the Soviets built a second production facility. The most probable answer is that the Soviets have no intention of stopping production at 360 Backfires.

By all indications, the Soviets have found Backfire to be a very powerful and flexible weapon system. It can attack maritime targets, land targets and strategic targets. It has speed, endurance, and payload capacity. It has a far greater capability than any previous Soviet bomber. For this reason, the Soviets quite likely plan on having Backfire eventually replace their aging fleet of medium bombers and heavy Bear and Bison bombers. This would call for at least 700 Backfires! Judging from the recent increase in Soviet production capacity, this is probably a realistic assessment.

The ability of the Backfire to seriously damage the United States depends to a great extent on the effectiveness of our air defenses, which currently are weak and rely on outmoded equipment. While the Soviets have amassed over 12,000 surface-to-air missile air launchers to defend their homeland, the U.S. has no such defenses, except for a single Hawk brigade and a lone Nike-Hercules battalion. While the Soviets have more than 2,700 fighter interceptors based in the USSR, the U.S. has a total force of 303 interceptors (including the National Guard), mostly aging F-106's.

The last U.S. F-106 was delivered to the Air Force in 1961. Because of its age, and the fact that production has for these aircraft been closed for many years, spare parts are increasingly difficult to come by. The in-commission rate of these aircraft is 70 to 75 percent, leaving between 212-227 interceptors combat ready at any time, so the "paper" figure of 303 interceptors is not a realistic reflection of what actually is combat ready.

All of this demonstrates an incredible deterioration in U.S. strategic defenses over the past 20 years, in contrast to the USSR's relentless and wide-ranging arms buildup.

By our allowing U.S. air defenses to deteriorate, the Backfire has been rendered much more potent in case of war. Since bombers would arrive over the United States after Soviet ICBM's and SLBM's had struck, the number of surviving U.S. interceptors available to meet the attacking bombers would presumably be significantly smaller than those on hand today. The critical issue then becomes the balance between the effectiveness of the interceptors and the effectiveness of the Backfire's defense measures. By all standards, Backfire is a superior product of 1970's technology. It carries the latest Soviet avionics, weaponry, and electronic countermeasures. Electronic countermeasures can make communications impossible between the interceptor and the ground controller, and make it difficult, if not impossible for radar to locate the bomber, and for defensive forces to shoot it down even when its position is known. To do this, the Backfire employs a variety of modern electronic warfare devices. If an interceptor does manage to get close, Backfire has a tail mounted radar directed twin 37 mm cannon. To be sure, the F-106 and our older interceptors were designed to overcome a degree of electronic countermeasures. However, they are all products of 1950's technology and are in no way prepared for the electronic threat of the 1970's. In short, Backfire is well prepared to overcome any air defense which we could mount; it can do this even without the added precaution conferred by attacking at low altitude. Backfire could operate at high altitude where its fuel consumption is lower; but even if it uses low altitude penetration, Backfire's 5500 n.m. range would permit it to attack the majority of strategic targets in the United States.

The U.S. Air Force has recognized the shortcomings of our air defenses, and has tried to take steps to act as a temporary remedy. The Air Force has indicated that what is needed is a complete modernization of our air defenses. Certainly such a modernization would be necessary even without Backfire, but the presence of the Backfire threat makes modernization all the more urgent. The problem is that new interceptors and surface-to-air missile may be years away, while the Soviet bomber threat is here and now. As a stopgap measure, the Air Force has assigned some F-15 and F-4 squadrons from the Tactical Air Command to a secondary role of air defense. Unfortunately, these same aircraft are also assigned to augment our forces in other parts of the world in case there are indications of imminent hostility. Therefore, they are likely not to be here at the time they are most needed, and their utility in opposing a penetrating bomber attack is largely illusionary.

This state of affairs is unfortunately all too common in America's plans for military confrontation. Our forces appear adequate in time of peace, but lack essential war fighting capabilities.

It has been said, only in half jest, that if war comes, we will fly nonexistent soldiers in transport planes we don't have, to land at already destroyed airfields in Europe. In

order to correct that scenario, the Administration will have to revaluate its concepts of nuclear war. Until now, nuclear war has been treated by most U.S. authorities as unthinkable, too horrible to rationally comprehend. The Soviets have never felt that way. In their writings and in their training concepts, they have demonstrated the belief that nuclear war not only is thinkable, but also is winnable—by the Soviets. Backfire is a product of that preparation and must be treated as seriously as ICBM's and missile submarines. We cannot allow a Maginot Line mentality (when we don't even have a Maginot Line) to blind us to the capabilities of weapons for which we have no real defense. It will do us little good to insist that Backfire is a theatre weapon, even as it vaporizes American cities and defense installations. In not defining Backfire as a heavy bomber in SALT II, we are contributing to the unreality which marks many of our national security policies.

Although the advantages of manned bombers were widely discussed in the national debate over the B-1, many Americans are still unaware of them. In the wake of the cancellation of the B-1, the public soon forgot those characteristics which caused the design of that bomber in the first place. In a nuclear war, ICBM's and SLBM's would probably be used against those targets requiring immediate destruction: ICBM silos, bombers, transport and interceptor bases, submarine bases and C"3" (command, control and communications) centers. Following this attack by several hours, bombers would arrive to attack targets of high priority which were either not time-critical, or were missed by the missiles. These might include population and industrial centers, remaining C"3" centers and other defense installations.

In conducting these operations, manned bombers also would perform a poststrike reconnaissance function. They would be able to tell the battle staff in the Soviet Union how effective the missile and bomber strikes had been, and what remained to be targeted. Even before the actual strike began, manned bombers would have certain advantages over other weapons systems. Bombers, such as the Backfire, could be used against strategic, theatre, or maritime targets. They could be shifted from base to base or placed on airborne alert to reduce their vulnerability to attack. They could be placed on runway alert in order to "scramble" them at the appropriate moment. Once in the air they could be refueled to increase their range. They could be targeted while still in the air, and could re-attack a target which had not been destroyed in initial attacks. If a bomber had been sent on a mission by mistake, it could be recalled.

Short of war, as international tensions increased, bombers could be deployed to forward areas as a show of strength and determination. If tomorrow the Soviets deployed some Backfires to Cuba, for example, the U.S. would be left with no doubt that the Soviets meant business. Such a deployment would, if war ensued, give this country a minimum of warning time before an actual attack. In fact, Backfire flying at high speed and low altitude from Cuba might give us absolutely no warning before the first nuclear detonation.

While the U.S. has chosen not to build a modern bomber to replace our aging fleet of B-52's, the advantages inherent in manned bombers have not been lost on the Soviet Union. Rather than ignore the potential of the manned penetrating bomber, the Soviets have chosen to improve and modernize their bomber force. The result is Backfire.

While the U.S. must take seriously any modern bomber in the enemy inventory, there are additional reasons to view Backfire as one of the most dangerous manned weapon systems deployed by the Soviet Union. The AS-6 (NATO code name "Kingfish") air-to-surface missile carried by Backfire is a newly developed and particularly devastating weapon. Each of the two Kingfish carried by Backfire has a yield several times of a Minuteman III warhead. This, combined with a highly accurate guidance system, makes the AS-6 suitable for use even against hardened targets. With a speed of three times the speed of sound, this missile can be launched from high altitude to a range of about 435 nautical miles. From low altitude it can strike targets nearly 150 nautical miles away. The nearest U.S. equivalent, SRAM (Short Range Attack Missile), has a maximum range of about 100 nautical miles. Clearly, the Soviets have eroded what once was a clear U.S. advantage.

Another advantage we thought we had was in the area of air-launched cruise missiles. Recently, we began advanced development of an air-launched cruise missile (ALCM) to be fired from existing B-52 bombers and perhaps later from specially built cruise missile carrier (CMC) aircraft. Within the last few weeks it has been revealed that the Soviets have tested their own ALCM, and launched it from a Backfire bomber. The ALCM launched on that occasion flew for approximately 600 nautical miles, although intelligence experts feel that its actual range capability may be much greater.

Whatever the actual or potential range of the new Soviet ALCM, its existence and its launch from a Backfire carries with it grave consequences. According to a report dated December 23, 1978, by the panel on Strategic Arms Limitations Talks of the House Armed Services Committee, the Soviets may be violating one of the terms of the SALT II agreements. The report cites as a probable treaty term: "cruise missiles with ranges in excess of 600 kilometers will be limited to heavy bombers. Heavy bombers are defined as the Soviet Bear and Bison and the U.S. B-52 and B-1." By testing a cruise missile from a Backfire, the Soviets are either admitting that Backfire is indeed a heavy bomber (as all objective observations would demonstrate) or that they are prepared to violate SALT II even before it is signed. In either case, the tests are at the very least an indication of the low regard the Soviets have for arms control and for the United States. Despite the tests, it is unlikely that the Soviets are ready to agree to place Backfire under SALT II limitations.

While Backfire escapes restraint, our negotiators have curiously agreed to count under SALT II each and every B-52 and B-1 we have. The four B-1's we have are prototypes for research and development. About half our B-52 fleet counted under SALT II is in a condition which would preclude its use against the Soviet Union. Of these aircraft, many were converted for use with conventional bombs during the Vietnam war. Others have been "mothballed" or placed in storage. According to SALT II this does not matter. Even though it would take at least a year for these aircraft to be made capable of attacking the USSR, we will have to literally cut them in half to keep them from counting under our SALT II limitations. That is an enormous step to take to enable the Soviets to verify our compliance with the spirit as well as the letter of SALT II. Unfortunately, though our own bomber fleet is cut in half, the Soviets are permitted to build Backfires at a rate they set themselves.

The only limitations which will be placed on the Backfire fleet will be on a piece of paper personally agreed to by President Carter and President Brezhnev. This agreement may even take the form of an informal verbal understanding, thus avoiding any Congressional scrutiny. Such a step is not without precedent in this century. In 1938, British Prime Minister Neville Chamberlain placed his faith in the written and verbal assurances of Adolf Hitler. Sincere was his faith, worthy of Polyanna, but small consolation to the tens of millions who paid for it with their lives, their blood, their treasure, and more importantly in many cases, their freedom.

In Backfire, we are dealing with a weapon which can increase deliverable Soviet megatonnage by 25 to 30 percent with only the 400 aircraft the Administration feels the Soviets will build. By every objective observation, Backfire is a long range intercontinental bomber of strategic significance. The Department of Defense defines a long range bomber as "a bomber designed for a tactical operating radius of over 2,500 nautical miles at design gross weight and design bomb load."

For the sake of argument, we shall assume that the Soviets give us assurances to hold production to present levels, to keep Backfire out of Arctic bases, to stop air refueling exercises with Backfire, and even to remove the air refueling probe from the nose of the aircraft. It then becomes our problem to verify that the Soviets are living up to the assurances. As things stand, the verification problem may prove insurmountable. It is commonly assumed that our intelligence sites in the Middle East, and surely our satellites, can detect any evasion of the terms of agreement. This capability has already been compromised in significant ways. The recent unrest in Iran has deprived us of a major portion of our intelligence of the Soviet Union. In Turkey, a U.S. imposed embargo of arms to this NATO ally caused the Turks to shut down our sensors in that country for over three years. Currently civil disorder in eastern Turkey, of a similar nature to that in Iran, threatens to deprive us once again of the use of our sensors there.

The Soviets also have deliberately placed roadblocks before our attempts to verify treaties already in effect. For the past three years, the Soviets have been encrypting the telemetry produced by missile tests. Our most advanced reconnaissance satellite, the KH-11, has been the specific target of Soviet attempts to evade verification. Even before a CIA employee sold the Soviets a copy of its technical manual, we had reason to believe the Soviets were taking steps to minimize the usefulness of the KH-11 and our other satellites. In so doing, they were violating one of the foundations of the SALT concept, that of verifiability. Even the meaning of the word "verification" has changed. Where once it meant the capability of the U.S. to know if the Soviets were cheating, now Paul Warnke says that verification is being able to tell if the Soviets are cheating on a large enough scale to threaten what he calls "rough equivalence" between ourselves and the USSR. Since this Administration apparently feels that Backfire is not important enough to include in SALT II, it is fair to ask whether or not violations of these assurances will cause the US to confront the Soviets and force compliance. It should be noted that the Soviets cheated on the SALT I treaty, and in each case the State Department failed to inform the American people and also failed to confront the Soviets. It was only after unofficial reports of the violations were leaked, months after they happened, to such publications as Aviation Week and Space Technology that the State Department was shamed into action. One expects the Soviets to deceive. We had expected better from our own State Department.

If the Soviets intend to cheat on their Backfire assurances, it will require a minimum of effort on their part. The Soviets have not as yet given us an accounting of Backfire production or inventory. Since U.S. negotiators have indicated a willingness to accept a production rate of about 100 per year, it is difficult to conceive of a situation in which the Soviets would need to cheat in this area. One hundred a year is a tremendous rate of production, and hardly consti-

tutes a "limit." Arctic basing is prohibited, but defense analysts have stated that the Soviets do not now base any bombers at Arctic bases. In other words, bombers are now based in other areas of the country and would go to Arctic bases as the strategic situation requires. The restriction therefore lacks meaning.

Other possible Soviet SALT assurances are that Backfire crews will not practice air refueling and that the planes themselves may have their refueling probes removed. These assurances cannot prevent Backfire crews from practicing air refueling while flying other aircraft, or simulating air refueling by flying a similar formation with non-tanker aircraft. Photos of Backfire have shown the aircraft both with and without an air refueling probe, indicating that it is already a removable item. Stowed on board the plane, the probe can in all likelihood be attached to the nose within a few minutes, much as some of our own aircraft can do. Assurances on air refueling are therefore moot. What all this amounts to is that the Administration is willing to accept the appearance of arms control, without demanding its substance.

The exclusion of Backfire from the SALT II treaty, and the absence of real control on that weapon system, severely damages the contention that SALT II is a vehicle of arms control. Setting certain strategic weapons aside from SALT not only ignores their capabilities in war but may actually encourage the Soviets to concentrate improvements in nuclear armaments in this area.

Technology is never stationary; it always moves ahead. By using present-day technology, Backfire could be upgraded in range and payload to a significant extent. Nothing in SALT II, and nothing in the "assurances" prevents such improvements. Further eroding confidence in the assurances is the likelihood that they would be invalid in time of war. To quote the House Armed Services SALT II Panel report:

" 'Assurances' which would preclude an increase in the present production rate of the *Backfire*, imposition of basing restrictions, or denying refueling exercises, would be without military significance in a crisis period. The Subcommittee panel's view is confirmed by the U.S. Arms Control and Disarmament Agency in its report on SALT II verification which stated.

"While we believe it unlikely that the Soviets would violate these assurances (outlined above) in time of peace, there are no assurances that will ensure that *Backfires* would not be used against the continental United States in time of war.

Since it is obvious that any attack on the United States would involve only weapons then in being, the panel's concern with the *Backfire* bomber and all other Soviet weapons is their potential impact in time of war. Assurances which would limit the *Backfire* in time of peace, but not in time of war, are, in the panel's view wholly irrelevant if not patently ridiculous. Further, the panel is concerned that at a time when the United States is seeking assurances that the Soviet Union will not increase the present production rate of the *Backfire* bomber, the Soviets have significantly expanded their *Backfire* production capability."

Thus we have another example of an agreement void of meaning or significance. Void of significance, that is, where real events and circumstances are concerned. If SALT II were truly meant to control strategic arms, *Backfire* would have to count toward the total of heavy bombers and other strategic systems deployed by the Soviets. If the Soviets were sincerely committed to arms control, they would voluntarily move to include *Backfire* in SALT II. It would not, however, be advisable to hold one's breath waiting for that to happen. The Soviets have shown themselves to hold a cynical attitude in the area of arms control. In SALT II, and in SALT I before, the Soviets have insisted on wording the terms of the treaty so as to permit them to do exactly what they would want to do *without* a treaty. Therefore, the Soviets are able to abide by the letter of the treaty, while at the same time defeating the purpose of arms control and increasing their strategic capabilities. The only party constrained, then, is the United States.

A report on SALT I by former CIA analyst David Sullivan detailed several violations of the treaty by the Soviets. One such violation involves the construction of three ballistic missile submarines over and above the number permitted by the treaty. The Soviets contend that the submarines have never gone to sea on trials and therefore should not count against SALT limits. The State Department appears satisfied with this explanation. What the Soviets and the State Department did not say is that the three submarines are already equipped with the SS-N-8 ballistic missile, which has a range sufficient to destroy targets in the United States without leaving home port! Again we see the cynical attitude of the Soviets, pretending to abide by the letter of the treaty, while actually perverting its intention. In SALT I, the Soviets refused to accept even the most innocuous definition of a heavy ICBM. Thus, terms of treaty were rigged by them to permit an unlimited increase in strategic capabilities. It was only after SALT I that the Soviets deployed: the SS-16, SS-17, SS-18, SS-19 and SS-20 ICBM's, the SS-N-8 and SS-NX—18 SLBM's and the Backfire bomber. It was after SALT I that the Soviets tested the SA-5 surface-to-air missile in an ABM mode. It should surprise no one that the Soviets have developed prototypes of one, and possibly two, new strategic bombers, even larger than Backfire. Possibly designated TU-126 and TU-160, they will be permitted to be built without restriction under SALT II because of the incredible hole in the definition of what constitutes a heavy bomber.

It is unlikely that a nation with the SALT I performance of the Soviet Union has any interest in true arms control. Thus far what we have seen is the exploitation of arms control by the Soviets to render the United States strategically inferior. For those who do not understand the usefulness of strategic superiority, one need only survey the global situation to see what Soviet power has enabled the Soviets to do. In Africa, Asia and the Middle East, the Soviet Union has, through direct efforts and through client states, sown the seeds of conquest. Let us never forget that our military forces exist to deter war, and if necessary to fight it. We must never permit the strategic balance to deteriorate to the point that it may actually encourage war. It is our maintenance of a credible deterrent and a strategic balance that separates us from the Shcharansky's of this world.

If this were a time without tension, we might perhaps give the Tupelov design bureau an award for producing such a fine aircraft as the Backfire. However, the existence of Backfire today, and the lack of militarily significant constraints in SALT II on its production, deployment, or use, constitutes a fraud on the American people under the name of arms control.

The people of the United States strongly favor arms control. However, in formulating agreements and treaties with the Soviet Union, we must always insure that the result is in fact mutual arms control, and not a one-way street. SALT II, without curbs on Backfire, consigns the United States to permanent strategic inferiority, and makes nuclear blackmail inevitable. It would be appropriate to send SALT II back to the negotiating table, and bring it back only when it truly controls arms.●

MAINE SUNDAY TELEGRAM WINS NATIONAL AWARD FOR SPECIAL SECTION ON ENERGY MANAGEMENT

● Mr. MUSKIE. Mr. President, for the second year, the Maine Sunday Telegram's special section on energy management has won first place in a national competition for newspapers. The competition, sponsored by the Department of Energy, the National Newspaper Association, and the Home Improvement Time Organization, is designed to encourage conservation and better use of energy at home.

Entries were received from 72 newspapers nationwide this year, and the sponsors again singled out the Maine Sunday Telegram for recognition.

The 20-page special section, edited by Sanders R. Johnson, is titled "Energy Management is a Family Affair." It includes articles on solar, wind, wood, and hydroelectric energy, oil and gas heat; energy-saving steps ranging from caulking to paint selection; energy costs; and energy regulations.

The Maine Sunday Telegram is by no means the largest circulation newspaper which entered the competition. The excellence Mr. Johnson and the Telegram staff demonstrated in producing the special section is a tribute to their ability and hard work. I think it is also an important statement of the special difficulties Maine people face in dealing with the high price of energy.

Ours is not a wealthy State. It is not favored with a mild climate. Since the Arab oil embargo, we have taken conservation and alternatives to oil seriously. Maine has been a national leader in that effort.

So the Maine Sunday Telegram, in being named the best in the Nation in this competition, is accurately reflecting the needs and the values of its community.

I commend the Maine Sunday Telegram, and particularly Mr. Johnson, for this achievement.

Mr. President, a copy of the award-winning supplement is available in my office. Colleagues who are interested in conservation, and in the role of a newspaper in helping people conserve, are welcome to stop by to examine the supplement.●

S. 344: STATES SUPPORT NEW FLEXIBILITY IN BILLBOARD CONTROL EFFORT

● Mr. STAFFORD. Mr. President, the American Association of State Highway Officials (AASHTO) recently conducted a poll of the State highway and transportation departments seeking their opinion of S. 344. This is my bill to return flexibility and vigor to the billboard control program.

