We today think the idea of a "People's Lobby," a la Ralph Nader and John Gardner, is something ultra new and progressive. Progressive it may be, but new it is not. Mrs. McDonald, together with her husband and Louis Brandeis, founded a People's Lobby before the First World War.

After the war, she became instrumental in the establishment of the 5-day workweek. She then turned her efforts to the establishment of a national industrial safety code, and this too became reality.

In the 1930's, she moved to California, where she helped found California Farmer-Consumer Associates, Inc., and served as its executive secretary for 33 years. In this capacity, she played major roles in seeing that the interests of the people of California were served in matters of land use, water and power, and agricultural sales.

I join my California colleagues in wishing Mrs. McDonald a very happy 85 years young.

SENATE—*Wednesday, April 24, 1974*

The Senate met at 12 o'clock noon and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

Eternal Father, we thank Thee for all that is good in America—for homes and schools and churches—for institutions which endure all change—for millions of God-fearing, law-abiding citizens who love and care for their neighbors and their country. We thank Thee for scientists, educators, and administrators, for prophets, priests, and missionaries whose lives have lifted the lot of mankind. We thank Thee, too, for that host of trustworthy men and women, the great and the humble, who serve at all levels of government. Unite all who serve and all who are served in a common endeavor to correct what is wrong and to heal our divisions. Grant us enabling grace to reflect Thy love in our private and public life that Thy higher kingdom may come and Thy will may be done on Earth.

Through Jesus Christ our Lord. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE PRESIDENT—APPROVAL OF BILL

A message in writing from the President of the United States was communicated to the Senate by Mr. Heiting, one of his secretaries, and he announced that on April 22, 1974, the President had approved and signed the bill (S. 1745) to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes.

FOREIGN ASSISTANCE—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States which, with an accompanying draft of proposed legislation, was referred to the Committee on Foreign Relations. The message is as follows:

To the Congress of the United States:

For more than twenty five years, America has generously provided foreign assistance to other nations, helping them to develop their economies, to meet the humanitarian needs of their people and to provide for their own defense.

During this era foreign aid has become an indispensable element of our foreign policy. Without it, America would risk isolating herself from responsible involvement in an international community upon which the survival of our own economic, social and political institutions rests. With the continuation of a healthy foreign aid program, this Nation can continue to lead world progress toward building a lasting structure of peace.

Now that we have ended the longest war in our history and no American troops are serving in combat for the first time in more than a decade, there is a temptation to turn inward, abandoning our aid programs and the critical needs facing many of our friends in the process.

We must not succumb to that temptation. If we lay down the burden now, we will foreclose the peaceful development of many of the nations of the world and leave them at the mercy of powerful forces, both economic and political. Moreover, we will deny ourselves one of the most useful tools we have for helping to shape peaceful relationships in the most turbulent areas of the world.

Many of the nations which were once dependent upon our direct assistance for their survival are now managing their own economic and defense needs without our aid. Those nations which still need our aid will not need it indefinitely. We expect those nations we help to help themselves. We have made it clear that we do not intend to be the world's policeman, that our aid is not a substitute for their self-reliance, and that we do not intend to do for others what they should be expected to do for themselves.

But as long as there are governments which seek to change the frontiers and institutions of other nations by force, the possibility of international conflict will continue to exist. And as long as millions of people lack food, housing, and jobs; starvation, social unrest and economic turmoil will threaten our common future.

Our long-range goal is to create an international environment in which tolerance and negotiation can replace aggression and subversion as preferred methods of settling international disputes. While this goal is not as distant as it once was, present circumstances do not now permit reduction in foreign assistance. We must not only maintain our efforts, but also make special efforts in two critical areas of the world—the Middle East and Indochina.

In the Middle East, we have an opportunity to achieve a significant breakthrough for world peace. Increased foreign aid will be a vital complement to our diplomacy in maintaining the momentum toward a negotiated settlement which will serve the interests of both Israel and the Arab nations.

In Indochina our assistance is no less critical. South Vietnam, Cambodia, and Laos are trying to make the difficult transition from war to peace. Their ability to meet their defense needs while laying the foundations for self-sustaining social and economic progress requires continued and substantial amounts of American aid.

To meet these continuing and special needs, I am proposing to the Congress a total foreign aid budget of $5.18 billion for fiscal year 1975. In my judgment, these amounts represent the minimum which the United States can prudently afford to invest if we are to maintain the present degree of international equilibrium and advance our efforts to construct a durable peace with prosperity.

TOWARD PEACE IN THE MIDDLE EAST

The hope for a lasting solution to the Arab-Israeli dispute is stronger today than at any time in the previous quarter century. American diplomatic initiatives have helped create the conditions necessary for an end to conflict and violence. While our diplomatic efforts must and will continue, there is already much that can be done to supplement and consolidate what has been achieved so far. I am therefore requesting a Special Assistance program for the Middle East, and have asked the Congress to provide the following:

—For Israel: $50 million in security supporting assistance and $300 million in military credit sales. Israel's continued ability to defend herself reduces the prospect of new conflict in the Middle East, and we must

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continue to assist her in maintaining that ability.

—For Egypt: $250 million in supporting assistance. These funds would be used for the tasks which come with peace: clearing the Suez Canal, repairing the damage in adjacent areas, and restoring Egyptian trade.

—For Jordan: $100 million in military assistance grants, $77.5 million in security supporting assistance, and $30 million in military credit sales. Jordan has been a moderating force in the Arab world and these funds will enable her to maintain a position of moderation and independence which will be crucial to a permanent settlement in the area.

—For a Special Requirements Fund: $100 million. This fund will be used for new needs that may arise as the outlines of a peaceful settlement take shape, including provision for peacekeeping forces, refugee aid or settlement, and development projects.

All of this aid will contribute to the confidence these nations must have in the United States and in their own security if they are to have the base from which to negotiate a lasting settlement. It will strengthen moderate forces in an area where only moderation can form the basis for a settlement acceptable to all.

TOWARD RECONSTRUCTION OF INDOCHINA

Another area of acute and continuing concern to this Government is Southeast Asia. Our aid in Indochina is no less crucial than our aid in the Middle East in achieving a peaceful outcome which protects our interests and reflects our past involvement in these two areas. I am asking the Congress to authorize the appropriation of $939.8 million to assist South Vietnam, Cambodia and Laos in their efforts to shift their economies from war to peace and to accelerate the reconstitution of their societies.

We have already invested heavily in these countries. Progress has been significant, and we are nearing success in our efforts to assist them in becoming self-sufficient. Although our total request is higher than last year, the budget I am proposing is actually austere. We must recognize that a modest increase in economic assistance now will permit the development of viable, self-supporting economies with lower requirements for assistance within a few years.

The South Vietnamese face an unusually difficult task in reconstructing their economy and caring for their war-torn population even as the effort to end hostilities goes forward. Progress in reconstruction, economic development and humanitarian programs, which offer the hope of a better life for the people there, should make it clear that a peaceful settlement of political disputes is in the interest of all.

This year and next the South Vietnamese face several related challenges which make increased U.S. economic assistance essential:

—They must resettle more than a million refugees and displaced persons.

—They must provide the investments needed to create productive jobs for the several hundred thousand who have lost jobs with the withdrawal of U.S. forces.

—They must meet the much higher costs of such essential imports as fertilizer and other critical resources caused by worldwide inflation.

—They must provide for the orphans, the disabled, and for widows who can never recover their wartime losses.

—They must continue to support the military forces needed to preserve movement toward peace so long as hostile forces continue to be deployed within South Vietnam and supported from outside.

The South Vietnamese have made laudable efforts to solve their own problems. They have increased their taxes—a 40 percent increase in real terms in 1973. They have expanded their exports, which were virtually eliminated by the war—doubling exports in 1972 and again in 1973. They have sharply reduced the consumption of imported goods, including a notable reduction in petroleum. But after more than a decade of war, they cannot reconstruct their economy and their society alone. Increased U.S. assistance is needed now to support the increasing efforts of the Vietnamese to achieve peace and self-sufficiency as soon as possible.

In Laos, a peaceful political solution to the conflict is in motion and the people there can finally look forward to a secure and stable environment. The problems of resettling refugees and establishing a viable economy, however, will provide a major test of the Laotian government's ability to work in the interests of all. Our continued assistance is essential to permit this underdeveloped, land-locked country to reconstruct its economy after so many years of war.

Continued U.S. assistance is also essential to alleviate the hardships facing the Cambodian people, many of them refugees with little opportunity to support themselves until hostilities subside.

The investment I am now seeking—an investment to sustain the peace, to overcome the human suffering resulting from the war, and to give the people of Indochina a chance to stand on their own feet—is small in comparison with what we have committed over the years in Indochina. But the potential return on this investment is large in enhancing the prospect of peace both in Indochina and around the world.

DEVELOPMENT ASSISTANCE

U.S. assistance programs—both bilateral and multilateral—have made a very substantial contribution to the economic growth of the developing nations over the past decade.

In spite of encouraging progress, it is estimated that 40 percent of the total population in all the developing countries still remain trapped in conditions of poverty beyond the reach of the market economy. These people continue to exist below minimal levels of nutrition, literacy, and health.

It is clear that in the modern world, peace and poverty cannot easily endure side by side. In the long term, we must have peace without privation, or we may not have a durable peace at all. All that we have worked, and fought, and sacrificed to achieve will be in jeopardy as long as hunger, illiteracy, disease, and poverty are the permanent condition of 40 percent of the populace in developing nations of the world. But the progress which we have been able to help bring about thus far demonstrates that this need not be a permanent condition. Our developmental assistance continues to be needed to maintain and expand this record of progress.

To provide this needed assistance I am asking the Congress to authorize for fiscal year 1975 the appropriation of $255.3 million for functional development assistance programs in addition to the $618 million already authorized by last year's Foreign Assistance Act.

These additional funds will permit the Agency for International Development to assist developing nations in increasing food production. The widespread hardship caused by recent pressures on world food supplies calls for greater efforts by all to raise agricultural productivity. Population growth combined with recent crop failures in many parts of the world have led to the lowest grain stock levels in many years as well as high prices. In some cases, famine is threatening entire populations, and the world shortage of food makes it difficult to provide the assistance needed to avert tragedy. But food aid alone does not provide a solution. Developing nations must increase their own agricultural productivity, and almost 60 percent of AID's development assistance programs will be aimed at achieving this goal.

We will continue to reorient our development assistance programs, as jointly endorsed by the Congress and the Administration, to concentrate more directly on acute human problems in poor countries. AID will thus focus on providing family planning and basic health services, strengthening education and other human resource programs, increasing food production, and improving nutrition.

A strong bilateral U.S. foreign aid program can be fully effective, however, only if it is complemented by continued, active multilateral assistance efforts. Pending before the Congress is legislation to authorize United States contributions of $1.5 billion to the International Development Association (IDA). Appropriations for those contributions will be spread over a number of years beginning in 1976.

The International Development Association has a 14-year history of excellence in providing development loans to the poorest nations. We have negotiated a reduction in the United States' share of the total contributions to IDA from 40 percent to 33 percent, thereby shifting additional responsibility for international lending to other nations. It is inconceivable that the United States should abandon such a successful international activity, and I urge the House of Representatives to reconsider its recent vote denying the IDA authoriza-

tion. Such a step would constitute a false economy in violation of the very principles toward which we would hope to move in providing foreign development assistance.

Also pending is legislation to authorize contributions of $362 million for the ordinary capital and $50 million for the special resources of the Asian Development Bank (ADB). The performance of the IDA is being matched today by the newer Asian Development Bank. The African Development Bank has excellent prospects of playing an increasingly critical role in a continent whose need has been most recently highlighted by severe drought.

It is imperative that these authorizations as well as those for our bilateral programs be enacted. It is equally imperative that appropriations be enacted in the full amount necessary to fulfill our responsibilities in these institutions and in the Inter-American Development Bank, for which authorizing legislation has been enacted.

The United States is currently engaged in negotiations relating to international monetary and trade reform. It should be recognized that less developed nations will play an important role in the success of these important initiatives. These nations will look to the United States to continue our leadership in the development assistance field as well as in trade and monetary reform.

SECURITY ASSISTANCE

The security of our allies and of nations friendly to us is an essential consideration in the foreign and national security policies of the United States. Not all are capable of providing for their security, and our assistance enables those countries to assume primary responsibility for their own defense. It gives them the confidence to negotiate with potential adversaries from a position of strength and to resist subversion and intimidation. The effectiveness and wisdom of these policies is being proven today in the Middle East and Southeast Asia.

There can be no real peace in the world so long as some governments believe that they can successfully obtain by force or threat of force what they cannot obtain by peaceful competition or negotiation. Our security assistance programs reduce the likelihood that such calculations will be made and thereby increase the incentives to resolve international disputes by peaceful means.

Just as security assistance can ease the impact of large and unexpected defense burdens on the economies of friendly nations, it can also strengthen their economies and thereby allow a greater use of military sales credits as opposed to grants. We need a flexible military credit sales program to encourage and facilitate the self-reliance of friendly states and to help gradually reduce the cost to the United States of providing security assistance.

I am asking the Congress to authorize the appropriations for fiscal year 1975 of $985 million for grant military assistance, $555 million for foreign military sales credits to finance an $872.5 million program, and $385.5 million for security supporting assistance.

CONCLUSION

The United States has only recently emerged from more than a decade of direct involvement in a long, bitter, and costly war. It is not remarkable that we should see a strong sentiment in the land for giving up the difficult duties of world leadership. But temporary sentiment must not obscure the long-range interest of our Nation.

The percentage of America's gross national product dedicated to foreign assistance is small. It is less, indeed, than that of some other nations. But it is a wise investment, undertaken with bipartisan support in the interest of our own Nation, in the interests of our historical role as a generous and courageous defender of freedom and human rights, and in the interests of world peace.

With our assistance, other nations have reached a point where they can share this burden. But we have not yet reached the point where we can safely lay it down.

The amounts I am requesting for fiscal year 1975 are the minimum essential to support the responsible and constructive American role of international leadership and cooperation, a role which it is in our national interest to continue and strengthen.

RICHARD NIXON.

THE WHITE HOUSE, *April 24, 1974.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following Senate bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 1647. A bill to extend the Environmental Education Act for 3 years; and

S. 3292. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 2770) to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services.

The enrolled bill was subsequently signed by the Vice President.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, April 23, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, I ask unanimous consent that 5 minutes available to the leadership on this side be yielded to the distinguished Senator from Oklahoma (Mr. BARTLETT).

Mr. MANSFIELD. Mr. President, may I say that if the Senator from Oklahoma needs more time, I would be glad to yield him some from mine.

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

Mr. BARTLETT. I thank the distinguished Senator from Michigan (Mr. GRIFFIN) and the distinguished majority leader for yielding me this time.

IMMINENT OIL EMBARGO—A FACT OF LIFE

Mr. BARTLETT. Mr. President, it is with great concern that I today address what could be considered as a "lull in the storm."

This Nation cannot afford to become complacent now that the oil embargo has been relaxed.

Before we permit complacency to set in, let us remind ourselves that we as a nation have not made a commitment to sufficiency of domestic energy and that the Arab countries are most willing to call the shots with their effective weapon "oil."

Even though the Arab embargo has been partially lifted, the possibility that another embargo could occur is imminent. There are still many dangers in the delicate area of world oil politics.

We must continue our efforts toward conservation of available energy supplies and we must move forward on constructive policies that will induce additional supplies of domestic energy. Our citizens and consumers deserve nothing less than a plentiful supply of domestic energy.

Saudi Arabia, which has much of the capability to fill our Nation's increasing energy needs, has openly stated that the amount of oil Saudi Arabia will supply is contingent upon the Mideast settlement. The embargo could be reimposed at any time if we "didn't sit at the table straight" or "blinked our eyes too many times."

A Washington Post newswriter in an article on March 28, 1974, analyzed the Arab policy toward the United States accurately when he described it as a "carrot and stick" policy. Congress makes it possible for the continuation of such a policy because it refuses to discontinue price control policies that have gotten us into the position of energy dependency.

Our energy dependency is not only a problem of shortages, but also a matter of price. The Arab nations can set the price either higher or lower than our domestic price, depending on what best suits their political goals.

Much has been said of the tremendous burden of high cost foreign oil on our balance of payments deficit, but I hasten

to point out that the Arab nations can just as easily lower the price of their oil for the purpose of destroying our domestic energy industry.

If the Arabs undercut our domestic price, and I think that this is a distinct possibility, then there would be an emotional clamor for us to reduce our own domestic prices to a point that would simultaneously hamper the development of sufficient domestic energy sources and further increase our dependence on Arab oil imports.

Both Houses of Congress voted to roll back crude oil prices to $5.25 per barrel, which apparently is under a market clearing price. Even though the Presidential veto was sustained, the Arab nations are encouraged to consider reducing at some time in the future the price of their oil below our prevailing domestic price in hopes that congressional pressure would then lower our domestic price. This would lead to less domestic energy production and further dependence upon foreign oil until we were under the thumb of the Arab countries. Then they could raise the price and/or cutback production to achieve any political or economic goal they might desire.

Senator JACKSON said we would roll back the price of domestic oil from an average price of approximately $6.50 per barrel to $5.25 per barrel in order to encourage the OPEC nations to roll back their prices which average over $10 per barrel. That is just what the Arab nations want. They want us to limit by congressional fiat the development of our own domestic resources. Then they could resume the pressure of an even more effective embargo and higher prices to achieve their political and economic goals.

The only guarantee against the economic blackmail of high cartel prices and the political blackmail of attempting to influence our Mideast foreign policy is an ample supply of domestic energy.

Regardless of the cartel price set by the OPEC countries, we should have a free market price in the United States which will increase our supplies of oil and gas and coal and develop alternative energy sources. Then, our total energy supply will take care of our minimum requirements—so if we lose all our imports for whatever reason, we can tough it out.

Senator JACKSON and others argue that we should control the price of our domestic oil and gas. This is surprising because of the seemingly irrefutable evidence that price controls of fertilizer, bailing wire, steel, and oil and gas have led to shortages and inflation. A short-term promise of low prices with a long-term result of shortage and inflation is no longer an acceptable proposal to the American consumer.

Prof. M. A. Adelman, professor of economics at Massachusetts Institute of Technology and a member of MIT's energy laboratory steering committee, has noted that a classic cartel such as OPEC not only depends upon unity among its members, but also on the acquiescence of some of its customers.

The United States should not acquiesce. Instead, we should become independent of foreign sources of energy. We must make the national commitment to pay the cost of achieving domestic energy sufficiency. The fairest and cheapest way is with free market prices. Only then will we be able to import Arab crude oil at a rate we choose, not the Arabs. Then the cartel price would depend on what we are willing to pay—not what OPEC wants to charge.

The fact of life is that we are unable, at this time, to do anything about OPEC prices—high or low—and it is high time that we did something about it.

Let us chart our own destiny, rather than have the Arabs write it for us.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) is now recognized for not to exceed 15 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum with the time to be charged against my time.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. 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. HARRY F. BYRD, JR. Mr. President, does the Senator from Rhode Island wish me to yield him some time?

Mr. PASTORE. Yes, just 2 minutes.

Mr. HARRY F. BYRD, JR. I am glad to yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

AUTHORIZATION OF APPROPRIATIONS TO ATOMIC ENERGY COMMISSION

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3292.

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate the amendment of the House of Representatives to the bill (S. 3292) to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes, which was to strike out all after the enacting clause, and insert:

SEC. 101. There is hereby authorized to be appropriated to the Atomic Energy Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended:

(a) For "Operating expenses", $2,551,533,000 not to exceed $132,200,000 in operating costs for the high-energy physics program category.

(b) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following:

(1) NUCLEAR MATERIALS.—

Project 75-1-a, additional facilities, high-filter, H chemical esparations area, Savannah River, South Carolina, $30,000,000.

Project 75-1-b, replacement ventilation air filter, H chemical separations area, Savannah River, South Carolina, $6,000,000.

Project 75-1-c, new waste calcining facilities, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, $20,000,000.

Project 75-1-d, waste management effluent control, Richland, Washington, $3,500,000.

Project 75-1-e, retooling of component preparation laboratories, multiple sites, $4,500,000.

Project 75-1-f, atmospheric pollution control facilities, stoker fired boilers, Savannah River, South Carolina, $7,500,000.

(2) NUCLEAR MATERIALS.—

Project 75-2-a, additional cooling tower capacity, gaseous diffusion plant, Portsmouth, Ohio, $2,200,000.

(3) WEAPONS.—

Project 75-3-a, weapons production, development, and test installations, $10,000,000.

Project 75-3-b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, $22,600,000.

Project 75-3-c, Trident production facilities, various locations, $22,200,000.

Project 75-3-d, consolidation of final assembly plants, Pantex, Amarillo, Texas, $4,500,000.

Project 75-3-e, addition to building 350 for safeguards analytical laboratory, Argonne National Laboratory, Illinois, $3,500,000.

(4) WEAPONS.—

Project 75-4-a, a technical support relocation, Los Alamos Scientific Laboratory, New Mexico, $2,800,000.

(5) CIVILIAN REACTOR RESEARCH AND DEVELOPMENT.—

Project 75-5-a, transient test facility, Santa Susana, California, $4,000,000.

Project 75-5-b, advanced test reactor control system upgrading, National Reactor Testing Station, Idaho, $2,400,000.

Project 75-5-c, test reactor area water recycle and pollution control facilities, National Reactor Testing Station, Idaho, $1,000,000.

Project 75-5-d, modifications to reactors, $4,000,000.

Project 75-5-e, high temperature gas reactor fuel reprocessing facility, National Reactor Testing Station, Idaho, $10,100,000.

Project 75-5-f, high temperature gas reactor fuel refabrication pilot plant, Oak Ridge National Laboratory, Tennessee, $3,000,000.

Project 75-5-g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project) $1,500,000.

(6) PHYSICAL RESEARCH.—

Project 75-6-a, accelerator and reactor improvements and modifications, $3,000,000.

Project 75-6-b, heavy ion research facilities, various locations, $19,200,000.

Project 75-6-c, positron-electron joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center, $900,000.

(7) BIOMEDICAL AND ENVIRONMENTAL RESEARCH AND SAFETY.—

Project 75-7-a, upgrading of laboratory facilities, Oak Ridge, National Laboratory, Tennessee, $2,100,000.

Project 75-7-b, environmental research laboratory, Savannah River, South Carolina, $2,000,000.

Project 75–7–c, intermediate-level waste management facilities, Oak Ridge National Laboratory, Tennessee, $9,500,000.

Project 75–7–d, modifications and additions to biomedical and environmental research facilities, $2,850,000.

(8) BIOMEDICAL AND ENVIRONMENTAL RESEARCH AND SAFETY.—

Project 75–8–a, environmental sciences laboratory, Oak Ridge National Laboratory, Tennessee, $8,800,000.

(9) GENERAL PLANT PROJECTS.—$55,650,000.

(10) CONSTRUCTION PLANNING AND DESIGN.—$2,000,000.

(11) CAPITAL EQUIPMENT.—Acquisition and fabrication of capital equipment not related to construction, $208,850,000.

(12) REACTOR SAFETY RESEARCH.—

Project 75–12–a, reactor safety facilities modifications, $1,000,000.

(13) APPLIED ENERGY TECHNOLOGY.—

Project 75–13–a, hydrothermal pilot plant, $1,000,000.

SEC. 102. LIMITATIONS.—(a) The Commission is authorized to start any project set forth in subsections 101(b) (1), (3), (5), (6), (7), (12), and (13) only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for that project.

(b) The Commission is authorized to start any project set forth in subsection 101(b) (2), (4), (8), and (10) only if the currently estimated cost of that project does not exceed by more than 10 per centum the estimated cost set forth for that project.

(c) The Commission is authorized to start any project under subsection 101(b) (9) only if it is in accordance with the following:

(1) The maximum currently estimated cost of any project shall be $500,000 and the maximum currently estimated cost of any building included in such project shall be $100,000: Provided, That the building cost limitation may be exceeded if the Commission determines that it is necessary in the interest of efficiency and economy.

(2) The total cost of all projects undertaken under subsection 101(b) (9) shall not exceed the estimated cost set forth in that subsection by more than 10 per centum.

(d) The total cost of any project undertaken under subsection 101(b), (1), (3), (5), (6), (7), (12), and (13) shall not exceed the estimated cost set forth for that project by more than 25 per centum, unless and until additional appropriations are authorized under section 261 of the Atomic Energy Act of 1954, as amended, provided that this subsection will not apply to any project with an estimated cost less than $5,000,000.

(c) The total cost of any project undertaken under subsection 101(b) (2), (4), (8), (9), and (10) shall not exceed the estimated cost set forth for that project by more than 10 per centum, unless and until additional appropriations are authorized under section 261 of the Atomic Energy Act of 1954, as amended, provided that this subsection will not apply to any project with an estimated cost less than $5,000,000.

SEC. 103. The Commission is authorized to perform construction design services for any Commission construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Commission, and (2) the Commission determines that the project is of such urgency that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 104. Any moneys received by the Commission (except sums received from the disposal of property under the Atomic Energy Community Act of 1955, as amended (42 U.S.C. 2301)), may be retained by the Commission and credited to its "Operating expenses" appropriation notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484).

SEC. 105. Transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SEC. 106. When so specified in an appropriation Act, transfers of amounts between "Operating expenses" and "Plant and capital equipment" may be made as provided in such appropriation Act.

SEC. 107. AMENDMENT OF PRIOR YEAR ACTS.—(a) Section 101 of Public Law 89–428, as amended, is further amended by striking from subsection (b) (3) project 67–3–a, fast flux test facility, the figure "$87,500,000", and substituting therefor the figure "$420,000,000".

(b) Section 101 of Public Law 91–273, as amended, is further amended by striking from subsection (b) (1), project 71–1–f, process equipment modifications, gaseous diffusion plants, the figure "$172,100,000" and substituting therefor the figure "$295,100,000".

(c) Section 106 of Public Law 91–273, as amended, is further amended by striking from subsection (a) the figure "$2,000,000" and substituting therefor the figure "$3,000,000," and by adding thereto the following new subsection (c):

"(c) The Commission is hereby authorized to agree, by modification to the definitive cooperative arrangement reflecting such changes therein as it deems appropriate for such purpose, to the following: (1) to execute and deliver to the other parties to the AEC definitive contract, the special undertakings of indemnification specified in said contract, which undertakings shall be subject to availability of appropriations to the Atomic Energy Commission (or any other Federal agency to which the Commission's pertinent functions might be transferred at some future time) and to the provisions of section 3679 of the Revised Statutes, as amended; and (2) to acquire ownership and custody of the property constituting the Liquid Metal Fast Breeder Reactor powerplant or parts thereof, and to use, decommission, and dispose of said property, as provided for in the AEC definitive contract."

(d) Section 101 of Public Law 92–314, as amended, is amended by striking from subsection (b) (4), project 73–4–b, land acquisition, Rocky Flats, Colorado, the figure "$8,000,000" and substituting therefor the figure "$11,400,000".

(e) Section 101 of Public Law 93–60 is amended by (1) striking from subsection (b) (1), project 74–1–a, additional facilities, high level waste storage, Savannah River, South Carolina, the figure "$14,000,000" and substituting therefor the figure "$17,500,000", (2) striking from subsection (b) (1), project 74–1–g, cascade uprating program, gaseous diffusion plants, the words "(partial AE and limited component procurement only)" and further striking the figure "$6,000,000" and substituting therefor the figure "$183,100,000", and (3) striking from subsection (b) (2), project 74–2–d, national security and resources study center, the words "(AE only), site undesignated" and substituting therefor the words "Los Alamos Scientific Laboratory, New Mexico" and further striking the figure "$350,000" and substituting therefor the figure "$4,600,000".

SEC. 108. RESCISSION.—(a) Public Law 91–44, as amended, is further amended by rescinding therefrom authorization for a project, except for funds heretofore obligated, as follows:

Project 70–1–b, bedrock waste storage (AE and site selection drilling only), Savannah River, South Carolina, $4,300,000.

(b) Public Law 92–84, as amended, is further amended by rescinding therefrom authorization for a project, except for funds heretofore obligated, as follows:

Project 72–3–b, national radioactive waste repository, site undertermined, $3,500,000.

(c) Public Law 92–314, as amended, is further amended by rescinding therefrom authorization for a project, except for funds heretofore obligated, as follows:

Project 73–6–c, accelerator improvements, Cambridge Election Accelerator, Massachusetts, $75,000.

TITLE II

SEC. 201. Section 157b.(3) of the Atomic Energy Act of 1954, as amended, is amended by striking out "upon the recommendation of" and inserting in lieu thereof "after consultation with".

Mr. PASTORE. Mr. President, the one amendment that was added by the House, on the floor, involves the $600,000 for adding a solar panel roof to the classified meeting building at one of the laboratories. They increased it from $4 million to $4.6 million.

Mr. President, I move that the Senate concur in the amendment of the House.

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

The motion was agreed to.

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum, the time to be charged to my time.

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

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

REPORT ON DISCUSSION WITH PRESIDENT SADAT

Mr. HARRY F. BYRD, JR. Mr. President, recent visits to Egypt and Israel have convinced me that the leaders of both countries are willing to make reasonable concessions to achieve peace and stability.

I have just returned from an official visit to Egypt, on behalf of the Committee on Armed Services. Two months ago I journeyed to Israel at my own expense.

On both occasions I met with the senior officials of the government, and I emerged with the impression that these nations genuinely want to settle their differences. I might mention that with the exception of Mrs. Meir, the Israeli officials with whom I talked are still in positions of leadership and influence.

In Egypt last Friday, I had a lengthy talk with President Sadat at a retreat 30 miles from Cairo which might be called his "Camp David." I was very favorably impressed with the leader of Egypt, who spoke frankly and directly about sensitive issues.