By a wide margin—38 to 13—the State highway directors expressed support for S. 344. While I cannot tell my colleagues how each State voted specifically—AASHTO policy keeps those votes secret—it is clear that the great preponderance of the States see strong advantages to cutting away the impossi-

ble burdens of the present billboard protection law.

Since the law is not working, I believe my bill offers the only reasonable response, allowing States to do what they wish in regard to billboards.

Mr. President, I submit for the RECORD a letter from AASHTO on this issue.

The letter follows:

AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS,
Washington, D.C., March 20, 1979.

Hon. ROBERT T. STAFFORD,
U.S. Senator,
Washington, D.C.

DEAR SENATOR: As a followup to my earlier letter to you, and in response to your letter of March 14th, AASHTO has now completed its balloting process on the support in principle of conversion of the highway beautification program to a voluntary state program.

The final balloting was 38 Member Departments in favor of such a conversion and 13 opposed.

AASHTO has traditionally operated under the concept of secret ballot, so that a vote cast by an individual is not identified. We would prefer to continue in that vein of protecting confidentiality. For your information, the 13 negative votes represented one New England State, one Middle Atlantic State, two Southern States, 2 Midwestern States, and 5 far Western States.

With 38 affirmative votes, AASHTO has now developed a policy position since this represents a consensus of over two-thirds of the States.

Sincerely.

H J. RHODES,
Deputy Director.

RESPONSIBILITY FOR ENVIRONMENTAL PROGRAMS

● Mr. McGOVERN. Mr. President, recently the State Legislature of South Dakota adopted House Concurrent Resolution No. 1005 expressing the sense of that body that the Forest Service should not be removed from the Department of Agriculture. For purposes of advising the administration of the feelings of the South Dakota Legislature, I submit the attached text of this resolution to be printed in the RECORD.

The resolution follows:

HOUSE CONCURRENT RESOLUTION No. 1005

Whereas, President Carter has approved a plan to study whether federal responsibilities for natural and environmental programs are effectively organized and to consider possible improvements; and

Whereas, the scope of the study includes a proposal to transfer the United States Forest Service and the United States Soil Conservation Service from the United States Department of Agriculture to the United States Department of the Interior; and

Whereas, the United States Department of Agriculture has a long history of land management with resource capabilities for carrying out land programs and related activities and has the expertise and facilities for carrying out such programs and related activities on a cooperative basis with ranchers and farmers; and

Whereas, there is a close relationship between land resources and the production of food and fiber which has been historically administered by the United States Department of Agriculture; and

Whereas, when land and water resource management is viewed as the mutual responsibility of government and the private sector, the United States Department of Agriculture is centrally involved, in that ninety percent of the land area of this nation is affected by its programs and policies for conservation and its use of renewable resources; and

Whereas, it is in the interest of all of the residents of South Dakota to consider the impact of legislation concerning federally owned land and privately owned land contiguous thereto; and

Whereas, the United States Department of Agriculture has historically managed to balance the demands on public lands and has more experience in the multiple use concept of public land than any other federal department or agency; and

Whereas, such actions as are being proposed which concern the transfer of certain functions of the United States Department of Agriculture to other departments will relegate said department to less than a cabinet-level department of the federal government and leave it without a voice concerning the economic growth of this nation:

Now, therefore, be it resolved, by the House of Representatives of the Fifty-fourth session of the state of South Dakota, the Senate concurring therein, that the South Dakota Legislature hereby opposes the transfer of the United States Forest Service and the United States Soil Conservation Service from the United States Department of Agriculture to the United States Department of the Interior and requests that the federal government move cautiously in its deliberations regarding any change in the organization for management of the nation's renewable resources.●

BUDGET REQUESTS FOR 1980

● Mrs. KASSEBAUM. Mr. President, a distinguished Kansan, Dr. Duane Acker, President of Kansas State University at Manhattan, recently submitted an important statement to the House Subcommittee on Agricultural Appropriations.

President Acker pointed out the importance of the land grant college system, and particularly its research, extension, and teaching, for the great accomplishments in American agriculture. He also revealed the serious threat to our future food supply that comes from shortsighted limitations on research, extension, and teaching at these land grant institutions.

I want to point out to my colleagues one very important point in President Acker's statement. He stated:

Productivity growth in American agriculture, for decades the envy of the world, is slowing down dangerously. During this decade the productivity growth rate is 40% below its rate during the 1950s and 60s. Unless reversed, the recent decline will lead to higher food prices at home and loss of our competitive position in world markets.

Mr. President, Kansas is one of the leading agricultural States, and Kansas State University at Manhattan is one of the leading agricultural universities in the Nation. It is important that all of us in the U.S. Senate take heed when the distinguished president of that university alerts us to the serious consequences that could result from unwise budget decisions. I submit for the RECORD the opening statement by President Acker as part of my remarks.

The statement follows:

STATEMENT BY PRESIDENT ACKER

Chairman Whitten and members, I am Duane Acker, President of Kansas State University at Manhattan, Kansas. Today I represent the National Association of State Universities and Land-Grant Colleges. Thank you for the opportunity to speak on what I consider some of the most important aspects of the Executive Budget Request for 1980—funds for research, teaching, and extension, which have made U.S. food production the envy of the world. Those three functions of our land-grant Universities are models sought out and studied by peoples of many lands who are seeking to produce food for their citizens and ways to enhance the quality of life around the world.

I am very proud to represent this system, which you and your predecessors helped build, but I am deeply concerned about the way the Executive Branch of the Federal Government is letting the system deteriorate. It is the system supporting agricultural production for exports, our primary counterbalance to oil imports. The Federal government's historic share of this Federal-State partnership has been declining when it should have been increasing because teaching, research and extension related to agriculture help balance the Federal budget, fight inflation, and strengthen the nation by increasing efficiency and productivity while reducing the unit cost of food.

Increasing production while reducing unit costs is the long-term, significant way to combat inflation. Reduced production, on the other hand, increases inflation, reduces our balance of payments, and weakens the nation. The current price of beef in our food markets dramatizes how reduced production affects inflation.

Productivity growth in American agriculture, for decades the envy of the world, is slowing down dangerously. During this decade the productivity growth rate is 40% below its rate during the 1950s and 60s. Unless reversed, the recent decline will lead to higher food prices at home and loss of our competitive position in world markets.

What causes this alarming trend One of the basic causes is lack of Federal funds for basic agricultural research, extension and teaching—for years the well-spring of knowledge and technology that fueled our agricultural system. Additionally, the trend toward earmarking programs Federally out of formula funds designed historically to allow judgment at the state level and doing this earmarking with zero fund incerases, is severely damaging the cooperative federal state, and local system.

For more than 100 years, Congress endorsed balanced blending of local, state, and federal interests, personnel, funding, program development, and administration. But during the 70s the Federal government has been gradually backing out of this cooperative relationship. The Federal share of the extension budget, for example, has declined nearly 1 percent per year the past seven years.

And the purchasing power of both the Smith-Lever extension funds and the Hatch Act research payments to the States has declined even faster—largely because of inflation. Inflation weakens land-grant universities the same as it weakens industries and other segments of society. We all know that reducing spending is a way to fight inflation. But another way to fight inflation is to spend on production that decreases unit costs, especially in that sector of our economy where the U.S. enjoys a competitive advantage. I am before you today to urge you to maintain such a research, extension and teaching sys-

tem that has proved itself so well for more than a century.

Recognizing the tight budget situation, we propose minimum budget increases averaging 6.0% for extension, research, and teaching, plus inflation adjustments—for a total of $84 million above the $407 million proposed in the President's budget for these activities. The added $84 million would not make up for past cuts and lack of funding to meet inflation. But it would help maintain the land-grant college system and provide a continuing base for research and education in agricultural and food sciences. That includes not just basic production-related research but research and education in human nutrition, food safety and quality, energy use and conservation, pest management, environmental pollution, and improving the economic health of small towns and rural America.

Our proposal is the minimum needed to maintain a proved production system—a system that serves all Americans wholesome diets, adequate food and fiber and simultaneously provides food and feed for export—the major bright spot in U.S. balance of payments.●

JOSEPH G. KEALOHA, JR., PROVES BEING HAWAIIAN IS NO OBSTACLE TO SUCCESS IN BUSINESS

● Mr. MATSUNAGA. Mr. President, Native Hawaiian ancestry is no obstacle to success in the business world. So says Joseph G. Kealoha, Jr., a successful real estate developer of Hawaiian ancestry who will be honered this week as the "Hawaiian Businessman of the Year" by the Hawaiian Businessmen's Association.

A graduate of the Kamehameha schools and the University of Hawaii, Kealoha cites motivation, hard work, and a good education as the main components of his success.

He tells other young Hawaiians.

What really matters is how you think about success. You have to want it real bad. And you have to be devoted to what you are doing and hardworking.

Joe, who always dreamed of being his own boss, started his business on the island of Maui 11 years ago, only 3 years after he graduated from the university. Although his is not the largest real estate concern in Hawaii, his success has been spectacular by any standards. He is currently involved in real estate developments and sales worth more than $35 million.

Says a longtime colleague:

Moreover, you can't mistake him for being anything but a Hawaiian businessman. The way he communicates, the way he feels for people, his whole personality is so Hawaiian.

Because the traditional Hawaiian cultural patterns were quite different from those of the Western European, young Hawaiians frequently find it difficult to enter the business world. The success story of Joseph G. Kealoha, Jr., proves that it can be done, and that the traditional Hawaiian characteristics can be assets, not liabilities. He is an outstanding example for the young people of Hawaii to emulate, and I know that my colleagues in the Senate will join me in extending hearty congratulations to Joe, and best wishes for success in his future endeavors.

In the hope that others may be inspired by reading about this remarkable person of one of the smallest minority groups in the United States, I submit a profile of Joseph G. Kealoha, Jr., which appeared in a recent edition of the Hawaiian Business Digest to be printed in the RECORD.

The profile follows:

BUSINESS PROFILE: JOSEPH G. KEALOHA, JR.

"There's one thing about Joe Kealoha," said a longtime colleague. "You can't mistake him for being anything but a Hawaiian businessman. The way he communicates, the way he feels for people, his whole personality is so Hawaiian."

Joe's success in business proves, if nothing else, that being Hawaiian—warm, considerate, generous, friendly—is no obstacle to being a successful businessman.

He says, "I'm proud to be a Hawaiian and a businessman at the same time.

"But what really matters is how you think about success. You gotta want it real bad. And you have to be persistent, devoted to what you're doing, and hardworking. No matter what race or color you are, it all boils down to these simple rules and values."

He is as good as his word, and it has paid off handsomely.

Take a look at his current workload: 17 real estate developments on Maui in which he is either the owner, joint venture partner or developer worth in excess of $17 million. In addition, he runs his own real estate brokerage with 35 salespersons who have or are in the process of selling $18 million worth of housing and lots.

He's not the biggest broker or developer on booming Maui, but among the wholly owned companies the 1973 Maui Realtor of the Year ranks at the top.

Getting to the top is a goal he set for himself a long time ago. "Ever since I was a kid," he says, "I've always wanted to be my own boss, doing my own things."

The oldest of seven children, he was raised in Kalihi by parents who could offer a lot of love but little money. His father was a government employee and had no interest in business.

"I've worked all my life. I worked throughout my years at Kamehameha (Class of '58). And I worked while I was at the UH, even though I had a football scholarship. The fact is I needed the scholarship to get an education.

Joe was a pretty good player. He was captain of the team in his senior year along with Larry Price; played in the Hula bowl; and coached the Junior Varsity at Kamehameha in 1967.

When he entered the UH, he majored in agriculture. "I thought I was going to be a horticulturalist because I love plants. But when I realized that I'd never be my own boss working for the planation or some experiment station, I switched to business administration."

In 1964, while a junior, he joined Mercury Delivery Service and left three years later as assistant manager. In 1965 Joe joined the Retail Credit Company as an insurance credit inspector, working at night. Holding down two jobs at the same time, however admirable, was just not his idea of the good life.

In 1968, he decided to get into real estate and moved to Maui. He doesn't credit himself with anticipating the island's boom as a reason for making the move; it's just that his wife lived on Maui. But that decision was a turning-point in his business career.

He got to be his own boss that year when he established Joseph Kealoha, Inc., a wholly owned real estate brokerage. Two years later, in 1970, he went into the development business and set up Realty Consultants of Maui, Inc.

Since then, he has been involved in more than two dozen projects. His brokerage firm has been exclusive sales agents for Maalaea Surf Condominium (59 units) in Kihei, with sales of $5 million; Puuone Towers (80 units), Wailuku, with sales of $3.2 million; and Waipuilani Condominium (59 units), Kihei, with $3.2 million sales; and many others.

As a developer, he has been a joint venture partner with Amfac Development Corporation and a general partner in several condominium and housing subdivision projects.

Currently, he is the owner/developer of a 20,000 sq. ft. professional office building in Wailuku, a racquetball and Nautilus fitness center at a cost of $1 million, and a 5,000 sq. ft. office and warehouse in the Wailuku Industrial Park. There are several other projects which are in various stages of startup or completion.

He is bullish about Maui's continued economic growth and especially real estate, but admits that prices in certain types of real estate are getting clearly out of hand.

His list of community services is as long as his arm. They include past president of the Maui Jaycees (who voted him "Outstanding Young Man" in 1974), Big Brothers of Maui, and the Maui County Board of Realtors. He has been a national director of the National Association of Realtors and was chosen by the Maui Association of Realtors as its top member in 1973.

He has also been active in Hawaiian community affairs as past president of the Central Maui Hawaiian Civic Club and a member of the Kalaupapa National Historical Park Advisory Commission.

While he has never been in politics, he has helped a lot of Hawaiian political candidates such as Danny Akaka, Billie Beamer, Abraham Aiona and many others.

He says, "In a small community like Maui where Hawaiian businessmen are few, it's important that I keep actively involved in community activities which not only serves the community but offers inspiration to other Hawaiians."

With his visibility, it is no surprise that he is sought out by Hawaiians, both young and old. "Sometimes I'm confronted by activists," he says, "who don't like developers. But I tell 'em if I don't somebody else will. At least, I have some aloha for the aina."

Among his Hawaiian-related interests, he collects native art, including the works of local painters. He says he is negotiating now for a Madge Tenant.

His advice to young Hawaiians is to get an education, work hard, and think success. But what he does best is to advise by personal example. And that pretty well sums up the Hawaiian Businessman of the Year.

A bachelor, Joe has an adopted daughter, Tanya.●

ESTATE PLANNING

● Mr. DOLE. Mr. President, the Tax Reform Act of 1976 initiated the complicated and ill-conceived tax policy of carryover basis. Although the effective date of carryover basis has been delayed until the end of this year, Congress must now face the issue. As the sponsor of S. 112, a bill to repeal carryover basis, I believe the Congress should understand the real issues involved.

Mr. President, the Treasury has stated in hearings before the Finance Committee that carryover basis is administerable. However, this is not the prevailing view. A recent article appearing in Trusts and Estates outlines a practitioner's concern to carryover basis.

I ask that the following article be printed in the RECORD.

The article follows:

CARRYOVER BASIS—AN IMPOSSIBLE DREAM

In response to universal criticism that the carryover basis provisions of the 1976 Tax Reform Act were excessively complex and impossible to administer, and over vigorous Treasury objections, the 95th Congress postponed the effective date of carryover for three years, until January 1, 1980.[1] The Treasury had before then offered and is yet suggesting various proposals for simplifying carryover basis in an all-out effort to retain in the law some tax on unrealized appreciation at or after death. These proposals change regularly. The latest to be published as of this writing are discussed in the article entitled, "Treasury's New Views on Carryover Basis," by Donald C. Lubick, Assistant Secretary of the Treasury for Tax Policy, and Harry L. Gutman, Deputy Tax Legislative Counsel, which appeared in the January issue of this magazine.[2]

Although the Treasury calls its proposals "a marriage of fairness and administrability," the article's content reveals a thoroughgoing lack of confidence in them. The concluding paragraphs refer to the proposals as representing "a sound starting point for carryover basis revision if that is the system Congress chooses to enact," encourage suggestions for further improvement, and seem to imply that the Treasury would be far happier if carryover basis would simply disappear and be replaced by either of two earlier suggested alternatives, capital gains tax at death or an additional estate tax on appreciation.

The degree of the Treasury's uncertainty concerning the workability of its proposals is highlighted by a list of questions it submitted to representatives of several interested accounting, banking, bar, farm, real estate and union groups who met in Washington on December 11, 1978, at Treasury request, subsequent to the preparation of Messrs. Lubick's and Gutman's article. Some of these questions involve fundamental problems with carryover basis as well as its alternatives:

"Carryover Basis:

"(1) How should property with liabilities in excess of basis (the "negative basis" problem) be treated? Issues involve the identification of the taxable event, the definition of the property interest to be covered and the definition of the 'amount realized.'

"(2) How can the property 'subject to tax' be determined in the case of pre-funding sales, residuary bequest to charity, split-interest transfers and over-funded marital bequests?

"(3) Should items of income in respect of a decedent be treated as carryover basis property with a basis adjustment substituted for the Section 691(c) deduction?

"(4) Should a decedent's capital losses carry over to his heirs? Or is it more appropriate to increase the basis of assets included in the estate by the amount of the capital loss carryover? If the latter, how should the losses be allocated?

"(5) How should the basis of non-marketable property be treated for purposes of the 'fresh start' adjustment, e.g., by appraisal, the time proration formula of Section 1023 or a discount back formula? Should the choices be elective or should one be chosen and made mandatory?

"Death as a Recognition Event:

"(1) Should death be treated as a recognition event for all assets included in a decedent's gross estate or should there be some exceptions, such as an exception for property passing to charity?

"(2) To what extent should generation-skipping transfers be treated as recognition events?

"(3) How should the system operate in a community property state? Should a surviving spouse be entitled to pay the deathtime gains tax as to that spouse's share of the community and take a fair market value basis for the property?

"(4) Should income in respect of a decedent be accrued into the tax base?

"(5) How should ordinary income items be treated?

"(6) What relief provisions should be made available for farms, closely-held businesses and other illiquid assets? We believe it is essential to develop rational and fair liquidity relief provisions and ask that you devote particular attention to this issue."

Simplifying carryover basis or its alternatives thus seems to be like peeling the onion—each layer of complexity removed uncovers another.

The estate administrator and planner must thus expect to have to undergo another mind-crunching exercise in comprehending and projecting the practical consequences of further Treasury-proposed legislation of standard complexity. Since 1976, they have had to spend what must be tens of thousands of hours of study and analysis of the carryover basis provisions; and, at great cost in time and effort, they have separately and in concert written to individul Senators and Representatives and appeared at three Finance Committee and Ways and Means Committee hearings to explain carefully why carryover basis and any other system of taxing appreciation at or after death is not workable and cannot be made to work acceptably.[3] The next hearings are scheduled for March 12, 19, and 20, 1979, before the Senate Finance Committee,[4] when the same exercise will be repeated.

Hopefully, the March hearings will be the last. The current Treasury proposals do not work, and no future Treasury proposals will work because they can do nothing to solve the insuperable factual difficulty with any system of taxing appreciation at or after death—discovering the decedent's basis for the property included in gross estate. Dead men tell no tales.

"ALMOST IMPOSSIBLE"

A reader of the Congressional hearings prints is struck by two things. First, the care and attention to fact and detail exhibited in the great number of statements and letters submitted. These experts in the field of estate administration speak from years of practical experience under pre-1977 law as well as experience under the 1976 Act. There is not the slightest equivocation in their testimony, which is repeated in different words over and over again, throughout more than 1,000 pages. Typical are the following samples taken from the Senate hearings of July 25, 1977:

Letter from a Seattle, Washington, trust officer:

"For Congress to presume that the personal representatives of all or even a majority of American decedents will be able to obtain accurate records of a lifetime of investment and financial activity is foolish and naive. . . .

"It may be supposed that those of us who work for corporate fiduciaries will somehow be able to assimilate all of this and comply with expected accuracy, but I'm not even so sure about that. As manager of a trust division tax department, I cannot see that the law's complexities can be managed by lower-level clerical staff, and I doubt that the employees capable of the work required are going to be interested in doing it for very long because of its frustrating, plodding, perpetually tentative nature."[5]

Letter from a Fresno, California, lawyer:

"For clients who have consulted me since the 1976 Tax Reform Act concerning their estate plans, I have suggested that they consider and itemize the basis for everything they own. This is an almost impossible and highly impractical exercise for the great majority of farm owners. If it is not accomplished, however, heirs will apparently be at the mercy of the IRS on future audits. Again, the carryover basis is neither fair, justified nor well considered in its practical application."[6]

Letter from a Clayton, Missouri, trust officer:

". . . the fundamental assumption that an executor will be able to determine the decedent's original cost basis for each asset is so farfetched that this law, without a doubt, will prove to be totally impractical and unworkable . . .