I feel that President Sadat wants to lead his nation away from some of the animosities of the past and to move toward stability.

He recognizes that with 35 million

people, Egypt must play a key role in the future of the Middle East. But he seems to wish to share leadership with the heads of other nations, rather than to lead the Arab world personally.

President Sadat spoke frankly about Egypt's relationships with Syria. He said Egypt will not make agreements detrimental to Syria—"we are acting as one," he said—but he was not pessimistic about the possibility of finding a solution to the differences between Israel and Syria. Specifically, he said he believes the Golan Heights question can be solved.

President Sadat expressed some puzzlement about the intentions of Colonel Qadaffi, the leader of Libya. He said he feared that Qadaffi was not serving the interests of peace in the Middle East.

The Egyptian leader said firmly that his country will not again become dependent on the Soviet Union. When I queried him as to why he required the 15,000 Russians who were in Egypt in 1972 to leave, he replied that Russia was attempting to dominate Egypt. He said he was determined that this would not happen.

When he said he was turning away from dependence on Russia for military equipment, I asked where he planned to make purchases in the future. He said preferably the United States.

If American equipment were not made available, he said, he would do the best he could but would not return to dependency on Russia.

He said he did not wish to be a friend of the United States at the expense of Russia, or a friend of Russia at the expense of the United States.

I pointed out to President Sadat that there is considerable sentiment for Israel in the United States in general and in Congress in particular.

He said he was aware of the pro-Israel sentiment and did not expect the United States to support Egypt against Israel. What he hoped for, he said, was "equal treatment."

President Sadat had high praise for Secretary Kissinger, to whom he gave the major share of credit for what has been achieved in moving toward peace in the Middle East.

As I said at the outset, I return from the Middle East with some optimism—cautious optimism, to be sure, but still optimism.

I believe that Egypt and Israel are moving closer together, and I hope that President Sadat is correct in his view that Israeli-Syrian differences are not insurmountable.

I commend Secretary Kissinger for his effective work, and I hope that in his new mission to the Middle East he will be able to help narrow the gap between Israel and Syria, and that this will lead to an effective settlement.

Mr. President, I yield the remainder of my time to the distinguished Senator from West Virginia.

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

I reserve my time, Mr. President.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana (Mr. BAYH) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that was yielded to me by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be transferred to the distinguished Senator from Indiana (Mr. BAYH).

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

The Senator from Indiana has a total of 21 minutes.

THE ALASKAN PIPELINE

Mr. BAYH. Mr. President, last year we had a heated discussion on the floor of the Senate relative to the Alaskan pipeline. I voted against the authorization of the Alaskan pipeline, not because I was opposed to the development of the Alaskan oil reserves but because I was deeply concerned about the route being chosen by the oil companies and being supported by the administration. One of the main reasons I opposed this route for delivering Alaskan oil, the route, I repeat, that had been chosen by the oil companies and ratified by the administration, was the obvious danger that there would be efforts to export Alaskan-United States oil to Japan. Japan had expressed the desire to buy the oil at a price higher than United States prices; the president of the pipeline consortium had previously said much of the oil would go to Japan; and I thought this possibility was totally contrary to our national interest.

Mr. President, this morning I had a conversation with a member of the press representing the Canadian Broadcasting Co., who had been in on a press conference with Japanese Premier Sato when he was here in 1972. In response to this reporter's question to Mr. Sato the Premier said, not only was his country interested in buying Alaskan oil but already had reached an agreement to do so.

My opposition to exporting U.S. oil was based on a pragmatic assessment of U.S. needs in the face of the domestic and worldwide energy shortage. It seemed ludicrous to contemplate exporting American oil from Alaska to Japan—oil vital to our own consumers and industry—at the very time the energy crisis was becoming most severe.

Now, just this past weekend, a regional administrator for the Federal Energy Office confirmed my worst fears. Jack Robertson, regional administrator for the area including Alaska, said they would be exporting Alaskan oil and "much of it probably will be sent to Japan."

It is absurd for us to find ourselves in a situation, which certain of my colleagues and I tried to warn against last year, when the inability of our own west coast to use Alaskan oil will force us into an exporting position. Had we prevailed in pushing the alternative route via Canada, the export problem would never have been raised.

Recognizing the absurdity of exporting U.S. oil, Robertson and others who see sales to Japan as inevitable, talk about bringing additional imports to the United States to compensate for foolish exports. But the fact is the Alaskan pipeline law does not guarantee that we will receive the rising level of imports projected into the 1980's, and additional compensating oil for that sold to Japan. The law merely requires that the total oil available in the U.S. not decrease, but we have found out painfully in recent months that maintaining the same level of oil available in the United States can have devastating effects on our economy and lifestyle. We need increasing supplies of oil, and exporting oil to Japan is not the way to guarantee an increasing supply for our own industries and consumers.

In response to these arguments, assurances were given last year by the oil companies and others favoring the Alaskan oil pipeline that Alaskan oil would not be exported. At that time the senior Senator from Alaska said:

> We contemplate no sale of our oil to Japan, and I would be the first to prohibit it.

His sentiment was reaffirmed by the junior Senator from Alaska who said:

> I think it is ridiculous that any part of this country should be exporting oil when we have an oil deficiency.

I do not in any way suggest that these two friends and colleagues of ours were not speaking honestly and sincerely, but the information brought out over recent months are that the oil companies have not been candid with the Senate, this country, or each of us as individual Senators.

Yet despite statements that Alaskan oil would not be exported, the Senate defeated an amendment which would have expressly prohibited the exportation of Alaskan oil. Fearful of what would happen once the oil began to flow, I actively supported that amendment.

Instead of this outright prohibition on exporting Alaskan oil, the Senate adopted an amendment which, in effect, said the President could authorize the exportation of Alaskan oil so long as the total amount of oil in the United States did not decrease.

This amendment opens the door for oil exports to Japan. Obviously it is inadequate since it fails to guarantee that U.S. energy resources will not be used abroad. As a shield against exports, it is more loophole than protection.

Mr. President, with this background the stage is being set for an ironic and outrageously expensive postscript to last year's decision to proceed with the Alaskan oil pipeline.

In what will no doubt rank as one of the all-time, greatest frauds perpetrated on American consumers, it appears that several major oil companies—with the tacit approval of the administration—

are preparing for substantial international swapping of crude oil.

Mr. STEVENS. Mr. President, will the Senator yield or would the Senator prefer to finish his statement before we enter into a colloquy?

Mr. BAYH. If my friend from Alaska will permit me to finish my remarks, they will not take long. Then, I am looking forward to his speech, because I have a suspicion he may look at this matter differently and it would be advantageous to the Senator to have his views, and I would be glad to have his views.

Mr. STEVENS. I thank the Senator.

Mr. BAYH. In the event the Senator did not hear what I said a while ago, I hope what I say is not interpreted in any way to imply that he was trying to mislead the Senate or give us less than his honest and candid description of the facts, which is the only way he deals with his colleagues in the Senate.

Mr. President, regarding the international swapping of crude oil, what could well become known as "the great Alaskan oil switch" will cost American consumers billions of dollars without adding a single drop to the oil available for use in the United States.

Because of huge differences between domestic and foreign crude oil prices, massive exports of Alaskan oil, even if imports balanced the exports, could well cost American consumers almost $2 billion a year, while providing windfall gains for the oil companies.

By exporting Alaskan oil, the producers would be able to escape a lower U.S. crude oil price, including whatever price controls might be in effect on domestic oil prices. At the same time, the imported oil coming from Venezuela and the Mideast would be exempt from U.S. price controls.

Since the oil companies that will be producing the oil in Alaska also produce oil abroad, this neat little switching of oil from one market to another would enable them to sell the same total amount of oil but gain far higher prices for the oil produced in the United States. It would encourage maximum exportation of Alaskan oil to gain as much advantage as possible from the higher international price of oil.

To gain some idea of what this would mean to consumers, we can look at the present price difference of about $5 a barrel between uncontrolled U.S. crude oil and foreign crude oil. If the switching game were played with half of the Alaskan oil for 5 years, the increased oil cost for American consumers would be $5 million a day, or $1.8 billion a year, or more than $9 billion for the 5 years.

These estimates may actually be a bit conservative since it is likely that the price differential between United States and foreign oil prices will grow between now and 1979 when Alaskan oil begins to flow.

Such manipulation of the international oil market, at great expense for consumers and great gain for the multinational oil companies, would not have been possible had the decision been made to bring Alaskan oil to the lower 48 States via Canada.

However, much as I regret to admit defeat, we were defeated on that issue. That issue has been resolved, and the Alaskan pipeline is in the process of being built. I do not intend to raise this issue now; nor to fight that issue once again. Rather, I think the need now is to focus our attention on avoiding the great fraud being set in motion by the oil companies. To prevent such an outrageous exploitation of the oil shortage, I am taking the following steps:

First, I have written today to Senator JACKSON asking for an investigation of this entire matter by the Senate Permanent Subcommittee on Investigations, which he chairs. I request unanimous consent to include a copy of my letter to Senator JACKSON following my statement.

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

(See exhibit 1.)

Mr. BAYH. Mr. President, the Senator from Washington has performed an admirable service in opening some of the oil company maneuvering in the past to public scrutiny, and I hope he will feel it is a wise course to investigate just what this switching tactic might cost the consumers of this country.

Second, today, I am also introducing an amendment to S. 3267, the Standby Energy Emergency Authorities Act, recently reported from the Senate Interior Committee, to guarantee that if the President uses his authority, under the Alaskan pipeline bill, to approve the export of Alaskan oil that the switch not result in any increase in oil prices to American consumers.

Beyond the need to forestall the economic impact of "the great Alaskan oil switching game" on American consumers, this experience in the case of Alaskan oil should prove of great value as we move toward a decision on the proper delivery system for the huge natural gas reserves in Alaska.

Fortunately for our country, the great and wealthy State of Alaska not only has rich and abundant oil reserves; it also has a very substantial gas supply, which can and will be very beneficial to our country.

In this regard, last month 24 of my colleagues and I wrote to Interior Secretary Morton reminding him of his earlier expressed support for delivering Alaskan natural gas to the lower 48 States via Canada and asking him to reaffirm his support of this highly desirable approach. A trans-Canadian gasline would make the gas available in all regions of the United States, from Southern California to New England.

Actually, last year during the debate on delivering Alaskan oil, it was generally assumed by all parties to that debate that the natural gas would be delivered via Canada. Secretary Morton was only one of many proponents of the Alaskan oil pipeline who expressed support for the trans-Canadian natural gas pipeline.

I recall some of the very vigorous debate that transpired with some of the opponents of our effort to deliver oil via Canada, who said, "Well, you fellows are going to get the gas pipeline to the Midwest. That is already negotiated. We are going to run the oil pipeline the other way."

However, an alternative proposal has developed for shipping the natural gas from Alaska's North Slope to southern Alaska in a line paralleling the oil pipeline. Under this proposal the natural gas would then be liquified for tanker shipment, presumably to the west coast.

An unexpected statement by President Nixon requesting Secretary Morton to evaluate the two proposals for delivering Alaskan natural gas caused my colleagues and I to seek a reaffirmation of the Secretary's prior position. Unfortunately, the Secretary's reply was quite equivocal. He would not reaffirm his support for the trans-Canadian route.

Now, as we see the impetus developing to export Alaskan oil, it is important to bear in mind that there is no statute that would in any way limit the export of Alaskan natural gas, or even provide the kind of high-priced exchange being planned for the oil. Once that liquefied natural gas was loaded on huge tankers in Alaska the same firms that are making a fortune on the Alaskan oil would be free to sell the liquified natural gas to the highest bidder. It would not matter if that highest bidder were in Los Angeles, Tokyo, or even in Europe—there would be no assurance that this scarce U.S. resource would be available to our citizens.

The debate on delivering Alaskan natural gas is only in its early stages. But it promises to be as intense as the debate over how to deliver Alaskan oil, and as we see what is happening in the case of the oil, I hope fervently that we will not repeat our error. We must resist the growing effort to ship Alaska natural gas in liquified form, lest we again deny American consumers vitally needed energy on an equitable basis.

Finally, Mr. President, cast in the entire picture of the domestic energy shortage, I think our experience to date—and the battles ahead—on Alaskan oil and natural gas make it abundantly clear that we cannot let the huge multinational oil companies continue to make the energy decisions of such vital concern to our Nation. Those companies have the responsibility of maximizing their profits.

That is the way the system works. The corporate president is in the business of making money for the company stockholders, and I certainly do not demean them for trying to pursue that particular policy, but we in the U.S. Senate have the responsibility of serving the public interest—and those differing responsibilities obviously argue for very different policies in the area of energy self-sufficiency.

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

EXHIBIT 1

APRIL 24, 1974.

Sen. HENRY JACKSON,
Chairman, Permanent Subcommittee on Investigations, Government Operations Committee, U.S. Senate, Washington, D.C.

DEAR SCOOP: I am writing to respectfully request hearings by the Permanent Subcommittee on Investigations into the probable export of Alaskan oil to Japan and other countries. According to a regional adminis-

trator of the Federal Energy Office, the West Coast will not be able to absorb the anticipated flow of two million barrels a day of Alaskan oil.

As you will recall, this was one of the points we discussed last year during the debate on the best means of delivering Alaskan oil to the lower 48 states. The FEO regional administrator, Jack B. Robertson, has been quoted as saying of Alaskan oil, "Much of it probably will be sent to Japan."

Mr. Robertson added that the U.S. would receive additional foreign oil, which might otherwise go to Japan, in exchange for the oil we export. Such exports in exchange for imports would not violate Section (u) of title I of the Public Law 93-153, the Alaskan Pipeline Authorization.

However, because of a significant price difference between domestic and foreign crude oil, such switching of exports for imports could cost American consumers well in excess of a billion dollars a year. This program, moreover, would enable the oil producers in Alaska to escape price controls, that might be in effect on domestic oil sales, for that portion of the oil they exported. At the same time, the imported oil exchanged for such exports would be exempt from U.S. price control assuring the oil companies of a substantial windfall profit and encouraging maximum switching of Alaskan for Venezuelan and other more expensive foreign oil.

The entire situation poses significant new questions regarding the policies of the multinational oil companies as they relate to the domestic energy shortage and the treatment of American consumers. The role of the Administration in such a plan is also of great concern. This matter would be a logical continuation of the energy-related work already done by the Permanent Subcommittee on Investigations and I hope you will see fit to conduct the appropriate investigative hearings into this matter.

Sincerely,

BIRCH BAYH,
U.S. Senate.

Mr. STEVENS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield?

Mr. STEVENS. No, Mr. President; I would like to be recognized in my own right.

The PRESIDING OFFICER. The Senator from Indiana has 2 minutes remaining, at the completion of which there would be a brief time for morning business.

Mr. BAYH. Mr. President, I ask unanimous consent that the Senator from Alaska, who, I understand, has the time from the Senator from Michigan, be permitted to have access to the floor and that the remaining amount of my time be allowed to commingle with the time that he would be using.

Mr. STEVENS. Mr. President, I may say to my colleague that the motion to yield me the minority leader's time has not been made.

I do believe that the unanimous-consent request is in order, and that he be permitted to retain his 2 minutes going into the morning hour. I understand that I am entitled to 5 minutes in the morning hour.

The PRESIDING OFFICER. The Senator is correct; but we also have an order that at 12:45 the Senate will go into executive session. That means that the time of the Senator from Indiana will expire at 12:41, even though the transaction of morning business will last only 4 minutes.

Mr. BAYH. Is the order for 12:45 subject to revision, the same as the 12:15 order was subject to revision because the Senator from Virginia understandably had comments that he felt were of interest to the Senate?

The PRESIDING OFFICER. Yes; the order may be changed by unanimous consent.

Mr. STEVENS. Mr. President, I ask unanimous consent that the time of the Senator from Indiana be extended 15 minutes, that we share it equally, and that the previous order placing the Senate in executive session at 12:45 be extended for 15 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAYH. For the convenience of the Senate, the Senator from Indiana will be glad to contribute the remainder of his time, to the discussion with the Senator from Alaska.

Mr. STEVENS. I do hope that the Senator from Indiana understands my position on the matter. I think sometimes that those of us who look south at the Sun do not get as blinded as as those who look north at the midnight sun. I say that with kindness to my friend from Indiana, because at the time we were debating the Alaska pipeline amendment, we had extensive comments concerning the exchange provisions of the oil industry, wherein it was possible to ship Alaskan oil to some other country and have foreign oil delivered to other places in the United States, with no loss of oil to the United States, and actually reducing the cost of transportation.

The Senator from Washington (Mr. JACKSON), of whom the Senator from Indiana has spoken, very clearly, in response to a question by the Senator from Rhode Island about bartering aspects of this exchange—during the debate on July 12, 1973, the Senator from Rhode Island said:

> We could make a deal with Japan and say, "We'll give you 100,000 barrels of our oil out of Alaska, provided you deliver to Providence, R.I., 100 thousand barrels of oil out of the Middle East."
>
> Is that the question?

Mr. JACKSON said, "Precisely," he added:

> I should like to supplement that very well stated comment. It is cheaper for Japan to get oil directly from Alaska, and it is cheaper for New England to get needed oil directly from the Middle East.

Mr. PASTORE then said:

> But in no instance will we give one drop of oil to Japan unless it gives the same drop of oil back to us in New England.

Mr. JACKSON responded saying:

> That is precisely true.

I should like to supplement that. The Senator from Indiana well said that it is cheaper for New England to get oil directly from the Middle East. That is what we are involved in. I say to my friend from Indiana, as a fellow Hoosier originally, and in good spirit, that I think he is making a mountain out of a molehill.

The North Slope oil is not yet flowing from Alaska. The Senator's comment pertains to the shipment of oil from Alaska during the period when there will be a temporary surplus on the west coast. We do know that when we reach 2 million barrels a day—and that may be some 6 or 7 years from now, when we are producing and shipping 2 million barrels a day through the Alaska oil pipeline—it is now predicted that the west coast will not be able to consume the 2 million barrels a day, and that there may be a temporary surplus.

That surplus, if shipped to Japan—shipped, not sold—and if the oil being sent to Japan from the Middle East is shipped to the east coast, will save Japan money and the consumers on the east coast money.

I should like to ask the Senator from Indiana if he can document for me the cost to the consumer of $1,800,000,000 a year; and as much as $9 billion through the year 1980. It is my understanding that there would be a saving from an exchange, not a cost, because at present that oil is being shipped longer distances. A map of the world helps to describe this situation. At present, oil comes out of the Mediterranean, goes around Cape Horn, and up to California. Similarly, oil destined for Japan comes out of the Mediterranean, goes around Cape Horn, and then to Japan. The Middle East oil could be shipped directly to the east coast, about one-third the tanker distance. The Alaskan oil could be shipped to Japan at about one-quarter the tanker distance. There is the question of computerizing the quantity, quality, but no question regarding sale of oil; we are not going to sell oil to Japan.

We are not going to sell any of Alaska's oil to Japan. We may ship a little from Alaska to Japan temporarily to offset the shipment of Middle East oil that was destined for Japan, which will be brought to the east coast, and save the east coast consumers money.

Mr. President, let me ask the Senator from Indiana where he gets the consumer cost. I say that to him again, out of a total quandary that the Senator from Alaska has, because of the fact that the Consumer Federation of America somehow made his amendment a consumer matter.

I do not understand how the consumer is going to be hurt by an exchange of oil that saves tanker distances.

Mr. BAYH. Would the Senator like to have me give him the Indiana perspective on that, which I think is accurate? If the Senator from Alaska, was the Secretary of the Interior, or the President of the United States, or the president of the Alyeska Pipeline, I would be somewhat comforted.

But neither he nor I have disposition of that Alaskan oil. It belongs to those oil companies.

Mr. STEVENS. No, it belongs to the State of Alaska; I want to make that very clear. That is Alaskan oil, which we have given the oil companies the right to remove as long as they give us one-eighth of the value.

I understand my friend's position as

far as the State of Indiana is concerned, and the consumers of Indiana, and I respect his position. It may well be that the consumers of Indiana may end up paying a little more for oil, but the total consumers of the United States, the east coast consumers are going to get their oil cheaper than they would otherwise, and the west coast consumers are going to get their oil cheaper than they would otherwise, and the tanker routes will be shortened and the tankers will be able to move it faster.

Mr. BAYH. Mr. President, while I respect the opinion of the Senator from Alaska, I feel it can be documented that all consumers with the exception of those on the west coast are going to pay through the nose unless an amendment similar to mine is adopted. If the Senator from Alaska wants to guarantee that this will not be the case which I feel is his sincere interpretation, then I see no reason why he should not even cosponsor my amendment, which would say that if we are going to have that switching, in order to provide oil to the Midwest where I support—that it be done only at no additional cost to the consumer.

The documentation is that the Alaskan oil produced in the future would be called uncontrolled U.S. oil, which is even now priced lower than oil coming from any foreign nation.

Mr. STEVENS. May I say to my friend again, this is sort of like Alice in Wonderland; we are looking through the looking glass. We are not even exporting Alaskan oil yet, but when we do, during that period before California demand reaches the capacity of our pipeline, there will be a theoretical surplus. In that period, which could not last for more than two years, it would be possible for us to ship some of our oil to the east coast, and I have discussed that with the oil industry, as to how they would get the oil to the east coast.

One theory is that we would take it to the Panama Canal, put it in a pipeline and ship it across the Isthmus of Panama, and then ship it by tanker up to the east coast of the United States.

If we go that way, it is going to cost a lot of money. At the same time, there is oil coming from the Middle East to Japan under long-term contracts. That oil could be delivered to the east coast and our oil could be delivered to Japan. We would not sell our oil to Japan; I have opposed the sale of the oil to Japan, as the Senator from Indiana knows. I would support him on that.

But when you are talking about the consumers of the United States, you have to decide what consumers you are talking about. If it is the Middle Western consumers, they are not going to get Alaskan oil anyway.

Mr. BAYH. The Senator would not, then, be opposed to an amendment which would say you could not take domestic oil from Alaska, which at current prices would be about $10 a barrel, and ship it to Japan for the price Japan would have to pay for Venezuelan oil, about $14 or $15 a barrel, and then exchange oil with Venezuela, so U.S. consumers have to pay, not the $10 a barrel which is the price on the domestic market, but $14 or $15 for oil from Venezuela? There is now about a $4.50 to $5 differential.

Mr. STEVENS. As long as the Senator from Indiana uses the word "sale" in his amendment, I want him to know we are not talking about Alaskan oil. We are not selling Alaskan oil outside the United States.

Mr. BAYH. Who is "we"?

Mr. STEVENS. But the existing amendment to the Alaska Pipeline Act specifically does provide the ability to ship our oil to Japan.

Mr. BAYH. There is nothing in the amendment, let me say to my friend from Alaska, that keeps the oil companies from selling the oil. It may be Alaskan oil, but it is under the control of the oil companies, and it may be exported if the President says it is in the national interest. You can make all sorts of foreign policy arguments as to why we had better sell Alaskan oil to Japan.

Mr. STEVENS. What I am saying is, we are not going to sell our oil, but the exchange is specifically permitted in our amendment in S. 1081 as it was passed and became a public law. The trans-Alaska pipeline amendment specifically permits such exchanges with adjacent countries.

Whether you like it or not, Japan is adjacent to Alaska, and all we are saying is that we may exchange oil with them, we are not going to sell oil to them. We do not have any intention of selling Alaskan oil to them. We want to exchange it for the benefit of the American consumer.

Mr. BAYH. You are going to exchange it, and I would welcome that if U.S. consumers in Indiana and elsewhere could buy more oil at fair prices. But let me suggest, before we move too much into Alaskan transportation or into the overall cost of oil on the Alaskan market, that the cost of transportation is not all that much in terms of the cost of oil. It is not the differential between the world price and the domestic price, by any means. Second, let us go ahead with the exchange—with the understanding that Midwestern and Eastern consumers are not victimized.

Mr. STEVENS. May I say to my friend from Indiana that that is not right. I represent the State of Alaska, and we retain a one-eighth interest in our oil. We have to find out the price at the wellhead to determine the value of that interest. What purchasers have to pay is the price at the wellhead plus the cost of transportation. The transportation cost priced back to the wellhead is less if we will ship the oil from Valdez to Japan. Arabia will ship their oil to New England. We in Alaska will have sold our oil to New England with a very low transportation cost compared to what it would have been if we actually shipped it to New England, and Saudi Arabia would save money, too.

Mr. BAYH. I must respond very precisely to the Senator from Alaska to point out what I said. The differential between the price of domestic oil and the price of oil, say, in Venezuela is much greater than the transportation costs involved.

Mr. STEVENS. I understand that.

Mr. BAYH. All right; that is what I am saying. The Senator's whole argument is that this exchange is going to save transportation costs. I am willing to accept that. But if you take Alaskan oil and ship it to Japan, and would have to buy back Venezuelan oil or Saudi Arabian oil, there is nothing in the present statute to guarantee that, to use the Senator's terminology, the exchange oil will not cost a lot more.

Mr. STEVENS. No, we do not buy back oil. If the Senator will recall, during the debate, I facetiously said, "Maybe we better talk about milk, because we can understand milk a little better."

I pointed out to the Senator from Minnesota that milk that may be sold from the milk dealers in Minnesota into Louisiana could actually be delivered from Iowa, because of the fact that there would be more milk available in Iowa and the distance from Iowa to Louisiana would be shorter, and that is what we are doing; we are not buying oil from anybody in order to deliver it to the east coast. We are exchanging. The Saudi Arabians have made their agreement with Japan. Japan pays the price that Saudi Arabia asks. The Alaskan oil consortium makes their sale to the east coast of the United States. We do not have to buy any oil; they simply deliver the Saudi Arabian oil into the east coast of the United States, and we deliver the oil from Valdez to Japan. Then both groups of consumers are saved money.

What the Senator from Indiana is suggesting would force us to use the tankers for the shipment to the east coast, and tie them up for many times the amount of time which it would take to transport the oil to Japan, paying the greater transportation cost for the oil, and thereby increasing the price of the oil to Alaska. I urge the Senator not to do that.

Mr. BAYH. I wonder if, in the short time remaining, the Senator from Alaska and I are ever going to get on the same wave length here. I understand that whether it is oil, apples, or milk, we have a savings of transportation costs. But, to use the example of milk, which I think perhaps more people do understand, the example would be the same as seeking to exchange a truckload of milk in Alaska priced at $1.35, for a gallon of milk from Venezuela. That milk is about $1.75 or $2 a gallon. That is my concern. If the Senator from Alaska shares that concern, I am willing to go along—okay—and offer this amendment, which says we can have all the exchange we want, provided it does not, indeed, increase the cost to the consumer. Right now, the statute does not provide the necessary guarantee, and I appreciate the Senator's assurance in this regard, but the statute does not guarantee that the so-called exchange will not mean higher prices to our consumers.

Mr. STEVENS. We are still not on the same wavelength. It is in the amendment which prohibits the export of and puts a limitation on exports. We specifically insisted that the exchange in a

similar quantity for convenience and increased efficiency of transportation was an exception to the limitation. We need that in order to get more for our oil. We are getting more for our oil because of the saving in the transportation. We are not buying oil from anyone but are selling it to the east coast of the United States and delivering it to them by virtue of deliveries originally destined for Japan but which are going to be delivered to the east coast and save the consumers money because they will not be paying the same transportation cost.

Mr. BAYH. Let us use the figures of Venezuela, because they are selling more oil to the United States at this particular moment than any other country. The last time I checked the price of Venezuelan oil, it was $14.50 a barrel. Let us assume that the Japanese, having contracted with Venezuela, how much are they paying the oil companies in Alaska for the oil they send to Japan?

Mr. STEVENS. Nothing, because they are not buying our oil. The Japanese would be buying Venezuelan oil. That is what we seem unable to get together on the same wavelength on.

Mr. BAYH. Someone will have to pay someone else for that Alaskan oil. What will be the price?

Mr. STEVENS. The domestic price of the oil plus the transportation cost. It is $5 today in Alaska, which is not very expensive, but if we add the transportation cost then it gets expensive. But I am telling my friend, the Senator from Indiana, that by virtue of shipping oil to Japan and having the delivery of foreign oil made to the east coast, both parties are paying less for the transportation, but we are not buying foreign oil on the east coast. The east coast is buying Alaska oil.

Mr. BAYH. Would the Senator from Alaska be willing to join me in either this amendment or another amendment which would guarantee that the oil companies will be paid no more by the Japanese or our consumers than the price of the oil at the wellhead in Alaska plus the transportation.

Mr. STEVENS. I am compelled to oppose the Senator from Indiana's amendment because I am opposed to the sale of Alaskan oil outside of the United States.

Mr. BAYH. The Senator used the word "transfer."

Mr. STEVENS. We already have an amendment which permits the exchange of the same quantity for the purpose of efficiency in transportation and that is the only way we can do it.

Mr. BAYH. Someone gets paid for the exchange of the oil. I am not tied to the term exchange or whatever it is. I am only interested in whether it is transferred or sold and that the final price paid by U.S. consumers will be limited to the domestic oil price, not the price of world oil—but of domestic oil.

Mr. STEVENS. If the Senator from Indiana wants to put something in to assure that the people who are buying Alaskan oil pay the Alaskan price, plus the Alaskan transportation charge, that is what they will pay.

Mr. BAYH. That is not what they are going to pay according to what the law says now.

Mr. STEVENS. I believe the Senator has misinterpreted that. The Alaskan gas pipeline is the real reason, I assume the Senator is raising the question. There are still issues pending about the gas pipeline which will be decided by the Federal Power Commission as to which transportation route is in the national interest. I am being attacked in my own home State for not having endorsed one route or the other. However, I want to see the documents. I want to see what is going to be the cost of the various transportation systems. We have to liquefy the gas if it goes trans-Alaska—we have got to regassify it again. The cost of that process has got to be compared with the cost of the pipeline system across land.

Mr. President, I believe it is in the national interest to wait and get the figures and then determine what is best in the national interest, because what is in the national interest is in the interest of Alaska in the long run. So I have not taken a position on the route that gas pipeline will take. The Senator from Indiana, in his statement concerning Secretary Morton and others where he criticizes them because they have refused to take a position on which transportation system is in the national interest, is in error and is premature. All the facts are not in yet. The Arctic consortium has filed and the El Paso group plans to file an application with the Federal Power Commission and there may be other groups. But, again, we are talking about gas that will not be consumed for at least 7 years, so why should we position the Government on this question until the proper time—until it is ripe for decision?

(The following discussion occurred during the colloquy of Senators BAYH and STEVENS and is printed here by unanimous consent:)

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

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. I ask that the colloquy not be interrupted in the RECORD. I understand that the time of the distinguished Senator from Indiana was extended by unanimous consent.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I am sure the Senator from Indiana was not aware that in the past 3 to 3½ years the leadership has objected to any request to extend the time of 15-minute orders. I yielded the remaining time of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) to the Senator from Indiana, which gave him a total of 21 minutes.

With his permission, I now ask unanimous consent that the request to extend his time be vacated and that when the Senator from Indiana's time is up—presumably it is probably up now—there be a period for the transaction of morning business until 1 o'clock, with statements therein limited to 5 minutes each. The Senator from Indiana could use 5 minutes and the Senator from Alaska could use 5 minutes. In that way both Senators could get additional time without violating the current operating practices and procedures.

Mr. BAYH. I have no objection. I will not object. I think it only fair that the Senator from Alaska be heard, inasmuch as he is looking south, rather than north, on this particular issue.

Mr. ROBERT C. BYRD. I understand. I certainly want to do everything I can to cooperate with both Senators. The Senator from Alaska could get his time from the time allotted to morning business.

Mr. President, has the Senator's time expired?

The PRESIDING OFFICER. It has.

Mr. STEVENS. Would the Senator also include in his request that the dialog between the Senator from Indiana and the Senator from Alaska be continued in the morning hour?

Mr. ROBERT C. BYRD. Certainly; and in the RECORD, it will so show.

The PRESIDING OFFICER. Without objection, there will be a period for the transaction of routine morning business until 1 p.m., with statements therein limited to 5 minutes each.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be extended until the hour of 1:05 p.m., with statements limited therein to 5 minutes each, and that none of the time I have taken come out of the time of the two Senators.

(This marks the end of the discussion.)

COMMUNICATION FROM EXECUTIVE DEPARTMENTS, ET CETERA

The PRESIDENT pro tempore laid before the Senate the following communication, which was referred as indicated:

PROPOSED SUPPLEMENTAL APPROPRIATION, 1974, FOR U.S. SENATE (S. DOC. No. 93–77)

A communication from the President of the United States, transmitting a proposed supplemental appropriation, totalling $5,890, for the United States Senate (with an accompanying paper). Referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution of the City Council of the City of Maple Heights, Ohio, urging the Senate to expedite development of Cuyahoga Valley Park within the State of Ohio. Referred to the Committee on Interior and Insular Affairs.

PRESENTATION OF A PETITION

Mr. THURMOND. Mr. President, on April 18, 1974, the South Carolina General Assembly adopted a concurrent resolution memorializing the Congress to enact H.R. 12464, a bill to extend the programs of the Economic Opportunity Act of 1964.

On behalf of the junior Senator from South Carolina (Mr. HOLLINGS) and myself, I ask unanimous consent that this resolution be printed in the CONGRESSION-

AL RECORD and referred to the appropriate committee for consideration.

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

The concurrent resolution, which was referred to the Committee on Labor and Public Welfare, is as follows:

H. 2797

Whereas, House Bill 12464 is currently under consideration by the House Education and Labor Committee of the Congress of the United States; and

Whereas, this bill extends the programs of The Economic Opportunity Act of 1964; and

Whereas, the passage of this bill will benefit many citizens of our State, including our senior citizens.

Now, therefore, be it

Resolved by the House of Representatives, the Senate concurring:

That the Congress of the United States be memorialized to enact House Bill 12464 which extends the programs of The Economic Opportunity Act of 1964; be it further

Resolved that a copy of this resolution be forwarded to each member of the House of Representatives and to each Senator from South Carolina.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Commerce, with amendments to the preamble:

S. Res. 281. Resolution to express the sense of the Senate with respect to the allocation of necessary energy sources to the tourism industry (Rept. No. 93-791).

ADMINISTRATION OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL SECURITY LAWS—REPORT OF A COMMITTEE—(S. REPT. NO. 93-790)

Mr. EASTLAND, from the Committee on the Judiciary, submitted a report of the Subcommittee To Investigate the Administration of the Internal Security Act and Other Internal Security Laws, which was ordered to be printed.

REPORT ENTITLED "IMMIGRATION AND NATURALIZATION"—REPORT OF A COMMITTEE—(S. REPT. 93-789)

Mr. EASTLAND, from the Committee on the Judiciary, submitted a report entitled "Immigration and Naturalization," which was ordered to be printed.

TRANSMISSION OF A REPORT—S. 1566

Mr. INOUYE. Mr. President, I am transmitting to the floor S. 1566, the Hawaii and United States Pacific Islands Surface Commerce Act of 1974, which has been reported by the Senate Commerce Committee without recommendation. I am told that bills reported without recommendation are not accompanied by a committee report when sent to the floor. Therefore, there is no written report.

The Commerce Committee agreed to report the bill on this basis and instructed Senator MAGNUSON, chairman of the committee, to have the bill referred to the Committee on Labor and Public Welfare for a period not exceeding 40 days before being returned to the floor for a vote.

Accordingly, Mr. President, I ask unanimous consent that S. 1566 be recorded as reported without recommendation and that it be referred to the Committee on Labor and Public Welfare for a period not exceeding 40 days and, upon the expiration of such period, be returned to the floor for a vote.

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

Mr. INOUYE. Mr. President, today the Committee on Commerce reported S. 1566, the Hawaii and U.S. Pacific Islands Surface Commerce Act of 1974, without recommendation. The bill is designed to provide for the normal flow of ocean commerce between Hawaii, Guam, American Samoa, or the Trust Territory of the Pacific Islands and the west coast and to prevent interruptions thereof.

S. 1566 authorizes a party involved in a strike or lockout or the Governor of Hawaii, Guam, or American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands or any of their duly designated representatives to petition the U.S. district court having jurisdiction for an injunction or temporary restraining order to maintain maritime transportation between these areas and the west coast for a period not to exceed 160 days. No injunction can be requested while an injunction issued under the Taft-Hartley Act is in effect. A strike or lockout could be enjoined for a total of 240 days if injunctions under this bill and the Taft-Hartley Act were issued.

Hearings on S. 1566 were held in June 1973. Hearings on similar legislation were held in Hawaii by the Subcommittee on the Merchant Marine in January 1972. Since I first introduced legislation to protect the normal flow of ocean commerce to Hawaii, 49 witnesses have appeared during 4 full days of Senate hearings to produce over 500 pages of public testimony on this crucial issue. S. 1566 was considered in an executive session of the Merchant Marine Subcommittee on June 11, 1973, and was ordered reported to full committee without amendment. On March 21, 1974, the Committee on Commerce considered the bill in its executive session and ordered it reported without recommendation.

Hawaii is an island state, and as such is acutely vulnerable to longshore and merchant marine disputes. We have no truck or railway service. Air freight is expensive and limited in scope. A comparable situation would be the construction of a wall around metropolitan Washington permitting only costly air freight access from the west coast. Hawaii's economy is heavily dependent on exports and imports. Approximately 80 percent of all physical commodities purchased by the residents of Hawaii come from overseas, primarily the mainland United States. The bulk of this must be carried by ships since air freight is both limited in capacity and too expensive. Without a constant exchange of goods between Hawaii and the continental United States, the economy of Hawaii would soon stagnate.

Since World War II, more than 4 years' time has been lost as a result of transportation disputes affecting my State. Of eight major strikes, only one centered in Hawaii. It is for this reason that my bill, S. 1566, would apply only to disputes originating on the west coast. I believe that a dispute originating in Hawaii can be adequately handled locally. Local political pressure and public opinion would probably be sufficient to bring the parties in a dispute to an agreement.

In the 1971-72 period, labor disputes halted the Hawaii-west coast maritime trade for 175 days. The west coast longshoremen's strike lasted 134 days, and the west coast ship officers strike in 1972 lasted 41 days. These devastating blows seriously undermined the State's economy, which has only recently begun to recover. It is impossible to assess accurately the damage done to the State as a result of these shutdowns. Non-Hawaiian businessmen may have decided not to invest in Hawaii. Tourists may have been deterred from visiting the State. The primary blow, however, fell on all the people of Hawaii, including union members and their families.

Manufacturers found it impossible to get supplies. Retail inventories declined, construction materials were exhausted, and construction projects went unfinished. Farmers could not get fertilizers and feeds. These shortages were reflected in the stores. Consumers, that is, literally everyone, were forced to pay 72 cents for a head of lettuce, $1.45 for a dozen oranges, $2.28 for a 10-pound sack of potatoes, $4.37 for watermelons, and so forth. These, I wish to stress, were average prices. The fruits-and-vegetables price index for Honolulu jumped 8.2 percent in August 191 and 5.3 percent in September. Nationally, the index declined 1.9 percent and 5.7 percent for the same months.

The First National Bank of Hawaii revealed that a survey on the 1971 strike showed local retailers reported sales declines ranging from 3 to 17 percent and profit margins declining even more because of higher costs. Some firms were forced to go out of business because of high costs and exhausted inventories.

Hawaii's export industries were similarly injured by these work stoppages. The sugar and pineapple industries had to store their products locally rather than export them. They also lost some of their markets to foreign competitors as a result of the strike.

Any labor dispute of this type and magnitude affects those least able to care for themselves. The rate of unemployment rose to the highest experienced since 1954. The aged, the economically disadvantaged, the young and the ill all suffered more from the shortages and extra costs.

The people of Hawaii suffer extraordinary injury not only on those occasions when a shipping stoppage actually occurs through strike or lockout for the very threat of such a stoppage causes great injury. Abnormal stockpiling precedes every contract negotiation deadline. Heavy inventory costs are a major factor in making Honolulu's living costs second only to those of Anchorage, Alaska. Each threatened shipping stoppage adds further to that burden.

Most stoppages have been of short

duration but yet the very fear of a longer stoppage visits a heavy burden upon all my constituents.

It is for this reason that S. 1566 is designed to provide relief in the early stages of any stoppage.

During the worst days of the recent petroleum shortage, other Americans—including Representatives and Senators—experienced the severe inconvenience and frustration of long lines, high prices, and short supplies of gasoline. During the past shipping strikes, the people of Hawaii endured the same type of shortages but in an infinitely more aggravated form. As the Nation will not tolerate the uncertainties of continuing energy shortages, neither should the people of Hawaii be constantly faced with continuing uncertainties about shipping strikes.

There are three parties to these labor disputes—organized labor, management, and the public. The first two parties oppose my bill, and it appears that only the public, which is most seriously affected, supports the legislation. It is true that the legislation gives Hawaii a remedy not otherwise available to other States, but as many individuals, including Teamsters International President Frank Fitzsimmons, and the Wall Street Journal, the San Francisco Chronical, and others, recognize, Hawaii's special geographical characteristics give us a viable claim to exceptional consideration.

As my voting record during my 14 years in the House of Representatives and the U.S. Senate attests, I am a strong supporter of the right of labor to organize, to bargain collectively, and to strike. My sponsorship of S. 1566 does not negate my belief that a stable economy depends on a strong labor movement. Still, I cannot sit by idlely when labor disputes originating on the west coast result in unemployment, sharply higher prices, severe inconvenience, and undue hardship for Hawaii.

In normal west coast operations, only 3 percent of the total longshore hours worked are devoted to handling commodities bound to or from Hawaii. Of the man-days worked by maritime personnel on U.S. flagships, only 7.3 percent of the time is spent on the west coast-Hawaii trade. In short, my bill should not affect significantly the ability of organized labor to bargain collectively with management or the ability of management to bargain with labor. Hawaii is a pawn in a much larger game, but there is no reason why we should be held captive in this struggle. My bill provides a workable solution to a serious problem, and it will affect both labor and management in an even-handed way.

When railroad labor disputes erupt, congressional committees on several occasions during the past few years have worked late into the night to resolve them. Little attention is paid to the deadly effects of the strikes which affect Hawaii. Perhaps it is because Hawaii's population is only 800,000 compared to the millions in the other States, but that is an explanation which the people of Hawaii understandably refuse to accept.

Mr. President, when I first introduced legislation to deal with the problems caused by west coast labor disputes, I fully realized that I was putting myself against the powerful, entrenched economic interests of organized labor and big business. In view of the gravity of the situation, however, I feel that no other recourse is open to me. I am pleased to note that I am joined in this effort by the other members of the Hawaii congressional delegation regardless of party affiliation. The time to act is now. I ask unanimous consent that two editorials relating to this problem be reprinted in the RECORD at this point.

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

[From the San Francisco Chronicle, Mar. 27, 1973]

VULNERABLE HAWAII

Hawaii, the island state which lies more than 2000 miles off the mainland, could under present conditions become a virtual disaster area in the event of a prolonged strike that affects transportation by sea or by air.

Unlike other States which could fall back on railroads, buses, trucks and automobiles to move goods and people, Hawaii would be left stranded, the export-import economy would dry up to the merest trickle, and its 800,000 citizens would suffer most grievous shortages in food, medical supplies, clothing, building materials and other essentials to life and health.

Since World War II, dozens of such strikes, ranging from two to 177 days, and only one of which centered in Hawaii, have cruelly demonstrated their ability to punish inhabitants of a State which is far from self-supporting. Hawaii depends upon transportation for its daily supplies and largely upon outgoing sugar and pineapple crops and incoming tourists for its economic well-being.

Because of this almost complete dependence on waterborne commerce and air transport, Hawaii is seeking special legislation that would protect it against the devastation that strikes by dock workers, ship crews, and airline workers might clearly threaten. Thus far, efforts to do so through amendments to the Taft-Hartley Act to provide cooling-off periods, have not only failed but are deemed inadequate by Hawaii's leaders.

What they seek, and what would appear both reasonable and necessary, is an act of Congress to provide that in the event of a dockside, maritime or airline strike, the President could order carriers in the Hawaiian trade to maintain service at its normal levels during a strike. A three-man impartial board would determine which carriers would operate and at what volume, and would also fix the conditions of employment and the returns to the operators.

Such a solution would involve only a tiny fraction of the industry involved, would in no way interfere with collective bargaining, and would appear to be fair to both parties.

Not only Hawaii, but the other vulnerable, off-shore areas of the United States—Guam, Samoa, Puerto Rico and the Virgin Islands—exist under this threat of a sudden peacetime blockade, and Congress owes them also a sound measure of protection.

[From the Wall Street Journal, Apr. 9, 1973]

BLUE HAWAII

A brochure published by First Hawaiian Bank describes a special problem that confronts Hawaii periodically; it seems worthy of some special attention.

The state has a vulnerability to transportation strikes unlike that of any other state in the union. If American airlines go on strike the mobility of Hawaiians is sharply curtailed, since foreign carriers are about all that is left to them. And if ocean shipping becomes strikebound the state's jobs and food supply are in some jeopardy.

So it doesn't seem at all unreasonable that Hawaii's Congressmen have been trying to get some special relief. Their efforts last year were largely tied to a broader bill, Senate S. 640, which ran into serious flak from unions because it contained a provision that the unions felt was tantamount to compulsory arbitration of transportation strikes.

This year, Hawaii's Congressmen may get behind a special measure that would prohibit, for a specified period after a strike or lockout began, interference with Hawaii-to-mainland transportation services. They argue that exempting Hawaii from the strike would do little to weaken union bargaining power but would save the state from extraordinary damage.

It seems like a persuasive argument. And it doesn't hurt for Congress to be periodically reminded that the public interest should take precedence in their deliberations over the demands of labor unions or other special interest groups.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Clinton T. Peoples, of Texas, to be U.S. marshal for the northern district of Texas; and

Nathan G. Graham, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. McGEE, from the Committee on Post Office and Civil Service:

Robert Earl Holding, of Wyoming, to be a Governor of the United States Postal Service.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Jack B. Kubisch, of Michigan; John Michael Hennessy, of Massachusetts; and Charles A. Meyer, of Illinois, to be members of the Board of Directors of the Inter-American Foundation.

Alfred L. Atherton, Jr., of Florida, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

David M. Abshire, of Virginia; John P. Roche, of Massachusetts; Thomas H. Quinn, of Rhode Island; and Abbott M. Washburn, of the District of Columbia, to be members of the Board for International Broadcasting.

Webster B. Todd, Jr., of New Jersey, to be Inspector General, Foreign Assistance.

Leonard Kimball Firestone, of California, to be Ambassador Extraordinary and Plenipotentiary to Belgium.

Henry E. Catto, Jr., of Texas, Chief of Protocol for the White House, for the rank of Ambassador.

John E. Murphy, of Maryland, to be Deputy Administrator, Agency for International Development.

Robert Strausz-Hupe, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary to Sweden.

James G. Critzer, of Washington, to be Commissioner for a Federal exhibit at the International Exposition on the Environment being held at Spokane, Wash., in 1974.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. LONG. Mr. President, as in executive session, I report favorably from the Committee on Commerce sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

The nominations, ordered to lie on the desk, are as follows:

Carmin (n) Yannone, and sundry other officers of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MONTOYA (for himself and Mr. DOMENICI):

S. 3368. A bill to declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe. Referred to the Committee on Interior and Insular Affairs.

By Mr. HATHAWAY:

S. 3369. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs. Referred to the Committee on Finance.

By Mr. BEALL:

S. 3370. A bill for the relief of Charles Hammond, Jr. Referred to the Committee on Commerce.

By Mr. EASTLAND (for himself, Mr. STENNIS, Mr. AIKEN, Mr. ALLEN, Mr. SPARKMAN, Mr. HART, Mr. HUMPHREY, Mr. LONG, Mr. JOHNSTON, Mr. HATHAWAY, Mr. HATFIELD, Mr. PACKWOOD, Mr. HOLLINGS, Mr. FULBRIGHT, Mr. JACKSON, Mr. MAGNUSON, Mr. BENTSEN, Mr. WILLIAMS, and Mr. HELMS):

S. 3371. A bill to amend the Forest Pest Control Act of June 25, 1947. Referred to the Committee on Agriculture and Forestry.

By Mr. CANNON (for himself and Mr. BIBLE):

S. 3372. A bill to amend the Internal Revenue Code of 1954 to repeal the taxes on wagering. Referred to the Committee on Finance.

By Mr. CANNON:

S. 3373. A bill relating to the sale and distribution of the Congressional Record. Referred to the Committee on Rules and Administration.

By Mr. BUCKLEY:

S. 3374. A bill to amend the Small Business Act to assist in the financing of small business concerns owned by persons who are disadvantaged because of certain social or economic considerations. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MOSS:

S. 3375. A bill to amend the Mineral Leasing Act of February 25, 1920, as amended. Referred to the Committee on Interior and Insular Affairs.

By Mr. JAVITS:

S. 3376. A bill for the relief of Elba Luz Davinson. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON (for himself and Mr. Moss):

S. 3377. A bill to regulate commerce by establishing uniform test protocols for consumer products, and for other purposes. Referred to the Committee on Commerce.

By Mr. RANDOLPH (for himself, Mr. JAVITS, Mr. KENNEDY, Mr. STAFFORD, Mr. WILLIAMS, Mr. CRANSTON, Mr. MONDALE, Mr. PELL, Mr. SCHWEIKER, and Mr. TAFT):

S. 3378. A bill to provide assistance for the developmentally disabled, establish a bill of rights for the developmentally disabled, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. ROBERT C. BYRD (for Mr. METZENBAUM):

S. 3379. A bill to establish a National Economic Preparedness Council and a National Commodities Survey Office, to control self-dealing pricing practices of oil companies and to terminate certain tax preferences of such companies, and for other purposes. Referred to the Committees on Government Operations and Finance, by unanimous consent.

By Mr. WILLIAM L. SCOTT:

S.J. Res. 206. A joint resolution authorizing the Secretary of the Army to receive for instruction at the U.S. Military Academy one citizen of the Kingdom of Laos. Referred to the Committee on Armed Services.

By Mr. HARTKE:

S.J. Res. 207. A joint resolution to create an Economic and Social Community of the Americas. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MONTOYA (for himself and Mr. DOMENICI):

S. 3368. A bill to declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe. Referred to the Committee on Interior and Insular Affairs.

Mr. MONTOYA. Mr. President, on behalf of my distinguished colleague, Mr. DOMENICI, and myself, I introduce a bill providing that certain lands shall be held in trust by the United States for the Ramah Band of Indians in New Mexico.

By way of explanation, I ask unanimous consent that two letters—one from John Carver, Acting Assistant Area Director for Natural Resources Protection of the BIA's Albuquerque office, and another from R. O. Buffington, Acting New Mexico State Director of the BLM—be printed at this point in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Santa Fe, N. Mex., February 6, 1973.

AREA DIRECTOR,
Bureau of Indian Affairs, Albuquerque Area Office, Albuquerque, N. Mex.

DEAR SIR: We have received your letter of January 18, 1973, concerning proposed legislation for the Ramah Navajos.

The Bureau of Land Management in New Mexico would not raise any objections to this legislation. All the lands involved have been used by the Ramah Band and are administered by your agency under PLO 2198. We have no management program or plans for these lands which would affect surface or subsurface use or ownership.

Thank you for the oportunity to comment on this proospal.

Sincerely yours,

R. O. BUFFINGTON,
Acting State Director.

W. J. ANDERSON,
State Director, Bureau of Land Management, Santa Fe, N. Mex.

DEAR MR. ANDERSON: This refers to 21 sections of public land in the Ramah Navajo community described as sections 7, 19, and 31, T. 7 N., R. 15 W, and sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33 and 35, T. 7 N., R. 16 W., N.M.P.M., New Mexico. These tracts are among the public lands in New Mexico which, by paragrah 4 of Public Land Order 2198 of August 26, 1960, were temporarily withdrawn from all forms of approriation under the public land laws for Indian use in aid of proposed legislation.

For many years the above-described lands have been used by the Ramah Navajos for livestock grazing. The Ramah Navajos now desire that title to the lands be in the United States of America in trust for the Ramah Band of the Navajo Tribe, and their officials plan to seek introduction of appropriate legislation in this session of Congress.

As a preliminary step, it will be appreciated if your office will advise whether or not you have any objection to such legislation.

Sincerely yours,

JOHN E. CARVER,
Acting Assistant Area Director, Natural Resources Protection.

By Mr. HATHAWAY:

S. 3369. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs. Referred to the Committee on Finance.

Mr. HATHAWAY. Mr. President, one of the most inequitable aspects of the American tax structure is the payroll tax that finances the social security fund. This is a tax which falls on only those whose income is derived from labor; it does not touch those whose income is derived from capital. It falls the hardest on those whose incomes are the lowest, because it does not touch any income above $13,200. And it has increased, over the last few years, to the point of being unbearable for large numbers of our working citizens. On more than 50 percent of the more than 80 million individual tax returns filed this year, the social security tax will be larger than the Federal income tax. It is, I think, unconscionable to place so heavy a burden squarely on the shoulders of those who should last be asked to bear it. For these reasons, I am today introducing a bill in the Senate that would make the following major adjustments in the social security payroll tax.

First. It would add the U.S. Government as a third contributing partner to

the social security fund. This would create a three-way split of the payroll tax burden among employers, employees, and the Federal Government's general revenues. The shift to general revenues as a source of financing for the fund would not, of course, remove all the inequities; the Internal Revenue Code is hardly a paragon of egalitarianism. But it would be an improvement. It would give the largest share of tax relief to those who most need it, the working people who now finance the fund, and it would enable us to consolidate our tax reform efforts and to concentrate them on the Internal Revenue Code itself. In this way we could extend the reach of any efforts toward reform that, hopefully, soon will be made.

Second. The second thing this bill would do is to raise the tax base from the first $13,200 to the first $25,000 of income. This would include more of the wealthier wage earners income in the tax base and would distribute the tax burden more equitably.

Third. The third thing the bill would do is to lower the payroll tax rate itself, which now stands at its highest level in history, and is very shortly schedule to go higher.

This bill is identical to a bill introduced by Congressman BURKE, of Massachusetts, in the House, and that bill now has something in excess of 120 cosponsors. I would hope that my colleagues in the Senate will respond at least as favorably to this measure as have Congressman BURKE's in the House, in order that something be done this year to reform the social security payroll tax.

By Mr. CANNON (for himself and Mr. BIBLE):

S. 3372. A bill to amend the Internal Revenue Code of 1954 to repeal the taxes on wagering. Referred to the Committee on Finance.

Mr. CANNON. Mr. President, today I am introducing for myself and Senator BIBLE, an amendment to the Internal Revenue Code of 1954 to repeal chapter 35, the Federal taxes on wagering.

The 10-percent tax on wagering was placed on the books to assist Federal law enforcement officials in prosecuting illegal wagering operations. The Supreme Court of the United States, however, ruled evidence obtained in this manner unconstitutional on the grounds that it violated the fifth amendment prohibition against self-incrimination. As a result the law affects only the State of Nevada whose operations are legalized and governed by comprehensive and effective State statutory regulations to insure honesty and fair dealing.

In recent years several States have legislated legal off-track betting, lotteries, and other gaming operations, none of which are assessed the Federal tax. The purpose of my amendment is to make the technical remedy which will treat such activities uniformly.

Mr. President, I ask this bill be appropriately referred to the Committee on Finance and urge my colleagues to give rapid and favorable consideration to this measure.

S. 3372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 35 of the Internal Revenue Code of 1954 (relating to taxes on wagering) is hereby repealed.

(b)(1) The chapter analysis for subtitle "D" of such Code is amended by striking out the items relating to chapter 35.

(2) Section 4901(a) of such Code is amended by striking out "section 4411 (wagering) or".

(3) Section 4903 of such Code is amended by striking out ", other than the tax imposed by section 4411,".

(4) Section 4905(b)(1) of such Code is amended to read as follows:

"(1) For registration in case of white phosphorous matches, see section 4804(d).".

(5) Section 4907 of such Code is amended by striking out ", except the tax imposed by section 4411,".

(6) Section 6806 of such Code is amended by striking out "subchapter B of chapter 35, under subchapter B of chapter 36," and inserting in lieu thereof "under subchapter B of chapter 36".

(7) Section 7012(f) of such Code is hereby repealed.

(8) Section 7262 of such Code is hereby repealed.

(9) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7262.

(10) Section 7272(b) of such Code is amended by striking out "4412".

(11) Section 7609(a)(5) of such Code is hereby repealed.

(12) The chapter analysis for subtitle D of such Code is amended by striking out the items relating to chapter 35.

SEC. 2. (a) Except as provided in subsection (b), the amendments made by the first section of this Act shall apply only with respect to wagers placed after the date of the enactment of this Act.

(b) In the case of the tax imposed by section 4411 of the Internal Revenue Code of 1954, the amendments made by the first section of this Act shall take effect on the first July 1 after the date of the enactment of this Act and shall also apply to persons commencing a trade or business after the date of enactment.

By Mr. CANNON:

S. 3373. A bill relating to the sale and distribution of the CONGESSIONAL RECORD. Referred to the Committee on Rules and Administration.

Mr. CANNON. Mr. President, I am introducing today a bill to provide assurance that the CONGRESSIONAL RECORD will be delivered in a timely manner to interested American citizens, and freeing that publication from restrictions imposed upon it by the U.S. Postal Service.

As chairman of the Joint Committee on Printing last year, I requested that the Postal Service consider the CONGRESSIONAL RECORD to be eligible for mailing as second-class matter. Similar requests had been made by our late, beloved colleague, the distinguished Senator from North Carolina, B. Everett Jordan, and my good friend, Congressman WAYNE HAYS, who is chairman of the Joint Committee on Printing this year. All of our appeals to the Postal Service have fallen on deaf ears on the grounds that the CONGRESSIONAL RECORD is not eligible for second-class mailing privileges because less than one-half the subscription went to paying subscribers.

The bill I am introducing today, Mr. President, is a companion measure to H.R. 14282 introduced this week by Mr. HAYS, and seeks to remedy a serious situation that would cost RECORD subscribers $265 per year per subscription as first class matter, or under "controlled circulation" which would mean delivery up to 10 days after publication. Under terms of my bill, the CONGRESSIONAL RECORD would be treated as second class mail and the yearly costs per subscription would be approximately $22.63.

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. 3373

A bill relating to the sale and distribution of the Congressional Record

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 910 of title 44, United States Code, is amended to read as follows:

"§ 910. Congressional Record: subscriptions; sale of current, individual numbers and bound sets; postage rate

"(a) Under the direction of the Joint Committee, the Public Printer may sell—

"(1) subscriptions to the daily Record; and

"(2) current, individual numbers and bound sets of the Congressional Record.

"(b) The price of a subscription to the daily Record and of current, individual numbers and bound sets shall be determined by the Public Printer based upon the cost of printing and distribution. Any such price shall be paid in advance. The money from any such sale shall be paid into the Treasury and accounted for in the Public Printer's annual report to Congress.

"(c) The Congressional Record shall be entitled to be mailed at the same rates of postage at which any newspaper or other periodical publication, with a legitimate list of paid subscribers, is entitled to be mailed."