"It is easy, I suppose, to assume that a taxpayer will have cost records for virtually all his assets in a convenient location such as a safe deposit box or desk drawer and all the executor has to do is put them in alphabetical order. Without being facetious, the real world does not work that way, at least it hasn't so far in my experience. . . ."[7]

Letter from a Stamford, Connecticut, trust officer:

"Frequently, a decedent's cost records are not available. This necessitates tracing acquisition dates and costs through transfer agents or reconstructing costs based on certificate dates, a costly, time consuming process."[8]

Letter from a Covington, Ohio, trust officer:

"In some cases it will be an almost impossible task to try to establish basis for listed securities because of stock splits, stock dividends, tax-free exchanges and securities received by gift. Real Estate may not be too difficult to work with if no changes or improvements are made following acquisition. However, in reality, this is often not the case."[9]

Letter from a Pennsylvania banker:

"The carryover basis provisions are predicated upon the assumption that the decedent's income tax basis is readily ascertainable. Most individuals, human nature being what it is, do not maintain perfect records of the cost basis of their assets. An individual during his lifetime does not need his income tax cost basis unless he decides to sell an asset. While the individual is alive, he can be asked how the asset was acquired, when it was acquired, and what it costs. As an individual ages, his recall begins to fade and the necessity for recordkeeping has less meaning to the person."[10]

Statement by a Winterset, Iowa, lawyer:

"From a practical standpoint, the 'carryover-basis rule' is unworkable. This rule envisions that every person has a record showing the day, month and year that he acquired every item which he possesses at the time of his death. . . .

"The requirement is simply beyond the ability of the average American citizen. Most people have enough difficulty in keeping records of the major items which they own such as real estate, stocks and bonds. In the absence of such records, the person who owned the property is deceased and there is no practical way for the executor or administrator, or the beneficiaries, to furnish the information required to determine the decedent's adjusted basis according to the rule. Any attempt to substitute an artificial rule as to estimated life, estimated date of acquisition and estimated cost is simply recognizing that the 'carryover-basis rule' is unrealistic and actually unworkable."[11]

And so on and on.

"CAN'T DEAL WITH STUPIDITY"

The reader of the hearings prints is also struck by the unwillingness and, indeed, flat refusal of supporters of a tax on appreciation to believe the overwhelming evidence. The only three of them who commented on this issue at the Ways and Means Committee and the second Senate hearings (no proponent made a statement on this point at the

Footnotes at end of article.

first Senate hearing) did not recount any contrary experiences of their own. One simply found the general testimony that a widespread problem existed "hard to believe." The other two simply rejected it:

Statement by New York City lawyer:

"It is hard to believe that most taxpayers are as careless about keeping records of the cost or other basis of property as opponents of carryover basis or of the appreciation tax suggest. In any event, the fact that the computation of a tax involves maintenance of a record of costs is not an adequate objection to the tax. The fact that taxation entails recordkeeping is not a sufficient argument for non-imposition of the tax.

"This is not to suggest that taxpayers should be harshly penalized for inadequate records of basis; reconstruction and reasonable estimate should be permitted." [12]

Statement by Legislative Director, Taxation with Representation:

". . . this committee cannot deal in the Tax Code with stupidity. If people do not keep records there is not much that this committee can do about it. These people are already hiring highly sophisticated tax lawyers to avoid paying any taxes. You cannot tell me generation-skipping trust provisions are simple.

"I agree that carryover basis provisions are not simple either, but we already have the carryover basis problem with gifts under the current law. People had to figure out what their basis was if they were going to give away their assets, so we have the same problem now with [transfers at death]." [13]

Statement by a former Commissioner of Internal Revenue and former Chief Counsel, International Revenue Service:

"I was disturbed by some of the things that many of the witnesses were saying this morning. It appeared to me that they never heard that we had an income tax and that the income tax does require the maintenance of records, because one never knows when one is going to sell an asset.

"Having practiced tax law for some reasonable period of time and having practiced accounting for some reasonable period of time, it is my experience that most taxpayers maintain good records . . .

"We cannot write the law for the few slobs in the world, otherwise we will write laws that are much more complex than even the ones we have today and much less workable."[14]

In their article, Messrs. Lubick and Gutman simply deny the truth of the testimony developed before the Senate and Ways and Means Committees and assert that difficulties in finding a decedent's basis are restricted to cases of careless taxpayers and esoteric assets: ". . . it is simply untrue to assert that the records required to implement an acceptable alternative to prior law do not exist. In most instances, taxpayers do assume recordkeeping obligations for income tax purposes. They do this because they cannot know with certainty that they will hold assets until death. Certainly this is the case for virtually all investment and business assets and the acquisition price of most residences. . . .

"In testing the worth of any proposal we professionals tend to focus on the hard cases; the collection of 25,000 stamps, the family heirlooms or the lost records . . .

"Recordkeeping problems for esoteric assets or careless taxpayers cannot be used to justify a result which permits a decedent to pass $5 million of highly appreciated assets to an heir free of income tax . . .[15]

Yet the uncontradicted testimony at the hearings reveals enormous basis determination problems with such unesoteric assets as farms and ranches, securities, residences, partnership interests and small businesses. The evidence is overwhelming that numerous estates will have one or more esoteric assets and that every decedent will be a "careless taxpayer" with respect to many assets.

This stonewall denial of proven problems prompted the following comments by a Chicago lawyer to the Ways and Means Committee: "Notwithstanding Sheldon Cohen's contention that most taxpayers already do keep good records, your Committee heard enough witnesses yesterday who have had actual experience in the nine months that have elapsed since the law was made effective sufficiently to emphasize the dilemma created where the decedent has not maintained adequate records. That problem exists. It will not go away by blandly agreeing that it should not occur." [16]

It is impossible to understand the out-and-out refusal by those who seek to tax unrealized appreciation to listen to any voices but their own. This is the third time in recent years that deafness to warnings of unavailability of records and taxpayers' undersophistication has made it necessary for Congress to grant exceptions to effective dates or repeal new provisions in this very area of tax law. [17]

If it were the "careless" taxpayer who was punished, no one would complain of injustice. The careless taxpayer should pay extra taxes and can elect to do so if he does not wish to go to the trouble of keeping records or pay the expense of reconstructing basis. The estate representative who is innocent of carelessness has no such choice. His fiduciary duty, which is nowhere mentioned or taken into consideration by supporters of carryover basis or its alternatives, necessitates his discovering the decedent's tax basis for each item of property so that the estate or the estate's beneficiaries will pay no more tax than required by law. The availability of a "fresh-start" basis does not eliminate the need to discover the decedent's basis. If the decedent's basis exceeds "fresh-start," however determined, using it rather than "fresh-start" will decrease the amount of unrealized appreciation or establish a deductible loss in the event of a sale. Failure to do the necessary detective work with sufficient care and diligence to find the decedent's basis would subject the representative to surcharge by the court.

It is difficult to estimate the cost of such detective work. Experience during 1977 and 1978 has little value as a guide because the closeness of the December 31, 1976 "fresh-start" date for marketables and nonmarketables, coupled with the market decline immediately thereafter, lessened the problem to a great degree. Even so, many fiduciaries encountered severe compliance problems. See Appendix A, page 17.

There is no question that the expense to fiduciaries and their advisors of administering carryover basis or its alternatives would upset completely the economics of estate administration. Estimates presented at the hearings suggest cost increases of up to 50 percent.[18] None of the predictable consequences is desirable: Nonprofessional executors or administrators would be unable to comply with the law or would refuse to serve because of lack of requisite expertise; executors' commissions and attorneys' fees would have to be increased substantially despite criticism that they are already too high; and, as happened while carryover basis was in effect, trust companies and highly qualified attorneys would decline to handle moderate-sized estates.[19]

The need to discover basis and its high cost has nothing whatever to do with complexity versus simplicity, though the Treasury article discusses it in those terms. This issue involves no more than understanding that the taxpayer is the decedent's executor-administrator, not the decedent himself; and that it is not fair but oppressive to impute the decedent's knowledge, which has died with him, to the estate representative.

The Treasury's proposals to simplify carryover basis do have severe problems of complexity. The extent of the complexity is best seen if the proposals are not considered separately, but in the context of an executor's overall duties. When so viewed, it is obvious that adopting them would result in a law whose complexities and technicalities would certainly impede the orderly administration of estates to an impermissible degree.

The proposals that will be examined are those incorporated in S. 2461 (Senator Hathaway).[20] Many provisions of the Hathaway bill are also contained in one or more of H.R. 10617 (Mr. Steiger),[21] H.R. 10312 (Mr. Fisher)[22] and H.R. 10636 (Mrs. Keys).[23]

HATHAWAY BILL

Educators must be able to act speedily in new estates, particularly in these days of wide and sudden market fluctuations, to raise the cash necessary to take care of the very large cash claims against an estate for debts, taxes and administration expenses. Before the 1976 Act, the executor knew precisely what income tax liabilities he was creating through the immediate sale of assets in his possession because these assets acquired either a date-of-death value basis for gain or loss or, if he later elected alternate valuation, a basis equal to the net sales price therefor. Carryover basis in any form removes this certainty and the ability of the executor to know what tax liabilities he is incurring. Compare the numerous and intricate steps an executor would have to take under the Hathaway bill to determine the tax bases of the estate's properties.

1. Ascertain the fair market value of all of the assets comprising decedent's gross estate (exclusive of insurance, income in respect of a decedent and a few less important classes of noncarryover basis property).[24] If the total is $175,000 or less, the tax basis of all such property will be fair market value. If the executor's appraisal of nonmarketable property is increased on audit of the state (or Federal) death tax return, so that the $175,000 figure is exceeded, the properties would acquire carryover tax bases automatically. It is also possible that date-of-death values of this property will exceed $175,000 and that alternate valuation will be less than $175,000. If the election is made, basis will be changed from carryover to fair market value. If there are substantial high-basis properties in the estate, the tax game may be changed to preserving the tax-valuable basis. The executor may be expected in such a case to seek to have estate properties valued generously so that they will exceed the $175,000 figure. Theoretically, a $1 difference in value could make a thousandfold or more dollar difference in income taxes.

Because cash and cash equivalents are carryover basis properties, it would be easy in borderline cases, by a little pre-death planning in the form of borrowing, to make sure that the decedent's high bases are not lost. On the other hand, if estate tax value bases are desired, every effort would be made to keep decedent's outstanding debts down.

Nothing comparable to the $175,000 fair market value test is present in the 1976 law. The Hathaway bill thus adds an additional complication in estates of around $175,000. Where the size of the estate substantially exceeds $175,000, this change makes no improvement, and the new provision may simply be ignored.

For executors of estates substantially less than $175,000 in size, the change is enormously beneficial. The Treasury asserts that its adoption would remove 98 percent of all decedents' estates from the operation of carryover basis. A huge percentage of this percentage would have had no problems under carryover basis anyway, so this figure is vir-

Footnotes at end of article.

tually meaningless. Nevertheless, this Treasury proposal is unquestionably the best of all of its proposals. But it clearly does not go far enough. First, those engaged in estate administration depend for their economic existence on handling estates substantially greater than $175,000, and the proposal does nothing to reduce the excessive cost of administering carryover basis in such estates. Further, this is a double-digit inflationary economy. Inflation will continue quietly but steadily and inexorably to eradicate the benefits of this Treasury proposal. An estate worth $175,000 on January 1, 1980 (the postponed effective date) discounted back at 10%, compounded annually, would have been worth $131,000 on December 31, 1976; on January 1, 1987 (10 years), $67,000; on January 1, 1992 (15 years), $42,000.

2. In estates exceeding $175,000 in value, discover the basis to the decedent (or other holder) of all property included in gross estate. The burden of discovery, the most objectionable attribute of carryover basis and any tax determined by decedent's basis, has been discussed at length. Until the decedent's basis determined, the executor will be unable to make an informed choice concerning the assets he should sell because he will not know the tax consequences of their sales. In many cases, the executor simply will not be able to wait for the detective work. He must sell blind to the tax consequences. A tax policy forcing fiduciaries to make partially blind sales is not justifiable.

3. A. Determine and make the "fresh-start" adjustment for each asset included in gross estate. The value of marketable properties on December 31, 1976, adjusted for all capital changes thereafter, is their "fresh-start" basis under the 1976 law. The Hathaway bill would require the executor to compare this value with estate tax value, *i.e.*, date-of-death or alternate value, if elected by the executor, and use estate tax value if lower than December 31, 1976 value.[25] Alternate valuation for assets neither sold nor distributed will not be known by the executor until six months after death. For nonmarketable properties, "fresh-start" basis will normally be determined according to the formula in the 1976 law employing (1) the holding period of the decedent both before and after December 31, 1976, (2) his basis, (3) fair market value on death or on the alternate valuation date and (4) an as yet unannounced formula for attributing appreciation to substantial improvements.

In these "fresh-start" determinations, the Hathaway bill complicates rather than simplifies 1976 law. The limitation in the case of marketables to estate tax value, if less than December 31, 1976 value, has already been mentioned. This is a substantive change as well as a complicating change. It will work against the interests of taxpayers in every case. It will make carryover basis more expensive because it will subject to tax some pre-1977 appreciation that Congress intended in 1976 not to tax. On the other hand, the Hathaway bill's elimination of double taxes for gain and loss is a substantial simplification of the 1976 law.

The "fresh-start" adjustment for nonmarketables is also more complex under the Hathaway bill than under the 1976 law. First of all, it provides special treatment for several classes of nonmarketables. The need for such special treatment cannot be questioned. These differentiations are necessary to maximize unfair consequences and lessen administrative difficulties of carry over basis, but they complicate estate administration in other ways. The Hathaway property classifications for purposes of the "fresh-start" adjustments.

"Certain preferred stock"; [26]

2. "Certain other property" having "a relatively fixed value," all the rules to be prescribed in regulations, presumably because the drafters of the Hathaway bill were not able to think through to workable definitions.[27]

3. Items to be treated on "a class basis"—such items also to be determined under regulations to be issued at some indeterminate future time;[28]

4. Principal personal residences;[29]

5. Nonbusiness tangible personal property.[30]

3.B. For personal residences and nonbusinesses tangible personal property, including "class basis" property falling within that description, the executor would also have to compute minimum basis under the Hathaway bill's amendment to section 1023(e)(3) of the Code.[31] The Hathaway bill's minimum-basis adjustment is an alternative "fresh-start" adjustment, subject to increase by the $175,000 minimum-basis provision and the death tax basis increase yet to be mentioned. The minimum-basis formula is as difficult of comprehension by the nonmathematical mind as the Technical Correction Act's minimum-basis formula, but its five percent rate is somewhat less unreasonable, and it contains a minimum basis of 25 percent of estate tax value.

The present Treasury proposal is to use a six percent rate to determine the elective fresh-start basis for all property held on December 31, 1976, other than marketable securities; alternatively, this discount rule would be adopted as the sole method of determining fresh-start basis for nonmarketable property.

4. Ascertain basis under $175,000 minimum basis provision.[32] Only after the executor has determined the historical bases of the decedent's property, and made the fresh-start adjustments referred to in 3.A. and 3.B. above, will he be able to determine whether the $175,000 minimum-basis provision is applicable to the estate. The executor will usually not be able to discover the bases of all properties. Yet he will have the burden of proving to the Service that the basis of all such properties is less than $175,000. This is the reverse of the usual basis controversy. Thus, in the cases in which this provision would be meaningful, proving entitlement to it may be difficult or impossible. The $60,000 minimum-basis adjustment in the 1976 law is innocuous because it is inapplicable to virtually all estates. Raising the key figure from $60,000 to $175,000 greatly increases the number of estates to which this complicated and largely ineffectual provision may have application, and thereby would needlessly complicate estate administration for many executors.

5. Determine and make the estate tax adjustment for each asset in gross estate. The death tax basis adjustment in the Hathaway bill [33] is unquestionably an improvement over existing law because it requires only one rather than two and possibly three death tax basis adjustments and because the amount of the adjustment is not dependent upon the fair market values of all property subject to the estate tax. This simplicity is, however, obtained at the expense of estates that are required to pay state death taxes (as in New York) in excess of the maximum credit for state taxes allowable against the Federal estate tax. There is no reason why a basis increase should not be given at the combined Federal and state marginal estate tax rates. Indeed, allowing for such state taxes is the approach taken by the Hathaway bill for determining the amount of death taxes deductible in computing Federal income taxes on income in respect of a decedent, a vast improvement over the 1976 law.[34]

The principal defect in the death tax basis adjustment provisions of the Hathaway bill is their failure to specify what property will be deemed to pass to charity or a surviving spouse under a marital deduction qualifying provision. No carryover basis statute could be satisfactory that did not solve this vexing problem.

The foregoing outline of steps required of an executor is for the usual kinds of estate property, and, therefore, oversimplifies the executor's problems under the Hathaway bill. There are a host of difficult technical problems that executors would have to face for less usual kinds of assets, such as partnership interests, literary works and works of art, stock redeemable under Section 303, Section 306 stock and negative-basis property.

These steps cannot possibly be completed when they are most needed—before the executor liquidates. They must nevertheless be completed by him in order to file proper tax returns and provide the estate's beneficiaries with the information mandated by Code Section 6039A. None of these detailed efforts would help the executor accomplish his major tasks of collecting decedent's assets, paying debts, funeral and administration expenses and death taxes and turning over the balance remaining to decedent's beneficiaries. They would just be extra burdens imposed upon him.

Whether or not these Treasury proposals simplify carryover basis is really beside the point. The complexity that remains is staggering. One is reminded of hospital reports that a terminally ill patient's condition is "improved."

Where we go from here is indeed of legitimate concern to all those engaged in estate planning and administration. We are told that the President will not accept repeal or further postponement of the carryover basis rule and no bill with such a provision would be veto-proof.[35] So the pressure will be intense on Congress to enact one of the three alternatives and on us to go along, something we cannot responsibly do. This time there should certainly be hearings on actual bills. If there are, we will have a chance to bring our expertise and experience to bear before, rather than after, enactment. It would indeed be foolhardy not to take maximum advantage of such an opportunity.

FOOTNOTES

[1] Revenue Act of 1978, Pub. L. No. 95-600 § 515(2), 92 Stat. 2763, 2884 (Nov. 6, 1978).

[2] TRUSTS & ESTATES, January 1979, p. 10.

[3] *Hearing on Estate and Gift Tax Problems Arising from the Tax Reform Act of 1976 Before the Subcommittee on Taxation and Debt Management Generally of the Senate Committee on Finance*, 95th Cong., 1st Sess. (July 25, 1977) (hereinafter cited as *"First Senate Hearing"*); *Hearings on Estate and Gift Tax Carryover Basis and Generation-Skipping Trust Provisions and Deductibility of Foreign Convention Expenses Before the House Ways and Means Committee*, 95th Cong., 1st Sess. (Oct. 6, 17, 1977) (hereinafter cited as *"W. & M. Hearings"*); *Hearings on* H.R. 6715, S. 1954, S. 2227 *and* S. 2228 *Before the Subcommittee on Taxation and Debt Management Generally of the Senate Committee on Finance*, 95th Cong. 1st Sess. (Oct. 26-28, 31, 1977) (hereinafter cited as *"Second Senate Hearings"*).

[4] Daily Executive Rep. No. 5, Special Report (Jan. 8, 1979) at 7.

[5] Letter from Edward W. Kennedy, Assistant Vice President and Manager, Trust Tax, Seattle-First National Bank, *First Senate Hearing, supra* note 3, at 199-200 (Aug. 12, 1977).

[6] Letter from J. H. Perkins, Esq., *id.* at 216, 217 (Sept. 13, 1977).

[7] Letter from Ronald H. Spicer, Assistant Trust Officer, St. Louis County National Bank, *id.* at 130, 131 (Aug. 2, 1977).

[8] Letter from Hartford National Bank and Trust Co. to Walter T. Sullivan, Senior Vice President and Trust Officer, Fidelity Trust Co., *id.* at 135 (Aug. 1, 1977).

[9] Letter from Carl W. Bowman, Trust Officer, Western Ohio National Bank & Trust Co., *id.* at 229 (Sept. 9, 1977).

[10] Letter from Julius J. Ciesielka, Jr., Chairman, Trust Tax Committee, Pennsylvania Bankers Association, *id.* at 271 (Sept. 6, 1977).

[11] Statement of Shirley A. Webster, Esq., *id.* at 273, 274.

[12] Statement of James B. Lewis, Esq., *W. & M. Hearings, supra* note 3, at 235, 240 (Oct. 17, 1977).

[13] Statement of Thomas J. Reese. *Id.* at 102 (Oct. 6, 1977). Mr. Reese made essentially the same statement at the Second Senate Hearings. The use of carryover basis for inter vivos gifts is no problem, because the donor is not dead and supplies the requisite information. Income in respect of a decedent, mentioned in the Treasury article (p. 12) along with gift carryover basis, is no problem either. Such income results from transactions made by the decedent himself, usually very shortly before death, and the requisite tax information is virtually always immediately at hand.

[14] Statement of Sheldon S. Cohen, Esq., *id.* at 135–36 (Oct. 6, 1977).

[15] TRUSTS & ESTATES, January 1979, p. 12. Mr. Lubick's testimony before the Senate at the TCA hearings was essentially the same. *Second Senate Hearings, supra* note 3, at 84, 94.

[16] Letter of Hugo J. Melvoin, Esq., Federal Taxation Committee, Chicago Bar Association. *W. & M. Hearings, supra* note 3 at 258 (Oct. 7, 1977).

[17] Unavailability of complete trust and beneficiary records for all past years, coupled with the trustee's fiduciary duty to compute throwback under both the "exact" and "short cut" methods made the 1969 accumulation distribution rules overly difficult to apply and administer. H.R. Rept. No. 94–658, 94th Cong., 1st Sess. 183–184 (1975). They were repealed by Section 701(d)(i) of the Tax Reform Act, Pub. L. 94–455, 90 Stat. 1578 (1976), which substituted a single method based only on a distributee's five most recent preceding taxable years.

Charitable remainder annuity trusts and unitrusts, introduced in the 1969 Tax Reform Act, are apparently still beyond the grasp of a substantial number of taxpayers and their advisors. Congress now permits the estate tax deduction if nonqualifying will and trusts created before December 31, 1977 are conformed to the 1969 rules by action initiated before December 31, 1978. Section 2055(e), as amended by P.L. 95–600, § 514(a). Section 2055(e) was originally added to the Code in 1975, allowing disposition before September 21, 1974 to be conformed by action initiated before December 31, 1975. The 1976 Tax Reform Act subsequently postponed the two dates to December 31, 1977, Congress stating that "this is to be the last extension of these transitional rules." Summary of the Tax Reform Act of 1976 (H.R. 10612, 94th Congress, Public Law 94–455) [Prepared by the Staff of the Joint Committee on Internal Revenue Taxation (October 4, 1976)], p. 67.

[18] "The time which professionals will be required to devote to determine the carryover basis of assets owned by a decedent will increase the fees attendant to dying. Several members of our Committee have projected cost increases by as much as 50 percent, in that the computations of Section 1023, in estates having more than one or two noncash assets, will consume greater amounts of time than will the preparation of estate, inheritance and income tax returns, collectively. This will be particularly true under the 'fresh-start' concept where two bases must be determined for each asset."—Letter from William C. Golden, Esq., Chairman, Trust Law Committee, the Chicago Bar Association, *W. & M. Hearings, supra* note 3 at 256 (Oct. 5, 1977).

[19] "Executors have the responsibility to carry out Carryover Basis in the face of the multitude of problems previously described. Many of the professional executors, such as banks and trust departments, will refuse to serve except in very large estates. This shifts the burden of Carryover Basis to people with modest-sized estates and they are least able to afford professional assistance absolutely required to comply with this hydraheaded monster."—Statement of John S. Pennell, Chairman, Tax Section, American Bar Association. *W. & M. Hearings, supra* note 3, at 15.

[20] S. 2461, 95th Cong., 2d Sess., 124 Cong. Rec. pp. 1284–1286, 1292 (Jan. 30, 1978) (entitled the (Senate) Estate and Gift Tax Amendments of 1977). The Hathaway bill and other proposals advanced until early in 1978 are thoroughly analyzed in Covey and Hastings, "Cleaning Up Carryover Basis," 31 *The Tax Lawyer* 615 (Spring 1978).

[21] H.R. 10617, 95th Cong., 2d Sess., 124 Cong. Rec. pp. 1284–1286, 1292 (Jan. 30, 1978) (entitled the (House) Estate and Gift Tax Amendments of 1978).

[22] H.R. 10312, 95th Cong., 1st Sess., 123 Cong. Rec. pp. 39110, 39113 (Dec. 15, 1977) (entitled the (House) Estate and Gift Tax Amendments of 1977).

[23] H.R. 10636, 95th Cong., 2d Sess., 124 Cong. Rec. pp. 1284–1286, 1292 (Jan. 31, 1978 (entitled House Estate and Gift Tax Amendments of 1978).

[24] Hathaway bill S. 2461, *supra* note 20, Sec. 2(a), amending I.R.C. Sec. 1023(b)(1).

[25] *Id.*, amending I.R.C. Sec. 1023(b)(1).

[26] *Id.*, amending I.R.C. Sec. 1023(e)(5).

[27] *Id.*, amending I.R.C. Sec. 1023(e)(6).

[28] *Id.*, amending I.R.C. Sec. 1023(g)(5).

[29] *Id.*, amending I.R.C. Sec. 1023(e)(3)(D)(ii).

[30] *Id.*, amending I.R.C. Sec. 1023(e)(3)(D)(i). The Hathaway bill also requires the executor to determine what items are "personal or household effects," and permits him to elect noncarryover-basis treatment for up to $25,000 thereof, amending I.R.C. Sec. 1023(b)(3). Under the 1976 law, the corresponding amount is $10,000. The Treasury proposals as of this writing eliminate the elective feature and would require that "property subject to the exclusion would be determined in ascending order of fair market value on the relevant estate tax valuation date, starting with the least valuable property included in the decedent's gross estate. Pieces of property, none of which has a fair market value in excess of $100 and all of which are related in function or use, may, at the executor's election, be treated as a single piece of property, e.g., dishes, clothing, stamps, coins, etc."

[31] Hathaway bill, S. 2461 Sec. 2(a), *supra* note 30.

[32] *Id.*, amending I.R.C. Sec. 1023(c).

[33] *Id.*, amending I.R.C. Sec. 1023(d).

[34] Hathaway bill, Sec. 3(a) amending I.R.C. Sec. 691(c)(2)(A) and Sec. 691(c)(2)(C).

[35] Daily Executive Rep. No. 5, Special Report (January 8, 1979) at 7.●

LEADERS OF CONGRESSIONAL RURAL CAUCUS SAY, "NO," TO ADMINISTRATION'S REORGANIZATION SCHEMES

● Mr. TALMADGE. Mr. President, time and again I have tried to bring the message to the Senate that the proposed reorganization of certain Government agencies that is being proposed by the administration is doomed to failure. The schemes are infantile in design. They save no money. They save no manpower. Yet they put to risk a system of agricultural protection, consumer protection, resource protection, rural development that is without parallel.

My distinguished colleague from North Dakota, Mr. BURDICK, who is chairman of the Subcommittee on Regional and Community Development, has pointed out to administration officials that an attempt to accomplish some of the reorganization schemes through the reauthorization of the Economic Development Administration, would put that reauthorization and the future of the EDA in considerable doubt. I must agree.

The distinguished chairman of the House Agriculture Committee, Mr. FOLEY, has joined me on three occasions to warn the President of the dangers involved in attempting to transfer the U.S. Forest Service to the Department of the Interior.

The ranking majority member of the Committee on Agriculture, Nutrition, and Forestry, Mr. MCGOVERN, has joined with me and 24 other Members of the Senate in cosponsoring Senate Resolution 71, which calls for a strong and independent Department of Agriculture.

Now four distinguished Members of the House, led by the chairman of the Congressional Rural Caucus, Mr. WATKINS, have come forward to offer their opposition.

I shall submit for the RECORD their remarks in the House.

As a Member of this body who has always sought to achieve economy and efficiency in Government, I had high hopes for the President's reorganization initiatives. But he has been given bad advice by a group of amateurs, who have no sense of history. They have no concept of the functions of this Government beyond the boundaries of the District of Columbia.

There are many vital issues to come before the Congress this year. We must reduce Federal spending; the Middle East remains a tinderbox; the SALT II agreement must be debated; if only to mention a few key items.

The President should not waste the time of the Congress with the $6.5 million debacle presented to him by the President's reorganization project. The reorganization plans will be defeated overwhelmingly. But, notwithstanding the defeat, the Congress will waste vital time that should be spent on something of more substance than these "Washington star wars," which will have no positive impact whatever on the people of this Nation.

The remarks follow:

OPPOSITION TO REORGANIZATION PLAN TO TRANSFER CERTAIN FUNCTIONS FROM USDA

Mr. WATKINS. Mr. Speaker, I rise as chairman of the Congressional Rural Caucus to submit a resolution declaring the transfer of the Forest Service and the Farmers Home Administration business and industrial program from the U.S. Department of Agriculture through executive reorganization to be unacceptable.

The USDA administers a well-integrated array of programs to enhance and protect American agriculture, and the viability of rural America. The Forest Service and other USDA agencies have done an outstanding job of enhancing and protecting the Nation's renewable natural resources on public and private lands. The business and industrial program of the Farmers Home Administration is a critical element in the USDA's program for the economic development of rural America.

The USDA has performed its functions well

since the administration of President Abraham Lincoln. We all rely on the USDA—whether we are from rural areas or urban areas, whether we are farmers or consumers. A strong and vigorous agricultural economy, and abundance of food and fiber at reasonable prices, a thriving network of rural communities across this great Nation are essential to the future of this country and its way of life.

Therefore, Mr. Speaker, we cannot stand by while the Cabinet-level Department of Agriculture is stripped of some of its vital functions in the false name of efficiency. We certainly are not opposed to reorganization of agencies if that reorganization is logical and will result in efficiency.

However, it is not logical to dismember the USDA when it is serving the people it is supposed to serve. We do not believe the administration is fulfilling its responsibility to serve all the people when it proposes a reorganization plan such as this. In short, this plan is a wolf in sheep's clothing.

In 1972, Congress mandated that USDA give assistance and direction to rural development and expanded Farmers Home Administration to include the business and industrial program because of its successes. FmHA has a developed network of county and district offices across this country that bring its programs close to the local people, close to the people it serves, close enough to understand rural problems and rural needs. There is no other Government agency responsible for development loans that can match FmHA's delivery system.

Rural America has long been called the backbone of America. Sitting in this House are approximately 300 Members representing districts that are 50 percent or more rural. In those rural areas, the food for 215 million people is produced and harvested—the only potential resource this country has for offsetting our trade deficit.

Rural America is wide open spaces, children who can roam free, green grass and blue skies—and, Mr. Speaker, it is hard work. Rural people do not want the Government to provide their lives for them—but they do want, and should get, fair and equal treatment. They want a fair shake. That is what we are asking today.

Although agriculture still is the mainstay of our rural areas, the rural economy is having trouble providing sufficient job opportunities and millions of rural residents have migrated to the urban centers. This only contributes to the problems our cities are having and weakens our smaller communities even more.

Congress gave USDA the lead in rural development because the other Federal departments and agencies were not responsive to rural needs. Now, we are being asked to sit quietly by while the role of the USDA is downgraded and our rural citizens are told they are indeed second-class citizens.

The administration budget proposed earlier this session devoted far more money to urban problems than it did to rural problems. I am personally concerned that the business and industrial program will take on an urban role if it is transferred to the Economic Development Administration and rural America will again take a back seat.

Mr. Speaker, this reorganization plan is not in the best interests of rural America or the rest of the country.

REORGANIZATION OF ECONOMIC DEVELOPMENT ADMINISTRATION

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to associate myself with those remarks made earlier by my friend, WES WATKINS, chairman of the rural caucus, on reorganization of EDA.

I also wish to express my concerns about the President's announced plans to transfer the Farmers Home Administration's business and industrial loan program and SBA's local development loan program to the Economic Development Administration.

As ranking minority member of the Economic Development Subcommittee, I have been an active supporter of the EDA programs. In this capacity, I will continue to work to strengthen these programs, which are so vital in establishing economic stability in local communities. Having been a firsthand observer of what the traditional EDA programs can do, I was pleased that the President discarded a previous plan to shift a number of economic development programs to HUD. Such a plan would have, in my opinion, decreased flexibility of the existing programs and may have created a barrier toward providing a balanced economic development program throughout the country.

On the other hand, I have reservations about shifting FmHA's business and industrial and SBA's 501 and 502 loan programs to EDA. Both of these agencies have a proven record of service to rural communities. They are respected and they have a delivery system already in place. Local businessmen and communities in need of this assistance, know where to go to get help. It works—Why do we need to change it? We do not yet know the administration's actual proposal and will not until around the 1st of April. I do plan to examine it with an open mind but to me the burden of proof is on the White House. Until they make their case I continue to oppose the transfer of these programs.

I have seen no indication that their transfer will improve them. In fact, people who are familiar with them express concern that the indecision regarding reorganization is leading to confusion and uncertainty in their efforts to obtain these badly needed loan programs.

Economic development is vital to strong local communities and the Nation's well-being. We should move forward in this field—not spend idle hours moving the pieces and ignoring the programs which benefit the people.

WE SHOULD BE STRENGTHENING THE FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE

Mr. BROYHILL. Mr. Speaker, I rise at this time to speak in support of a resolution that has just been introduced by my colleague, the gentleman from Oklahoma (Mr. WATKINS) expressing concern over the President's action that would dismantle certain functions of the U.S. Department of Agriculture. It seems to me that what we should be doing is strengthening the functions of the Department of Agriculture. The USDA is in danger of dismemberment to a point that its capabilities to assure the production and marketing of food, fiber, and forest products that are so basic to life itself, are in jeopardy. I would urge that the Members support the resolution that has been introduced by myself and the gentleman from Oklahoma (Mr. WATKINS).

DEPARTMENT OF AGRICULTURE SHOULD BE PRESERVED AS STRONG ADVOCATE OF RURAL AMERICA

Mr. JONES of Tennessee. Mr. Speaker, I would like to express my support of the congressional rural caucus resolution regarding the preservation of the Department of Agriculture as a strong advocate of rural America. I believe it is imperative that we reject the President's proposed reorganization plan to remove the Forest Service and the business and industrial loan program from USDA's jurisdiction.

There are numerous reasons to leave these programs at the Department of Agriculture. To say that the proposed plan will make Government more efficient is a weakly substantiated argument in my opinion. I feel that the Forest Service and the B. & I. loan program have been highly successful in their efforts to augment programs that contribute greatly to the well-being of rural America and the rest of the Nation. To say that these services will be rendered just as well under the direction of different departments cannot be proved. However, it is known that the Department of Agriculture has obtained excellent results through their endeavors with both the Forest Service, and the B. & I. loan program.

The rural community is an important segment of our society, and it deserves services equal to the services it provides the Nation. The Department of Agriculture is familiar with the needs of rural inhabitants. To carve such a large part of its jurisdiction away on unfounded precepts would cripple its ability to act as well as create bureaucratic havoc. Frankly, I can see where some people might think that reorganization looks good on paper. However, the present plan ignores practical solutions for the problems we have in favor of idealistic concepts. The Forest Service has been doing a highly commendable job of preserving both private and public lands and the B. & I. loan program has made it possible for rural communities to prosper from economic development which would have otherwise been stalled. To be realistic, I am not saying that all is perfect at USDA. However, I do feel that it would be an easier task, and I might add, more practical, to correct the problems there than to simply reshuffle these two programs to different departments.

The Forest Service has been a paramount force in maintaining and developing our renewable natural resources. The administration persists that it will be more effective under a new Department of Natural Resources. However, I doubt seriously that this will be the case. To consolidate the Forest Service with the programs Interior has would probably spur department infighting and destroy the beneficial system of checks and balances that USDA and Interior have at the present time. Under such circumstances, it is obvious that the Forest Service would suffer. Indeed, if one were to expect the very best of the proposed plan, the final outcome would probably reflect little progress from that already realized under the present system. The quality of work the Forest Service provides through USDA's guidance is exemplary. Why do we want to take a chance on reorganization when the facts indicate that USDA has done such a good job?

The business and industrial loan program has encouraged much needed development assistance to rural communities. It has stimulated economic growth in areas that had received little attention in the past. In the State of Tennessee, the fruits of the B. & I. loan program are notably evident. During 1978, 4,154 jobs were saved and 1,581 jobs were created in distressed areas exhibiting characteristics of low income and high unemployment; 5,149 jobs were saved, and 3,495 jobs were created in nondistressed areas. This has been a significant factor in Tennessee's economic growth, and it is important that the Farmers Home Administration be allowed to continue this good work through the B. & I. loan program. The Farmers Home Administration, in conjunction with USDA, has the knowledge and the experience in administering this program. Its delivery systems are among the best. I believe that it would be foolhardy to move such a successful program under these circumstances. The Farmers Home Administration knows the problems of the rural communities. There is no guarantee that such understanding would exist if the B. & I loan program is taken from FmHA and the Department of Agriculture. Indeed, I believe it would have a detrimental effect on this program and would diminish its accomplishments. USDA should continue to have jurisdiction over the B. & I. loan

program so that the continuity of excellence will not be interrupted.

We cannot allow the Forest Service and the B. & I. loan program to be moved from USDA if we desire to see the needs of the rural areas fulfilled. Those people out there in rural America do not need to be the guinea pigs of OMB's reorganization plan. I cannot see that tampering with a proven system is in the best interest of the people, or the Government for that matter. The rural community needs an advocate versed in its own special problems. The Department of Agriculture serves this function well, and I would like to urge that we act to preserve it.●

SEVEN FISHERIES ORGANIZATIONS SAY, "NO", TO A DEPARTMENT OF NATURAL RESOURCES

● Mr. TALMADGE. Mr. President, I rise once again to demonstrate to the Senate that there is no national support for the creation of a Department of Natural Resources as recommended by the administration.

As we all know by this time, the administration intends to move the National Oceanographic and Atmospheric Administration from the Department of Commerce, and the U.S. Forest Service from the Department of Agriculture into the Department of the Interior. This new agglomeration would be called the Department of Natural Resources.

On December 20 of last year, seven fisheries organizations, calling themselves the National Fisheries Policy Conference, wrote to a member of President Carter's staff opposing the creation of this new department.

I submit this letter for the RECORD.

The letter follows:

NATIONAL FISHERIES
POLICY CONFERENCE,
Washington, D.C., December 20, 1978.

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy, Washington, D.C.

DEAR MR. EIZENSTAT: The United States fishing industry is opposed, at this time, to the transfer of the National Oceanic and Atmospheric Administration to a Department of Natural Resources, as proposed by the staff of the President's Reorganization Project (PRP) within the Office of Management and Budget. On December 11, the Steering Committee of the National Fisheries Policy Conference met with Mr. Richard A. Pettigrew, Assistant to the President for Reorganization, and Mr. William W. Harsch and Dr. Charles French of the PRP. We were briefed on the status of reorganization plans as they would impact the American fishing industry, particularly a proposed Department of Natural Resources. Subsequent to that meeting, the Steering Committee reviewed a November, 1978, draft staff analysis which proposes the creation of a Department of Resources and Conservation.

Neither the meeting with Mr. Pettigrew and PRP officials, nor the staff document, offered the American fishing industry clear and compelling arguments supporting the transfer of NOAA. The only benefit accruing to fisheries mentioned in the meeting and document was the elimination of an alleged overlap in fish stock assessments, evaluation of stocking, and environmental studies. No consideration is given in the document to the need to improve the federal government's perception of national fishery resources as an important domestic and international food protein source, nor to how government can support industry efforts to increase exports of U.S. harvested and processed fish. Insufficient cause has been shown for instigating the "inevitable disruption that results from a major reorganization" (staff analysis, p. 18). Significant costs will be incurred as the price of any massive reorganization. There will be a decrease in government efficiency for an indefinite period. Actual dollars will be expended to effectuate the transfer. Time and momentum will be lost by administrators of important fishery programs within NOAA. These losses could not come at a more critical time.