(b) Section 906 of such title 44 is amended—

(1) by striking out of the section caption the last semicolon and "subscriptions"; and

(2) by striking out the last full paragraph thereof.

(c) The analysis of chapter 9 of such title 44, immediately preceding section 901, is amended—

(1) by striking out of item 906 the last semicolon and "subscription"; and

(2) by striking out item 910 and inserting in lieu thereof the following:

"910. Congressional Record: subscriptions; sale of current, individual numbers and bound sets; postage rate."

By Mr. BUCKLEY:

S. 3374. A bill to amend the Small Business Act to assist in the financing of small business concerns owned by persons who are disadvantaged because of certain social or economic considerations. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BUCKLEY. Mr. President, I am introducing a new bill to encourage equity financing for minority enterprises. I offer it as a substitute for S. 1415, which I introduced last year. My new bill is simply a more comprehensive, tighter version of my original bill, incorporating a number of useful, though minor suggestions that have been made by the Small Business Administration.

This bill is designed to help us achieve our goal of full equality of opportunity for all Americans by opening new sources of financing for minority enterprises which are disadvantaged because of certain social or economic considerations that are not generally applicable to other

business enterprises. It is a bill aimed at attracting private sector assistance to hasten the development of the managerial skills and self-confidence which is so essential to the advancement of those minority groups which are still to have a *full* participation in our economic life.

The creation of the SBA loan guarantee program sought to assure the availability of capital to minority entrepreneurs and I am gratified to see the progress which has been made through this program. However, a great gap still remains unfilled. To date, virtually the entire emphasis on the financing of minority businesses has been through the extension of loans. These governmental efforts have concentrated on the device of facilitating debt financing while virtually ignoring the entire area of equity financing which is the more usual, desirable source of funds for high-risk ventures.

Private sector assistance offered by way of equity financing creates a situation whereby the investor who supplies the venture capital would become a partner in the enterprise and would bring to it not only a broad base of experience but a high degree of commitment to its success.

Those in the minority business communty have not had at their disposal the same benefits that the majority of large business firms have taken for granted—technical and managerial expertise. These skills can best be assimilated through the establishment of a sound business relationship between private investor and entrepreneur.

A business venture built on such a foundation will not only have the best chance of success, but the fact of success will have a tremendously important effect within the minority community itself.

By Mr. MOSS:

S. 3375. A bill to amend the Mineral Leasing Act of February 25, 1920, as amended. Referred to the Committee on Interior and Insular Affairs.

TAR SANDS DEVELOPMENT

Mr. MOSS. Mr. President, I am introducing today a bill to make possible the development of deposits of bituminous sands, popularly known as tar sands, which are an important potential source of additional supplies of oil and gas which the country desperately needs. The Utah Geological Survey and the U.S. Geological Survey have estimated that Utah's tar sands, which constitute the bulk of known U.S. deposits, contain 29 billion barrels of oil.

For years I have been trying to bring to fruition the development of this resource. In 1960 I participated in working out the extensive amendments to the Mineral Leasing Act that were enacted that year, which included a tar sands amendment authorizing the Secretary of the Interior to lease such deposits. A further amendment provided that under certain circumstances a tar sands lease could issue under the multiple use principle notwithstanding the existence of a prior conventional oil and gas lease. In operation, however, problems arose over the potentially conflicting rights of the oil and gas lessee and those of the bituminous sands lessee.

The central problem has been whether the bituminous sands lessee, whose right to mine the sands and extract oil from them is clear, has a right to extract oil from the sands by in situ methods, or whether that right belongs to the oil and gas lessee, who traditionally has been able to introduce pressure maintenance, fire flooding, and other methods to increase recovery from an oil well.

In 1966, in answer to my request, the Department of Interior rendered an opinion that the bituminous sands lessee could develop a deposit by in situ methods. However, because of the possible legal complications arising from this problem the Department of Interior has ceased issuing bituminous sands leases.

I introduced legislation in the 90th Congress, and in each succeeding Congress, to remove the legal uncertainties which have prevented tar sands development. The bill I am introducing today is a direct outgrowth of those earlier measures, and embodies an approach wholly consistent with the findings and recommendations of the Public Land Law Review Commission.

Mr. President, further delays in the development of this source of oil and gas are inexcusable. The technology is available; the demand for energy greatly exceeds the present domestic supply; and the crunch is going to get much worse if we do not act decisively to tap new energy sources, such as tar sands.

By Mr. MAGNUSON (for himself and Mr.Moss):

S. 3377. A bill to regulate commerce by establishing uniform test protocols for consumer products, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce for myself and for Mr. Moss for appropriate reference a bill to regulate commerce by establishing uniform test protocols for consumer products and for other purposes.

Any student of economics knows that in order for a competitive market system to function properly, consumers must have access to information regarding the relative merits of competing products. But in a marketplace as sophisticated as ours, being an "informed consumer" would be a full time job. Not only are there thousands of different types of products in our stores, but meaningful information about each is scarce, if even available at all. One economist has said:

> The expert buyer has always been the exception; and the consumer is not only an inexpert buyer but the increasing complexity of consumer's goods is constantly increasing his ignorance.

The proliferation of products, coupled with the lack of meaningful criteria upon which to compare competing products creates a serious barrier to a properly function free market. To what does the consumer now turn to enable him to make informed choices? One source is advertising, but by and large it is uninformative and has focused less on the objective performance characteristics of the advertised products than on the phychological associations they permit.

Another source of information utilized by consumers is the brand name. Unfortunately, merely because a manufacturer's name appears on a product does not insure that product's level of quality relative to competing products. For example, whereas the Hamilton DE651 clothes dryer was rated "Not Acceptable" by Consumers Union and the Frigidaire DAT was ranked quite high for overall quality, the opposite was true for clothes washers. The CU tests indicated that the Hamilton WA771 model was superior to the Frigidaire WCDAT machine. Similarly, Consumers Reports warns its readers that:

> A Rating of a given model should not be considered a Rating of other models sold under the same brand name unless so noted in the report.

Consumers also tend to rely on price as an indication of quality: the more expensive the product, so the thinking goes, the higher the quality. However, there is no rule of the marketplace that there be a consistent relation between price and quality.

The work of Consumer's Union in testing consumer products though commendable, does not entirely fulfill the need for product information. The problem is not the type of information that Consumer's Union is providing, but rather where it is being provided. Since most of us do not consider ourselves professional consumers, we have only a limited amount of time to consult Consumer's Reports on each and every purchase. The information is not at our fingertips when we need it—in the retail outlet.

Finally, consumers' buying habits are affected by word-of-mouth representations by salespersons or friends. With respect to the former, however, salespersons are often-times uninformed about the products they sell. Advice from friends is sometimes useful, although the needs of one person may not always be compatible with those of another. Hence, a satisfactory product for one may not be satisfactory for another. What consumers need is a source of objective information comparing competing products based on a variety of characteristics, and which is available at the point of sale.

The absence of information in consumer product markets has a profound effect on competition. The uninformed buyer's lack of information and reliance on trademarks, brand names, company reputation and the like has the effect of shifting the competitive emphasis in the industry away from both price competition and real quality competition. The result is higher prices contributing to our current inflationary spiral and inferior products.

The consumer's lack of effective knowledge creates oligopoly power and oligopoly profits in at least two ways. First, it limits price and quality competition among established firms. His inexpertness in appraising the relative merits of competing products lessens competition on price and quality by making it unprofitable for producers to emphasize those two product dimensions.

Competitively speaking it is pointless to offer improved quality to customers who cannot distinguish good quality from bad. Similarly, the uninformed buyer's habit of judging quality by price weakens also price competition. The offer of a lower price will largely defeat its purpose in markets where a low price is regarded as a sign of inferior quality. Additionally, with price and quality competition muted, the remaining competition in these markets tends to focus on the advertising of only marginally relevant features of the product, expenditures that themselves significantly raise costs and thus the prices consumers are ultimately required to pay.

A second injury resulting in oligopoly power due to consumer ignorance is that it protects existing firms from the potential competition of newcomers by setting high barriers of entry to the market. The most important obstacle to a newcomer in a market is the consumer's tendency to judge products by the size, age and reputation of the manufacturing firm—not by the quality of the product being sold. Because consumers are unable to objectively compare the relative merits of a new firm's product and that of a well known manufacturer, the tendency is to purchase the product of the latter.

It is no surprise then that in surveying the 1967 Census of Manufacturers published by the Census Bureau, in virtually every important consumer market, we find 3 or 4 firms, each selling a heavily-promoted brand name product accounting for perhaps 70 percent or more of the industry's total sales. For example, the 4 largest manufacturers of household laundry equipment account for 78 percent of the market. Similarly, the 4 largest manufacturers of sewing machines claim 81 percent; of electric lamps—91 percent; of household vacuum cleaners—76 percent; of household refrigerators and freezers—73 percent and cathode ray picture tubes—84 percent.

The legislation which I am introducing today would provide consumers with a simple but meaningful source of information which would objectively compare competing products. Under the scheme outlined in this bill, the Federal Trade Commission, utilizing the resources of the National Bureau of Standards would develop, propose, and promulgate objective product testing protocols for classes of consumer products. The testing protocols would be designed to measure the performance characteristics of the product and translate that performance in easily comparable terms. Test characteristics would include ratings on materials, durability, operating cost, and effectuation of purpose. Utilizing an independent testing lab certified by the Commission the manufacturer of every consumer product subject to the testing protocol would subject his product to the test procedure and make the results available at point of sale. No product would "flunk" the tests; the results would simply be available to consumers to make a more informed judgment as to which of competing products best fits his needs.

The use of objective performance criteria has been tried and tested and the results have been unquestionably successful in revitalizing market forces to upgrade product quality. I refer specifically to the tobacco industry, where since a 1966 FTC consent decree, manufacturers have been publishing the Federal Trade Commission tar and nicotine ratings in print advertising. Because of the concern of smokers of the adverse health consequences of smoking, manufacturers have undertaken aggressive advertising campaigns to promote low tar and nicotine cigarettes.

Mr. President, it is clear that consumers do not have readily available the information they need to make the competitive marketplace operate as it theoretically should. I am convinced that by providing simple and clear objective performance results, manufacturers will be forced once again to compete based on product quality and price.

I ask unanimous consent that the text of the Consumer Product Testing Act be printed in the RECORD at the conclusion of my remarks.

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

S. 3377

A bill to regulate commerce by establishing uniform test protocols for consumer products, and for other purposes

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 "Consumer Product Testing Act of 1974".

DECLARATION OF POLICY

SEC. 2. Informed consumers are essenital to the fair and efficient functioning of a free market economy. It is therefore declared to be the purpose of the Congress in this Act to establish reliable and uniform protocols for quality and performance testing of consumer products and to require meaningful dissemination of the results of such tests to the consumers of such products.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Agency" means any executive agency, as defined in section 105 of title 5, United States Code. The term does not include the General Accounting Office.

(2) "Commission" means the Federal Trade Commission.

(3) "Consumer product" means—

(A) any article produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption, or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise;

(B) motor vehicles or motor vehicle equipment as defined by sections 102 (3) and (4) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391),

(4) "Consumer product test protocol" means a standardized procedure for performing objective tests or measurements which are required under this Act pursuant to regulations promulgated by the Commission, the results of which will provide a basis for judging and comparing product characteristics.

(5) "Product characteristics" means the features of a consumer product which relate to its quality and performance under conditions of normal use, including reasonably foreseeable abuse, in or for the purpose or purposes for which it is designed or adapted. Such features of a consumer product include, but are not limited to, (i) effectuation of purpose; (ii) durability; (iii) average annual cost of operation; (iv) purchase price; (v) maintenance requirements; (vi) frequency and nature of repair; and (vii) environmental impact in the manufacture and use of such product.

(6) "Retailer" means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(7) "Supplier" means any person engaged in the business of making consumer products available to consumers, directly or indirectly.

TEST STANDARDS

SEC. 4. (a) ESTABLISHMENT OF CLASSES OF CONSUMER PRODUCTS.—Within 360 days after the date of enactment of this Act, the Commission shall categorize consumer products into several classes for the purpose of developing standards for test protocols. The Commission shall establish degrees of priority among such classes of consumer products as a guide to the order in which it shall promulgate such test protocols. The Commission may from time to time revise and amend such classifications and classes of consumer products and such priorities. The Commission shall publish such classifications and subsequent amendments in the Federal Register. The designation of priority shall be determined upon the basis of all relevant factors, including, but not limited to—

(1) the importance of each class of consumer products to the average consumer, based upon an evaluation of the number of consumers who purchase such class, the frequency with which such class is purchased, and the per unit annual consumption thereof;

(2) the ease with which the average consumer can personally ascertain, and the likelihood that he will know, the quality and performance characteristics of each class of consumer products prior to purchase, based on the technical complexity of each such class, the degree of product differentiation between products within each such class, and the rate of technological change of each such class relative to the frequency of purchase; and

(3) the economic impact for suppliers, retailers, and consumers of prescribing test protocols for each class of consumer products.

(b) DEVELOPMENT OF TEST PROTOCOL.—(1) Whenever the Commission determines that a test protocol for a consumer product would assist consumers in making informed purchasing decisions, the Commission shall commence a proceeding for the development of such a test protocol.

(2) A proceeding for the development of a test protocol for a consumer product shall be commenced by the publication in the Federal Register of a notice in accordance with this paragraph. Such notice shall—

(A) describe the consumer product as to which a test protocol is being developed;

(B) identify the product characteristics of such product which can be reliably and uniformly tested, measured, and reported;

(C) define a fair and nondiscriminating test protocol to measure each such product characteristic; and

(D) summarize and invite interested persons to comment on the proposed protocol.

(3) Within 180 days after the publication of a notice pursuant to paragraph (2) of this subsection, unless such period of time is extended by the Commission for good cause and a notice of such extension is published in the Federal Register, the Commission shall by order act upon such proposed test protocol by making it final, with or without amendment, or by withdrawing the applicable notice of proceeding. Such order, which shall be published in the Federal Register, shall set forth the test protocol for such consumer product, the reasons for the action of the Commission, and the date or dates upon which test protocol shall become effective. If such effective date or dates

are more than 12 months after the date of publication of such order, the Commission shall state the reasons therefor.

DUTIES OF COMMISSION

SEC. 5. (a) The Commission shall—

(1) promulgate regulations governing the manner in which suppliers or retailers may advertise that their products have been tested in accordance with the requirements of the Commission under this Act and the results therefrom. Such regulations shall prohibit false statements and misrepresentations; and

(2) encourage or establish programs designed to furnish consumers with information which will enable them to utilize information developed under such consumer product testing standards.

(b) Whenever the Commission determines that consumers are not adequately informed about the quality and performance characteristics of competing products for which a consumer product test protocol has been published and has become effective, the Commission may require each supplier or retailer doing business in interstate commerce whose activity affects interstate commerce to make a copy of the complete results, or a summary thereof, available without charge to each consumer at the point of sale prior to sale.

NATIONAL BUREAU OF STANDARDS

SEC. 6. (a) GENERAL.—The Secretary of Commerce, through the National Bureau of Standards, shall develop the resources, facilities, and expertise necessary to assist and advise the Commission in the exercise of its responsibilities under this Act, at the request of the Commission and subject to its direction. The Commission shall utilize such resources, facilities, and expertise to develop consumer product test protocols.

(b) CONFORMING AMENDMENT.—Section 1 of the Act of July 22, 1950 (15 U.S.C. 272) is amended by inserting after subsection (f) a new subsection as follows:

"(g) The development of consumer product test protocols pursuant to section 6 of the Consumer Product Testing Act."

COMPLIANCE TESTING

SEC. 7. (a) AUTHORITY.—The Commission may conduct or contract pursuant to subsection (d) of this section for compliance testing of consumer products subject to consumer product test protocols in order to insure the veracity of test results determined by suppliers, retailers, or any other person who has tested such consumer products.

(b) DUTY OF SUPPLIERS.—Any person who supplies a consumer product for which a consumer product test protocol is in effect shall furnish a reasonable number of such products without cost to the Commission upon request. Consumer products furnished to the Commission under this subsection shall be drawn from regular production runs of such product.

(c) RETURN OF PRODUCTS.—Upon completion of any compliance testing, the Commission shall return or cause to be returned the consumer product in compliance with any applicable consumer product test protocol to the supplier from whom it was obtained, and such supplier, in any subsequent sale or lease of such product, shall disclose that it has been subjected to compliance testing and shall indicate the extent of damage, if any, prior to repair.

(d) CONTRACTUAL AUTHORITY.—The Commission may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to conduct compliance testing and on such terms as the Commission may deem appropriate with any agency or instrumentality of the United States, or with any State, territory, or possession, or any political subdivision thereof, or with any public or private person, firm, association, corporation, independent testing laboratory, or institution.

ENFORCEMENT

SEC. 8. (a) GENERAL.—Any person who—

(1) has reason to believe that another person is committing or intends to commit a violation of any provision of this Act; or

(2) can demonstrate that he will be adversely affected by that violation,

may bring an action against such other person in the district court of the United States for the district in which the defendant resides, does business, or may be found, to obtain injunctive relief against such other person. The district courts of the United States shall have jurisdiction over such actions without regard to the citizenship of the parties or the amount in controversy. The provisions of section 13(b) of the Act of September 26, 1914 (15 U.S.C. 53b) shall apply to any grant of injunctive relief under this section.

(b) NOTICE.—Before bringing an action under this section, the person seeking relief must give notice by certified mail to the Commission and to the person or persons against whom the relief will be sought. Such notice shall be given not less than 60 days prior to commencement of the action. Such notice shall state the nature of the alleged violation, the relief requested, and the identity of the court in which the action will be brought.

(c) COSTS.—In an action under this section, costs of litigation, including reasonable attorney's and expert witness' fees, may be apportioned to the parties whenever the court determines that such an award is appropriate.

PROHIBITED ACTS

SEC. 9. No person—

(a) shall induce or encourage the purchase of any consumer product by—

(1) falsely representing that the product has been tested in accordance with consumer product test protocols promulgated under this Act; or

(2) misrepresenting the results of any consumer product testing standard applied to the product;

(b) engaged in testing consumer products in accordance with the provisions of this Act shall—

(1) falsely represent that the product has been tested in accordance with applicable consumer product test protocols; or

(2) misrepresent the results of any tests of any consumer product conducted or asserted to have been conducted in accordance with the applicable consumer product test protocol; or

(c) shall advertise or distribute any consumer product imported into the United States with respect to which any statement or representation has been made which is in violation of this section.

PENALTIES

SEC. 10. (a) CIVIL VIOLATION.—It shall be a violation under section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any person—

(1) engaged in testing consumer products under this Act; or

(2) advertising or selling any product tested in accordance with the provisions of this Act,

to violate any provision or fail to comply with any applicable requirement under this Act or any regulation issued pursuant to this Act. Conduct prohibited under section 9 of this Act shall constitute unfair and deceptive acts or practices under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(b) CRIMINAL VIOLATION.—Any person who wilfully violates any provision of this Act or any regulation promulgated thereunder shall on conviction be fined not more than $10,000 for each day of violation or imprisoned for not more than 1 year, or both.

REPORTS

SEC. 11. The Commission shall, not later than July 1, 1974, and on or before July 1 in each succeeding year, report to the Congress on the implementation of this Act during the preceding months, and the extent of compliance with the Act and the regulations issued thereunder.

COOPERATION WITH OTHER FEDERAL AGENCIES

SEC. 12. The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency shall cooperate with the Commission and furnish such materials to it.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) COMMISSION.—There are authorized to be appropriated to the Federal Trade Commission for the purposes of carrying out the provisions of this Act not to exceed $1,000,000 for the fiscal year ending June 30, 1974, not to exceed $2,500,000 for the fiscal year ending June 30, 1975, and not to exceed $3,000,000 for the fiscal year ending June 30, 1976.

(b) BUREAU OF STANDARDS.—There are authorized to be appropriated to the Secretary of Commerce for the use of the National Bureau of Standards for the purposes of carrying out section 6 of this Act not to exceed $5,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976.

By Mr. RANDOLPH (for himself, Mr. JAVITS, Mr. KENNEDY, Mr. STAFFORD, Mr. WILLIAMS, Mr. CRANSTON, Mr. MONDALE, Mr. PELL, Mr. SCHWEIKER and Mr. TAFT):

S. 3378. A bill to provide assistance for the developmentally disabled, establish a bill of rights for the developmentally disabled, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. RANDOLPH. Mr. President, it is a privilege to introduce a measure which I believe will result in significant progress in serving developmentally disabled persons.

Last year, on behalf of the Subcommittee on the Handicapped, I requested the General Accounting Office to conduct a full review of the developmental disabilities program. This past January the subcommittee received a two-volume report from the GAO which dealt with Public Law 91-517, the Developmental Disabilities Services and Facilities Construction Amendments of 1970; the report concerned itself with the administration of this legislation at the Federal and State levels and its impact and effect on the individual consumer—the person afflicted with a developmental disability.

The bill I am introducing today is based on a thorough, intense study of that GAO report. My bill repeals Public Law 91-517 and makes many changes in the programs, in the way the programs are administered, and includes a plan for evaluation. It is my hope that the focus of this program will be to assist the States in developing a comprensive plan for services to the developmentally disabled, a plan which will bring together all of the resources in a coordinated way so that there will be an array of services without duplication of efforts.

This legislation has been a joint effort. I commend Senators JAVITS, KENNEDY, STAFFORD, CRANSTON, and WILLIAMS for their constructive efforts.

These changes include:

First. Administration. The Division of

Developmental Disabilities will be moved from the Social and Rehabilitation Service into the Office of Human Development in the Office of the Secretary of the Department of Health, Education, and Welfare. Further, the Secretary shall develop an evaluation system to serve as a model for State evaluation systems which: evaluate the effects of DD services on the lives of consumers; evaluate the overall impact of State programs for the disabled; provide and evaluate cost-benefit ratios of particular service alternatives; and provide that an evaluation of a program be performed by individuals not directly involved in the delivery of such services.

Second. Definition. The developmentally disabled are presently identified and limited to those suffering from mental retardation, cerebral palsy, or epilepsy. My legislation would broaden the definition to include autism, learning disability, or any other condition which "is closely related to mental retardation as it refers to general intellectual functioning or impairment in adaptive behavior or to require treatment similar to that required by mentally retarded individuals." Other present requirements are that, first, the disability must originate before age 18; second, must continue indefinitely; and third, must constitute a severe handicap are still part of the proposed definition.

Third. Construction. Funds for construction are to be used for the renovation and modernization of facilities in order to bring those facilities into compliance with the standards pursuant to the Architectural Barriers Act of 1968.

Fourth. National Advisory Council. This Council is for the first time placed in the office of the Secretary and has designated members: the Deputy Commissioner of the Bureau of Education for the Handicapped, the Commissioner of the Rehabilitation Services Administration, the Administrator of the Social and Rehabilitation Service, the Director of the National Institute of Child Health and Human Development, the Director of the National Institute of Neurological Diseases and Stroke, the Director of the National Institute of Mental Health, and the Assistant Secretary of the Office of Human Development. Members of the Council must be off the committee at least 1 year before reappointment. The Council is to monitor the administration of the developmental disabilities program at the Federal level and report directly to the Congress, as well as to the Secretary.

Five. State plans. These plans must contain the following priorities; the elimination of inappropriate institutional placement, the improvement of the quality of care and rehabilitation of those in institutions, the provision of early screening and diagnosis, the support of community programs as alternatives to deinstitutionalization and the maximum utilization of community resources, the provision of cross-disciplinary intervention and training programs, and the coordination of public information and public awareness.

Six. State Developmental Disability Councils. The State DD councils are to be appointed by the Governor of the State; to plan, develop, and coordinate all programs involving developmental disabilities, to design the overall State plan, to establish priorities for distribution of funds within the State—and to sign off on any university-affiliated facilities grants to make sure that their projects are coordinated with priorities within the State—to approve implementation of the State plan, to monitor implementation of the State plan, and to evaluate the implementation of that plan. In doing so, the State councils must prepare a design for implementation to be followed by responsible State agencies in carrying out the State plan and following its priorities. Further, the State councils may recommend to the Secretary of Health, Education, and Welfare that funds for any State agency which the council determines is not following the State plan be terminated.

Seven. Title II. The bill of rights for the mentally retarded and the handicapped. Following investigation and studies concerning the inhumane conditions at State institutions such as Willowbrook, this title incorporates the standards of the Joint Commission on the Accreditation of Hospitals in order that they may be applied to institutions. The purpose of this title is to improve the living conditions in such institutions so that they do not remain or become human warehouses reminiscent of 19th century neglect.

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. 3378

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 "Developmentally Disabled Assistance and Bill of Rights Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "State" includes Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(2) The term "facility for persons with developmental disabilities" means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

(3) The terms "nonprofit facility for persons with developmental disabilities", "nonprofit community mental health center", or "nonprofit private institution of higher learning" means a facility for persons with developmental disabilities, and an institution of higher learning which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The term "nonprofit private agency or organization" means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

(5) The term "construction" includes acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect's fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

(6) The term "cost of construction" means the amount found by the Secretary to be necessary for the construction of a project.

(7) The term "title", when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

(8) (A) The term "Federal share" with respect to any project means the portion of the cost of construction of such project to be paid by the Federal Government.

(B) The Federal share with respect to any project in the State shall be the amount determined by the appropriate State agency designated in the State plan, but, except as provided in paragraph (C) the Federal share for any project under part B of title I may not exceed 66⅔ per centum of the cost of construction of such project. Prior to the approval of the first such project in the State during any fiscal year, such State agency shall give the Secretary written notification of the maximum Federal share established pursuant to this paragraph for such projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such methods of determination for such projects in such State approved during such fiscal year shall not be changed after the approval of the first project in the State during such fiscal year.

(C) In the case of any facility or center which provides or will, upon completion of the project for which application has been made under part B of title I, provide services for persons in an area designated by the Secretary as an urban or rural poverty area, the maximum Federal share determined under paragraph (B) may not exceed 90 per centum of the costs of construction of the project.

(9) The Federal percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that the Federal percentage for Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66⅔ per centum.

(10) (A) The Federal percentages shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation; except that the Secretary shall promulgate such percentages as soon as possible after the enactment of this Act, which promulgation shall be conclusive for the fiscal year ending June 30, 1965.

(B) The term "United States" means (but only for purposes of this subsection and subsection (10) the fifty States and the District of Columbia.

(11) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(12) The term "developmental disability" means a disability—

(A) attributable to mental retardation, or cerebral palsy, or epilepsy, or autism, or learning disability; or

(B) attributable to any other condition of an individual found to be closely related to mental retardation as it refers to general intellectual functioning or impairment in adaptive behavior or to require treatment similar to that required for mentally retarded individuals,

which disability (i) originates before such individual attains age eighteen, (ii) which has continued or can be expected to continue indefinitely, and (iii) which constitutes a severe handicap to such individual's ability to function normally in society.

(13) The term "services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, and such term includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

(14) The term "regulations" means (unless the text otherwise indicates) regulations promulgated by the Secretary.

(15) The term "poverty area" means any—

(A) such area contains one or more subareas which are characterized as subareas of poverty;

(B) the population of such subarea or subareas constitutes a significant portion of the population of such rural or urban area; and

(C) the project, facility, or activity, in connection with which such determination is made, does, or (when completed or put into operation) will, serve the needs of the residents of such subarea or subareas.

(13) The term "design for implementation" means a document prepared by the appropriate State agency or agencies outlining the implementation of the State plan as developed by the State planning council. The design for implementation shall include details on the methodology of implementation, priorities for spending, specific objectives to be achieved, and a listing of those programs and resources to be utilized, and a method for periodic evaluation of its effectiveness in meeting State plan objectives.

AUDIT

SEC. 3. Each recipient of a grant or contract under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or funds thereunder used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant or contract under this Act which are pertinent to such grant or contract.

OFFICE OF DEVELOPMENTAL DISABILITIES

SEC. 4. There is established in the Office of the Assistant Secretary for Human Development in the Department of Health, Education, and Welfare, an Office of Developmental Disabilities headed by a Director to administer this Act.

TITLE I—ASSISTANCE FOR THE DEVELOPMENTALLY DISABLED

PART A—DEMONSTRATION AND TRAINING GRANTS FOR UNIVERSITY AFFILIATED FACILITIES AND RENOVATION AND MODERNIZATION OF FACILITIES

DECLARATION OF PURPOSE

SEC. 100. The purpose of this title is to improve the provision of services to persons with developmental disabilities through (A) grants to assist the several States in developing and implementing a comprehensive and continuing plan for meeting the current and future needs of persons with developmental disabilities; (B) the renovation and modernization of university-affiliated facilities which aid in demonstrating the provision of specialized services for persons with developmental disabilities, through support of demonstration and training programs at institutions of higher education; (C) the development of regional community programs for services to persons with developmental disabilities; (D) the support of activities which will contribute to improving the condition of persons with developmental disabilities, including but not limited to grants for demonstrating exemplary services to persons with developmental disabilities who are especially disadvantaged; (E) technical assistance in the establishment of services and facilities for persons with developmental disabilities, including assistance in State and local planning or administration; (F) training of specialized personnel needed for the provision of services for persons with developmental disabilities; (G) developing or demonstrating new or improved techniques for the provision of services to persons with developmental disabilities; and (h) gathering or disseminating information relating to development disabilities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. For the purpose of assisting in the modernization and renovation (to comply with the provisions of Public Law 90-480, relating to architectural barriers) of facilities which will aid in demonstrating provision of specialized services for the diagnosis and treatment, education, training, or care of persons with developmental disabilities or in the interdisciplinary training of physicians and other specialized personnel needed for research, diagnosis and treatment, education, training, or care of persons with developmental disabilities, including research incidental or related to any of the foregoing activities, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, and a like amount for each of the next four succeeding fiscal years. The sums so appropriated shall be used for project grants for renovation or modernization of public and other nonprofit facilities which are associated with a college or university.

DEMONSTRATION AND TRAINING GRANTS

SEC. 102. (a) For the purposes of contributing more effectively to the solution of complex health, education, and social problems of children and adults suffering from developmental disabilities, the Secretary may, in accordance with the provisions of this part, make grants to cover costs of administering and operating demonstration facilities and interdisciplinary training programs for personnel needed to render specialized services to persons with developmental disabilities, including training in established disciplines as well as new kinds of training to meet critical shortages in the services to persons with developmental disabilities with emphasis upon such programs ability and commitment to provide services not otherwise available under other laws to persons with developmental disabilities in alternative programs of community care as contrasted with such services being provided in institutionalized settings.

(b) For the purpose of making grants under this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1975, and a like amount for each of the four succeeding fiscal years.

APPLICATIONS

SEC. 103. (a) Applications for grants under this part with respect to the renovation or modernization of any facility may be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

(1) the proposal is consistent with the State plans established pursuant to section 114;

(2) the facility will be associated, to the extent prescribed in regulations of the Secretary, with a college or university medical centers (including affiliated health or education facilities), or with such other part of a college or university as the Secretary may find appropriate in the light of the purposes of this part;

(3) the plans and specifications are in accord with regulations prescribed by the Secretary under section 118;

(4) title to the site for the project is or will be vested in one or more of the agencies or institutions filing the application or in a public or other nonprofit agency or institution which is to operate the facility; and

(5) adequate financial support will be available for renovation or modernization of the project and for its maintenance and operation when completed.

(b) Applications for demonstration and training grants under this part may be approved by the Secretary only if the applicant is a college or university operating a facility of the type described in section 101 or is a public or nonprofit private agency or organization operating such a facility. In considering applications for such grants, the Secretary shall require such applications to demonstrate that the grant application has been reviewed and approved by the State councils established under section 114(d), and give priority to any application which shows that the applicant has made arrangements, in accordance with regulations of the Secretary for a junior college or community based entity to participate in the programs for which the application is made.

(c) Applications for assistance under this part shall demonstrate the ability of the applicant for such assistance to provide to the developmentally disabled population the services and training for manpower in conformity with the State plan established under section 114.

(d) Applications for assistance under this part shall establish as priority goals—

(1) deinstitutionalization, including prevention of institutionalization, normalization outside of institutions, development of community based programs including placement, and follow-up services;

(2) early screening diagnosis and evaluation, on behalf of developmentally disabled infants and preschool children (including maternal care, developmental screening, home care, infant and preschool stimulation programs, and parent counseling and training); and

(3) normalization of institutional life.

AMOUNT OF GRANTS; PAYMENTS

SEC. 104. (a) The total of the grants with respect to any project under this part may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary.

(b) Payments of grants under this part

shall be made in advance or by way of reimbursement, and on such conditions as the Secretary may determine.

RECOVERY

SEC. 105. If any facility with respect to which funds have been paid under this part shall, at any time within twenty years after the completion of construction—

(1) be sold or transferred to any person, agency, or organization which is not qualified to file an application under this part, or

(2) cease to be a public or other nonprofit facility for persons with development disabilities, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities, the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects.

MAINTENANCE OF EFFORT

SEC. 106. Applications for grants under this part may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the grants will not result in any decrease in the level of State, local, and other non-Federal funds for services for persons with developmental disabilities and training of persons to provide such services which would (except for such grant) be available to the applicant, but that such grants will be used to supplement, and, to the extent practicable, to increase the level of such funds.

PART B—GRANTS FOR PLANNING, PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

AUTHORIZATIONS OF APPROPRIATION

SEC. 111. In order to make the grants to carry out the purposes of this part there are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1975, $55,000,000 for the fiscal year ending June 30, 1976, $70,000,000 for the fiscal year ending June 30, 1977, $85,000,000 for the fiscal year ending June 30, 1978, and $100,000,000 for the fiscal year ending June 30, 1979; and there is further authorized to be appropriated for such purposes for each subsequent fiscal year such sums as may be necessary.

STATE ALLOTMENTS

SEC. 112. (a) (1) From the sums appropriated pursuant to section 111 for each fiscal year, other than amounts reserved by the Secretary for projects under subsection (e) of this section, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of (A) the population, (B) the extent of need for services and facilities for persons with developmental disabilities, and (C) the financial need, of the respective States; except that the allotment of any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any such fiscal year shall not be less than $100,000 plus, if such fiscal year is later than the fiscal year ending June 30, 1975, and if the sums so appropriated for such fiscal year exceed the amount authorized to be appropriated to carry out such purposes for the fiscal year ending June 30, 1975, an amount which bears the same ratio to $100,000 as the difference between the amount so appropriated and the amount authorized to be appropriated for the fiscal year ending June 30, 1975, bears to the amount authorized to be appropriated for the fiscal year ending June 30, 1975.

(2) In determining, for purposes of paragraph (1), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services specified, pursuant to section 115(b)(5), in the State plan of such State approved under this part.

(3) Sums allotted to a State for a fiscal year and designated by it for construction, renovation, or modernization and remaining unobligated at the end of such year shall remain available to such State for such purpose for the next fiscal year and for such year only, in addition to the sums allotted to such State for such fiscal year: *Provided*, That if the maximum amount which may be specified pursuant to section 115(b)(13) for a year plus any part of the amount so specified pursuant thereto for the preceding fiscal year and remaining unobligated at the end thereof is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction, renovation, or modernization program of the State developed pursuant to section 115(b)(13), the amount specified pursuant to such section for such preceding year shall remain available for a second additional year for the purpose of paying the Federal share of the cost of construction, renovation, or modernization of such facility.

(b) Whenever the State plan approved in accordance with section 115 provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of this part. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of this part will receive proportionate benefit from the combination.

(c) Whenever the State plan approved in accordance with section 115 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies and States involved.

(d) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which it is allotted shall be available for reallotment by the Secretary on such date or dates as he may fix, but not earlier than thirty days after he has published notice of his intention to reallocate in the Federal Register, to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year.

(e) Of the sums appropriated pursuant to section 111, such amount as the Secretary may determine, but not more than 10 per centum thereof, shall be available for grants by the Secretary to public or nonprofit private agencies to pay up to 90 per centum of the cost of projects which in his judgment are of special national significance they will assist in meeting the needs of persons with developmental disabilities (especially the disadvantaged), or will demonstrate new or improved techniques for provision of services for such persons, or are otherwise specifically significant for carrying out the purposes of this part. Such projects shall include (1) integrated service model projects for services to the developmentally disabled population, (2) public awareness and public education programs to assist in the elimination of attitudinal and environmental barriers confronted by individuals with developmental disabilities, and (3) demonstration projects to coordinate and utilize all available community resources.

NATIONAL COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

SEC. 113. (a) (1) Effective July 1, 1975, there is hereby established, in the office of the Secretary, a National Council on Services and Facilities for the Developmentally Disabled (hereinafter referred to as the "Council"), which shall consist of the Deputy Commissioner of the Bureau of Education for the Handicapped, the Commissioner of the Rehabilitation Services Administration, the Administrator of the Social and Rehabilitation Service, the Director of the National Institute of Child Health and Human Development, the Director of the National Institute of Neurological Disease and Stroke, and the Director of the National Institute of Mental Health, and 15 members, not otherwise in the regular full-time employ of the United States, to be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service.

(2) The Secretary shall from time to time designate one of the appointed members of the Council to serve as Chairman thereof.

(3) The appointed members of the Council shall be selected from leaders in the fields of service to persons with developmental disabilities, including leaders in State or local government, in institutions of higher education, and in organizations which have demonstrated advocacy of consumers of such services. At least five members shall be representatives of State or local public or nonprofit private agencies responsible for services to persons with developmental disabilities, and at least five shall be of consumers of such services or their parents, or guardians.

(b) Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and, of the twenty members first appointed, five shall hold office for a term of three years, five shall hold office for a term of two years, and five shall hold office for a term of one year, as designated by the Secretary at the time of appointment. A former member may only be reappointed to the Council after a period of one year has elapsed from the end of his appointed term.

(c) The Council shall meet at least twice a year, and shall hold its initial meeting within ninety days after the date of enactment of this Act.

(d) It shall be the duty and function of the Council to (1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by him in the implementation of this title, (2) study and evaluate programs authorized by this title to determine their effectiveness in carrying out the purposes for which they were established, (3) monitor the development and

execution of this title and report directly to the Secretary on any delay in the rapid execution of this title, and (4) submit directly to the Congress annually an evaluation of the efficiency of the administration of this title.

(e) The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such statistical and other pertinent data prepared by or available to the Department of Health, Education, and Welfare as it may require to carry out such functions.

(f) Members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate provided for GS-18 of the General Schedule for each day of such service (including travel time), and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently

STATE PLANS

SEC. 114. (a) Any State desiring to take advantage of this part shall within 180 days after the date of enactment of this Act have a State plan which is a specific goal oriented plan, submitted to, and approved by the Secretary under this section designed to—

(1) reduce and eventually eliminate inappropriate institutional placement of persons with developmental disabilities;

(2) improve the quality of care and rehabilitation of persons with developmental disabilities for whom institutional care is appropriate;

(3) provide early screening, diagnosis and evaluation on behalf of developmentally disabled infants and preschool children (including maternal care, developmental screening, home care, infant and preschool stimulation programs, and parent counseling and training);

(4) support the establishment of community programs as alternatives to institutionalization, designed to provide services for the care and habilitation of persons with developmental disabilities, which programs utilize, to the maximum extent feasible the resources and personnel in related community programs to assure full coordination with such programs and to assure the provision of appropriate supplemental health, educational or social services for persons with developmental disabilities;

(5) protect the human rights of all persons with developmental disabilities, especially those without familial protection;

(6) provide for cross disciplinary intervention and training programs for multihandicapped individuals; and

(7) coordinate programs of public information and public awareness of the problems faced by persons with developmental disabilities through the use of funds authorized under section 112(e).

(b) In order for a State plan to be approved by the Secretary under this section, its design for implementation must be approved by the State planning council. A State plan for the provision of services and facilities for persons with developmental disabilities shall—

(1) designate (A) a State planning council, to be responsible for submitting revisions, the development of the State plan, and transmitting such reports as may be required by the Secretary; (B) except as provided in clause (C), the State agency or agencies which shall administer and supervise the administration of the State plan, and which shall submit to the State planning council the design to implement the priorities specified by the State planning council in the State plan, including the disbursement of all funds under this part except as otherwise provided; and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise); and (C) a single State agency as the sole agency for administering or supervising the administration of grants for construction, renovation, or modernization under the State plan;

(2) describe the quality, extent, and scope of services being provided or to be provided to meet the goals specified in subsection (a) of this section;

(3) describe (A) the quality, extent, and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for federally assisted State programs as may be specified by the Secretary, but in any case including education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health plans, and (B) how funds allotted to the State in accordance with section 112 will be used to complement and augment rather than duplicate or replace services and facilities for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

(4) provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (87 Stat. 394) and other appropriate voluntary organizations;

(5) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to assure effective continuing State planning, evaluation, and delivery of services (both public and private) for persons with developmental disabilities;

(6) contain assurances satisfactory to the Secretary and the State planning council that (A) the funds paid to the State under this part will be used to make a significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State in order to improve the quality, scope, and extent of such services; (B) part of such funds may be made available to other public or nonprofit private agencies, institutions, and organizations; (C) such funds will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant such non-Federal funds; and (D) there will be reasonable State financial participation in the cost of carrying out the State plan;

(7) (A) provide for the furnishing of services and facilities for persons with developmental disabilities, and

(B) describe the quality, extent, and scope of such services as will be provided to persons with developmental disabilities;

(8) provide that services and facilities furnished under the plan for persons with developmental disabilities will be in accordance with standards prescribed by regulations of the Secretary;

(9) provide such methods of administration, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(10) provide that the State planning council shall be adequately staffed, and shall include representatives of each of the principal State agencies and representatives of local agencies and nongovernmental organizations and groups concerned with services for persons with developmental disabilities: *Provided*, That at least one-third of the membership of such council shall consist of consumers of such services or their parents or guardians;

(11) provide that the State planning council will periodically, but not less often than annually, review and evaluate its State plan approved under this section and submit appropriate modifications to the Secretary;

(12) provide that the State agencies designated pursuant to paragraph (1) will make such reports, in such form and containing such information, as the Secretary or the State planning council may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(13) provide that special financial and technical assistance shall be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas;

(14) describe the methods to be used to assess the effectiveness and accomplishments of the State in meeting the needs of persons with development disabilities in the State;

(15) specify the per centum of the State's allotment (under section 112) for any year which is to be devoted to construction, renovation, or modernization of facilities, which per centum shall be not more than 10 per centum of the State's allotment or such lesser per centum as the Secretary may from time to time prescribe;

(16) if Federal funds are allocated for construction, renovation, or modernization as provided in subparagraph (15) of this subsection, outline a program of construction, renovation, or modernization of facilities for the provisions of services for persons with developmental disabilities which (A) is based on a statewide inventory of existing facilities and survey of need; (B) sets forth the relative need, determined in accordance with the regulations prescribed by the Secretary for the several projects included in the construction, renovation, or modernization program; and (C) assigns priority to the construction, renovation, or modernization of projects, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of relative need taking into account the need for renovation to comply with Public Law 90-480;

(17) provide for affording to every applicant for a construction, renovation, or modernization project an opportunity for hearing before the State agency;

(18) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursements of and accounting for funds paid to the State under this part;

(19) provide for the implementation of an evaluation system compatible with the system developed under section 122, within thirty months after the date of enactment of this Act;

(20) provide that all relevant information shall be made available to the State planning council; and

(21) contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purpose of this part.

(c) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section. The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d) The State Planning Council described pursuant to clause (1) of subsection (b) of this section shall serve as advocates for persons with developmental disabilities and shall—

(1) be appointed by the Governor,

(2) plan, develop, and coordinate all programs involving developmental disabilities,

(3) prepare the overall State plan,

(4) establish priorities for the distribution of funds within the State,

(5) approve implementation of the State plan required by this section,

(6) monitor the implementation of the State plan, and

(7) evaluate the implementation of the State plan.

(e) The State planning council described in subsection (b)(1)(A) of this section shall develop and transmit to the State agency or agencies designated under subsection (b)(1)(C) the State plan described in subsection (a). Such State agency or agencies shall then prepare a design for implementation which it shall transmit to the State planning council for approval in accordance with subsection (d)(5).

APPROVAL OF PROJECTS FOR CONSTRUCTION, RENOVATION, OR MODERNIZATION

SEC. 115. (a) For each project for construction, renovation, or modernization pursuant to a State plan approved under this part, there shall be submitted to the Secretary, through the State agency designated pursuant to section 114(b)(1)(C) (hereinafter referred to as the "State Agency"), an application by the State or a political subdivision thereof or by a public or nonprofit private agency. If two or more agencies join in the construction, renovation, or modernization (to comply with Public Law 90-480, relating to architectural barriers) of the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications thereof, in accordance with regulations prescribed by the Secretary;

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or nonprofit private agency which is to operate the facility;

(4) reasonable assurance that adequate financial support will be available for the construction, renovation, or modernization of the project and for its maintenance and operation when completed;

(5) a certification by the State agency of the Federal share for the project; and

(6) a certification by the State agency that the project will comply with the provisions of Public Law 90-480, relating to architectural barriers.

(b) The Secretary shall approve such application if sufficient funds to pay the Federal share of the cost of such project are available from the allotment to the State, and if the Secretary finds (1) that the application contains such reasonable assurances as to title, financial support, and payment of prevailing rates of wages and overtime pay, (2) that the plans and specifications are in accord with regulations prescribed by the Secretary, (3) that the application is in conformity with the State plan approved under this part, and (4) that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the State's plan for persons with developmental disabilities and in accordance with regulations prescribed by the Secretary.

(c) No application shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

(d) Amendment of any approved application shall be subject to approval in the same manner as the original application.

WITHHOLDING OF PAYMENTS

SEC. 116. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State planning council and those State agencies designated pursuant to section 114(b)(1) finds—

(1) that any such State agency or agencies are not complying with the provisions required by section 114(b) to be included in the State plan, or with regulations of the Secretary;

(2) that any assurance required to be given in an application filed under section 115 is not being or cannot be carried out;

(3) that there is a substantial failure to carry out plans and specifications related to construction, renovation, or modernization approved by the Secretary under section 116; or

(4) that adequate funds are not being provided annually for the direct administration of the State plan,

the Secretary may forthwith notify such State council and agencies that—

(A) no further payments will be made to the State for construction, renovation, or modernization from allotments under this part; or

(B) no further payments will be made from allotments under this part for any project or projects designated by the Secretary as being affected by the action or inaction referred to in paragraph (1), (2), (3), or (4) of this section; as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments for construction, renovation, or modernization projects may be withheld, in whole or in part, until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

(b) Whenever the State planning council finds that a State agency administering funds pursuant to the implementation design is failing to comply with such design, the State planning council shall notify the Governor and the Secretary of cause to begin proceedings under subsection (a) of this section.

PAYMENTS TO THE STATES FOR PLANNING ADMINISTRATION AND SERVICES

SEC. 117. (a)(1) From each State's allotments for a fiscal year under section 112, the State shall be paid for the Federal share of the expenditures, other than expenditures for construction, renovation, or modernization incurred during such year under its State plan approved under this part. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

(2) For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision thereof or by nonprofit private agencies, organizations, and groups shall, subject to such limitations and conditions as may be prescribed by regulations, be regarded as expenditures by such State.

(b)(1) Except as provided in paragraph (2), the "Federal share" with respect to any State for purposes of this section for any fiscal year shall be 70 per centum of the expenditures, other than expenditures for construction, renovation, or modernization incurred by the State during such year under its State plan approved under this part during each of the fiscal years ending June 30, 1975, and for each fiscal year thereafter.

(2) In the case of any project located in an area within a State determined by the Secretary to be an urban or rural poverty area, the "Federal share" with respect to such project for purposes of this section for any fiscal year may be up to 90 per centum of the expenditures, other than expenditures for construction, renovation, or modernization incurred by the State during such year under its State plan approved under this part with respect to such project for the first twenty-four months of such project, and 80 per centum of such nonconstruction expenditures for each fiscal year thereafter.

REGULATIONS

SEC. 118. (a) The Secretary of Health, Education, and Welfare, not later than sixty days after the date of enactment of this Act, shall prescribe general regulations applicable to all the States to carry out the purposes of this Act.

(b) Regulations promulgated by the Secretary may be waived upon approval of an application by a State for permission to establish a multilevel project to provide services for individuals who are developmentally disabled by combining funds received from other Federal, State, or local programs where such local programs would impede the implementation of such program. Such waivers shall be reviewed annually by the Secretary and issued on an individual case-by-case basis and for a specified period of time, but in no case longer than thirty-six months. Renewal of such waivers shall only be given following a full evaluation of the impact of such waiver and justification for renewal by the Secretary in a report to the appropriate committees of the Congress.

NONDUPLICATION

SEC. 119. (a) In determining the amount of any payment for the construction, renovation, or modernization of any facility under a State plan approved under this part, there shall be disregarded (1) any portion of the costs of such construction, renovation, or modernization which are financed by Federal funds provided under any provision of law other than this part, (2) the amount of any non-Federal funds provided under any provision of law other than this part, and (3) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

(b) In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved under this part, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than this part, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

EVALUATION OF DEVELOPMENTAL DISABILITIES SERVICES

SEC. 120. (a) The Secretary of Health, Education, and Welfare shall develop an evaluation system and plan for implementation of such system and report to the appropriate committees of the Congress within eighteen months after the date of enactment of this Act. Such system shall provide a model for the development of State evaluation systems for all services delivered within the States to persons with developmental disabilities.

(b) The evaluation system required by subsection (a) shall include an evaluation of an education and training, habilitation, rehabilitation, early childhood, diagnostic and evaluation, or any other services and assistance under all laws administered by the Secretary.

(c) In developing the evaluation system required under subsection (a) the Secretary shall insure that such system is consumer oriented and is designed to—

(1) evaluate the effects of services on the lives of consumers,

(2) evaluate the overall impact of State programs for the developmentally disabled.

(3) provide and evaluate the cost-benefit ratios of particular service alternatives, and

(4) provide that evaluation of program quality shall be performed by individuals not directly involved in the delivery of such services.

(d) The Secretary is authorized to make grants and enter into contracts to conduct feasibility studies with regard to developing the evaluation system required under subsection (a) except that such grants or contracts shall not be entered into with groups or individuals who are directly related to this program.

(e) There are authorized to be appropriated to carry out the purposes of this section $1,000,000 for the fiscal year ending June 30, 1975, and for each succeeding fiscal year thereafter.

GRANTS FOR SPECIAL PROJECTS FOR SERVICES TO PERSONS WITH DEVELOPMENTAL DISABILITIES

SEC. 121. (a) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1975, $17,500,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, $22,500,000 for the fiscal year ending June 30, 1978, and $25,000,000 for the fiscal year ending June 30, 1979.

(b) The Secretary after consultation with the National Council established pursuant to section 113 of this Act shall make grants to States and public or nonprofit agencies and organizations for paying part or all of the cost of special projects and demonstrations (and research and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving community based services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped). Such projects and demonstrations shall include, but not be limited to, parent counseling and training, early screening and intervention, infant and preschool programs, seizure control systems and community based counseling, care, housing and other services necessary to maintain a person with developmental disabilities in the community.

(c) No funds appropriated pursuant to section 304(a) of the Rehabilitation Act of 1973 (Public Law 93-112) may be used for carrying out the purposes of this section unless funds are not available under this section.

REPEAL OF PRIOR LAW

SEC. 122. Effective July 1, 1975, parts B and C of the Developmental Disabilities Services and Facilities Construction Act are repealed.

TITLE II—BILL OF RIGHTS FOR THE MENTALLY RETARDED AND OTHER INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SEC. 201. (a) Title II of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (42 U.S.C. 2681) is redesignated as title III and each section and cross references thereto are redesignated as follows: Sections 200 through 207 as 310 through 317; sections 220 through 224 as 320 through 324; sections 240 through 247 as 340 through 347; sections 251 through 256 as 351 through 356; sections 261 through 266 as 361 through 366; sections 271 through 272 as 371 through 372.

(b) Such Act is further amended by inserting after title I the following new title:

"TITLE II—BILL OF RIGHTS FOR THE MENTALLY RETARDED AND OTHER INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

"STATEMENT OF PURPOSE

"SEC. 201. The purpose of this title is to establish standards which assure humane care, treatment, habilitation, and protection of the mentally retarded and other individuals with developmental disabilities (as defined in section 3 of the Developmentally Disabled Assistance and Bill of Rights Act) in residential facilities and minimize inappropriate admissions to such residential facilities.

"PART A—STANDARDS FOR RESIDENTIAL FACILITIES FOR THE MENTALLY RETARDED AND OTHER INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

"Chapter 1.—ADMINISTRATIVE POLICIES AND PRACTICES

"Subchapter I—Philosophy, Location, and Organization

"SEC. 210. (a) The ultimate aim of the facility shall be to foster those behaviors that maximize the human qualities of the resident, increase the complexity of his behavior, and enhance his ability to cope with his environment.

"(b) The facility shall accept and implement the principle of normalization, defined as the use of means that are as culturally normative as possible to elicit and maintain behavior that is as culturally normative as possible, taking into account local and subcultural differences.

"SEC. 211. (a) The names of facilities, the labels applied to their users, and the way these users are interpreted to the public should be appropriate to their purposes and programs and services should not emphasize 'mental retardation' or 'deviancy'.

"(b) Residents should not be referred to as 'patient' except in a hospital-medical context; as 'kids' or 'children' if they are adults; or as 'inmates'; or as clients.

"SEC. 212. (a) The facility should be located within, and conveniently accessible to, the population served, so as to have access to necessary generic community services.

"(b) The facility should not be isolated from society or community by factors such as:

"(1) difficulty of access, due to distance or lack of public transportation;

"(2) architectural features;

"(3) socio-cultural or psychological features; and

"(4) rules, regulations, customs, and habits.

"(c) Protection devices (such as fences and security windows), where necessary, should be inconspicuous, and should preserve as normal an environmental appearance as possible, so as to permit the pursuit of normal activities.

"(d) The facility should be in scale with the community in which it is located.

"(e) The facility and the surrounding community should be encouraged to share their services and resources on a reciprocal basis.

"(f) The community in which the facility is located should be capable of meeting the needs of the facility's residents for generic and specialized services.

"(g) The community in which the facility is located should be capable of absorbing, and encouraged to absorb, into its cultural life those residents capable of participation in that life.

"(h) The facility shall have available a current descriptive directory of community resources.

"SEC. 213. (a) Residents should be integrated to the greatest possible extent with the general population. To this end, generic and specialized community services, rather than facility services, should be used extensively or, if possible, completely. The residents should, including but not limited to—

"(1) attend (special) classes or programs in regular schools;

"(2) attend religious instruction and worship in the community;

"(3) utilize medical, dental, and all other professional services located in the community;

"(4) use community rather than facility recreation resources, such as bowling alleys, swimming pools, movies, and gymnasia;

"(5) shop in community stores, rather than in facility stores and canteens; and

"(6) work in as integrated a fashion as possible: sheltered employment should be in regular industry, and among nonretarded workers; sheltered workshops should be in the community; and work that must be on the campus of the facility should afford maximal contact with nonretarded persons.

There shall be evidence of professional and public education to facilitate the integration of residents, as above set forth.

"(b) The facility should be divided into groupings of program and residence units, based upon a rational plan to meet the needs of the residents and fulfill the purposes of the facility.

"SEC. 214. The facility shall to the maximum extent feasible move residents from—

"(1) more to less structured living;

"(2) larger to smaller facilities;

"(3) larger living units to smaller living units;

"(4) group to individual residence;

"(5) dependent to independent living; and

"(6) segregated to integrated living.

"Subchapter II—General Policies and Practices

"SEC. 215. (a) The facility shall have a written outline of the philosophy, objectives, and goals it is striving to achieve, that is available for distribution to staff, consumer representatives, and the interested public, and that shall include but need not be limited to:

"(1) its role in the State comprehensive program for the mentally retarded and other individuals with developmental disabilities;

"(2) its concept of the rights of its residents;

"(3) its goals for its residents;

"(4) its concept of its relationship to the parents of its residents, or to their surrogates;

"(5) its concept of its relationship to the community, zone, or region from which its residents come;

"(6) its concept of its responsibility (through research, training, and education) for improving methods, understanding, and support for the mental retardation and developmentally disabled field.

"(b) The facility shall have a plan for evaluation and modification to maintain:

"(1) the consistency of its philosophy, objectives, and goals with advancements in knowledge and professional practices; and

"(2) the consistency of its practices with its philosophy, objectives, and goals.

"(c) The facility shall have a manual on policies and procedures, describing the current methods, forms, processes, and sequence of events being followed to achieve its objectives and goals.

"(d) The facility shall have a written statement of policies and procedures concerning the rights of residents that—

"(1) assure the civil rights of all residents;

"(2) are in accordance with general and special rights of the mentally retarded and other individuals with developmental disabilities as defined by the Secretary in accordance with section 201 of this title; and

"(3) define the means of making legal counsel available to residents for the protection of their rights.

"SEC. 216. (a) The facility shall have a written statement of policies and procedures that protect the financial interests of residents and that provide for—

"(1) determining the financial benefits for which the resident is eligible;

"(2) assuring that the resident receives the funds for incidentals and for special needs (such as specialized equipment) that are due him under public and private financial support programs; and

"(3) when large sums accrue to the resident, providing for counseling of the res-

ident concerning their use, and for appropriate protection of such funds.

"(b) Procedures in the major operating units of the facility shall be described in manuals that are current, relevant, available, and followed.

"(c) The facility shall have a summary of the laws and regulations relevant to mental retardation and other developmental disabilities and to the function of the facility.

"(d) The facility shall have a plan for a continuing management audit to insure compliance with State laws and regulations and the effective implementation of its stated policies and procedures.

"SEC. 217. (a) A public facility shall have documents that describe the statutory basis of its existence, and describe the administrative framework of the governmental department in which it operates.

"(b) A private facility shall have documents that include its charter, its constitution and bylaws, and its State license.

"SEC. 218. (a) The governing body of the facility shall exercise general direction and shall establish policies concerning the operation of the facility and the welfare of the individuals served.

"(b) The governing body shall establish appropriate qualifications of education, experience, personal factors, and skills for the chief executive officer. The chief executive officer shall have had training and experience in the administration of human services. The chief executive officer shall have administrative ability, leadership ability, and an understanding of mental retardation and other developmental disabilities. Where the chief executive officer is required also to have had training in a professional service discipline, such training shall be in a discipline appropriate to the facility's program.

"(c) The governing body shall employ a chief executive officer so qualified, and shall delegate to him authority and responsibility for the management of the affairs of the facility in accordance with established policies.

"(d) The chief executive officer shall—

"(1) designate an individual to act for him in his absence;

"(2) make arrangements so that some one individual is responsible for the administrative direction of the facility at all times;

"(3) when an assistant chief executive officer is employed, the qualifications required for this position shall be in compliance with those stated above for the chief executive officer; and

"(4) there shall be on the premises of the facility at all times a person designated by the chief executive officer; or the person acting for him, to be responsible for the supervision of the facility.

"SEC. 1219. (a) The facility shall be administered and operated in accordance with sound management principles.

"(b) The type of administrative organization of the facility shall be appropriate to the program needs of its residents.

"(c) The facility shall have a table of organization that shows the governance and administrative pattern of the facility.