The consequences of dislocation for NOAA's National Marine Fisheries Service are especially unaffordable now. The Fishery Conservation and Management Act (P.L. 94-265, April 13, 1976) became effective March 1, 1977. It is the most important fisheries legislation in our history. It established regional fishery management councils as responsible for developing and overseeing fisheries management plans (FMP's) for species predominantly within the 197 mile fishery conservation zone formed by extension of U.S. fisheries jurisdiction to 200 miles. These councils are the Act's basic management and conservation bodies.

The National Marine Fisheries Service gives the councils administrative, statistical, and legal support. Seven FMP's will be in effect by the close of 1978. The planning pace will accelerate sharply next year and continue into 1980. By March 31, 1979, NMFS is scheduled to receive 23 more FMP's in draft and final form, all of which should be implemented by the Commerce Secretary by year-end. NMFS expects to review another 17 draft FMP's in 1979, although the plans won't become effective until 1980. NMFS must prepare the regulations which accompany plan installation and must handle Federal Register notification required by the Administrative Procedures Act. In calendar 1980, 25 more council draft FMP's will be completed.

This detail is given to indicate the management tasks NMFS must cope with during the remainder of the decade. It has been converted in two short years from a predominantly scientific agency to one with important responsibilities for management support. Its staff has not grown. It has been through two partial reorganizations in two years. It began a reorganization in October, 1976, which was terminated in the Summer of 1977, before top management posts were filled, when Richard Frank became NOAA Administrator. He indicated a NMFS reorganization should follow the reorganization of NOAA he intended. NOAA's reorganization was proposed in October, 1977, and completed in the Spring of 1978. NMFS began another reorganization shortly thereafter whose first stage, final civil service clearance for supergrade positions, was completed early this month. Morale and efficiency have suffered during this prolonged period of instability.

The two years ahead are crucial, not only for managing U.S. fisheries, but for resolving fishery boundary issues with Canada, for achieving international agreements to manage tuna, for negotiating international fishery agreements with Japan, Mexico, Brazil, and the European Economic Community. These will be years of emphasis on developing new fisheries and products. NOAA investigations, like the Anne Wexler Study focusing on export market potential, will contribute the factual foundation for clear, concise development policies.

These subjects are complex and will require the total commitment of industry, the Congress and the Administration. In view of the other responsibilities of the new department, we question its ability to effectively respond to the issues confronting the fishing industry.

In summary, as stated above, the United States fishing industry is opposed at this time to the transfer of the National Oceanic and Atmospheric Administration. No compelling arguments have been offered by representatives of the PRP which support this transfer insofar as the fishing industry is concerned, and we respectfully request that this reorganization effort not be a segment of the President's legislative program for the coming Congress. The Steering Committee is prepared to meet with you to discuss more fully our concerns.

Sincerely yours,

National Federation of Fishermen, Lucy Sloan.

National Fishmeal & Oil Association, Thomas Reynolds.

National Shrimp Congress, William Utz.

United States Tuna Foundation, David Burney.

National Fisheries Institute, Lee Weddig and Gustave Fritschie.

National Food Processors Association, Kathryn Nordstrom.

Shellfish Institute of North America, Everett Tolley.●

RURAL ELECTRIC COOPERATIVES SAY, "NO", TO A DEPARTMENT OF NATURAL RESOURCES

● Mr. TALMADGE. Mr. President, another distinguished organization has now joined the monotonously long list of associations and distinguished individuals who have joined ranks to create a Department of Natural Resources under the administration's reorganization authority.

I submit for the RECORD resolution H-14 of the National Rural Electric Cooperative Association.

RESOLUTION No. H-14

From Power & Water Resources Committee.
Approved by Resolutions Committee.
Subject Department of Natural Resources.

President Carter in his annual message indicated that he planned to send to the Congress legislation to establish a Department of Natural Resources which would have as its nucleus the present Department of the Interior.

We understand that among other things this new department would transfer into Interior a number of important functions now being carried out in the Department of Agriculture. It would also take away from the Corps of Engineers its responsibility for planning water resource projects and transfer out of Interior the construction program to the Bureau of Reclamation to the Corps of Engineers.

We are firm in the belief that the present organization of the government which would be changed by establishing this new Department of Natural Resources would only result in confusion and greater inefficiencies.

We urge the President to reconsider and not transmit this objectionable legislation to the Congress. We strongly urge that in the event such legislation is sent forward, the Congress of the United States reject it.●

BYELORUSSIAN INDEPENDENCE DAY

● Mr. DOLE. Mr. President, March 25 is a day dear to the hearts of the Byelorussian people. On that day in 1918 they ended years of suffering under the tyranny of Czarist Russia by proclaiming the establishment of the Byelorussian Democratic Republic.

THE NEW RUSSIAN TYRANNY

Russian tyranny has, however, again engulfed Byelorussia. In direct contra-

diction to the Helsinki agreements, the Soviet Union perpetrates almost daily violations of the rights of Byelorussians. Svetlana Misiuk, an eighth grade girl, was beaten for believing in God. Aleksandar Krut'ko has been threatened with confinement to an asylum if he continues his efforts to gain permission to join his children in the United States. Many brave Byelorussians have faced this oppression, and stood up to it. Today I would like to pay tribute to two of these men.

YAUHIN IVANOVICH BUZINNIKAV

Yauhin Ivanovich Buzinnikav has spent 12 years in jail for his support of human rights. Now he has been arrested once more. What is his "crime?" Buzinnikav was corresponding with fellow dissident Andrei Sakharov, listening to and disseminating foreign radio broadcasts, and allegedly requesting to print works by Byelorussian writer Mykola Rudenko. For these offenses against Soviet totalitarianism, acts which are guaranteed by the Helsinki accords, Buzinnikav was thrown into prison.

MICHAL KUKABAKA

Writer Michal Kukabaka, one of the most eloquent exponents of Byelorussian identity, has long protested Soviet violations of human and political rights. In the past year, he has published one of his finest essays on the Byelorussian consciousness, "The Stolen Motherland," and has taken the bold step of renouncing his Soviet citizenship. Mr. Kukabaka has been imprisoned by the Soviet authorities, and remains behind bars. To this date he has not been charged with any crime. Indeed, what has he done that deserves any kind of censure? I have written to Ambassador Dobrynin and to the director of the prison where Mr. Kukabaka is now incarcerated, urging Mr. Kukabaka's immediate release.

HOPE FOR THE FUTURE

With courageous leaders such as Mr. Kukabaka and Mr. Buzinnikav, the idea of freedom, like the mythical call of the sirens, is irresistible. The quest for freedom can be delayed; it cannot be thwarted.●

SALT II

● Mr. EAGLETON. Mr. President, the December 30, 1978 issue of the Economist contained an article entitled "Seven Lean Years" which sets out what that magazine considers to be three major weaknesses in the treaty. In the view of the Economist, the proposed SALT II treaty:

First, conceals a large imbalance in Russia's favor;

Second, has managed to increase Europeans' doubts about America; and

Third, leaves the United States vulnerable to a surprise Russian attack.

I sent copies of the article to Lt. Gen. George M. Seignious, Director of ACDA, and Deputy Assistant Secretary of State, Brian Atwood, and asked that they respond to the points raised. Both General Seignious and Mr. Atwood have now responded point by point.

Mr. President, Secretary of State Vance said this weekend that a SALT II treaty was very close to completion. I believe that my colleagues will find the views of the Economist, as well as the responses of General Seignious and Mr. Atwood, helpful as the Senate begins consideration of a SALT II treaty. I ask that these items be printed in the RECORD.

The articles follow:

SEVEN LEAN YEARS

An eve-of-Christmas near-agreement between Russia and America about nuclear weapons, with the last details almost certain to be wrapped up in the new year, might seem occasion for rejoicing. It is not. For a mixture of reasons, ranging from the nuclear weakness Mr. Jimmy Carter inherited on becoming president two years ago to his own failure to bargain adamantly enough since then, the SALT-2 treaty which Mr. Cyrus Vance and Mr. Andrei Gromyko carried to the verge of completion in Geneva on December 23rd, and which is designed to last until the end of 1985, could be the beginning of seven singularly dangerous years.

THE ROCKS AHEAD

The relatively minor problems the SALT-2 negotiators have been quibbling about all through 1978—the treaty was originally supposed to be ready by the time Salt-1 ended in October, 1977—seem to be coming out rather more in Russia's favour than America's (see the box overleaf). But none of these affects the core of the Salt-2 agreement. The disturbing basic shape of that agreement was settled in the first wavering year of the Carter administration. It points to three large future problems.

1. On the surface, the proposed new treaty is neatly balanced; but it conceals, just under the surface, a large imbalance in Russia's favour. The supposed superiority of the Salt-2 agreement—compared with the first Salt deal in 1972, which merely froze the Soviet lead in missile numbers at that time—is that it lays down exactly equal permitted totals for each side: 2,250 nuclear launching vehicles of all kinds, of which 1,320 can carry Mirv multiple warheads or cruise missiles, and so on down through the various sub-sections.

But in fact, whereas the current Soviet missile-building programme will have no difficulty in filling most of the permitted totals, the existing American armoury and present American building plans mean that by 1985 the United States will be behind Russia both in the overall total and in some of the most important sub-categories. (The most striking example is "modern large" missiles, where the Russians will be allowed to keep their 308 huge 10-warhead SS-18s but the Americans will have none at all.) Anyway, this deceptive equality in simple numbers also conceals a growing Russian advantage in other aspects of nuclear power. This second-level Soviet advantage is a result of the fact that the Russians are building several land-based missiles bigger than anything the Americans possess, which can carry a much larger explosive load. By 1985, the Russians could have a lead of more than 3 to 1 in the total number of megatons that can be dropped on the other side, and 7 to 1 in megatons carried in land-based missiles; in consequence, a lead of 3 to 2 in their ability to destroy protected targets, such as missile silos; and a lead of more than 2 to 1 in their ability to destroy unprotected targets, such as cities.

Even if these figures were not militarily important (and they are: see point three), they would have unpleasant political consequences. The allies of the United States have got into the habit of measuring its ability to protect them against Russia by totting up the units of American nuclear power. That is the "nuclear umbrella". If that power is seen to be getting smaller than Russia's, one spoke of the umbrella after another, public opinion in these allies will grow more nervous about the value of American protection; and nervousness could crack the alliance.

2. The most dangerous place for such mistrust to grow is western Europe. The second major criticism of Salt-2 is that it has managed to increase Europeans' doubts about America most of all.

The planned treaty, while setting limits on the number of missiles Russia can aim at America, says nothing about the growing number of missiles it points at western Europe, especially the powerful new SS-20; and the only reference to Russia's Backfire bomber will apparently be some sort of Soviet "assurance" (outside the treaty itself) that this Europe-busting nuclear-bombing aircraft will not be used to bust America too. This hardly encourages the Europeans. They are not reassured by the fact that the American-designed cruise missile, which could be one way of equalising things, may be denied to them under the Salt-2 clause which says that neither side may do anything to "circumvent" the treaty. The Americans say this should not prevent them providing the Europeans with the know-how, and maybe some of the parts, to make the cruise missile; but Russia says flatly it will prevent just that.

The Europeans also find it worrying that the kinds of cruise missiles most useful to them—the ones launched from ships or from the ground—will be limited to a feeble 375-mile range by the protocol which will regulate a few particularly tricky problems during the first two or three years of the general treaty. They suspect that when those two or three years are over Russia will try to bully Mr. Carter or his successor into prolonging the protocol, and with it the range restriction, and they are not confident of Mr. Carter's ability to defy Russia. All in all, Mr. Carter may discover at the Guadeloupe summit next Friday that the Europeans are not comforted by the suggestion that "your problems will be dealt with in Salt-3"—after 1985.

3. But the biggest problem with Salt-2, the wobbly cornerstone which makes the whole structure tremble, is that it may leave the United States itself vulnerable to a surprise Russian attack.

By the early 1980s, the growing number of increasingly accurate warheads Russia can pack into its huge missiles will put it in a position of being able to destroy virtually all of America's land-based missiles in a single half-hour cataclysm, while still keeping quite a lot of its own missiles in reserve, ready for a second blow. (By comparison, the Americans could probably knock out only about two-thirds of Russia's land-based missiles in a similar first strike of their own.) If that Russian first strike did happen, an American counter-attack against the Soviet missile system would have to depend mainly on the aircraft-carried cruise missiles permitted under Salt-2, which would take 10 hours to trundle towards their targets—and even then would destroy not much more than half of the Soviet launching silos.

This is not "parity". It is often said, quite correctly, that even with these advantages the Russians would probably not press the button for the unimaginable ghastliness of a nuclear exchange. This misses the point of nuclear mathematics. The point is that the Russians would not have to. If they know that even a theoretical exchange of Soviet first strike and American counter-strike would leave them with more surviving missiles, which would then hold America's cities hostage, they would know that the American president would know it too; and that he would be paralyzed by his knowledge as the

grisly game of bluff and counter-bluff moved closer to button-pressing point. This is the political reality behind the apparently abstract calculations of who-would-have-more-missiles-left.

HOW IT WENT WRONG

It is by no means entirely Mr. Carter's fault that Salt-2 is now carrying the west towards these three rocks. The first Salt agreement, in 1972, set limits on the number of missiles the Russians could build but not—the heart of the present trouble—on the size of those missiles. In the years after 1972, while the Russians were testing and then deploying their new giants, the Americans were so mesmerised by Vietnam and Watergate that they failed to spot the danger and start an adequate new missile-building programme of their own. Mr. Carter went into Salt-2 with this inherited weakness. Nevertheless, he could have made things better—or less bad—if he had stuck to his original demand of March last year that the Russians should halve the number of their very biggest SS-18 missiles. Instead, the Russians shook their heads and he backed down.

SALT TILTED, EVERYTHING TILTED

The nuclear balance, or imbalance, is the starting-point of every international political calculation. But there are other factors at work, too, which could tip the balance even more steeply against the west.

There is the competition in non-nuclear military power, where Russia is also trying to establish its claim to be primus inter pares. In central Europe the Russians are already ahead of the Nato allies in several of the main things by which non-nuclear strength is measured, and the 3%-a-year increase in Nato defence spending which was meant to restore the balance is now threatened by Mr. Carter's desire to cut the next American budget. Even if Nato's 3% is saved, it may be at the cost of cutting the "non-Nato" part of the American defence budget (if such a distinction is in fact possible), which would make America weaker in the world outside Europe. But the loss of the old American nuclear superiority makes it even more necessary for the west to match the Russians in non-nuclear forces anywhere, if it is not to find itself faced down in one local confrontation after another.

There is also the matter of what can only be called political-military will. The Russians have, among their allies, a Cuba willing to keep 40,000 or more troops in Africa and south-west Asia, a Vietnam content to have put its army across the Cambodian border, an East Germany lavish with "advisers" in foreign parts; and, in Russia itself, a public opinion that is no obstacle to the generous distribution of Soviet military aid between Kabul and Luanda. The lone example of Mr. Giscard d'Estaing's France apart, can the Americans find among their allies—or in themselves—even a fraction of the countervailing political-military will that may be needed in the next seven years?

It is not possible to stop the Soviet Union from expanding its military power: guns, after all, are the one thing the Soviet economy is good at. It is esential to prevent that Soviet expansion proceeding to the point where it controls the commanding heights, nuclear or non-nuclear. There are still things that can be done to avoid that. The American senate may insist, as the price of its ratification of Salt-2, on an acceleration of the new mobile missile the treaty allows America to build, and other measures to shorten the dangerous period of American first-strike vulnerability. The 3% increase in general Nato defence spending may be rescued, and its benefits not confined to Europe. But unless something is done to block the trend, the coming years are going to be the roughest the west has yet faced against Russia.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, D.C., March 6, 1979.

The Hon. THOMAS T. EAGLETON,
U.S. Senate.

DEAR SENATOR EAGLETON: Thank you for your letter asking for comments on an article in The Economist of Demember 30, 1978, entitled "Seven Lean Years."

I am pleased to provide you with the following comments on the three major criticisms of the emerging SALT II Treaty made by The Economist in this article.

The first charge is that SALT II ". . . conceals . . . a large imbalance in Russia's favour," even though the Treaty provides for equal totals in strategic systems for each side. It is implied that an imbalance will result from the equality specified by the Treaty because the Soviets will continue with their strategic programs but we will not. This criticism is not well founded. The equal aggregates of the Treaty are an accomplishment in which U.S. negotiators can justifiably take pride. Such a result has been the goal of the U.S. for many years and was in fact mandated by the Congress in 1972.

Within the equal aggregates, SALT II will preserve the military options in which the United States currently has an interest, such as air-launched cruise missiles; other programs, such as the MX missile and the Trident submarine and missiles can proceed unconstrained by SALT II. The development, and testing, of ground-launched and sea-launched cruise missiles are other programs that as a practical matter can proceed unconstrained by the Treaty or the Protocol. Requests for funding relating to all of these programs were recently transmitted to the Congress as part of the Administration's budget for Fiscal Year 1980. I should note that total spending for strategic forces from Fiscal Year 1979 to Fiscal Year 1980 is expected to increase by 23 percent from $8.8 to $10.8 billion. It is estimated that expenditures for strategic forces through Fiscal Year 1984 will increase by 20 to 40 percent on an annual average basis. These figures do not represent an America standing still.

The Soviets will be constrained by the equal aggregate limitation in several ways. They will be obliged to dismantle or destroy hundreds of strategic systems to comply with the aggregate limitations set by the Treaty. Without a SALT II Treaty it is likely that the Soviets, just based on the momentum of their current strategic programs, could reach the level of approximately 3,000 deployed strategic systems by 1985. For the U.S. to match such deployment levels by 1985 would require crash programs and the expenditure of vast sums over and above planned strategic forces expenditures. No increase in security would be obtained. Moreover, the Soviets have accepted a limit of 820 on numbers of launchers of MIRVed ICBM's, a limit on the number of warheads which can be deployed on those missiles—including the SS-18 to which The Economist referred—and a ban on new types of ICBM's (with one exception for each side). Thus, it can be said that the major component of Soviet strategic forces—ICBM's—are significantly constrained by the Treaty, both quantitatively and, to a considerable degree, qualitatively.

I should add that it is more than a little misleading to select certain weapons categories in which the Soviets have a lead, ignore others where the U.S. has a lead, and reach a conclusion that the Soviets are, therefore, superior overall. To assess the balance of forces, one must look at all factors—quantitative and qualitative. If one does so today, the inescapable conclusion is that the U.S. and the Soviet Union are essentially equal in strategic nuclear forces.

The second criticism made by The Economist is that SALT II ". . . has managed to increase Europeans' doubts about America most of all." Without question some Europeans can be found who have "doubts" about America—however non-specific they may be—but the implication that the governments of America's NATO allies are dubious with regard to SALT II is not consistent with the record. Over the past two years, our chief SALT negotiators have briefed the North Atlantic Council on the progress of the SALT negotiations on the average of once a month. Our allies have expressed satisfaction not only with this procedure, but with the resolution of issues under negotiation. Moreover, recently, the Prime Minister of the United Kingdom, the Chancellor of the Federal Republic of Germany and the President of France have all publicly expressed support for SALT II.

Prime Minister Callaghan said: "I would like to urge the . . . conclusion of the agreement and speedy ratification on both sides." Chancellor Schmidt: "SALT II is going to be a very important contribution toward stabilizing world peace." President Giscard: "France desires the early conclusion of a balanced accord between the U.S. and the U.S.S.R. for the reduction of strategic nuclear arms." I note finally on this point that we and our allies have always been in accord that in SALT II no discussion of U.S. forward based systems or our allies' strategic weaponry take place. This principle has been observed and retains its integrity.

The final major criticism of the Treaty by The Economist is that it ". . . may leave the United States itself vulnerable to a surprise Russian attack." The question of the vulnerability of the U.S. land-based ballistic missile forces to a Soviet first-strike is one that arises without regard to the provisions of SALT II. Once each side had deployed large numbers of MIRVed ICBM's—and the U.S. was the first to do so—the theoretical vulnerability of land-based silos increased. As qualitative improvements in guidance are made to the forces of each side, this vulnerability increases. Yet, to acknowledge this vulnerability of land-based ICBM's is not to say that the U.S. deterrent is itself vulnerable. The U.S.—unlike the Soviet Union—has developed a balanced Triad of strategic forces. Were the Soviets to commit the ultimate folly of launching a surprise attack on the United States and its land-based force, we would retain the massive retaliatory capability of our sea-launched ballistic missile force and of our strategic bomber force regardless.

The issue of Minuteman vulnerability must be viewed in perspective. The Soviets face substantial uncertainties in planning an attack on our Minuteman: how reliable and accurate will their missiles really be; can they avoid having the explosion of one attacking warhead damage the effectiveness of subsequent attacking warheads; can they be certain of the degree of hardness of our missile silos. Furthermore, although we do not have a policy of launch-on-warning, the Soviets would have to include in their planning the possibility that we might launch our ICBM's once it was determined that a massive ICBM attack was underway, thus leaving only empty holes for the Soviet Missiles to hit.

It also should be noted that the United States retains the option to deploy a mobile ICBM system after the expiration of the Protocol should we consider this necessary to increase the survivability of our ICBM force. One of the candidate systems that has been mentioned is the so-called multiple aim point system. Without the warhead freeze in the SALT II Treaty, such a system would be in-

effective as the Soviets could just add warheads as we added aim points.

I look forward to meeting with you again in the near future to discuss these and other questions relating to SALT II.

Very truly yours,

GEORGE M. SEIGNIOUS II.

DEPARTMENT OF STATE,
Washington, D.C.

Hon. THOMAS F. EAGLETON,
U.S. Senate.

DEAR SENATOR EAGLETON: I welcome the opportunity to respond to the points raised in the December 30 Economist article you mentioned.

First, we cannot accept the proposition that the United States has been negotiating from a position of weakness. In his State of the Union address, President Carter referred to the fact that one Poseidon submarine carries 160 warheads, each more than three times as powerful as the bombs used to destroy Hiroshima and Nagasaki. As you know, the awesome power carried by one Poseidon represents a tiny fraction of our strategic force. In all we deploy over 2,000 systems carrying some 9,500 warheads, the smallest of which are those deployed on Poseidon.

These forces have been growing, not standing still. Since the signing of the SALT I Accords we have completed MIRVing of our Minuteman III ICBM force, improved the accuracy of our missiles, hardened our ICBM silos, upgraded our strategic bombers, and moved towards deploying the strategic air-launched cruise missile, a new submarine, and a new submarine-launched ballistic missile. In the last seven years we have added 3,500 warheads. These improvements have allowed us to maintain forces which are at least equal to the Soviet Union overall and clearly superior in crucial measures such as accuracy, flexibility, and survivability.

Our strategic might, the strong support we have received from our Allies, and the skill of our negotiators, have helped us to negotiate a SALT Treaty which, if the final issues can be equitably resolved, serves both our own interests and those of the Alliance. The Treaty clearly protects the strategic equality which exists between the United States and the Soviet Union. Unlike SALT I, the ceilings on strategic systems (2250), MIRVed missiles plus cruise missile carrying bombers (1320), MIRVed missiles (1200) and land-based MIRVed missiles (820) are the same for both sides. This will allow the United States to increase the number of our systems while forcing the Soviets to dismantle over 250 of theirs. Moreover, the quantitative and qualitative limits in SALT have been carefully negotiated to allow all the improvements we plan in our strategic forces to go forward. The United States will be able to deploy the new MX missile in a mobile mode, if we choose; we will be able to place air-launched cruise missiles on our bombers. We will be able to proceed with our planned ground- and sea-launched cruise missile test program; and we will proceed with our new Trident submarines and Trident I missiles.

It is true that during the life of the Treaty the Soviet Union will be able to continue its MIRVing program and otherwise upgrade its strategic forces. In the absence of a treaty, however, the Soviets would have no launcher or warhead constraints and could increase forces even more. For these reasons, we feel strongly that our national security will be greatly enhanced by SALT II.

Let me now turn to the specific points raised by the Economist:

1. The Economist argues that the Treaty is not an equal one. They cite the fact that the Soviets will continue to enjoy a throw-weight advantage by 1985 and that the Soviets are allowed 308 "modern large" ICBMs, the SS-18, while we will have none under SALT II.

While it is true that the Soviets will have a throw-weight advantage, this is the result of military planning, not SALT. American military decision makers have preferred to develop smaller and more accurate warheads, while the Soviets have opted for larger, heavier missiles. More importantly, a throw-weight advantage is important only when it can be translated into a large number of warheads. The Treaty contains limits on fractionation (the number of warheads which may be placed on each missile) which will constrain the use to which throw-weight can be put.

The modern, large ICBM "inequality" cited by the Economist has no practical effect. Again, the United States has no plans to deploy heavy missiles during the SALT II period, for military reasons unrelated to SALT. It must also be noted that the Treaty's fractionation limits, and its limits on new types, allow us to deploy a non-heavy missile, the MX, having the same number of warheads as the SS-18 (ten) plus greater reliability and accuracy. Current defense plans are not to deploy the MX until 1986, but SALT preserves our option for earlier deployment, should it prove necessary.

2. The Economist claims that SALT II's non-circumvention provision will weaken European security. On the contrary, the U.S. has made clear to the Allies that the non-circumvention provision does nothing more than make explicit the inherent obligation in any international agreement not to circumvent its provisions. We have told the Soviets on the negotiating record that cooperation with the Alliance will continue under SALT II. The U.S. has rejected the inclusion of a provision banning transfers and has made clear to the Soviets that transfers cannot, ipso facto, constitute circumvention.

In addition, we have preserved cruise missile options which could prove useful to European defense. The deployment of ground- and sea-launched cruise missiles with a range greater than 600 km, is banned only for the duration of the three-year Protocol, while testing on these programs to any range is allowed. Since the U.S. does not have the capability to deploy such cruise missiles for the next three years, the Protocol limits will not have any practical effect on future deployments of GLCM's and SLCM's, should we and the Allies decide in favor of such deployments.

It is also wrong to argue that the Protocol will be inevitably extended. The Protocol limits are temporary in nature, and set no precedent for possible future limitations.

Finally, it should be noted that NATO leaders have made clear their support for SALT II at the December Guadeloupe Summit at numerous other occasions.

3. The Economist also charges that the SALT II Treaty will leave the United States vulnerable to a surprise attack. This argument must be considered at some length.

It is true that in the early to mid-1980's the Soviets will have the theoretical capability to destroy a large fraction of our fixed land-based ICBM's in a surprise attack, while preserving enough land-based missiles in reserve for a second blow. The Economist and other analysts believe that with our ICBM's gone, the U.S. would be deterred from launching an attack in reply against Soviet cities, since to do so would be suicide. Surrender would be our only option. Even in the absence of such an attack, it is argued, the Soviets—armed with the knowledge they would win in such an exchange—would begin to coerce the United States.

There are many problems with this argument. First, it is hard to imagine that any national decision maker would risk his nation's survival on the hope that, after a nuclear attack, a surviving President would coldly calculate the next step in the nuclear game and be deterred, especially since even a "limited" nuclear attack would kill millions of Americans. Moreover, at this time there are considerable technical problems involved in such an attack, particularly in light of the problems of reliability; yet such an anti-silo attack would have to be perfect. A successful attack would also require that the U.S. missiles sit in their silos until the Soviet missiles arrived, something of which no Soviet decision maker could be sure. Furthermore, our current forces are useful against a wide range of targets, not just cities. We should not ignore the potential "counterforce" value of an attack on the Soviet general forces used to hold together the Warsaw Pact, check unhappy minorities and deter the Chinese.

More importantly, even if all the operational problems were discounted, Minuteman vulnerability is still not an argument against SALT. To cope with the vulnerability of our ICBM's, the U.S. has been exploring various mobile basing systems for our missiles. SALT provides the U.S. with options to proceed with a mobile system which would prevent the Soviets from destroying our land-based ICBM's in a surprise attack.

The SALT II Treaty will protect Western security from nuclear threats and reduce the likelihood of nuclear war. It will also help the United States cope with conventional military challenges. Especially in a time of taxpayer revolt, SALT will make it much easier for the United States to meet these challenges by freeing resources which otherwise would be used in a needless and destabilizing strategic arms race. Moreover, we will be safer when confrontations do occur in troubled areas of the world, if they occur against a background of strategic equality and stability than against the background of a dangerous nuclear arms race.

I hope this letter has been responsive to your request.

Sincerely,

BRIAN ATWOOD,
Deputy Assistant Secretary for Congressional Relations.●

NEW CLUES TO PROLONGING OF LIFE

● Mr. WALLOP. Mr. President, a University of Wyoming professor of zoology and physiology, Dr. Joan Smith-Sonneborn, recently published a report in Science magazine describing her research with single-celled organisms and ultraviolet light. Her remarkable studies indicate that doses of ultraviolet light can prolong human life. The implications—medical, social, philosophical—of this possibility boggle the mind. This discovery could transform society.

I know we will be hearing more of Dr. Smith-Sonneborn, and I hope her work generates further research and debate. I ask that articles from the Wyoming Star Tribune and the Washington Post be printed in the RECORD.

The articles follow:

[From the Wyoming State Tribune, Mar. 10, 1979]

NEW CLUES TO PROLONGING OF LIFE?

(By Kirk Knox)

LARAMIE.—A professor of zoology and physiology at the University of Wyoming believes, based on research, that age-related genetic damage can be prevented or repaired, extending cell life by as much as 50 percent, under laboratory conditions.

Prof. Joan Smith-Sonneborn is the author of an article on the subject which appears in the March 10 issue of Science, a magazine published by the American Association for the Advancement of Science.

She said today, "I hope it (the research) will lead to a delay or removal of degenerative aspects of old age in humans."

She added, "The biggest question really is whether human cells have this same capacity. If they do, it shouldn't be long before some practical application would be possible."

"But that is a big if."

Professor Smith-Sonneborn said she hoped to find that answer through understanding the mechanism of extension of cell life span in her research, "Then it might be easier to find it in human cells. Of course, other people may be stimulated to work on it."

She said there is evidence in scientific literature as far back as 1969 indicating that treatment of rabbits with X-rays and then ultraviolet radiation resulted in decreased X-ray damage.

She said, "That means to me that there is such a repair system in a complex animal. Since the rabbit is complex, it raises the hope that humans also may have this mechanism."

"I think it is very exciting," she added.

She said, "I expect to be studying it until I get the answer."

She explained that she has a renewed grant from the energy department, "but the emphasis of that grant is on screening for hazardous agents. I have two grants pending with the National Science Foundation and the National Institute on Aging. I am hopeful we will get more funds from them."

The professor is not a pure researcher, but does research while doing her job as an active teacher.

She said, "This semester, I am teaching general genetics and have 107 students."

Professor Smith-Sonneborn goes to work around 8 a.m. and comes home about 7 p.m. She said she spends "the rest of the evening on lectures, grant proposals and writing papers."

She said she likes bowling, but didn't mention whether she crowds it into her already crowded schedule.

She said she is "a curious person" agreeing that curiosity is basic to her research.

Could that research ultimately lead to deferring aging in humans beyond the usual point where cancer becomes more likely?

Professor Smith-Sonneborn: "We believe that this mechanism repair is reducing damage to DNA and damage to DNA is related to cancer production.

"It may, therefore, be possible to delay the time when genetic damage may promote cancer production."

For the past 18 months she has conducted experiments with paramecium, a microscopic, one-celled animal which has a limited life span. The paramecium is a true cell with characteristics similar to human cells.

In part of her work on aging, supported by a National Science Foundation grant, and in detection of hazardous chemical agents, funded by the U.S. Department of Energy, she combined the effects of radiation and aging in one study.

Other investigators have shown that as cells age, damage to the heredity material (DNA) can occur and that the damage can be associated with the promotion of cancerous tumors.

In the professor's experiments, the level of DNA damage was enhanced in parmecia by ultraviolet irradiation, reducing their life span. Then she used a repair process called photoreactivation or light repair to decrease the damage which had been induced.

"A surprising result was obtained," she said. "The life span was greater than in untreated control cells and the treated cells showed a more youthful response to further radiation treatment. Repeated treatment of old cells with ultraviolet light, coupled with further light repair, produced an increase of more than 200 percent in the remaining life of these cells. Measured in time, these cells lived 50 percent longer than the control cells."

The professor said the mechanism responsible for the beneficial effect, itself, was not being investigated at the start of the project but results indicate existence of some defense process within cells which is capable of delaying the aging process.

Her thesis is that damaged DNA either directly or indirectly stimulates the defense process. The damaged DNA is corrected by the light treatment which frees the then-activated system for a beneficial effect on age-related damage.

The professor noted that other studies have shown that the ability to repair DNA damage is correlated with the life span of higher organisms. The professor said that, among investigators in the area, is Ron Hart of Ohio State University who has consulted extensively with her during her research.

Professor Smith-Sonneborn said she was guardedly optimistic about the possibilities but cautioned that, "uncontrolled attempts to stimulate the defense process could be very dangerous."

She said that unrepaired DNA damage could stress, rather than help cells, promoting reduced life spans and cancer conditions. The doses required for a beneficial effect are most critical and can be expected to vary with age and cell type.

She said work continues in an effort to further the understanding of the complex and opposing mechanisms involved and that she hopes future research will show an alternative and risk-free technique to stimulate only the beneficial effects.

The professor said she had been helped in her effort by students, both graduate and undergraduate, who have worked in her laboratory as part of their UW academic programs.

They include Dirk and Mary Millhouse, formerly of Buffalo and now living in Montana; Tim Williams and Paul Hanson, both from Illinois; and Ed Van Kirk, a former Ohio resident.

In more recent phases of the study, Dan Cotton, Sue Hough and Charles Herr, all of Laramie, have assisted.

Professor Smith-Sonneborn is a native of Watervliet, N.Y., and was graduated from Bryn Mawr. She obtained a doctor's degree from the University of Indiana in biochemistry and zoology. She continued with postdoctoral fellowships at Brandeis University in Massachusetts and at the University of California at Berkeley, as well as at the University of Wisconsin.

She has been on the UW faculty for the past eight years.

[From the Washington Post, Mar. 3, 1979]

CELL WORK RAISES HOPES HUMAN LIFE CAN BE EXTENDED

The chances of dramatically extending the human life span were raised yesterday with the report of a University of Wyoming scientist that she has learned how to extend cell life by one half.

Dr. Joan Smith-Sonneborn, a professor of zoology and physiology, said she uncovered the life-extending mechanism in work with a common, single-celled organism widely used in biology laboratories.

Writing in Science magazine, she reported that by bathing the cells in different doses of ultraviolet light the damage caused by aging could be delayed, or even reversed.

She described how in her research she had increased damage to the cells by applying a dose of ultraviolet light that hastened the aging process.

That dose was followed by one of so-called "black light"—ultraviolet radiation of a different wave length—to repair the damage by activating the cell's repair mechanism, a photoreactive enzyme.

To the surprise of Smith-Sonneborn and her colleagues, the cells so treated showed a greater life span and a more youthful response to futher radiation treatment.

Furthermore, by continuing the rounds of ultraviolet treatments, a 50 percent increase in cellular longevity was obtained.

The process, in its basic form, is thought to occur naturally in simple organisms, but in an uncontrolled form that can as easily destroy the organism as repair damage to its DNA (deoxyribonucleic) molecules. DNA enzymes are the building blocks of all life.

Smith-Sonneborn believes that in the laboratory the defense mechanism is set in motion by the first dose of ultraviolet radiation that damages the cell.

When the second, or healing application, is applied, the defense mechanism is freed to attack the damage caused by the aging process.●

TAX CHECKLIST FOR ELDERLY AMERICANS

● Mr. BUMPERS. Mr. President, former IRS Commissioner, Mortimer Caplin once said "There is one difference between a tax collector and a taxidermist—the taxidermist leaves the hide." It is indeed a sad fact that in the 16 years since he made this observation, Congress has done very little to make our tax system any less burdensome on the average taxpayer. Despite our repeated promises to reform the Nation's tax laws, we still have the most convoluted and confusing system in the world.

I have spent 4 frustrating years in the Senate, hoping this body would enact meaningful tax reform legislation. Somehow each year we have fallen far short of any real tax reform. Somehow the underlying deficiencies of our tax system persist.

Part of the blame can be traced to the seemingly uncontrollable growth in Federal expenditures. The once highly held virtue of thrift seems all but forgotten in this age of multibillion-dollar budget deficits. I believe that we are making headway toward balancing the budget. But deficit spending accounts for only part of our taxation problem. The more fundamental deficiency in our tax system is simply the tax laws, themselves. There are no more aggravating and confusing laws in the land than the cryptic and verbose passages that make up our tax code.

I receive innumerable letters each day from Americans who are unhappy with the inherent unfairness and complexity of our tax system. As my colleagues may recall, during the waning days of the 95th Congress the Senator from Massachusetts (Mr. KENNEDY) and I offered an amendment to the Revenue Act of 1978 that increased tax benefits for middle- and low-income Americans. Although that measure was adopted in the Senate, it was unfortunately dropped from the bill by the House-Senate Conference Committee. Until I am successful in adding a similar provision to future tax legislation, low- and middle-income citizens will be deprived of the tax relief they need and deserve. In the interim, I hope to help these people by publicizing the tax benefits they are entitled to receive.

Today, I am taking the first step in this campaign by publicizing the numer-

ous tax advantages provided for elderly Americans. At a time in which double-digit inflation is draining the limited financial resources of those on fixed incomes, it is apparent that the millions of elderly citizens are desperately in need of this information. These are not people who are demanding greater tax benefits for themselves. On the contrary, these are people who seek only to receive what they deserve. For them, securing professional tax help is simply an unaffordable luxury. As a result, they fail to take advantage of the many tax benefits they might otherwise receive.

Mr. President, the Senate Special Committee on Aging has compiled a comprehensive list of itemized deductions available to elderly citizens. I think it is one of the most useful documents I have seen this year. I ask that it be printed in the RECORD immediately following my remarks. The checklist follows:

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3% of your adjusted gross income (line 31, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 31, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expenses (subject to 3% limitation):

Abdominal supports (prescribed by a doctor).

Acupuncture services.

Ambulance hire.

Anesthetist.

Arch supports (prescribed by a doctor).

Artificial limbs and teeth.

Back supports (prescribed by a doctor).

Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. You should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs, Chiropodist, Chiropractor, Christian Science practitioner, authorized, Convalescent home (for medical treatment only), Crutches.

Dental services (e.g., cleaning, X-ray, filling teeth), Dentures, Dermatologist, Eyeglasses, Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).

Gynecologist, Hearing aids and batteries, Home health services, Hospital expenses, Insulin treatment, Invalid chair, Lab tests, Lipreading lessons (designed to overcome a handicap), Neurologist.

Nursing services (for medical care, including nurse's board paid by you), Occupational therapist, Ophthalmologist, Optician, Optometrist, Oral surgery.

Osteopath, licensed, Pediatrician, Physical examinations, Physical therapist, Physician, Podiatrist, Psychiatrist, Psychoanalyist, Psychologist, Psychotherapy.

Radium therapy, Sacroiliac belt (prescribed by a doctor), Seeing-eye dog and maintenance, Speech therapist, Splints, Supplementary medical insurance (Part B) under Medicare, Surgeon.

Telephone/teletype special communications equipment for the deaf, Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.), Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health), Wheelchairs, Whirlpool baths for medical purposes, X-rays.

Expenses may be deducted only in the year you paid them. If you charge medical expenses on your bank credit card, the expenses are deducted in the year the charge is made regardless of when the bank is repaid.

TAXES

Real estate, State and local gasoline, general sales, State and local income, personal property.

If sales tax tables are used in arriving at your deduction, ordinarily you may add to the amount shown in the tax tables the sales tax paid on the purchase of the following items: automobiles, trucks, motorcycles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, dividends untaxed under the dividend exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 31, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20% of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible).

Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in your home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Other credit cards—you may deduct as interest the finance charges added to your monthly statement, expressed as an annual percentage rate, that are based on the unpaid monthly balance.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money and only if the charging of points is an established business practice in your area. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the separately stated "finance charge" expressed as an annual percentage rate.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. Report your casualty or theft loss on Schedule A. If more than one item was involved in a single casualty or theft, or if you had more than one casualty or theft during the year, you may use Form 4684 for computing your personal casualty loss.

MISCELLANEOUS

Appraisal fees to determine the amount of a casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools.

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box used to store income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by your employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if used regularly and exclusively for certain business purposes.