"(d) The table of organization shall show the major operating programs of the facility, with staff divisions, the administrative personnel in charge of the programs and divisions, and their lines of authority, responsibility, and communication.

"(e) The organization shall provide for the judicious delegation of administrative authority and responsibility among qualified members of the staff, in order to distribute the administrative load of the facility and to accelerate its operating efficiency.

"(f) The organization shall be such that problems requiring ongoing decisionmaking regarding the welfare of the resident are handled primarily by personnel on the lowest level competent to resolve the problem.

"(g) The organization shall provide for the utilization of staff with different levels of training by using those with more adequate training to supervise and train those with lesser training.

"(h) The organization shall provide effective channels of communication in all directions.

"(i) The facility shall have a plan for improving the quality of staff and services that shows how the staff functions by programmatic responsibilities in establishing and maintaining standards of quality for services to residents. The plan shall show how the facility's organizational structure enables the following functions:

"(1) determination of standards for quality of services to the residents;

"(2) establishment of qualifications for personnel;

"(3) recruitment of qualified personnel;

"(4) initiation of preservice and inservice training and staff development programs;

"(5) work with administrators, supervisors, and staff of the administrative units of the facility to secure and assign qualified personnel to such units;

"(6) annual evaluation of staff performance;

"(7) continuous evaluation of program effectiveness; and

"(8) development and conduct of appropriate research activities.

"SEC. 220. (a) The administration of the facility shall provide for effective staff and resident participation and communication. Staff meetings shall be regularly held. Standing committees appropriate to the facility, such as records, safety, human rights, utilization review, research review, and infection and sanitation, shall meet regularly. Committees shall include resident participation, whenever appropriate. Committees shall include the participation of direct-care staff, whenever appropriate.

"(b) Minutes and reports of staff meetings, and of standing and ad hoc committee meetings shall include records of recommendations and their implementation, and shall be kept and filed. Summaries of the minutes and reports of staff and committee meetings shall be distributed to participants and to appropriate staff members. Various forms of communication (such as meetings, minutes of meetings, directives, and bulletins) shall be utilized to foster understanding among the staff, among the residents, between staff and residents, and between facility, community, and family.

"SEC. 221. (a) The facility shall designate a percentage of its operating budget for self-renewal purposes, including but not limited to:

"(1) development of operational data records;

"(2) research on its own programs;

"(3) evaluation by qualified persons who are not part of the facility;

"(4) elicitation of feedback from consumers of the facility's services, or from their representatives; and

"(5) staff education.

"(b) The findings generated by the foregoing activities shall be actively and broadly disseminated to:

"(1) all members of the facility's staff; and

"(2) consumer representatives, when appropriate.

"(c) The facility shall have a continuing system for collecting and recording accurate data that describe its population, in such form as to permit data retrieval and usage for description, programing of services, and research. Such data shall include, but need not be limited to:

"(1) number by age-groups, sex, and race;

"(2) number grouped by levels of retardation (profound, severe, moderate, mild, and borderline), according to the appropriate nationally recognized professional association on mental deficiency's manual on terminology and classification in mental retardation;

"(3) number grouped by levels of adaptive behavior, according to the appropriate nationally recognized professional association on mental deficiency classification;

"(4) number with physical disabilities;

"(5) number ambulatory and nonambulatory (mobile and nonmobile);

"(6) number with sensory defects;

"(7) number with oral and other communication handicaps; and

"(8) number with convulsive disorders, grouped by level of seizure control.

"SEC. 222. The facility shall have a description of services for residents that is available to the public and that includes information including but not limited to:

"(1) groups served;

"(2) limitations concerning age, length of residence, or type or degree of handicap;

"(3) the plan for grouping residents into program and living units;

"(4) preadmission and admission services;

"(5) diagnosis and evaluation services;

"(6) means for individual programing of residents in accordance wth need;

"(7) means for implementation of programs for residents, through clearly designated responsibility;

"(8) the therapeutic and developmental environment provided the residents; and

"(9) release and follow-up services and procedures.

"SEC. 223. (a) The facility shall provide for meaningful and extensive consumer-representative and public participation, by the following means:

"(1) the policymaking or governing board (if any) shall include consumers or their representatives (for example, parents), interested citizens, and relevantly qualified professionals presumed to be free of conflicts of interest;

"(2) when a facility does not have a governing board, its policymaking authority shall actively seek advice from an advisory board composed as described above;

"(3) the facility shall actively elicit feedback from those consumers of its services (and their representatives) who are not members of the aforementioned governing or advisory bodies;

"(4) there shall be an active program of ready, open, and honest communication with the public. In structuring visits to the facility by persons not directly concerned with a resident, however, steps shall be taken both to encourage visiting and to consider the sensibilities and privacy of the resident. Undignified displays or exhibitions of residents shall be avoided, and normal sensibility shall be exercised in speaking about a resident;

"(5) personnel shall be permitted to communicate their views about a resident and his needs and program to his relatives. Personnel shall be trained to properly and competently assume this responsibility;

"(6) the facility shall maintain active means of keeping residents' families or surrogates informed of activities related to the residents that may be of interest to them;

"(7) communications to the facility from residents' relatives shall be promptly and appropriately handled and answered;

"(8) close relatives shall be permitted to visit at any reasonable hour, and without prior notice. Steps shall be taken, however, so that the privacy and rights of the other residents are not infringed by this practice;

"(9) parents and other visitors shall be encouraged to visit the living units, with due regard for privacy. There shall be facilities for visiting that provide privacy in the living unit (but not special rooms used solely for visiting);

"(10) parents shall be permitted to visit all parts of the facility that provide services to residents;

"(11) frequent and informal visits home shall be encouraged, and the regulations of the facility shall encourage rather than inhibit such visitations;

"(12) there shall be an active citizens' volunteer program; and

"(13) the facility shall acknowledge the need for, and encourage the implementation of, advocacy for all residents.

"(b) A public education and information program should be established that utilizes all communication media, and all service, religious, and civic groups, and so forth, to develop attitudes of understanding and acceptance of the mentally retarded and other individuals with developmental disabilities in all aspects of community living.

"Subchapter III—Admission and Release

"SEC. 224. No individual whose needs cannot be met by the facility shall be admitted to it. The number admitted as residents to the facility shall not exceed—

"(1) its rated capacity; and

"(2) its provisions for adequate programing.

"SEC. 225. (a) The laws, regulations, and procedures concerning admission, readmission, and release shall be summarized and available for distribution. Admission and release procedures shall—

"(1) encourage voluntary admission, upon application of parent or guardian or self;

"(2) give equal priority to persons of comparable need, whether application is voluntary or by a court;

"(3) facilitate emergency, partial, and short-term residential care, where feasible; and

"(4) utilize the maximum feasible amount of voluntariness in each individual case.

"(b) The determination of legal incompetence shall be separate from the determination of the need for residential services, and admission to the facility shall not automatically imply legal incompetence.

"SEC. 226. (a) The residential facility shall admit only residents who have had a comprehensive evaluation, covering physical, emotional, social, and cognitive factors, conducted by an appropriately constituted interdisciplinary team.

"(b) Initially, service need shall be defined without regard to the actual availability of the desirable options. All available and applicable programs of care, treatment, and training shall be investigated and weighed, and the deliberations and findings recorded. Admission to the residential facility shall occur only when it is determined to be the optimal available plan. Where admission is not the optimal measure, but must nevertheless be recommended or implemented, its inappropriateness shall be clearly acknowledged and plans shall be initiated for the continued and active exporation of alternatives.

"(c) The intended primary beneficiary of the administration shall be clearly specified as—

"(1) the resident;

"(2) his family;

"(3) his community;

"(4) society; and

"(5) any combination of the above.

"(d) All admissions to the residential facility shall be considered temporary, and, when appropriate, admissions shall be time limited. Parents or guardians shall be counseled, prior to admission, on the relative advantages and disadvantages and the temporary nature of residential services in the facility. Prior to admission, parents or guardians shall, and the prospective resident should, have visited the facility and the living unit in which the prospective resident is likely to be placed.

"SEC. 227. (a) A medical evaluation by a licensed physician shall be made within one week of the resident's admission. Upon admission, residents should be placed in their program groups, and they should be isolated only upon medical orders issued for specific reasons.

"(b) Within the period of one month after admission there shall be:

"(1) a review and updating of the preadmission evaluation;

"(2) a prognosis that can be used for programing and placement;

"(3) a comprehensive evaluation and individual program plan, made by an interdisciplinary team;

"(4) direct-care personnel shall participate in the aforementioned activities;

"(5) the results of the evaluation shall be recorded in the resident's unit record;

"(6) an interpretation of the evaluation, in action terms, shall be made to:

"(A) the direct-care personnel responsible for carrying out the resident's program;

"(B) the special services staff responsible for carrying out the resident's program; and

"(C) the resident's parents or their surrogates.

"(c) There shall be a regular, at least annual, joint review of the status of each resident by all relevant personnel, including personnel in the living unit, with program recommendations for implementation. This review shall include—

"(1) consideration of the advisability of continued residence and alternative programs;

"(2) at the time of the resident's attaining majority, or if he becomes emancipated prior thereto:

"(A) the resident's need for remaining in the facility;

"(B) the need for guardianship of the resident;

"(C) the exercise of the resident's civil and legal rights;

"(3) The results of these reviews shall be:

"(A) recorded in the resident's unit record;

"(B) made available to relevant personnel;

"(C) interpreted to the resident's parents or surrogates;

"(D) interpreted to the resident, when appropriate; and

"(4) parents or their surrogates shall be involved in planning and decisionmaking.

"SEC. 228. A physical inspection for signs of injury or disease should be made in accordance with procedures established by the facility:

"(A) within twenty-four hours prior to a resident's leaving the facility for vacation, placement, or other temporary or permanent release; and

"(B) within twenty-four hours following a resident's return to the facility from such absence.

"SEC. 229. (a) At the time of permanent release or transfer, there shall be recorded a summary of findings, progress, and plans.

"(b) Planning for release shall include provision for appropriate services, including protective supervision and other followup services, in the resident's new environment. Procedures shall be established so that—

"(1) parents or guardians who request the release of a resident are counseled concerning the advantages and disadvantages of such release; and

"(2) the court or other appropriate authorities are notified when a resident's release might endanger either the individual or society.

"(c) When a resident is transferred to another facility there shall be—

"(1) written evidence that the reason for the transfer is the welfare of the resident; and

"(2) a transfer process that shall insure that the receiving facility will meet the needs of the resident.

"(d) Except in an emergency, transfer shall be made only with the prior knowledge, and ordinarily the consent, of the resident and his guardian.

"SEC. 230. (a) In the event of any unusual occurrence, including serious illness or accident, impending death, or death, the resident's next of kin, or the person who functions in that capacity (a guardian or citizen advocate) shall be notified promptly and in a compassionate manner. When appropriate, the wishes and needs of the resident, and of the next of kin, concerning religious matters shall be determined and, insofar as possible, fulfilled.

"(b) When death occurs:

"(1) with the permission of the next of kin or legal guardian, an autopsy shall be performed;

"(2) such autopsy shall be performed by a qualified physician, so selected as to be free of any conflict of interest or loyalty;

"(3) the family shall be told of the autopsy findings, if they so desire; and

"(4) the facility shall render as much assistance as possible in making arrangements for dignified religious services and burial, unless contraindicated by the wishes of the family.

"(c) The coroner or medical examiner shall be notified of deaths, in accordance with State law.

"Subchapter IV—Personnel Policies

"SEC. 231. (a) Adequate personnel services shall be provided by means appropriate to the size of the facility. If the size of the facility warrants a personnel director, he shall have had several years of progressively more responsible experience or training in personnel administration, and demonstrated competence in this area.

"(b) The facility's current personnel policies and practices shall be described in writing:

"(1) The hiring, assignment, and promotion of employees shall be based on their qualifications and abilities, without regard to sex, race, color, creed, age, irrelevant disability, marital status, ethnic or national origin, or membership in an organization.

"(2) Written job descriptions shall be available for all positions.

"(3) Licensure, certification, or standards such as are required in community practice shall be required for all comparable positions in the facility.

"(4) Ethical standards of professional conduct, as developed by appropriate professional societies, shall be recognized as applying in the facility.

"(5) There shall be a planned program for career development and advancement for all categories of personnel.

"(6) There shall be an authorized procedure, consistent with due process, for suspension and/or dismissal of an employee for cause.

"(7) Methods of improving the welfare and security of employees shall include:

"(A) a merit system or its equivalent;

"(B) a salary schedule covering all positions;

"(C) effective grievance procedures;

"(D) provisions for vacations, holidays, and sick leave;

"(E) provisions for health insurance and retirement;

"(F) provisions for employee organizations;

"(G) opportunities for continuing educational experiences, including educational leave; and

"(H) provisions for recognizing outstanding contributions to the facility.

"(c) A statement of the facility's personnel policies and practices shall be available to all its employees.

"(d) All personnel shall be initially screened to determine if they are capable of fulfilling the specific job requirements. All personnel shall be medically determined to be free of communicable and infectious diseases at the time of employment and annually thereafter. All personnel should have a medical examination at the time of employment and annually thereafter. Where indicated, psychological assessment should be included at the time of employment and annually thereafter.

"(e) The performance of each employee shall be evaluated regularly and periodically, and at least annually. Each such evaluation shall be—

"(1) reviewed with the employee; and

"(2) recorded in the employee's personnel record.

"(f) Written policy shall prohibit mistreatment, neglect, or abuse of residents. Alleged violations shall be reported immediately, and there shall be evidence that—

"(1) all alleged violations are thoroughly investigated;

"(2) the results of such investigation are reported to the chief executive officer, or his designated representative, within twenty-four hours of the report of the incident; and

"(3) appropriate sanctions are invoked when the allegation is substantiated.

"SEC. 232. (a) Staffing shall be sufficient so that the facility is not dependent upon the use of residents or volunteers for productive services. There shall be a written policy to protect residents from exploitation when they are engaged in productive work. A current, written policy shall encourage that residents be trained for productive, paid employment. Residents shall not be involved in the care (feeding, clothing, bathing), training, or supervision of other residents unless they—

"(1) have been specifically trained in the necessary skills;

"(2) have the humane judgment required by these activities;

"(3) are adequately supervised; and

"(4) are reimbursed.

"(b) Residents who function at the level of staff in occupational or training activities shall—

"(1) have the right to enjoy the same privileges as staff; and

"(2) be paid at the legally required wage level when employed in other than training situations.

"(c) Appropriate to the size and nature of the facility, there shall be a staff training program that includes:

"(1) orientation for all new employees, to acquaint them with the philosophy, organization, program, practices, and goals of the facility;

"(2) induction training for each new employee, so that his skills in working with the residents are increased;

"(3) inservice training for employees who have not achieved the desired level of competence, and opportunities for continuous inservice training to update and improve the skills and competencies of all employees;

"(4) supervisory and management training for all employees in, or candidates for, supervisory positions;

"(5) provisions shall be made for all staff members to improve their competencies, through means, including but not limited to—

"(A) attending staff meetings;

"(B) undertaking seminars, conferences, workshops, and institutes;

"(C) attending college and university courses;

"(D) visiting other facilities;

"(E) participation in professional organizations;

"(F) conducting research;

"(G) publishing studies;

"(H) access to consultants;

"(I) access to current literature, including books, monographs, and journals relevant to mental retardation and developmental disabilities;

"(6) interdisciplinary training programs shall be stressed;

"(7) the ongoing staff development program should include provision for educating staff members as research consumers;

"(8) where appropriate to the size and nature of the facility, there shall be an individual designated to be responsible for staff development and training, and such individual should have—

"(A) at least a master's degree in one of the major disciplines relevant to mental retardation or other developmental disability;

"(B) a thorough knowledge of the nature of mental retardation and other developmental disabilities, and the current goals, programs, and practices in this field;

"(C) a knowledge of the educational process;

"(D) an appropriate combination of academic training and relevant experience;

"(E) demonstrated competence in organizing and directing staff training programs; and

"(9) appropriate to the size and nature of the facility, there should be adequate, modern educational media equipment (including but not limited to: overhead, filmstrip, motion picture, and slide projectors; screens; models and charts; and video tape systems) for the conduct of an inservice training program.

"(d) Working relations should be established between the facility and nearby colleges and universities for the following purposes:

"(1) making credit courses, seminars, and workshops available to the facility's staff;

"(2) using facility resources for training and research by colleagues and universities; and

"(3) exchanging of staff between the facility and the colleges and universities for teaching, research, and consultation.

"Chapter 2.—RESIDENT LIVING

"Subchapter I—Staff-Resident Relationships and Activities

"SEC. 240. (a) The primary responsibility of the living unit staff shall be to devote their attention to the care and development of the residents as follows:

"(1) each resident shall receive appreciable and appropriate attention each day from the staff in the living unit;

"(2) living unit personnel shall train residents in activities of daily living and in the development of self-help and social skills;

"(3) living unit personnel shall be responsible for the development and maintenance of a warm, family- or home-like environment that is conducive to the achievement of optimal development by the resident;

"(4) appropriate provision shall be made to ensure that the efforts of the staff are not diverted from these responsibilities by excessive housekeeping and clerical duties, or other non-resident-care activities; and

"(5) the objective in staffing each living unit should be to maintain reasonable stability in the assignment of staff, thereby permitting the development of a consistent inter-personal relationship between each resident and one or two staff members.

"(b) Members of the living unit staff from all shifts shall participate with an interdisciplinary team in appropriate referral, planning, initiation, coordination, implementation, followthrough, monitoring, and evaluation activities relative to the care and development of the resident.

"(c) There shall be specific evaluation and program plans for each resident that are—

"(1) available to direct care staff in each living unit; and

"(2) reviewed by a member or members of the interdisciplinary program team at least monthly, with documentation of such review entered in the resident's record.

"(d) Activity schedules for each resident shall be available to direct care staff and shall be implemented daily as follows:

"(1) such schedules shall not permit 'dead time' of unscheduled activity of more than one hour continuous duration; and

"(2) such schedules shall allow for individual or group free activities, with appropriate materials, as specified by the program team.

"(e) The rhythm of life in the living unit shall resemble the cultural norm for the residents' nonretarded or nondevelopmentally age peers, unless a departure from this rhythm is justified on the basis of maximizing the residents' human qualities. Residents human qualities. Residents shall be assigned responsibilities in the living unit commensurate witht their interests, abilities, and developmental plans, in order to enhance feelings of self-respect and to develop skills of independent living. Multiple-handicapped and nonambulatory residents shall—

"(1) spend a major portion of their waking day out of bed;

"(2) spend a portion of their waking day out of their bedroom areas;

"(3) have planned daily activity and exercise periods; and

"(4) be rendered mobile by various methods and devices.

"(f) All residents shall have planned periods out of doors on a year-round basis. Residents should be instructed in how to use, and except as contraindicated for individual residents by their program plan, should be given opportunity for, freedom of movement—

"(1) within the facility's ground; and

"(2) without the facility's grounds.

Birthdays and special events should be individually observed. Provisions shall be made for heterosexual interaction appropriate to the residents' developmental levels.

"(g) Residents' views and opinions on matters concerning them should be elicited and given consideration in defining the processes and structures that affect them.

"(h) Residents should be instructed in the free and unsupervised use of communication processes. Except as denied individual residents by team action, for cause, this should typically include—

"(1) having access to telephones for incoming and local outgoing calls;

"(2) having free access to pay telephones, or the equivalent, for outgoing long distance calls;

"(3) opening their own mail and packages, and generally doing so without direct surveillance; and

"(4) not having their outgoing mail read by staff, unless requested by the resident.

"(i) Residents shall be permitted personal possessions, such as toys, books, pictures, games, radios, art and craft materials, religious articles, toiletries, jewelry, and letters.

"(j) Regulations shall permit normalized and normalizing possession and use of money by residents for work payment and property administration, as for example, in performing cash and check transactions, and in buying clothing and other items, as readily as other citizens. In accordance with their developments level—

"(1) allowances or opportunities to earn money shall be available to residents; and

"(2) residents shall be trained in the value and use of money.

"(k) There shall be provision for prompt recognition and appropriate management of behavioral problems in the living unit. There shall be a written statement of policies and procedures for the control and discipline of residents that is—

"(1) directed to the goal of maximizing the growth and development of the residents;

"(2) available in each living unit; and

"(3) available to parents or guardians.

"(l) Residents shall participate, as appropriate, in the formulation of such policies and procedures. Corporal punishment shall not be permitted. Residents shall not discipline other residents, except as part of an organized self-government program that is conducted in accordance with written policy.

"(m) Seclusion, defined as the placement of a resident alone in a locked room, shall not be employed.

"(n) Except as provided in subsection (p), physical restraint shall be employed only when absolutely necessary to protect the resident from injury to himself and to others, and restraint shall not be employed as punishment, for the convenience of staff, or as a substitute for program. The facility shall have a written policy that defines the uses of restraint, the staff members who may authorize its use, and a mechanism for monitoring and controlling its use. Orders for

restraints shall not be in force for longer than twelve hours. A resident placed in restraint shall be checked at least every thirty minutes by staff trained in the use of restraints, and a record of such checks shall be kept. Mechanical restraints shall be designed and used so as not to cause physical injury to the resident, and so as to cause the least possible discomfort. Opportunity for motion and exercise shall be provided for a period of not less than ten minutes during each two hours in which restraint is employed. Totally enclosed cribs and barred enclosures shall be considered restraints.

"(o) Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be restraints, but shall be designed and applied—

"(1) under the supervision of a qualified professional person; and

"(2) so as to reflect concern for principles of good body alinement, concern for circulation, and allowance for change of position.

"(p) Chemical restraint shall not be used excessively, as punishment, for the convenience of staff, as a substitute for program, or in quantities that interfere with a resident's habilitation program.

"(q) Behavior modification programs involving the use of time-out devices or the use of noxious or aversive stimuli shall be:

"(1) reviewed and approved by the facility's research review and human rights committees;

"(2) conducted only with the consent of the affected resident's parents or surrogates;

"(3) described in written plans that are kept on file in the facility;

"(4) restraints employed as time-out devices shall be applied for only very brief periods, only during conditioning sessions, and only in the presence of the trainer; and

"(5) removal from a situation for time-out purposes shall not be for more than one hour, and this procedure shall be used only during the conditioning program, and only under the supervision of the trainer.

"Subchapter II—Food Services

"SEC. 241. (a) Food services shall recognize and provide for the physiological, emotional, religious, and cultural needs of each resident, through provision of a planned, nutritionally adequate diet. There shall be a written statement of goals, policies, and procedures that—

"(1) governs all food service and nutrition activities;

"(2) is prepared by, or with the assistance of, a nutritionist or dietitian;

"(3) is reviewed periodically, as necessary, by the nutritionist or dietitian;

"(4) is in compliance with State and local regulations;

"(5) is consistent with the facility's goals and policies; and

"(6) is distributed to facility personnel.

"(b) When food services are not directed by a nutritionist or dietitian, regular, planned, and frequent consultation with a nutritionist or dietitian should be available. Records of consultations and recommendations shall be maintained by the facility and by the consultant. An evaluation procedure shall be established to determine the extent of implementation of the consultant's recommendations.

"(c) A nourishing, well-balanced diet, consistent with local customs, shall be provided all residents. Modified diets shall be—

"(1) prescribed by the resident's program team, with a record of the prescription kept on file;

"(2) planned, prepared, and served by persons who have received adequate instruction; and

"(3) periodically reviewed and adjusted as needed.

"(d) Dietary practices in keeping with the religious requirements of residents' faith groups should be observed at the request of parents or guardians. Denial of a nutritionally adequate diet shall not be used as a punishment. At least three meals shall be served daily, at regular times, with—

"(1) not more than a fourteen-hour span between a substantial evening meal and breakfast of the following day, and

"(2) not less than ten hours between breakfast and the evening meal of the same day.

"(e) Resident's mealtimes shall be comparable to those normally obtaining in the community. Provision should be made for between meal and before bedtime snacks, in keeping with the total daily needs of each resident. Food shall be served—

"(1) as soon as possible after preparation, in order to conserve nutritive value;

"(2) in an attractive manner;

"(3) in appropriate quantity;

"(4) at appropriate temperature;

"(5) in a form consistent with the developmental level of the resident; and

"(6) with appropriate utensils.

When food is transported, it shall be done in a manner that maintains proper temperature, protects the food from contamination and spoilage, and insures the preservation of nutritive value.

"(f) All residents, including the mobile nonambulatory, shall eat or be fed in dining rooms, except where contraindicated for health reasons, or by decision of the team responsible for the resident's program. Table service shall be provided for all who can and will eat at a table, including residents in wheelchairs. Dining areas shall—

"(1) be equipped with tables having smooth, impervious tops or clean table coverings may be used;

"(2) be equipped with tables, chairs, eating utensils, and dishes designed to meet the developmental needs of each resident;

"(3) promote a pleasant and home-like environment that is attractively furnished and decorated, and is of good acoustical quality; and

"(4) be designed to stimulate maximum self-development, social interaction, comfort, and pleasure.

"(g) Dining arrangements shall be based upon a rational plan to meet the needs of the residents and the requirements of their programs. Dining and serving arrangements should provide for a variety of eating experiences (for example, cafeteria and family style), and, when appropriate, for the opportunity to make food selections with guidance. Unless justified on the basis of meeting the program needs of the particular residents being served, dining tables should seat small groups of residents (typically four to six at a table), preferably including both sexes.

"(h) Dining rooms shall be adequately supervised and staffed for the direction of self-help eating procedures, and to assure that each resident receives an adequate amount and variety of food. Staff members should be encouraged to eat with those residents who have semi-independent or independent eating skills. For residents not able to get to dining areas, food service practices shall permit and encourage maximum self-help, and shall promote social interaction and enjoyable experiences.

"SEC. 242. (a) Residents shall be provided with systematic training to develop appropriate eating skills, utilizing adaptive equipment where it serves the developmental process.

"(b) Residents with special eating disabilities shall be provided with an interdisciplinary approach to the diagnosis and remediation of their problems, consistent with their developmental needs.

"(c) Direct-care staff shall be trained in and shall utilize proper feeding techniques. Residents shall eat in an upright position. Residents shall eat in a manner consistent with their developmental needs (for example, infants should be fed in arms, as appropriate). Residents shall be fed at a leisurely rate, and the time allowed for eating shall be such as to permit adequate nutrition, to promote the development of self-feeding abilities, to encourage socialization, and to provide a pleasant mealtime experience.

"(d) Effective procedures for cleaning all equipment and all areas shall be followed consistently. Handwashing facilities, including hot and cold water, soap, and paper towels, shall be provided adjacent to work areas.

"Subchapter III—Clothing

"SEC. 245. (a) Each resident shall have an adequate allowance of neat, clean, fashionable, and seasonable clothing.

"(b) Each resident shall have his own clothing, which is, when necessary, properly and inconspicuously marked with his name, and he shall use this clothing. Such clothing shall make it possible for residents to go out of doors in inclement weather, to go for trips or visits appropriately dressed, and to make a normal appearance in the community.

"(c) Nonambulatory residents shall be dressed daily in their own clothing, including shoes, unless contraindicated in written medical orders.

"(d) Washable clothing shall be designed for multihandicapped residents being trained in self-help skills, in accordance with individual needs.

"(e) Clothing for incontinent residents shall be designed to foster comfortable sitting, crawling and/or walking, and toilet training.

"(f) A current inventory should be kept of each resident's personal and clothing items.

"(g) Residents shall be trained and encouraged to:

"(1) select and purchase their own clothing as independently as possible, preferably utilizing community stores;

"(2) select their daily clothing;

"(3) dress themselves;

"(4) change their clothes to suit the activities in which they engage; and

"(5) maintain (launder, clean, mend) their clothing as independently as possible.

"SEC. 246. Storage space for clothing to which the resident has access shall be provided. Ample closet and drawer space shall be provided for each resident. Such space shall be accessible to all, including those in wheelchairs.

"SEC. 247. The person responsible for the facility's resident-clothing program shall be trained or experienced in the selection, purchase, and maintenance of clothing, including the design of clothing for the handicapped.

"Subchapter IV—Health, Hygiene, and Grooming

"SEC. 250. (a) Residents shall be trained to exercise maximum independence in health, hygiene, and grooming practices, including bathing, brushing teeth, shampooing, combing and brushing hair, shaving, and caring for toenails and fingernails.

"(b) Each resident shall be assisted in learning normal grooming practices with individual toilet articles that are appropriately available to that resident.

"(c) Teeth shall be brushed daily, with an effective dentifrice. Individual brushes shall be properly marked, used, and stored. Dental care practices should encourage the use of newer dental equipment, such as electric toothbrushes and water picks, as prescribed.

"(d) Residents shall be regularly scheduled for hair cutting and styling, in an individualized, normalized manner, by trained personnel.

"(e) For residents who require such assistance, cutting of toenails and fingernails by trained personnel shall be scheduled at regular intervals.

"(f) Each resident shall have a shower or tub bath at least daily, unless medically contraindicated. Resident's bathing shall be conducted at the most independent level pos-

sible. Resident's bathing shall be conducted with due regard for privacy. Individual washcloths and towels shall be used. A bacteriostatic soap shall be used, unless otherwise prescribed.

"(g) Female residents shall be helped to attain maximum independence in caring for menstrual needs. Menstrual supplies shall be of the same quality and diversity available to all women.

"(h) Every resident who does not eliminate appropriately and independently shall be engaged in a toilet training program. The facility's training program shall be applied systematically and regularly. Appropriate dietary adaptations shall be made to promote normal evacuation and urination. The program shall comprise a hierarchy of procedures leading from incontinence to independent toileting. Records shall be kept of the progress of each resident receiving toilet training. Appropriate equipment shall be provided for toilet training, including equipment appropriate for the multiple handicapped. Residents who are incontinent shall be immediately bathed or cleansed, upon voiding or soiling, unless specifically contraindicated by the training program in which they are enrolled, and all soiled items shall be changed. Persons shall wash their hands after handling an incontinent resident.