Educational expenses that are: (1) required by your employer to maintain your position; or (2) for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—You may claim either a deduction (line 31, Schedule A, Form 1040) or a credit (line 38, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general, or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a

national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

PRESIDENTIAL ELECTION CAMPAIGN FUND

Additionally, you may voluntarily earmark $1 of your taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

ADDITIONAL INFORMATION

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES

Filing status	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,950
Single (age 65 or older)	3,700
Qualifying widow(er) under 65 with dependent child	3,950
Qualifying widow(er) 65 or older with dependent child	4,700
Married couple (both spouses under 65) filing jointly	4,700
Married couple (1 spouse 65 or older) filing jointly	5,450
Married couple (both spouses 65 or older) filing jointly	6,200
Married filing separately	750

Additional Exemption for Age.—Besides the regular $750 exemption, you are allowed an additional exemption of $750 if you are age 65 or older on the last day of the taxable year. If both a husband and wife are 65 or older on the last day of the taxable year, each is entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1979, you will be entitled to the additional $750 exemption because of age for your 1978 Federal income tax return.

"Zero Bracket Amount."—The "zero bracket amount" is a flat amount that depends on your filing status. It is not a separate deduction; instead, the equivalent amount is built into the tax tables and tax rate schedules. Since this amount is built into the tax tables and tax rate schedules, you will need to make an adjustment if you itemize deductions. However, itemizers will not experience any change in their tax liability and the tax computation will be simplified for many itemizers.

Tax Tables.—Tax tables have been developed to make it easier for you to find your tax if your income is under certain levels. Even if you itemize deductions, you may be able to use the tax tables to find your tax easier. In addition, you do not have to deduct $750 for each exemption or figure your general tax credit, because these amounts are also built into the tax table for you.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them*, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence.—You may exclude from your gross income some or all of your gain from the sale of your principal residence, if you meet certain age, ownership, and occupancy requirements at the time of the sale. These requirements, and the amount of gain that may be excluded, differ depending on whether you sold your home before July 27, 1978, or on or after that date. The exclusion is elective, and you may elect to exclude gain only once for sales before July 27, 1978, and only once for sales on or after that date.

If you sold your home before July 27, 1978, and you were age 65 or older before the date of sale, you may elect to exclude the gain attributable to $35,000 of the adjusted price if you owned and occupied the residence for 5 of the 8 years ending on the date of sale. If you sold the home after July 26, 1978, and you were age 55 or older before the date of sale, you may elect to exclude $100,000 of gain on the sale if you owned and occupied the residence for 3 of the 5 years ending on the date of sale (or 5 of 8 years under certain circumstances). Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded.

Additionally, you may elect to defer reporting the gain on the sale of your personal residence if within 18 months before or 18 months after the sale you buy and occupy another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence; (2) you were on active duty in the U.S. Armed Forces; or (3) your tax home was abroad. Publication 523 (Tax Information on Selling or Purchasing Your Home) may also be helpful.

Credit for the Elderly.—You may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if you are:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

For more information, see instructions for Schedules R and RP.

Credit for Child and Dependent Care Expenses.—Certain payments made for child and dependent care may be claimed as a credit against tax.

If you maintained a household that included your dependent child under age 15 or a dependent or spouse incapable of self-care, you may be allowed a 20% credit for employment related expenses. These expenses must have been paid during the taxable year in order to enable you to work either full or part time.

For detailed information, see the instructions on Form 2441.

Earned Income Credit.—If you maintain a household for a child who is under age 19, or is a student, or is a disabled dependent, you may be entitled to a special payment or credit of up to $400. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if you reported earned income and had adjusted gross income (line 31, Form 1040) of less than $8,000, you may be able to claim the credit.

Earned income means wages, salaries, tips, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040) line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1040 or 1040A.

ENERGY TAX ACT

The Energy Tax Act of 1978 is directed at providing tax incentives for energy conservation measures and for conversion to renewable energy sources.

A credit of up to $300 may be claimed for expenditures for energy conservation property installed in or on your principal residence, whether you own or rent it. The residence must have been substantially completed by April 20, 1977. Items eligible for the credit are limited to the following: insulation (fiberglas, cellulose, etc.) for ceilings, walls, floors, roofs, water heaters, etc.; exterior storm (or thermal) windows or doors; caulking or weather-stripping for exterior windows or doors; a furnace replacement burner which reduces the amount of fuel used; a device to make flue openings (for a heating system) more efficient, an electrical or mechanical furnace ignition system which replaces a gas pilot light; an automatic energy-saving setback thermostat; and a meter which displays the cost of energy usage.

A maximum credit for renewable energy source property is $2,200. Equipment used in the production or distribution of heat or electricity from solar, geothermal, or wind energy sources for residential heating, cooling, or other purposes may qualify for this credit.

Energy credits may be claimed by completing Form 5695 and attaching it to your Form 1040. Credit for expenditures made after April 19, 1977, and before January 1, 1979, must be claimed on your 1978 tax return. Do not file an amended 1977 return to claim a credit for expenditure in 1977.

Examples of items which do not qualify for energy credit are the following: carpeting, drapes, wood paneling, exterior siding, heat pump, wood or peat fueled residential equipment, fluorescent replacement lighting system, hydrogen fueled residential equipment, equipment using wind energy for transportation, expenditures for a swimming pool used as an energy storage medium, and greenhouses.

For further information, consult the instructions for Form 5695 and IRS Publication 903, Energy Credits for Individuals.●

THE UNITED NATIONS UNIVERSITY

● Mr. KENNEDY. Mr. President, the United Nations University is a unique institution. It is unique both in its nonpolitical character and in its commitment to practical solutions to existing global problems such as hunger, natural resources, and human and social development. The U.N. University does not require a campus, because its work takes place wherever the problem exists. For example, U.N. University recently organized a combined research effort by scientists from Latin America, Asia, and the Caribbean, establishing nutritional standards and identifying foodstuffs in developing countries to meet these standards.

In addition to the U.N. University's contribution to world needs, its programs also benefit the U.S. direction. Several

of our leading institutions—including Harvard, MIT, Ohio State University, University of Colorado, and the Research Triangle in North Carolina—have been, or will be, involved in its important work. And, of course, U.N. University is headed by the former president of New York University, Jim Hester, an able and dedicated administrator of this new enterprise.

During my trip to East Asia last year, I was able to visit the U.N. University headquarters in Tokyo. I was impressed by the scope of the programs that the university had already established. Although the U.S. Congress has authorized funds for U.N. University in the past, none have yet been appropriated. I feel that the United States should join with Japan and 20 other nations in contributing to this important organization.

Recently former Assistant Secretary of State John Richardson, Jr., wrote an article in the Christian Science Monitor on our failure to contribute to U.N. University to date. I agree with Mr. Richardson that—

The UN University is not political in its orientation, theoretical in its approach, or bloated in its administration. It meets the objections critics make to the international organizations which the U.S. is currently funding. It is both ironic and tragic, therefore, that it is the one going penniless.

I request that the full text of his article be printed in the RECORD.

The article follows:

U.N. UNIVERSITY: WHY THE BIG UNITED STATES LETDOWN?

(By John Richardson, Jr.)

International organizations have an image problem in the United States today. Too many are seen as groups which spend dollars for administration and pennies for programs while spending their time engaged in nothing more productive than ideological bombast.

You would think, therefore, that an international agency which spends three-fourths of its budget directly on practical programs for alleviating identified problems—and successfully keeps its nose out of politics—would be embraced by Americans with enthusiasm.

Unfortunately, that hasn't been the case with the United Nations University, which is just that sort of organization. The United States played an important role in shaping this unique institution but, since its establishment, has refused to give it one cent.

Other nations have not been as reluctant, fortunately. No one else has come close to Japan's $100-million commitment to the endowment. But about 20 nations have contributed funding, many of them among developing countries which can ill afford to give money away. The endowment provides a practical guarantee of independence from political interference.

The U.N. University is really more a network than an institution. From its headquarters in Tokyo, it plans, coordinates and funds programs; its research and advanced training projects around the globe are aimed at practical solutions to problems of hunger, natural resources, and human and social development. It doesn't require a campus.

Its work is easier to understand through example. Take one of its projects concerning hunger. Most of the information on nutrition standards has come from research on college students in industrialized nations. It has little relevancy for rural people in underdeveloped nations. Recognizing this gap, the U.N. University organized a research effort by scientists from Latin America, Asia, and the Caribbean; with university funding, the scientists are seeking to establish nutritional standards appropriate for their people and to identify local foodstuffs which can be used to meet those needs.

Identifying a real need. Determining a practical approach. Organizing and funding a workable solution. That is the mission of the U.N. University.

In helping to get this university off the ground, Americans argued the importance of having a nonintergovernmental institution capable of mobilizing worldwide research and advanced training resources on a comprehensive basis. The need is no less great now than it was a few years ago.

Therefore, you would think that, as Congress considers funneling $250 million to international organizations in 1980, it could find a few million as a contribution to the permanent capital of this worthy project. You would think they would recognize this low-overhead approach, which emphasizes building self-reliance in developing countries, as an extremely cost-effective use of our money.

The U.N. University is not political in its orientation, theoretical in its approach, or bloated in its administration. It meets the objections critics make to the international organizations which the U.S. is currently funding. It is both ironic and tragic, therefore, that it is the one going penniless.●

A FOREIGN POLICY OF "SELECTIVE ENGAGEMENT"

Mr. EAGLETON. Mr. President, in the March 16 New York Times, the distinguished former Under Secretary of State for Political Affairs, Joseph J. Sisco, presented a thoughtful case for a foreign policy based on what he calls "selective engagement." Mr. Sisco points out that—

The lesson of Vietnam is that our power is finite, that there is not necessarily a Washington blueprint for every international ill . . .

And goes on to state that—

We have options that can influence external and internal developments; they can help substitute for strict noninvolvement a policy of selective engagement in promoting fundamental American national interests.

President Carter has been criticized lately by those who feel that the United States is becoming weak, that American leaders are not showing enough force in dealing with events around the world. Mr. Sisco counters this criticism by pointing out the vital and successful role President Carter played in negotiations between Israel and Egypt, and elaborating on the long-term benefits of President Carter's recent actions in the Middle East.

I ask that this article, entitled "Far From Supine," be printed in the RECORD.

The article follows:

FAR FROM SUPINE

(By Joseph J. Sisco)

WASHINGTON.—President Carter's policy in the Middle East and in the Persian Gulf and the Arabian Peninsula has demonstrated that we are far from supine.

First, American power—political, economic and military—has been used effectively in bringing about the imminent Egyptian-Israeli agreement. That power, in the form of a more substantive military presence and involvement in the Gulf and the Peninsula, has begun to reassure our friends in that area. Second, these areas, both vital to the West, while having distinctive features are no longer being treated as separate entities but within an overall regional strategy—a strategy made necessary by events in Iran and Yemen.

These are welcome changes, for we have been experiencing a belittling of American power. It is not too much to hope that the Vietnam syndrome will be put behind us. Our problems are difficult enough without a psychological impediment against prudent, effective use of our power. The lesson of Vietnam is that our power is finite, that there is not necessarily a Washington blueprint for every international ill, and that world events are less subject to our influence than in the past. But some nations were beginning to conclude, incorrectly, that America had become so paralyzed after Vietnam and Watergate that it would not—indeed, could not—exercise the options of power available to it in regions of vital interest.

These recent exercises of power by the Administration, in large measure pressed upon it by events, can have far-reaching benefits. Most countries in these two regions have acted in the shadow of the major powers. We have options that can influence external and internal developments; they can help substitute for strict noninvolvement a policy of *selective engagement* in promoting fundamental American national interests.

Dealing with these two areas more or less separately in the past made sense and worked well. Iran, under the Shah, supported our diplomacy on the Arab-Israeli dispute; he did not meddle or second-guess us. Oil to Israel was strictly a commercial deal without strings. And, while Saudi Arabia manifested a continuing interest in the Arab-Israeli dispute, its role was passive, despite its fears of Arab radicalism. Its preoccupation has been stability in its immediate region and its own defense and security.

The revolution in Iran has linked events in the Gulf and the Arabian Peninsula with the Middle East in more pronounced ways than in the past. It has brought common concern among the moderate forces in the Arab world, and particularly in Saudi Arabia, over the strategic implications of an America appearing unable to act. Iranian developments complicated the post-Camp David peace efforts, the irony being that instability in the Gulf underscored to Anwar el-Sadat, Menachem Begin and Mr. Carter the increasing importance of achieving the peace treaty, yet made both sides more cautious about concessions or even the appearance of concessions. President Carter, therefore, not only had to find substantive formulas but his presence made it possible for Mr. Begin and Mr. Sadat to concede to him things they could not concede directly to each other.

We will see increasing interaction of the two regions in the future.

The cutoff of Iranian oil required the United States to guarantee supplies for Israel in the future. Each Arab state, will have to deal effectively in its own way with the new Islamic fervor. A nonaligned Iran may well support radical elements in the Arab world; the Yasir Arafat meeting with Ayatollah Khomeini was a first symbolic sign.

And between these two regions Saudi Arabia has become the linchpin. Jordan, which does not find the present status quo in the West Bank intolerable, will await the Saudi lead. The Egyptian-Israel agreement gives both King Hussein and the Palestinian Arabs a chance to participate in West Bank autonomy. They will have to make up their minds in time. Can they disregard indefinitely the reality that only Mr. Sadat will get his territory back peacefully and that war is not a real Arab option without Egypt?

The Palestinians will seek to increase pressure on Saudi Arabia to cut off the financial

subsidy of Egypt. The Saudis have two choices: Lead the pack against Mr. Sadat or stick to its priority interest of stability in its area and continued support of those favoring the peace process. It is not in the Saudi interest to cut off Mr. Sadat and risk supplanting him with a radical regime. This would only increase the danger of radicalism in Saudi Arabia. Moreover, the fighting in Yemen is a reminder that the Soviet-Cuban toehold is a threat and that America remains the shield against further Communist encroachments. The manifestation of American power in the Gulf, the positive response to Saudi concerns, the reinforcement of American centrality in Middle East diplomacy, and the Carter commitment to focus next on the West Bank and Gaza ought to provide the Saudis with ample justification to maintain their strong links with us. We hope reason will prevail.

THE NEED FOR A REAL NATIONAL RECOMMITMENT TO COAL

● Mr. RANDOLPH. Mr. President, on March 7, 1979, I participated in the important Mining and Reclamation Council of America's second annual membership meeting. The dinner session was highlighted by an address given by the Governor of our State, John D. Rockefeller IV, to more than 600 men and women.

West Virginia's chief executive spoke of the frustrations that all of us working for more use of coal, are currently experiencing. When President Carter declared the need for an integrated and comprehensive national energy policy in April of 1977, he stressed that coal was the cornerstone of that plan. Yet 2 years later, with a National Energy Act in place which supposedly discourages the use of imported oil and scarce supplies of domestically produced natural gas in favor of coal, we receive discouraging signals from the administration on increased utilization of our most plentiful energy resource. We do not see emphasis placed on the importance of direct coal utilization and coal conversion. We do not have well-funded and significant dedication to programs in coal research and development. And, we do not have interagency cooperation and research on ways to mine and burn coal cleanly and safely.

Mr. President, coal is ready, as it has so successfully done in the past, to fill a great portion of the country's current and future energy requirements. I commend this courageous address to my colleagues. We urge the administration to reestablish and increase its original commitment to coal. Governor Rockefeller, chairman of President Carter's Commission on Coal, has set forth facts that should be considered as a vital part of the energy policy speech to the Nation, to be made soon by our President.

Mr. President, I ask to print in the RECORD the address by Gov. John D. Rockefeller IV, to the Mining and Reclamation Council of America.

The address follows:

ADDRESS BY GOV. JOHN D. ROCKFELLER IV

I have begun to feel, I must say, in the past year that maybe there are not all that many people who work in this city who do remember there is a coal industry out there which is trying to get some things accomplished. It amazes me from a substantive point of view of how the importance of coal to our National Energy Plan soars and then dies in popularity, much in the manner of a roller coaster.

I swear to you that it was not so long ago I thought I heard that coal was being talked about as the answer to America's energy problem. I might have been wrong, but I did think I heard that. And, I thought I heard that it was the major artillery weapon in the National Energy Plan's arsenal with which we are to do battle at the national and international level with an intensity that was to approximate "the moral equivalent of war."

The next minute, the next month, we find energy ignored with the exception of the word "solar" in the State of the Union message. I know that in my State of the State message, I spent about one-third of the entire speech talking about coal. And energy. And research. And technological development.

Now, I recognize the problems of West Virginia are slightly less complex than the problems of the nation, and much less complex than the problems of the world. But, nevertheless I would have thought better if I had heard about more than solar energy in the State of the Union. And then, to find that Secretary Schlesinger had something to say about nuclear power, (which I'll get into in a moment) or natural gas, because of the intrastate, post-NEP consequences, or "sunshine energy," or again nuclear energy—depending upon which day of the week, what you read, what the mood was, who the speaker was, who the cabinet secretary was, or which memorandum you were reading in the newspapers.

And we're left, therefore, with a sense of confusion and bewilderment about whether we do, in fact, have a national energy policy. Or, as Finnign says to Flannigan—"Off again, on again, and gone again."

There was an English writer in the last century who said, "The world does not require so much to be informed, as reminded."

So I travel from my state capital to Washinton in the 57th day of a 60-day session of our Legislature not to inform, but to "remind" of several points.

To remind Washington, that the coal reserves in the United States are equal to one-half of the known reserves in the entire world. And that they have five times the energy value of our recoverable oil and natural gas.

To remind Washington, that there is enough coal around to last this nation, at current rates of consumption, for over 360 years, and if allowed to develop that technology, we can recover and use even larger portions of our coal resources.

To remind Washington, that only a few short years have passed since we stood in long lines at gasoline pumps in the wake of the OPEC oil embargo.

And most of all, to remind Washington, that less than two years have clapsed since the President, in formulating a national energy policy, did in fact challenge us to double national coal production by 1985, declaring that the "two C's"—coal and conservation—will be the cornerstones of our new policy.

I take any President seriously. And, when he said that coal would be the cornerstone of the policy, I was prepared to believe him. And, I'm still prepared to believe him.

Why, then, having laid out a logical plan based upon common sense, having an act of legislation establishing the parameters within which we can reach our energy goals, do we now seem to be stuck and indecisive and self-contradictory? Why are you in such a state of gloom and lack of certainty?

The reason, in my judgment, is that this administration, which I support, has not chosen to effectively harness and control the forces of government which it is meant to control toward a working realistic energy policy. We cannot, in my judgment, endure the head of a government, at any level, telling us to switch to coal—thus lowering dependence upon foreign oil imports—and at the same time allow agencies of government following behind him with unrealistic and unprecedented rules and regulations that substantially limit us from mining coal and from burning coal. You do not, in principle and in practice, as a leader, call for action and then preside benignly over the creation of uncertainty in a key national area.

Admittedly, it is cheap stuff for politicians to stand up and spout rhetoric against regulators. It is the easiest thing in the world to do. As chairman of the President's Commission on Coal, I have heard as much as anyone in this room.

I can understand it in large well-established departments in Washington, with long-standing traditions, where bureaucracies have grown and developed momentums of their own. They become the masters of others. But, that is not what we are faced with in the field of energy, and particularly in the field of regulation of energy development.

The recently-created departments which regulate are not old, are not well-established, and are in a position to be flexible and to be creative.

To date, in some measure, OSM has pushed for, and fought for many unprecedented, illogical and uninformed positions through rules and regulations relating to the mining of coal.

We, in West Virginia, have fought back on some of those. And, it is to the credit of OSM and its leadership that they have recognized and receded from some of those positions. But it strikes me as crazy for me, or for Director Dave Callaghan of our Department of Natural Resources, or for any other governor or senator or any other person with responsibility, to have to spend a year or so in brutal fighting. This is not necessary and not desirable, to eliminate a rule or regulation which should not have been put up in the first place.

It strikes me as not unreasonable to suggest that, in a democratic and rationally-run nation, a government either wants to produce coal, says so and makes its policies accordingly, or it does not choose to have that as a national policy, and makes its rules and regulations accordingly. On that, we ought to be clearly in something called the Energy Crisis.

Do we blame OSM—the easy target? I'm not necessarily sure that that is correct.

In my government, in my state, I take responsibility. The President, and the head of the Department of Energy, and the head of the Department of the Interior must control, must lead these people and not follow benignly in a trail of red-tape and regulations. The White House cannot have it both ways. They are no different from either you or me. The President cannot expect to keep all of his environmental constituency on the one hand and double coal production in the United States on the other.

But again, don't just blame him. I was not able to attend a recent National Governor's Association meeting, here in Washington, because of the Legislature back home. At the NGA meeting, Secretary Schlesinger talked at length about nuclear power and nuclear energy as a fundamental force for the future. And as I read it, and as I heard it, he went first from coal, then to natural gas, and then to nuclear energy, saying that it really was the safest, most economical long-term answer for this country.