"(i) Each living unit shall have a properly adapted drinking unit. Residents shall be taught to use such units. Those residents who cannot be so taught shall be given the proper daily amount of fluid at appropriate intervals adequate to prevent dehydration. There shall be a drinking unit accessible to, and usable by, residents in wheelchairs. Special cups and noncollapsible straws shall be available when needed by the multiply handicapped. If the drinking unit employs cups, only single-use, disposable types shall be used.

"(j) Procedures shall be established for:

"(1) monthly weighing of residents, with greater frequency for those with special needs;

"(2) quarterly measurement of height, until the age of maximum growth;

"(3) maintenance of weight and height records; and

"(4) every effort shall be made to assure that residents maintain normal weights.

"(k) Policies and procedures for the care of residents with infections and contagious diseases shall conform to State and local health department regulations.

"(l) Orders prescribing bed rest or prohibiting residents from being taken out-of-doors shall be reviewed by a physician at least every three days.

"(m) Provisions shall be made to furnish and maintain in good repair, and to encourage the use of, dentures, eyeglasses, hearing aids, braces, and so forth, prescribed by appropriate specialists.

"Subchapter V—Grouping and Organization of Living Units

"SEC. 255. (a) Living unit components or groupings shall be small enough to insure the development of meaningful interpersonal relationships among residents and between residents and staff. The resident-living unit (self-contained unit including sleeping, dining, and activity areas) should provide for not more than sixteen residents. Any deviation from this size should be justified on the basis of meeting the program needs of the specific residents being served. To maximize development, residents should be grouped within the living unit into program groups of not more than eight. Any deviation from this size should be justified on the basis of meeting the program needs of the specific residents being served.

"(b) Residential units or complexes should house both male and female residents to the extent that this conforms to the prevailing cultural norms. Residents of grossly different ages, developmental levels, and social needs shall not be housed in close physical or social proximity, unless such housing is planned to promote the growth and development of all those housed together. Residents who are mobile-non-ambulatory, deaf, blind, or multihandicapped shall be integrated with peers of comparable social and intellectual development, and shall not be segregated on the basis of their handicaps.

"(c) The living unit shall not be a self-contained program unit, and living unit activities shall be coordinated with recreation, educational, and habilitative activities in which residents engage outside the living unit, unless contraindicated by the specific program needs of the particular residents being served. Each program group should be assigned a specific person, who has responsibility for providing an organized, developmental program of physical care, training, and recreation.

"(d) Residents shall be allowed free use of all living areas within the living unit, with due regard for privacy and personal possessions. Each resident shall have access to a quiet, private area where he can withdraw from the group when not specifically engaged in structured activities.

"(e) Outdoor active play or recreation areas shall be readily accessible to all living units.

"Subchapter VI—Resident-Living Staff

"SEC. 256. (a) There shall be sufficient, appropriately qualified, and adequately trained personnel to conduct the resident-living program, in accordance with the standards specified in this section. Resident-living personnel shall be administratively responsible to a person whose training and experience is appropriate to the program. The title applied to the individuals who directly interact with residents in the living units should be appropriate to the kind of residents with whom they work and the kind of interaction in which they engage. The personnel who staff the living units may be referred to by a variety of terms, such as attendants, child care workers, or cottage parents. The term 'psychiatric aid' may be appropriate for a unit serving the emotionally disturbed, but not for a cottage of well-adjusted children. The title of "child care worker" may be appropriate for a nursery school group, but not for an adult unit. Nurses' aides are appropriate for units serving sick residents but not well ones.

"(b) The attire of resident-living personnel should be appropriate to the program of the unit in which they work, and consistent with attire worn in the community.

"(c) When resident-living units are organized as recommended in subchapter V, and designed as stipulated in subchapter VII, the staff-resident ratios for twenty-four-hour, seven-day coverage of such units by resident-living personnel, or for equivalent coverage, should be as follows:

"(1) for medical and surgical units, and for units including infants, children (to puberty), adolescents requiring considerable adult guidance and supervision, severely and profoundly retarded or developmentally disabled moderately and severely physically handicapped, and residents who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior.

"(A) first shift, 1 to 4;

"(B) second shift, 1 to 4;

"(C) third shift, 1 to 8; and

"(D) overall ratio (allowing for a five-day workweek plus holiday, vacation, and sick time), 1 to 1;

"(2) for units serving moderately retarded or developmentally disabled adolescents and adults requiring habit training—

"(A) first shift, 1 to 8;

"(B) second shift, 1 to 4;

"(C) third shift, 1 to 8; and

"(D) overall ratio, 1 to 1.25;

"(3) for units serving residents in vocational training programs and adults who work in sheltered employment situations—

"(A) first shift, 1 to 16;

"(B) second shift, 1 to 8;

"(C) third shift, 1 to 16; and

"(D) overall ratio, 1 to 2.5.

"(d) Regardless of the organization or design of resident-living units, the overall staff-resident ratios should be as stipulated above. Regardless of the organization or design of resident-living units, the overall staff-resident ratios for the categories defined above shall not be less than 1 to 2, 1 to 2.5, and 1 to 5, respectively.

"Subchapter VII—Design and Equipage of Living Units

"SEC. 257. (a) The design, construction, and furnishing of resident-living units shall be—

"(1) appropriate for the fostering of personal and social development;

"(2) appropriate to the program;

"(3) flexible enough to accommodate variations in program to meet changing needs of residents; and

"(4) such as to minimize noise and permit communications at normal conversation levels.

"(b) The interior design of living units shall simulate the functional arrangements of a home to encourage a personalized atmosphere for small groups of residents, unless it has been demonstrated that another arrangement is more effective in maximizing the human qualities of the specific residents being served. There shall be a minimum of eighty square feet of living, dining, or activity space for each resident. This space shall be arranged to permit residents to participate in different kinds of activities, both in groups and singly. Furniture and furnishings shall be safe, appropriate, comfortable, and homelike.

"(c) Bedrooms shall:

"(1) be on or above street grade level;

"(2) be outside rooms;

"(3) accommodate from one to four residents;

"(4) provide at least sixty square feet per resident in multiple sleeping rooms, and not less than eighty square feet in single rooms;

"(5) partitions defining each bedroom shall extend from floor to ceiling;

"(6) doors to bedrooms—

"(A) should not have vision panels;

"(B) should not be lockable, except where residents may lock their own bedroom doors, as consistent with their program;

"(7) there shall be provision for residents to mount pictures on bedroom walls (for example, by means of pegboard or cork strips), and to have flowers, artwork, and other decorations;

"(8) each resident shall be provided with—

"(A) a separate bed of proper size and height for the convenience of the resident;

"(B) a clean, comfortable mattress;

"(C) bedding appropriate for weather and climate;

"(9) each resident shall be provided with—

"(A) appropriate individual furniture, such as a chest of drawers, a table or desk, and an individual closet with clothes racks and shelves accessible to the resident;

"(B) a place of his own for personal play equipment and individually prescribed prosthetic equipment; and

"(10) space shall be provided for equipment for daily out-of-bed activity for all residents not yet mobile, except those who have a short-term illness, or those very few for whom out-of-bed activity is a threat to life.

"(d) Suitable storage shall be provided for personal possessions, such as toys, books, pictures, games, radios, arts and crafts materials, toiletries, jewelry, letters, and other articles and equipment, so that they are accessible to the residents for their use. Storage areas shall be available for off-season personal belongings, clothing, and luggage.

"(e) Toilet areas, clothes closets, and other facilities shall be located and equipped

so as to facilitate training toward maximum self-help by residents, including the severely and profoundly retarded or developmentally disabled and the multiple handicapped as follows:

"(1) water closets, showers, bathtubs, and lavatories shall approximate normal patterns found in homes, unless specifically contraindicated by program needs;

"(2) toilets, bathtubs, and showers shall provide for individual privacy (with partitions and doors), unless specifically contraindicated by program needs;

"(3) water closets and bathing and toileting appliances shall be equipped for use by the physically handicapped;

"(4) there shall be at least one water closet of appropriate size for each six residents;

"(A) at least one water closet in each living unit shall be accessible to residents in wheelchairs;

"(B) each water closet shall be equipped with a toilet seat;

"(C) toilet tissue shall be readily accessible at each water closet;

"(5) there shall be at least one lavatory for each six residents and one lavatory shall be accessible to and usable by residents in wheelchairs;

"(6) there shall be at least one tub or shower for each eight residents;

"(7) there shall be individual racks or other drying space for washcloths and towels; and

"(8) larger, tilted mirrors shall be available to residents in wheelchairs.

"(f) Provisions for the safety, sanitation, and comfort of the residents shall comply with the following requirements;

"(1) each habitable room shall have direct outside ventilation by means of windows, louvres, air-conditioning, or mechanical ventilation horizontally and vertically;

"(2) each habitable room shall have at least one window, and the window space in each habitable room should be at least one-eighth (12½ per centum) of the floor space;

"(A) each resident unit of eight shall have at least one glazed area low enough so that a child in normal day activities has horizontal visual access to the out of doors;

"(B) the type of glass or other glazing material used shall be appropriate to the safety needs of the residents of the unit;

"(3) floors shall provide a resilient, comfortable, attractive, nonabrasive, and slip-resistant surface. Carpeting used in units serving residents who crawl or creep shall be nonabrasive;

"(4) temperature and humidity shall be maintained within a normal comfort range by heating, air conditioning, or other means. The heating apparatus employed shall not constitute a burn hazard to the residents;

"(5) the temperature of the hot water at all taps to which residents have access shall be controlled, by the use of thermostatically controlled mixing valves or by other means, so that it does not exceed 110 degrees Fahrenheit. Mixing valves shall be equipped with safety alarms that provide both auditory and visual signals of valve failure;

"(6) emergency lighting of stairs and exits, with automatic switches, shall be provided in units housing more than fifteen residents;

"(7) there shall be adequate clean linen and dirty linen storage areas for each living unit. Dirty linen and laundry shall be removed from the living unit daily; and

"(8) laundry and trash chutes are discouraged, but if installed, such chutes shall comply with regulations proscribed by the Secretary.

"Chapter 3.—PROFESSIONAL AND SPECIAL PROGRAMS AND SERVICES

"Subchapter I—Introduction

"SEC. 258. (a) In addition to the resident-living services otherwise detailed in this title, residents shall be provided with the professional and special programs and services detailed in this section, in accordance with their needs for such programs and services.

"(b) The professional and special programs and services detailed herein may be provided by programs maintained or personnel employed by the residential facility, or by formal arrangements between the facility and other agencies or persons, whereby the latter will provide such programs and services to the facility's residents as needed.

"(c) In accordance with the normalized principle, all professional services to the mentally retarded and other individuals with developmental disabilities should be rendered in the community, whenever possible, rather than in a residential facility, and where rendered in a residential facility, such services must be at least comparable to those provided the nonretarded in the community.

"(d) Programs and services provided by the facility or to the facility by agencies outside it, or by persons not employed by it, shall meet the standards for quality of service as stated in this section. The facility shall require that services provided its residents meet the standards for quality of services as stated in this section, and all contracts for the provision of such services shall stipulate that these standards will be met.

"SEC. 259. (a) Individuals providing professional and special programs and services to residents may be identified with the following professions, disciplines, or areas of service:

"(1) audiology;

"(2) dentistry (including services rendered by licensed dentists, licensed dental hygienists, and dental assistants);

"(3) education;

"(4) food and nutrition (including services rendered by dietitians and nutritionists);

"(5) library services;

"(6) medicine (including services rendered by licensed physicians, whether doctors of medicine or doctors of osteopathy, licensed podiatrists, and licensed optometrists);

"(7) music, art, dance, and other activity therapies;

"(8) nursing;

"(9) occupational therapy;

"(10) pharmacy;

"(11) physical therapy;

"(12) psychology;

"(13) recreation;

"(14) religion (including services rendered by clergy and religious educators);

"(15) social work;

"(16) speech pathology;

"(17) vocational rehabilitation counseling; and

"(18) volunteer services.

"(b) Interdisciplinary teams for evaluating the resident's needs, planning an individualized habilitation program to meet identified needs, and periodically reviewing the resident's response to his program and revising the program accordingly, shall be constituted of persons drawn from, or representing, such of the aforementioned professions, disciplines, or service areas as are relevant in each particular case.

"(c) Since many identical or similar services or functions may competently be rendered by individuals of different professions, the standards in the following subsection shall be interpreted to mean that necessary services are to be provided in efficient and competent fashion, without regard to the professional identifications of the persons providing them, unless only members of a single profession are qualified or legally authorized to perform the stated service. Services listed under the duties of one profession may, therefore, be rendered by members of other professions who are equipped by training and experience to do so.

"(d) Regardless of the means by which the facility makes professional services available to its residents, there shall be evidence that members of professional disciplines work together in cooperative, coordinated, interdisciplinary fashion to achieve the objective of the facility.

"SEC. 260. Programs and services and the pattern of staff organization and function within the facility shall be focused upon serving the individual needs of residents and should provide for—

"(1) comprehensive diagnosis and evaluation of each resident as a basis for planning programing and management;

"(2) design and implementation of an individualized habilitation program to effectively meet the needs of each resident;

"(3) regular review, evaluation, and revision, as necessary, of each individual's habilitation program;

"(4) freedom of movement of individual residents from one level of achievement to another, within the facility and also out of the facility, through training, habilitation, and placement; and

"(5) an array of those services that will enable each resident to develop to his maximum potential.

"Subchapter II—Dental Services

"SEC. 261. (a) Dental services shall be provided all residents in order to maximize their general health by—

"(1) maintaining an optimal level of daily oral health, through preventive measures; and

"(2) correcting existing oral diseases.

"(b) Dental services shall be rendered—

"(1) directly, through personal contact with all residents by dentists, dental hygienists, dental assistants, dental health educators, and oral hygiene aides, as appropriate to the size of the facility; and

"(2) indirectly, through contact between dental staff and other personnel caring for the residents, in order to maintain their optimal oral health.

"(c) Dental services available to the facility should include—

"(1) dental evaluation and diagnosis;

"(2) dental treatment;

"(3) comprehensive preventive dentistry programs;

"(4) education and training in the maintenance of oral health;

"(5) participation, as appropriate, by dentists and dental hygienists in the continuing evaluation of individual residents by interdisciplinary teams, to initiate, monitor, and follow up individualized habilitation programs;

"(6) consultation with, or relating to—

"(A) residents;

"(B) families of residents;

"(C) other facility services and personnel;

"(7) participation on appropriate facility committees; and

"(8) planning and conducting dental research; cooperating in interdiscplinary research; and interpreting, disseminating, and implementing applicable research findings.

"(d) Comprehensive diagnostic services for all residents shall include—

"(1) a complete extra and intraoral examination, utilizing all diagnostic aids necessary to properly evaluate the resident's oral condition, within a period of one month following admission;

"(2) provision for adequate consultation in dentistry and other fields, so as to properly evaluate the ability of the patient to accept the treatment plan that results from the diagnosis; and

"(3) a recall system that will assure that each resident is reexamined at specified intervals in accordance with his needs, but at least annually.

"(e) Comprehensive treatment services for all residents shall include—

"(1) provision for dental treatment, including the dental specialties of pedodontics, orthodontics, periodontics, prosthodontics, endodontics, oral surgery, and oral medicine, as indicated; and

"(2) provision for emergency treatment on

a twenty-four-hour, seven-days-a-week basis, by a qualified dentist.

"(f) Comprehensive preventive dentistry programs should include—

"(1) fluoridation of the facility's water supply;

"(2) topical and systemic fluoride therapy, as prescribed by the dentist;

"(3) periodic oral prophylaxis, by a dentist or dental hygienist, for each resident;

"(4) provisions for daily oral care, as prescribed by a dentist or dental hygienist, including:

"(A) Toothbrushing and toothbrushing aids, such as disclosing wafers;

"(B) tooth flossing;

"(C) irrigation;

"(D) proper maintenance of oral hygiene equipment;

"(E) monitoring the program to assure its effectiveness; and

"(5) provision, wherever possible, of diets in a form that stimulates chewing and improvement of oral health.

"(g) Education and training in the maintenance of oral health shall include:

"(1) continuing inservice training of living-unit personnel in providing proper daily oral health care for residents;

"(2) providing dental health education to direct-care personnel;

"(3) a dental hygiene program that includes:

"(A) discovery, development, and utilization of specialized teaching techniques that are effective for individual residents;

"(B) imparting information regarding nutrition and diet control measures to residents and staff;

"(C) instruction of classroom teachers and/or students in proper oral hygiene methods;

"(D) motivation of teachers and students to promote and maintain good oral hygiene;

"(E) instruction of residents in living units in proper oral hygiene methods; and

"(4) instruction of parents or surrogates in the maintenance of proper oral hygiene, where appropriate (as in the case of facilities having day programs, or in the case of residents leaving the facility).

"(h) A permanent dental record shall be maintained for each resident. A summary dental progress report shall be entered in the resident's unit record at stated intervals. A copy of the permanent dental record shall be provided a facility to which a resident is transferred.

"(i) When the facility has its own dental staff, there should be a manual that states the philosophy of the dental service and describes all dental procedures and policies. There shall be a formal arrangement for providing qualified and adequate dental services to the facility, including care for dental emergencies on a twenty-four hour, seven-days-a-week basis. A dentist, fully licensed to practice in the State in which the facility is located, shall be designated to be responsible for maintaining standards of professional and ethical practice in the rendering of dental services to the facility. Where appropriate, the facility should, in addition, have available to it, and should utilize, the program-development consultation services of a qualified dentist who has experience in the field of dentistry for the retarded and other individuals with developmental disabilities.

"(j) There shall be available sufficient, appropriately qualified dental personnel, and necessary supporting staff, to carry out the dental services program. All dentists providing services to the facility shall be fully licensed to practice in the State in which the facility is located. All dental hygienists providing services to the facility shall be licensed to practice in the State in which the facility is located. Dental assistants should be certified by an appropriate nationally recognized professional association or should be enrolled in a program leading to certification. Dental health educators shall have a thorough knowledge of—

"(1) dental health; and

"(2) teaching methods.

"(k) Oral hygiene aides, who may supplement and promote the proper daily oral care of residents, through actual participation and development of new methods in the toothbrushing program, or in the dissemination of oral hygiene information, should be—

"(1) thoroughly trained in current concepts and procedures of oral care; and

"(2) trained to recognize abnormal oral conditions.

"(l) Supporting staff should include, as appropriate to the program—

"(1) receptionists;

"(2) clerical personnel to maintain current dental records;

"(3) dental laboratory technicians certified by the appropriate nationally recognized professional associattion;

"(4) escort aides; and

"(5) janitorial or housekeeping personnel.

"(m) All dentists providing service to the facility shall adhere to the code of ethics published by the appropriate nationally recognized professional association.

"SEC. 262. (a) Appropriate to the size of the facility, a continuing education program shall be provided that is designed to maintain and improve the skills and knowledge of its professional dental personnel, through means including but not limited to:

"(1) preceptor or other orientation programs;

"(2) participation in seminars, workshops, conferences, institutes, or college or university courses, to the extent of at least sixty clock hours annually for each dental professional, in accordance with the standards of the nationally recognized professional dental association and its component societies;

"(3) study leave;

"(4) participation in the activities of professional organizations that have as their goals the furtherance of expertise in the treatment of the handicapped;

"(5) access to adequate library resources, including current and relevant books and journals in dentistry, dental hygiene, dental assisting, mental retardation, and developmental disabilities;

"(6) encouragement of dentists to qualify themselves for staff privileges in hospitals; and

"(7) sharing of information concerning dentistry in its relationship with mental retardation and developmental disabilities as by publication.

"(b) To enrich and stimulate the facility's dental program, and to facilitate its integration with community services, the facility should affiliate with, and provide educational experiences for the dental-career students of, dental schools, universities, colleges, technical schools, and hospitals, whenever the best interests of the facility's residents are thereby served.

"(c) There shall be adequate space, facilities, and equipment to meet the professional, educational, and administrative needs of the dental service. General anesthesia facilities for dental care shall be available. The services of a certified dental laboratory shall be available. Appropriate dental consultation shall be employed in the planning, design, and equipage of new dental facilities, and in the modification of existing facilities. All dental facilities shall be free of architectural barriers for physically handicapped residents.

"Subchapter III—Educational Services

"SEC. 263. (a) Educational services, defined as deliberate attempts to facilitate the intellectual, sensorimotor, and effective development of the individual, shall be available to all residents, regardless of chronological age, degree of retardation, or accompanying disabilities or handicaps. There shall be a written statement of educational objectives that are consistent with the facility's philosophy and goals. The principle that learning begins at birth shall be recognized, and the expertise of early childhood educators shall be integrated into the interdisciplinary evaluation and programing for residents.

"(b) Educational services available to the facility shall include but not be limited to—

"(1) establishment and implementation of individual educational programs providing:

"(A) continuous evaluation and assessment of the individual;

"(B) programing for the individual;

"(C) instruction of individuals and groups;

"(D) evaluation and improvement of instructional programs and procedures;

"(2) participation in program development services, including those relating to:

"(A) resident habilitation;

"(B) staff training;

"(C) community activities;

"(3) consultation with, or relating to:

"(A) other programs for residents and staff;

"(B) parents of residents;

"(C) administration and operation of the facility;

"(D) the community served by the facility; and

"(4) research relating to educational programs, procedures, and techniques; and the interpretation, dissemination, and application of applicable research findings.

"(c) Where appropriate, an educator shall be a member of the interdisciplinary teams or groups concerned with—

"(1) the total programing of each resident; and

"(2) the planning and development of the facility's programs for residents.

"(d) Individual educational evaluations of residents shall:

"(1) commence with the admission of the resident;

"(2) be conducted at least annually;

"(3) be based upon the use of empirically reliable and valid instruments, whenever such tools are available;

"(4) provide the basis for prescribing an appropriate program of learning experiences for the resident;

"(5) provide the basis for revising the individual prescription as needed;

"(6) the reporting and dissemination of evaluation results shall be done in such a manner as to—

"(A) render the content of the report meaningful and useful to its intended recipient and user; and

"(B) promptly provide information useful to staff working directly with the resident.

"(e) There shall be written educational objectives for each resident that are—

"(1) based upon complete and relevant diagnostic and prognostic data;

"(2) stated in specific behavioral terms that permit the progress of the individual to be assessed; and

"(3) adequate for the implementation, continuing assessment, and revision, as necessary, of an individually prescribed program.

"(f) There shall be evidence of educational activities designed to meet the educational objectives set for every resident. There shall be a functional educational record for each resident, maintained by, and available to, the educator.

"(g) There shall be appropriate programs to implement the facility's educational objectives. Wherever local resources permit and the needs of the resident are served, residents should attend educational programs in the community. Educable and trainable residents shall be provided an educational program of a quality not less than that provided by public school programs for comparable pupils, as regards:

"(1) physical facilities;
"(2) qualifications of personnel;
"(3) length of the school day;
"(4) length of school year;
"(5) class size;
"(6) provision of instructional materials and supplies; and
"(7) availability of evaluative and other ancillary services.
"(h) Educational programs shall be provided severely and profoundly retarded or developmentally disabled residents, and all other residents for whom educational provisions may not be required by State laws, irrespective of age or ability.
"(i) Appropriate educational programs shall be provided residents with hearing, vision, perceptual, or motor impairments, in cooperation with appropriate staff.
"(j) Educational programs should include opportunities for physical education, health education, music education, and art education, in accordance with the needs of the residents being served.
"(k) A full range of instructional materials and media shall be readily accessible to the educational staff of the facility.
"(l) Educational program shall provide coeducational experiences. Learning activities in the classroom shall be coordinated with activities of daily living in the living units and with other programs of the facility and the community. The facility shall seek reciprocal services to and from the community, within the bounds of legality and propriety. An educational program operated by a facility shall seek consultation from educational agencies not directly associated with the facility.
"SEC. 264. (a) There shall be available sufficient, appropriately qualified educational personnel, and necessary supporting staff, to carry out the educational programs. Delivery of educational services shall be the responsibility of a person who is eligible for—
"(1) certification as a special educator of the mentally retarded or other individuals with developmental disabilities; and
"(2) the credential required for a comparable supervisory or administrative position in the community.
"(b) Teachers shall be provided aides or assistants, as needed. The facility's educators shall adhere to a code of ethics prescribed by the Secretary. Appropriate to the nature and size of the facility, there shall be an ongoing program for staff development specifically designed for educators. Staff members shall be encouraged to participate actively in professional organizations related to their responsibilities.
"(c) To enrich and stimulate the facility's educational program, and to facilitate its integration with community services, opportunities for internships, student teaching, and practicum experiences should be made available, in cooperation with university teacher-training programs, whenever the best interests of the residents are thereby served.

"Subchapter IV—Food and Nutrition Services

"SEC. 265. (a) Food and nutrition services shall be provided in order to—
"(1) insure optimal nutritional status of each resident, thereby enhancing his physical, emotional, and social well-being; and
"(2) provide a nutritionally adequate diet, in a form consistent with developmental level, to meet the dietary needs of each resident.
"(b) There shall be a written statement of policies and procedures that—
"(1) describes the implementation of the stated objectives of the food and nutrition services;
"(2) governs the functions and programs of the food and nutrition services;
"(3) is formulated and periodically reviewed by professional nutrition personnel;
"(4) is prepared in consultation with other professional staff;
"(5) is consistent with the facility's goals and policies;
"(6) is distributed and interpreted to all facility personnel; and
"(7) complies with State and local regulations.
"(c) Whenever appropriate, the following services should be provided—
"(1) initial and periodic evaluation of the nutritional status of each resident, including—
"(A) determination of dietary requirements and assessment of intake and adequacy through—
"(i) dietary interview;
"(ii) clinical evaluation;
"(iii) biochemical assessment;
"(B) assessment of food service practices;
"(C) assessment of feeding practices, capabilities, and potential;
"(2) maintenance of a continuing and periodically reviewed nutrition record for each resident;
"(3) incorporation of recommendations drawn from the nutrition evaluation into the total management plans for the resident;
"(4) periodic review of implementation of recommendations and of need for modification;
"(5) participation in the continuing interdisciplinary evaluation of individual residents, for the purposes of initiation, monitoring, and followup of individualized habilitation programs;
"(6) provision of—
"(A) counseling services to the individual resident;
"(B) reciprocal consultation services with facility staff and students;
"(C) counseling service to residents' families or their surrogates;
"(D) nutrition education, on a continuing basis, for residents, families or surrogates, staff, and students, and development of such programs in coordination with various education programs within the facility and the community;
"(7) coordination of nutrition programs between the facility and the community, including—
"(A) development of awareness of available programs in nutrition;
"(B) development of needed nutrition programs;
"(C) encouragment of participation of professionals and students nutrition programs for the mentally retarded and developmentally disabled; and
"(8) development, coordination, and direction of nutrition research, as well as cooperation in interdisciplinary research.
"(d) Food services shall include—
"(1) menu planning;
"(2) initiating food orders or requisitions;
"(3) establishing specifications for food purchases, and insuring that such specifications are met;
"(4) storing and handling of food;
"(5) food preparation;
"(6) food serving;
"(7) maintaining sanitary standards in compliance with State and local regulations; and
"(8) orientation, training, and supervision of food service personnel.
"(e) The food and nutrition needs of residents shall be met in accordance with the recommended dietary allowances of the food and nutrition board of the national research council, adjusted for age, sex, activity, and disability, through a nourishing, well-balanced diet. The total food intake of the resident should be evaluated, including food consumed outside of as well as within the facility.
"(f) Menus shall be planned to meet the needs of the residents in accordance with subsection (e). Menus shall be written in advance. The daily menu shall be posted in food preparation areas. When changes in the menu are necessary, substitutions should be noted and should provide equal nutritive values. Menus shall provide a sufficient variety of foods served in adequate amounts at each meal, and shall be: (1) Different for the same days of each week; (2) Adjusted for seasonal changes. Records of menus as served shall be filed and maintained for at least thirty days. At least a one-week supply of staple foods and a two-day supply of perishable foods shall be maintained on the premises. Records of food purchased for preparation shall be filed and maintained for at least thirty days. A file of tested recipes adjusted to appropriate yield should be maintained.
"(g) Foods shall be prepared by methods that—
"(1) conserve nutritive value;
"(2) enhance flavor; and
"(3) enhance appearance.
"(h) Food shall be prepared, stored, and distributed in a manner that assures a high quality of sanitation. Effective procedures for cleaning all equipment and work areas shall be followed consistently. Dishwashing and panwashing shall be carried out in compliance with State and local health codes. Handwashing facilities, including hot and cold water, soap, and paper towels, shall be provided adjacent to work area.
"(i) When food is transported, it shall be done in a manner that maintains proper temperature, protects the food from contamination and spoilage, and insures the preservation of nutritive value. Food storage procedures shall meet State and local regulations. Dry or staple food items shall be stored at least twelve inches above the floor, in a ventilated room not subject to sewage or waste water backflow, or contamination by condensation, leakage, rodents, or vermin. Perishable foods shall be stored at the proper temperatures to preserve nutritive values. Food served to residents and not consumed shall be discarded.
"(j) There shall be a sufficient number of component personnel to fulfill the objectives of the food and nutrition services, including—
"(1) nutritionists or dietitians;
"(2) other food service personnel;
"(3) clerical personnel;
"(4) depending upon the size and scope of the facility, food and nutrition services shall be directed by one of the following—
"(A) a dietitian who is eligible for membership in the appropriate professional dietetic association, and preferably eligible for registration by such association, or a nutritionist who has a master's degree in foods, nutrition, or public health nutrition, who is eligible for membership in the appropriate professional dietetic association, and preferably eligible for registration by the association, and who, unless employed by a facility that also employs a dietitian, has had experience in institutional food management;
"(B) a food service manager who has a bachelor's degree in foods, nutrition, or a related field, and who receives consultation from a dietary consultant;
"(C) a responsible person who has had training and experience in meal management and service, and who receives consultation from a dietary consultant; and
"(D) the person responsible for food and nutrition services should have had training or experience in providing services to the mentally retarded, and other individuals with developmental disabilities and should be sensitive to their needs;
"(5) the dietary consultant shall—
"(A) be eligible for membership in the appropriate professional dietetic association, and preferably eligible for registration by such association;
"(B) serve on a regularly scheduled and frequent basis when no full-time dietitian is available; and
"(6) every person engaged in the preparation and serving of food in the facility shall have a valid food handler's permit, as required by State or local regulations. No person who is afflicted with a disease in a communicable stage, or who is a carrier of a com-

municable disease, or who has an open wound, shall work in any food service operation. Every person engaged in the preparation and serving of food in the facility shall annually be medically determined to be free of any disease in a communicable stage. All dietitians and nutritionists shall adhere to the code of ethics of the appropriate professional dietetic association."