And then, not a governor stood up to fight. Not a coal governor stood up to fight him. He said it. Senator Jackson said it. Nobody from the governors came forward to fight. And I regret I wasn't there.

But what is it that creates uncertainty? It is the lack of certainty. You cannot talk nuclear and at the same time talk coal, and expect certainty and expect Wall Street to react in favor of coal. There is no greater enemy than fear and uncertainty.

When you talk nuclear, which in my judgment is not wise and in no way a short-term answer, you cannot do that and send those mixed messages out to our people, and call that leadership and call that a rational energy policy.

The miners and operators of America will come together as well as they can to ease the burdens of our nation. But, we have every right to expect a commitment from our federal government, as the people in my state have a right to expect it from me, that the bureaucracy will act in accordance with stated national goals.

We expect a bureaucracy to cooperate, not to hinder efforts. We expect OSM and EPA and the Corps of Engineers and the myriad of other agencies whose rules and regulations we must observe, to cooperate with designated national goals.

In West Virginia we make it work. We have approximately the same number of permits for surface mining issued in 1978 and in 1977. And, I would have to say that those also were, for a period of time, operating under the temporary federal regulations. But, we try to make it work. We try to expedite. We try to have the bureaucracy conform to the coal imperative of that clearly coal-oriented state. I try not to send out mixed signals to anyone.

So what then do we do, and where do we turn? I suggest that we go back to basics—simple stuff.

The nation has an energy crisis. Coal can help solve that crisis. But, to help in the solution, the coal has to be mined. It has to be mined safely. It has to mined properly, with proper reclamation, with proper expenditures in that area. It has to be mined with common sense.

I suggest that in the final analysis the problem can be defined on a national level as the absence of a cohesive, working national energy policy, and only the President is in a position to assert that policy to make it clear and to make it work.

Now let me make a couple of other comments. I don't want you to be pessimistic. If there is anything which we do not need, it is for people in coal to decide that the future is so gloomy and the signals are so mixed that they will give up.

Several things we must be very realistic about . . .

One, the rules and regulations promulgated by OSM are now permanent. They are fact. We accept them, we live with them, we don't pretend that they're not there, they are.

Let's accept another reality. You couldn't give me the job that Walter Heine has. He's got the toughest job in the United States. You don't know, but I do, the pressures that he is under as he tries to adjust and work within an extraordinarily difficult system. You don't know, but I do, that just this week he faced down, and gave hell to, the Sierra Club of this country on behalf of national rules and regulations. But Walter Heine cannot operate all by himself. He was appointed to enforce laws. Walter Heine and the people who work with him cannot write one set of rules for West Virginia and another set of rules for another state. There has to be a common set of rules and regulations. And, it is true that through the 1960s, and maybe even into the first year or two of the 1970s, there were a lot of coal companies that were not doing the job. The legacy of that, the fact of that, the memory of that, the impact of that on environmental groups, on public people at all levels, lingers. And, that does not make the job of the OSM director any easier. Walter Heine is a reasonable man. He operates under extraordinary pressures. I have found that when I sit down with him, or when Dave Callaghan sits down with him to work out problems on a direct basis, that he is not difficult to deal with. He will tell me no sometimes. He will tell me yes sometimes. He will explain why. He is a fair man. To scream, to yell, to criticize, to engage in unnecessarily and unuseful cheap rhetoric is counter-productive.

In order to do it, we'd better all work together. We have a lot of good things going for us, you know. The coal is still there. We are in an adjustment period, a transition period. Everything is very complicated, very difficult. You want to have everything soft right now. You want to have things happen right now that cannot happen right now. So, we work together.

Last week, in my office in Charleston, for the first time, I would suppose in the history of that state, there sat the president of the United Mine Workers of America and three or four of his principal people from the state of West Virginia and some very key coal operators from the state of West Virginia, all complaining about the same thing, with the same intensity, with the same words, and with the same goals.

That, ladies and gentlemen, I submit to you, is extraordinarily historic and is progress by any definition because the UMW has discovered, only too recently, that in the rules and regulations and the federal surface mine act, deeping mining also is affected. So, they want in on the deal. And the deal is that if we can't work rationally together, some of the UMW people are going to lose their jobs. And if you were president of a union in which the percentage of national production had gone from about 75 per cent to about 48 per cent in four or five years, you'd be worried too.

Arnold Miller is stronger now, more secure now, than he ever has been. He understands and is willing to work on some of the problems that you and I face together. That's progress.

I have discovered in recent years that operators are a lot more willing to deal with realities and work through the system more realistically than in the past.

It is a fact that the President's Commission on Coal is going to make substantial contributions to the whole focus on coal, to the resolution of some of the problems associated with coal—labor relations, collective bargaining, and environmental rules and regulations, which are key to your work. You have a Commission which is a good one, with a good staff, which is totally committed to focusing honestly and fairly on problems which directly affect you.

We mean to produce results, to focus on the problems and to be helpful in the national interest.

And, then to remember, that coal still is the answer. No matter what the problems are now, things will get better. They can't get a whole lot worse. They will get better.

Finally, I would say, be organized, hang tough, be persistent, and do what everybody else does. Work the system fairly, squarely, precisely, with your facts in hand and with your emotions in control, and with the sight on the target, which is—the coal is out there, and we've got to get to it. The country's going to need it and the country's coming after it. There are some problems now, and we will work them out. But, we keep our eye on the target. You do not allow yourselves to be clobbered by frustrations. You simply say that we have some problems now that we are working on—together—with the public process, with the labor process, with the private sector process.

I will help you carry that fight, wisely and fairly. It is my judgment the energy field is looking at the leaders in public life as well. I know the problems that you face. On the other hand, I also know the problems that government faces. And, I know the problems that our people face. And, I also have my eyes on the future of coal, just as you do. I am committed, as a person, as a Chairman of the President's Commission on Coal, to honestly be helpful, to constructively be helpful. But, we will need to do that together, ladies and gentlemen because the world is a whole lot tougher than it was in 1973 and 1974. We can be sad about that, but we better accept it. With the coal in the ground, with the expertise in the audience, and with the proper leadership, there is not cause for gloom in this room.●

ALASKA LANDS LEGISLATION

● Mr. DURKIN. Mr. President, Members of the 96th Congress have a unique opportunity to make a lasting and far-reaching contribution to the cause of conservation.

Alaska lands legislation, which is currently before the House and Senate, represents the most significant land, water, and wildlife measure ever to come before the Congress.

My Alaska lands bill, S. 222, now has 18 cosponsors, almost one-fifth of the Senate. This bill calls for protection of the best of Alaska's scenic treasures and wildlife habitat for future generations of Americans to enjoy, while at the same time allowing for orderly and controlled development of Alaska's vast natural resources.

The House and the Senate were unable to complete action on an Alaska lands bill in the 95th Congress, but many of us—realizing how important this issue is to the American people—are back working for passage of a strong lands bill this year. The American people look to Congress to act as trustees for preserving this splendid wilderness, and we in Congress must not disappoint them by shirking this responsibility.

Secretary of the Interior Cecil D. Andrus has summarized the Alaska lands issue in a particularly eloquent article which recently appeared on the op-ed page of the New York Times. I ask that the article be printed in the RECORD.

The article is as follows:

PROTECTING ALASKA

(By Cecil D. Andrus)

WASHINGTON.—The debate over Alaska National Interest Lands has been portrayed as a consent between developers and conservationists. That portrayal misses the point: at least two-thirds of Alaska will be open for development. The real issue: How much of the rest will be protected for all Americans?

Two years ago, the Administration called for designation of 92.5 million acres of Federal land in Alaska as new conservation areas. Within these proposed boundaries lie wild, mostly untouched territory. This includes the nation's highest mountain and the continent's greatest mass of high peaks and glaciers. It includes places where traditional people remain true to their ancient traditions. It includes the calving grounds for America's only large, healthy herd of free-roaming caribou and the breeding grounds for about 10 percent of our country's waterfowl. No one can seriously argue that these places do not have national importance. In fact, some argue we seek protection for too little of Alaska.

The problem we took seriously, though, was striking a balance in land use. We de-

veloped and applied two basic principles. First: Include only areas of true national significance, and use watershed or ecosystem boundaries to be sure that they will remain as healthy, self-sustaining units; in other words, don't plan for environmental "salvage operations" later. Second: Exclude areas of purely economic value whenever possible.

By applying these principles, we achieved a unique plan. We located and marked for protection places that will continue to stun future generations with their beauty, natural productivity and historical significance. Also, more than 90 percent of Alaska's high-potential on-shore oil and gas areas, all the offshore areas, and more than 70 percent of the high potential of hard-rock mineral areas remain available for exploration and development.

As our ability to work in the far north developed, so did our understanding of the special conditions that require major conservation efforts. For the first time, we have both the opportunity to balance development with conservation and the knowledge to understand exactly why we should do so. One important tool, while we drew the boundaries, was a computerized-resource inventory developed by the state of Alaska.

Last May, the House of Representatives, 277–31, passed an Alaskan lands bill. An end-of-session filibuster threat blocked a Senate vote. With Congress adjourned and statutory protection for our proposed areas about to expire, President Carter decided too much was at stake not to act and extended administrative protection to these lands. Under emergency powers, I withdrew 110 million acres from all claims. Subsequently, President Carter designated 56 million of these acres as national monuments under provisions of the Antiquities Act.

The genesis of Alaska conservation goes back more than 40 years when there was a call for protection of all land north of the Yukon River. Little thought was given to that proposal, though, until oil was discovered on state land at Prudhoe Bay in 1968. Suddenly, Alaska's seemingly impervious wilds were threatened by construction of the Trans-Alaska Pipeline.

Legislation to clear land titles for the pipeline and settle Alaska native claims struck a bargain between Alaska and the rest of the nation: America would support development in Alaska if Alaska would support large-scale conservation there for all Americans. While this bargain indicated that selection of Alaska's vast 104-million-acre statehood grant might be slowed to allow native selections, it also guaranteed Alaska a sound economic future. But many Alaskans and their allies in the resource industries now seem to have forgotten the agreement with the other 200 million Americans.

Too often conservation has been an effort to salvage some remnant of beautiful land or a small population of once-numerous animals. In Alaska we have a second national opportunity to protect healthy, productive lands, simply allowing them to continue in their natural state. Few nations are ever favored with the chance to make a decision to protect their natural heritage. If we decide to reject this opportunity to conserve and develop, we will deserve the insults that our grandchildren will remember us with. Let's do it right, for once, the first time.●

TIME-LIMITATION AGREEMENT—SENATE CONCURRENT RESOLUTION 8

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Senate Concurrent Resolution 8, Calendar Order No. 50, a concurrent resolution providing for impartial observers of the forthcoming election in Rhodesia, is called up and made the pending business before the Senate, that there be a time agreement thereon as follows: 2 hours for debate on the resolution to be equally divided between Mr. CHURCH and Mr. JAVITS; 1 hour on an amendment by Mr. SCHWEIKER; 30 minutes on any other amendment; 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate for its discussion; and that the agreement be in the usual form.

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

ORDER FOR RECESS UNTIL 11:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11:45 a.m. tomorrow.

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

ORDER FOR A PERIOD FOR ROUTINE MORNING BUSINESS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow that there be a brief period for the transaction of routine morning business of not to exceed 15 minutes, and that Senators may be permitted to speak therein for not to exceed 5 minutes.

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

RECOGNITION OF SENATOR HART TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow, the Senator from Colorado (Mr. HART) be recognized to make his request with respect to his resolution, which he indicated to the Senate tonight he would call up, a resolution which would read as follows, I believe:

"*Resolved*, That notwithstanding section 313(c) of Senate Resolution 110, 95th Congress, as amended, rule XLIV of the Standing Rules of the Senate, as amended, shall take effect as of January 1, 1979.

Mr. HART presumably will ask unanimous consent for the immediate consideration of that resolution. I would hope that there would be no objection, and I would hope we could get a time agreement on the resolution. I would prefer that there be no amendments to it, and that the Senate simply vote up or down on the resolution.

We all know what we are talking about. The Senate, some days ago, as I stated earlier, acted to amend the rules so as to extend the outside earnings limitation of $25,000—in effect the last several years—to January 1, 1983, and there have been some Senators—Mr. HART included—who have indicated they would like to have a rollcall vote on that matter. There have also been indications and statements that adequate notice was not given as to the previous action of the Senate.

As I pointed out today, the resolution was offered on the 7th of March. Opening statements were made on the 7th of March. The resolution was printed in the RECORD on the 7th of March. I secured a time agreement on March 7 that there would be a vote on the resolution at no later than 12:30 p.m. the following day; and the following day the Senate voted, by voice vote, to approve the resolution that had been introduced the preceding day.

Any Senator could have asked for the yeas and nays. I inadvertently was off the floor, but as I stated subsequently thereto to the press, I supported the resolution. I support it now, so there is no question as to where I stood or now stand on the resolution that was adopted on March 8.

The RECORD adequately and very clearly stated in the Digest of March 7 that the resolution had been introduced, and that it would be voted on the following day at no later than 12:30 p.m. As I say, opening statements were made.

All Senators are presumed to read the RECORD, and they were on notice that there would be a vote. If any Senator wished to have a rollcall vote at that time, he need only have asked, and that would have been done, if he could have secured a sufficient second, and I feel that he would have.

But in any event, Mr. HART sought to call up an amendment to the debt limit bill today to vitiate the Senate's action of March 8, and I sought to get a time agreement thereon so as not to delay final action on the debt limit bill. My time limit request would have provided for an up-or-down vote, with no amendments or motions, after 20 minutes, so everybody could show down. The matter has been discussed in the newspapers, on the radio, in Senators' letters back home, in Senators' speeches here and everywhere else, so everybody has had an opportunity to speak his piece.

Nobody is under any illusions as to what the issue is, so I thought we could just have a clean vote today, up or down, as to whether or not to vitiate the previous action, but that request was objected to. So I suggested to Mr. HART that he offer a resolution, try to get it up for immediate consideration tomorrow, and have a vote. He indicated early today that sooner or later he wanted to have a vote on this matter anyway, so I thought it was just as well to get it behind us today. That having failed, I suggested that he call up a resolution tomorrow, which he is willing to do. He is going to ask unanimous consent tomorrow morning to proceed to the immediate consideration of that resolution.

One single objection, as I stated earlier, will prevent the consideration of that resolution tomorrow and it will go over under the rule, under rule XIV.

So there it is. If Senators want to have an up-or-down vote, this is their opportunity. I have stated that I oppose the resolution. I intend to vote against it. I hope there will not be any amendments offered, in the event we are able to get it

up. Any amendments to the resolution could cloud the issue, and we could have many problems with a voting time. But here is the opportunity for the Senate to vote up or down, and have a showdown once and for all. I am going to be against it, and intend to try to get a vote on it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

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

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. STEVENS. I thank the Senator from West Virginia for his explanation for the record of what transpired here today, but I am compelled to state for the record also that we have a Senator on our side of the aisle who has indicated that if there are to be amendments offered to the Hart resolution, he wishes to reserve the right to make a motion to table the Hart resolution and any amendments to it, and not have a definite time agreement on the resolution if it is amended. That would indicate there would not be the opportunity to have a tabling motion otherwise.

Mr. ROBERT C. BYRD. Yes, I can understand the Senator. I do not know the identification of that Senator, but I can understand that any Senator might wish to move to table the resolution if there are amendments offered to it. If there are no amendments offered to it, or none are adopted, I would like to see an up-or-down vote on the resolution, on the clearcut issue of whether or not the Senate wants to vitiate the action that it took 3 weeks ago.

Due notice was given in the RECORD. Resolutions are often called up here without giving a day's notice, with the resolutions approved. There were some suggestions at that time that it ought to be called up and voted on the same day, but I said "no," to call it up one day and vote on it the next.

If there are going to be amendments to Senator HART's resolution, I would understand that any Senator would want to reserve his rights, one of those rights being to move to table the resolution.

Mr. STEVENS. I thank the Senator. May I inquire, Mr. President, are we still in the morning hour?

PROGRAM

Mr. ROBERT C. BYRD. If the Senator from Alaska will allow me, I would hope that otherwise tomorrow the Senate could also proceed to the consideration of the Rhodesian resolution, Calendar Order No. 50, Senate Concurrent Resolution 8. There is a time agreement on that resolution. Following that, I would hope the Senate could take up the countervailing duties legislation, which is Calendar Order No. 51, H.R. 1147, an act to extend temporarily the authority of the Secretary of the Treasury to waive the imposition of countervailing duties.

So I think in sum, there will be rollcall votes tomorrow. Tomorrow is only Wednesday. It could be a long day; no reason why it should not be, in order to complete our business. We will be in session on Thursday, and in accordance with my promise, which I am carefully keeping, there will be no rollcall votes Friday if we are in, unless there be some emergency situation.

I yield the floor.

(Mr. ROBERT C. BYRD assumed the chair.)

RECESS UNTIL 11:45 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11:45 a.m. tomorrow.

The motion was agreed to, and at 8 p.m., the Senate recessed until Wednesday, March 28, 1979, at 11:45 a.m.

EXTENSIONS OF REMARKS

ENERGY PROBLEMS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 27, 1979

● Mr. HILLIS. Mr. Speaker, I recently received a letter from P T. Argell, vice president of TRW, Inc. The letter outlines the praiseworthy efforts by TRW to conserve on energy. The attitude and approach of TRW needs to be adopted by our entire business community and reflected in the energy policies of the Federal Government.

Recent announcements by the OPEC oil ministers of higher prices are cause for great concern. Those increases further illustrate the urgency of reducing our energy demands. TRW's approach and attitude toward energy conservation should be brought to the attention of the American people and used as an example of how to address the energy problems now facing this Nation. I hope my colleagues will share TRW's letter with their constituents. The letter follows:

MARCH 21, 1979.

Hon. ELWOOD H. HILLIS,
House of Representatives,
Russell House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HILLIS: As you and other members of the 96th Congress address the energy situation of the U.S. again, we thought it in order to acquaint you with our views of the situation. In the way of background, TRW has for some years been vitally concerned with the following aspects of energy:

We have directed great attention to energy in our internal operations so that less units of energy will be utilized in each unit of output. As a result, in 1978 we used 26 percent less energy per unit of output for our 100 domestic manufacturing operations than we did in 1972. Also important, our total absolute consumption of oil is down 23 percent. We have a strong corporate policy statement on energy conservation, one of industry's best energy reporting systems, and we anticipate continuing improvement.

Our products and services are constantly reviewed to insure that their efficiencies are being maximized from an energy standpoint. Much progress has been made but only two examples need be cited. First, some of our automotive parts have been reduced by over 20 percent in weight to support automotive manufacturers in building lighter automobiles. Second, the entire product line of our submerged petroleum pumps is undergoing an extensive engineering review with the established objective of increasing the operating efficiency by at least 5 percent, and preferably by 10 percent where practicable.

We are conducting extensive communications with our employees to insure that they appreciate fully the importance of energy conservation and its ultimate impact on the American way of life.

We believe that the energy situation is crucial to the United States. The record shows that American industry has done an outstanding job of energy conservation in compliance with the Energy Policy and Conservation Act of 1975. Also, TRW studies show that U.S. industrial energy efficiency has increased more rapidly than other industrialized nations since 1972. Economic reason will force continued progress by industry. However, these efforts alone will not provide a solution which will permit a continuation of our life style. In fact, increased productivity is the fundamental factor by which improvement in living is obtained. Energy and productivity are closely interrelated. It is quite clear that the balance of trade impact of oil imports could have been minimized if the U.S. had been successful in maintaining and increasing certain levels of manufactured exports. Furthermore, 70 percent of final U.S. oil consumption is for transportation; this figure includes the energy required for production of motor fuels as well as end use. The American people must recognize all of these ramifications. They must be involved in an active and creative effort towards increasing our energy use, efficiency, and productivity if they wish to maintain and improve their life style.

Our purpose in writing to you may be summarized in the belief that normal, free-market economic forces are the preferred solutions for most economic matters. If it becomes necessary for government to intervene, this must be done in a cooperative fashion involving all persons and institutions concerned with the issues. We think it is essential to the American public and industry to address this situation in the cooperation and understanding fashion of which much of our history has shown us to be superbly capable. The solution rests in this direction as opposed to finger-pointing and attempting to blame difficulties on someone else.

We stand ready to assist you and members of your staff in any way which will be beneficial.

Sincerely,

P. T. ANGELL,
Vice President.●

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