"(k) Appropriate to the size of the facility, an ongoing inservice training program shall be conducted that is designed to improve and maintain the skills of its food and nutrition services staff, through means such as—

"(1) seminars, workshops, conferences, and institutes;

"(2) college and university courses;

"(3) participation in professional organizations;

"(4) participation in interdisciplinary groups;

"(5) visitations to other facilities; and

"(6) access to adequate library resources, including current and relevant books and journals in nutrition and mental retardation.

"(l) Opportunities should be provided, in cooperation with university and other training programs, for students to obtain practical experience, under appropriate supervision, whenever the best interests of the residents are thereby served.

"(m) There shall be adequate space, facilities, and equipment to fulfill the professional, educational, administrative, operational, and research needs of the food and nutrition services. Dining areas and facilities for food storage, preparation, and distribution shall be—

"(1) designed in cooperation with a dietitian and, when appropriate, with assistance from a qualified food service and equipment consultant;

"(2) adequate for the storage and preservation of food;

"(3) in compliance with State and local sanitation and other requirements;

"(4) adequate for the preparation and serving of food; and

"(5) adequate for sanitary storage for all dishes and equipment.

"Subchapter V—Library Services

"SEC. 266. (a) Library services, which include the location, acquisition, organization, utilization, retrieval, and delivery of materials in a variety of media, shall be available to the facility, in order to support and strengthen its total habilitation program by providing complete and integrated multimedia information services to both staff and residents. Library services shall make available to the facility the resources of local, regional, State, and National library systems and networks. Library services shall be available to all residents, regardless of chronological age, degree of retardation, level of communication skills, or accompanying disabilities or handicaps.

"(b) Library services to residents shall be rendered—

"(1) directly, through personal contact between library staff and residents;

"(2) indirectly, through contact between librarians and other persons working with the residents, designed to—

"(A) maintain an atmosphere that recognizes the rights of the resident to access to information and to personal use of library materials appropriate to his level of development in communication skills or to his desire to conform to peer groups; and

"(B) enhance interpersonal relationships between direct-care workers and residents, through the mutual enjoyment of written, recorded, or oral literature appropriate to the resident's level of development and preference.

"(c) Library services available to residents should include—

"(1) assistance in team evaluation and assessment of the individual's level of development in communication skills, such as listening, comprehension, reading, and ability to respond to stimuli in a wide range and variety of media;

"(2) provision of informational, recreational, and educational materials appropriate to individual residents at all stages of development in communication skills, including media to stimulate sensory development, both in the library and in the living unit. Such materials should include, but need not be limited to—

"(A) books, including picture, juvenile, adult, high interest-low vocabulary, large print, and talking books;

"(B) magazines, including juvenile, adult pictorial, and magazines on talking books;

"(C) newspapers;

"(D) audiovisual media, including films, filmstrips, slides, video tapes, audio tapes, and records, and appropriate equipment;

"(E) graphics;

"(F) experiant materials, such as manipulative materials, toys and games, relia, and animals;

"(3) development of programs for individual or group enjoyment, for development of communication skills, for encouragement and satisfaction of natural human curiosity about anything, including sex and the facts of life, and for general enhancement of self-image. These programs should include, but need not be limited to—

"(A) storytelling, with listener participation through games or other activities;

"(B) reading aloud, including 'reading' pictures;

"(C) film or filmstrip programs;

"(D) listening to recorded media;

"(E) media discussion groups;

"(F) library clubs;

"(G) touching, browsing, exploring, or naming sensory stimuli;

"(H) creative writing, including group composition through dictation, tape recording, etc.;

"(I) puppetry, including the making of puppets;

"(J) creative dramatics;

"(4) opportunities to visit, and make use of, community library services and facilities in the same manner, and on the same terms, as any resident of the community;

"(5) referral services to the community library most convenient to place of residence or employment, when the resident leaves the facility; and

"(6) active participation in, and encouragement of, library programs related to the educational and habilitative services of the facility, including the supplementation, support, and reinforcement of school programs.

"(d) Librarians providing service to residents should act as advocates on their behalf if facility policies or community library policies interfere with the retarded or developmentally disabled person's freedom to read materials of his own choosing or if they deny or abrogate his right to information or access to library services of any kind, in accordance with the standards adopted by the appropriate professional library association.

"(e) Library services to staff should include—

"(1) selection, acquisition, organization, classification, cataloging, procurement through interlibrary loan, and dissemination of informational, educational, and instructional library materials and audiovisual equipment;

"(2) provision of reference and bibliographic materials and services, literature searches, bibliography compilation, indexing and abstracting services, and other guides to the literature relevant to mental retardation and developmental disabilities;

"(3) acquisition of material for evaluation for purchase;

"(4) provision of a current awareness program to alert staff to new materials and developments in their fields;

"(5) orientation to library services and functions, including continuing instruction and assistance in the use of informational sources, and participation in general orientations to the facility;

"(6) provision of written and oral translation services; and

"(7) cooperation in inservice training programs by working with subject specialists and by recommending, providing, or producing materials in various media.

"(f) Library services to the facility may include—

"(1) provision of informational materials about the facility and mental retardation developmental disabilities in general, through an organized collection of resources;

"(2) assistance with such public relation functions as preparing brochures, program statements, annual reports, writing news releases and feature stories, and offering editorial and research assistance to staff preparing professional books and papers; and

"(3) assistance in preparing grant applications and report writing.

"(g) When library services are provided in the facility—

"(1) there shall be a written statement of objectives that make possible a well-conceived, comprehensive, long-range program of library development, consistent with the overall goals of the facility, adapted to the needs and aptitudes of the residents, and designed to be modified as the program of the facility changes;

"(2) there shall be a separate budget, adequate to carry out the program in accordance with stated goals and objectives;

"(3) library services shall be placed within the organizational structure of the facility in such a way as to be available to, and maximally utilized by, all relevant services and programs;

"(4) there shall be written policies covering the library's day-to-day activities, and the coordination of these activities with those of other services of the facility and with related activities in the community;

"(5) there shall be available sufficient, appropriately qualified staff, and necessary supporting personnel, to carry out the program in accordance with stated goals and objectives;

"(6) a qualified librarian shall be responsible for all library services. Where the level of need for services does not require the full-time employment of a professional librarian, coverage may be through the use of consultant service or supervisory personnel, through the pooling of resources and the sharing of services by two or more facilities in a geographic area, or through service supplied through a regional library system;

"(7) the librarian shall participate, when appropriate, in the interdisciplinary planning, development, and evaluation of facility programs;

"(8) the librarian should coordinate the purchasing of all print and nonprint materials for the facility, and act as the facility's informed agent in initiating the purchase of print and nonprint materials, and the library should serve as clearing house for such holdings;

"(9) librarians should participate in—

"(A) educating appropriate members of the community, concerning the library needs of residents;

"(B) planning, with community librarians, the utilization of library resources to optimize resident adjustment;

"(C) developing appropriate expectancies and attitudes within community libraries that residents will use;

"(10) appropriate relationships with other libraries and community agencies shall be established to more effectively accomplish the library's service functions;

"(11) appropriate to the size of the facility, there should be a staff development program designed to maintain and improve the

skills of library services staff through means such as—

"(A) staff meetings and inservice training;

"(B) seminars, workshops, conferences, and institutes;

"(C) college and university courses;

"(D) professional organizations;

"(E) participation in interdisciplinary groups;

"(F) visits to other facilities;

"(G) access to relevant professional literature;

"(12) whenever appropriate, the library should provide training for beginning librarians, further the orientation and training of library assistants, technicians, or volunteers, and serve as a training center for library institutes or workshops;

"(13) library services should be located so as to be convenient and accessible to all users;

"(14) all library functions should be integrated within a centralized location, whenever this does not act as a barrier to accessibility for any group;

"(15) space, physical facilities, and equipment shall be adequate to carry out the program, and shall comply with the standards for library services in health care institutions published by the appropriate professional library association of hospitals and institutions of the appropriate professional library association;

"(16) the hours during which the library is open should meet the requirements of the majority of the library's users, and should be as generous as possible; and

"(17) users of library services shall participate in the planning and evaluation of library programs, by means such as advisory committees.

"(h) If library services are provided outside the facility, there shall be a formal agreement that stipulates lines of communication, areas of responsibility, and kinds of service.

"(i) The individual responsible for maintaining standards of professional and ethical practice in the rendering of library services to the facility—

"(1) shall have a master's degree in library science from a school accredited by the recognized national professional library association; and

"(2) should have preparation in a field relevant to work with the mentally retarded and other individuals with developmental disabilities.

"(j) Individual rendering library services, including librarians, media specialists, library and media technicians, supportive staff, and volunteers, shall have qualifications appropriate to their responsibilities and duties.

"Subchapter VI—Medical Services

"SEC. 267. (a) Medical services shall be provided in order to—

"(1) achieve and maintain an optimal level of general health for each resident;

"(2) maximize normal function and prevent disability; and

"(3) facilitate the optimal development of each resident.

"(b) Medical services shall be rendered—

"(1) directly, through personal contact between physicians and residents; and

"(2) indirectly, through contact between physicians and other persons working with the residents, which is designed to maintain an environment that recognizes and meets the health, hygiene, sanitary, and nutritional needs of the residents.

"(c) Medical services available to the residential facility should include—

"(1) evaluation and diagnosis;

"(2) treatment;

"(3) program development services, including those relating to—

"(A) resident habilitation;

"(B) staff training;

"(C) community participation;

"(4) consultation with, or relating to—

"(A) residents;

"(B) families of residents;

"(C) the administration and operation of the facility;

"(5) medical and ancillary staff training; and

"(6) preventive health services for residents and staff.

"(d) The services of medical and surgical hospitals that are accredited by the recognized national appropriate joint commission on accreditation of hospitals shall be available to residents. Only pathology, clinical laboratory, and radiologic services that meet the hospital accreditation standards of such joint commission on accreditation of hospitals shall be utilized. Electroencephalographic services shall be available as necessary. There shall be evidence, such as may be provided by a record of the deliberations of a utilization review committee, that such hospital and laboratory services are utilized in accordance with proper professional standards.

"(e) Physicians shall participate, when appropriate—

"(1) in the continuing interdisciplinary evaluation of individual residents, for the purposes of initiation, monitoring, and followup of individualized habilitation programs; and

"(2) in the development for each resident of a detailed, written statement of—

"(A) case management goals, encompassing the areas of physical and mental health, education, and functional and social competence; and

"(B) a management plan detailing the various habilitation or rehabilitation modalities that are to be applied in order to achieve the specified goals, with clear designation of responsibility for implementation.

"(f) The management plan shall ordinarily include, but not necessarily be limited to—

"(1) the resident's day-to-day activity program;

"(2) physical rehabilitation to prevent and correct deformity, to enhance mobility, and to facilitate training in self-help skills;

"(3) provision for adaptive equipment necessary to the rehabilitation plan;

"(4) an educational program;

"(5) a vocation and occupational program;

"(6) stated intervals for review of the management plan; and

"(7) short- and long-term goals, including criteria for release.

"(g) Statement of treatment goals and management plans shall be reviewed and updated—

"(1) as needed, but at least annually; and

"(2) to insure continuing appropriateness of the goals, consistency of management methods with the goals, and the achievement of progress toward the goals.

"(h) Special attention shall be given those residents who, without active intervention, are at risk of further loss of function, by means that include—

"(1) early diagnosis of disease;

"(2) prompt treatment in the early stages of disease;

"(3) limitation of disability by arresting the disease process;

"(4) prevention of complications and sequelae; and

"(5) rehabilitation services to raise affected individual to his greatest possible level of function, in spite of his handicap, by maximizing the use of his remaining capabilities.

"(i) Preventive health services to residents shall include—

"(1) means for the prompt detection and referral of health problems, through adequate medical surveillance, periodic inspection, and regular medical examination;

"(2) annual physical examinations, that include—

"(A) examination of vision and hearing;

"(B) routine screening laboratory examinations, as determined by the physician, and special studies when the index of suspicion is high;

"(3) maintenance of a graphic record of height and weight for each resident, in a form that permits ready reference to standardized norms;

"(4) immunizations, using as a guide the recommendations of the United States Public Health Service Advisory Committee on Immunization Practices and of the appropriate committee on the control of infectious diseases of the appropriate medical specialty association;

"(5) tuberculosis control, in accordance with the recommendations of the appropriate medical specialty association as appropriate to the facility's population; and

"(6) reporting of communicable diseases and infections in accordance with law.

"(j) Preventive health services to staff shall include—

"(1) preemployment physical examinations; and

"(2) surveys for the detection and prevention of communicable diseases.

"(k) There shall be a formal arrangement for qualified medical care for the facility, including care for medical emergencies on a twenty-four-hour, seven-days-a-week basis. A physician, fully licensed to practice medicine in the State in which the facility is located, shall be designated to be responsible for—

"(1) maintaining standards of professional and ethical practice in the rendering of medical services in the facility; and

"(2) maintaining the general health conditions and practices of the facility and/or system of health services.

Each resident shall have a personal (primary) physician, who maintains familiarity with his state of health and with conditions within the residential living unit that bear on his health. Qualified medical specialists of recognized professional ability shall be—

"(1) available for a broad range of specialized care and consultation; and

"(2) appropriately used.

"(l) Appropriate to the size of the facility, an ongoing inservice training program shall be conducted that is designed to maintain and improve the medical skills of its physicians and their knowledge of developmental disabilities, through methods such as staff seminars, outside speakers, attendance at professional medical meetings, and informational exchanges with universities and teaching hospitals.

"(m) There shall be adequate space, facilities, and equipment to fulfill the professional, educational, and administrative needs of the medical service.

"Subchapter VII—Nursing Services

"SEC. 268. (a) Residents shall be provided with nursing services, in accordance with their needs, in order to—

"(1) develop and maintain an environment that will meet their total health needs;

"(2) foster optimal health;

"(3) encourage maximum self-care and independence; and

"(4) provide skilled nursing care as needed.

"(b) There shall be a written statement of nursing philosophy and objectives that are consistent with the purpose of the facility and that give direction to the nursing program. Nursing personnel shall be responsible for the formulation, review, and revision of the philosophy and objectives. The philosophy and objectives shall be—

"(1) distributed to all nursing personnel; and

"(2) made available and interpreted to all other personnel.

"(c) Nursing services should be provided through—

"(1) direct nursing intervention;

"(2) instruction and supervision of facility staff rendering nursing care;

"(3) supporting, counseling, and teaching the resident, his family, and his direct-care staff, at the facility or in the home;

"(4) consultation and followthrough in the interest of the resident; and

"(5) participation on appropriate facility committees.

"(d) Nursing services to residents shall include, when appropriate—

"(1) professional nurse participation in—

"(A) the preadmission evaluation study and plan;

"(B) the evaluation study, program design, and placement of the resident at the time of admission to the facility;

"(C) the periodic reevaluation of the type, extent, and quality of services and programing;

"(D) the development of discharge plans;

"(E) the referral to appropriate community resources;

"(2) services directed toward the promotion of health, including—

"(A) observation and assessment of the developmental function of the resident, within his environment;

"(B) training in habits of personal hygiene;

"(C) family life and sex education;

"(D) safety education;

"(E) control of communicable diseases and infections, through—

"(i) identification and assessment;

"(ii) reporting to medical authority;

"(iii) implementation of appropriate protective and preventive measures;

"(F) development of a written plan for nursing action, in relation to the total habilitation program;

"(G) modification of the nursing plan, in terms of the resident's daily needs, at least annually for adults and more frequently for children, in accordance with developmental changes;

"(3) participation in the prevention of disability for all residents, with special attention to those residents who exhibit the lowest level of functional development, including—

"(A) nursing assessment of the functional level of development;

"(B) development, implementation, and coordination of a plan to maintain and encourage optimal level of function, with written provision for direct and indirect nursing intervention;

"(4) planned, intensive nursing care for every resident who is medically determined to be acutely ill.

"(e) A professional nurse shall participate, as appropriate, in the planning and implementation of training of facility personnel. Direct-care personnel shall be trained in—

"(1) detecting signs of illness or dysfunction that warrant medical or nursing intervention;

"(2) basic skills required to meet the health needs and problems of the residents; and

"(3) first aid in the presence of accident or illness.

"(f) Qualified nurses shall be encouraged to become involved in—

"(1) initiating, conducting, and evaluating nursing research;

"(2) evaluating and applying relevant research findings for the benefit of residents;

"(3) formulating the policies governing research in the facility; and

"(4) serving as resource persons to schools of nursing, and to public health nursing and related agencies.

"(g) There shall be available sufficient, appropriately qualified nursing staff, which may include currently licensed practical nurses and other supporting personnel, to carry out the various nursing services activities. A registered professional nurse shall be designated as being responsible for maintaining standards of professional, legal, and ethical practice in the delivery of nursing services according to the needs of the residents. The individual responsible for the delivery of nursing services—

"(1) should have at least a master's degree in nursing; and

"(2) shall have knowledge and experience in the field of development disabilities.

"(h) Nursing service personnel at all levels of experience and competence shall be—

"(1) assigned responsibilities in accordance with their qualifications;

"(2) delegated authority commensurate with their responsibility; and

"(3) provided appropriate professional nursing supervision.

"(i) Organized nursing services and professional nurse practitioners should have recourse to qualified and appropriate consultants as needed. All professional nurses shall be familiar with, and adhere to, the code of ethics published by the appropriate nationally recognized professional nurses' association.

"(j) Appropriate to the size of the facility, there shall be an educational program designed to enhance the clinical competencies and the knowledge of development disabilities of its professional nursing staff, through means, including but not limited to—

"(1) staff meetings and inservice training;

"(2) seminars, workshops, conferences, and institutes;

"(3) college and university courses;

"(4) participation in professional organizations;

"(5) participation in interdisciplinary groups;

"(6) visits to other facilities; and

"(7) access to relevant professional literature.

"(k) To enrich and stimulate the facility's nursing program, and to facilitate its integration with community services, educational experiences for students of all types of professional and vocational nursing schools shall be encouraged and defined by a contractual agreement, whenever the best interests of the residents are thereby served.

"(l) There shall be adequate space, facilities, and equipment to fulfill the professional, educational, and administrative needs of the nursing service. Professional nursing consultation shall be included in the design and modification of areas and facilities that will be used by the ill and the physically handicapped.

"Subchapter VIII—Pharmacy Services

"SEC. 269. (a) In order to contribute to improved resident care and to promote optimal response to drug therapy by the residents, through the full utilization of the knowledge and skills of the pharmacist, pharmacy services shall be provided under the direction of a qualified pharmacist. There shall be a formal arrangement for qualified pharmacy services, including provision for emergency service, by means appropriate to the facility. Such means may include the services of a pharmacist in a local community or hospital pharmacy that meet the standards listed herein, as well as the operation of its own pharmacy by the facility. There shall be a current pharmacy manual that—

"(1) includes policies and procedures, and defines the functions and responsibilities relating to pharmacy services; and

"(2) is revised annually to keep abreast of current developments in services and management techniques.

"(b) There shall be a formulary system, approved by the responsible physician and pharmacist, and by other appropriate facility staff. Copies of the facility's formulary and of the nationally recognized American hospital formulary service shall be located and available, as appropriate to the facility.

"(c) Upon admission of the resident, a medication history of prescription and nonprescription drugs used shall be obtained, preferably by the pharmacist, and this information shall be entered in the resident's record for the information of the staff. The pharmacist shall—

"(1) receive the original, or a direct copy, of the physician's drug treatment order;

"(2) review the drug regimen, and any changes, for potential adverse reactions, allergies, interactions, contraindications, rationality, and laboratory test modifications, and advise the physician of any recommended changes, with reasons and with an alternate drug regimen;

"(3) maintain for each resident an individual record of all medications (prescription and nonprescription) dispensed, including quantities and frequency of refills;

"(4) participate, as appropriate, in the continuing interdisciplinary evaluation of individual residents, for the purposes of initiation, monitoring, and followup of individualized habilitation programs;

"(5) participate in any of the following activities that are undertaken in the facility:

"(A) drug research;

"(B) drug utilization review;

"(C) infection and communicable disease committee;

"(D) safety committee;

"(E) patient care incident review; and

"(6) establish quality specifications for drug purchases, and insure that they are met.

"(d) The pharmacist should—

"(1) prepare a drug treatment plan, as prescribed by the attending physician, for inclusion in the resident's record and for use by the staff, that includes—

"(A) the drug product, dosage form, route of administration, and time of administration, including, when appropriate, the time with respect to meals, other drugs, and activities;

"(B) a schedule of laboratory tests necessary to detect adverse reactions;

"(C) nothing of any potential adverse reactions for the staff's information;

"(2) regularly review the record of each resident on medication, and have contact with selected residents with potential problems, noting in the residents' records and reporting to physicians any observations of response to drug therapy, and of adverse reactions and over or underutilization of drugs;

"(3) provide instructions and counseling on the correct use of his drugs, as prescribed by the attending physician, to each resident on home visit and discharge, and/or to his parents;

"(4) provide education and counseling to residents in independent living units on the correct use of their drugs, as prescribed by the attending physician, and on the results expected from correct use and from over or underuse;

"(5) participate in programs for sex education and drug abuse education;

"(6) provide information on the resident's drug regimen to the receiving facility pharmacist, when the resident is transferred, and, with the approval of the resident or his guardian, to the resident's community pharmacist, his private physician, and/or the community mental retardation or developmental disability service when the resident is discharged from the facility, so as to insure continuity of care;

"(7) participate in inservice education programs for professional and direct-care staff;

"(8) orient and teach students in pharmacy and other professions, regarding pharmarcy's services to the residents and regarding drugs and their uses; and

"(9) participate in public educational and informational programs on mental retardation and developmental disabilities.

"(e) Where appropriate to the facility, there shall be a pharmacy and therapeutics committee, that includes one or more pharmacists, to develop policy on drug usage in the facility, and to develop and maintain a current formulary. This committee shall meet not less than once every three months. Minutes of the committee meetings shall be kept on file.

"(f) Written policies and procedures that govern the safe administration and handling of all drugs shall be developed by the responsible pharmacist, physician, nurse, and other professional staff, as appropriate to the facility. The compounding, packaging, labeling, and dispensing of drugs, including samples and investigational drugs, shall be done by the pharmacist, or under his direct supervision, with proper controls and records. Each drug shall be identified up to the point of administration. Procedures shall be established for obtaining drugs when the pharmacy is closed.

"(g) The unit dose or individual prescription system of drug distribution should be used. Wherever possible, drugs that require dosage measurement shall be dispensed by the pharmacist in a form ready to be administered to the patient.

"(h) There shall be a written policy regarding the administration of all drugs used by the residents, including those not specifically prescribed by the attending practitioner. There shall be a written policy regarding the routine of drug administration, including standardization of abbreviations indicating dose schedules. Medications shall not be used by any resident other than the one for whom they were issued. Only appropriately trained staff shall be allowed to administer drugs.

"(i) There shall be a written policy governing the self-administration of drugs, whether prescribed or not.

"(j) Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security. All drugs shall be kept under lock and key except when authorized personnel are in attendance. The security requirements of Federal and State laws shall be satisfied in storerooms, pharmacies, and living units. Poisons, drugs used externally, and drugs taken internally shall be stored on separate shelves or in separate cabinets, at all locations. Medications that are stored in a refrigerator containing things other than drugs shall be kept in a separate compartment with proper security. A perpetual inventory shall be maintained of each narcotic drug in the pharmacy, and in each unit in which such drugs are kept, and inventory records shall show the quantities of receipts and issues and the person to whom issued or administered. If there is a drug storeroom separate from the pharmacy, there shall be a perpetual inventory of receipts and issues of all drugs by such storeroom.

"(k) The pharmacist should review the drugs in each living unit monthly, and should remove outdated and deteriorated drugs and drugs not being used. Discontinued and outdated drugs, and containers with worn, illegible, or missing labels, shall be returned to the pharmacy for proper disposition.

"(l) There shall be automatic stop orders on all drugs. There shall be a drug recall procedure that can be readily implemented. Medication errors and drug reactions shall be recorded and reported immediately to the practitioner who ordered the drug. There shall be a procedure for reporting adverse drug reactions to the Federal Food and Drug Administration. The pharmacist shall be responsible for the storage and dispensing of investigational drugs. The pharmacist shall provide the residential staff with pharmacological and other necessary information on investigational drugs, including dosage form, dosage range, storage, adverse reactions, usage, and contraindications.

"(m) There shall be an emergency kit—

"(1) readily available to each living unit; and

"(2) constituted so as to be appropriate to the needs of its residents.

"(n) Pharmacy services shall be—

"(1) directed by a professional competent and legally qualified pharmacist who is a graduate of a school of pharmacy accredited by the American Council on Pharmaceutical Education, or its equivalent, and who serves on a full-time or part-time basis, as the activity of the service requires;

"(2) staffed by a sufficient number of competent personnel, consistent with the facility's needs, and including—

"(A) pharmacists necessary to provide comprehensive pharmacy services;

"(B) technicians and clerical personnel to relieve the pharmacist of nonprofessional and clerical duties;

"(3) pharmacists should have had training and/or experience in providing services to the mentally retarded and other individuals with developmental disabilities, and should be sensitive to their needs; and

"(4) all pharmacists shall be familiar with, and adhere to, the code of ethics of the nationally recognized professional pharmaceutical association.

"(o) Appropriate to the size of the facility, there should be a staff development program, designed to maintain and improve the skills of its pharmacy staff through means, including but not limited to:

"(1) staff meetings and inservice training;

"(2) seminars, workshops, conferences, and institutes;

"(3) college and university courses;

"(4) participation in professional organizations;

"(5) participation in interdisciplinary groups;

"(6) visits to other facilities; and

"(7) access to relevant professional literature.

"(p) The pharmacy serving the facility shall—

"(1) have sufficient space for necessary compounding, dispensing, labeling, and packaging functions;

"(2) have the equipment necessary for compounding, dispensing, issuing, storing, and administrative functions;

"(3) be clean and orderly; and

"(4) contain current pharmaceutical reference material to provide adequate information concerning drugs.

"(q) Space for the storage of drugs in the storeroom, pharmacy, and living units shall be sufficient to prevent crowding of the drugs. There shall be adequate drug preparation areas, that are—

"(1) properly secured;

"(2) well lighted; and

"(3) located so that personnel will not be interrupted when handling drugs.

"(r) If the facility operates its own pharmacy, there should be—

"(1) an office for the pharmacist; and

"(2) a private area for instructing and counseling residents and/or parents on the correct use of drugs.

"Subchapter IX—Physical and Occupational Therapy Services

"SEC. 270. (a) Although this subsection combines standards for physical and occupational therapy, each is a discrete service that complements the other in a manner similar to their relationship with all other health and medically related services. Both services, therefore, shall be provided, or made available to, residents on a continuing basis, as needed. Physical and occupational therapy services shall be provided in order to—

"(1) prevent abnormal development and further disability;

"(2) facilitate the optimal development of each resident; and

"(3) enable the resident to be a contributing and participating member of the community in which he resides.

The facility shall have a written statement of its physical therapy and occupational therapy objectives for its residents, consistent with—

"(1) the needs of the residents;

"(2) currently accepted physical therapy and occupational therapy theories, principles, and goals;

"(3) the philosophy and goals of the facility; and

"(4) the services and resources provided. Physical and occupational therapy services shall be provided—

"(1) directly, through personal contact between therapists and residents;

"(2) indirectly, through contact between therapists and other persons involved with the residents, to:

"(A) create and maintain an atmosphere that recognizes the physical and psychosocial needs of residents and is conducive to the development and maintenance of optimal physical and psychosocial functioning;

"(B) maximize the effectiveness of all programs of residents, through the applications of knowledge concerning the development and maintenance of motor performance and behaviors; and

"(C) implement programs for the improvement of physical and psychosocial functioning in all environmental settings.

Physical and occupational therapists shall have a responsibility for organizing and implementing programs to achieve physical and occupational therapy goals throughout the resident's daily activities.

"(b) Physical and occupational therapy services available to the facility should include—

"(1) screening and evaluation of residents;

"(2) therapy with individuals and groups;

"(3) program development services, including those relating to—

"(A) resident habilitation;

"(B) inservice training of professional, direct-care, and other staff;

"(C) community participation;

"(4) consultation with, or relating to—

"(A) residents;

"(B) families of residents;

"(C) medical, dental, psychological, educational, nursing, and other services;

"(D) the administration and operation of the facility;

"(E) the community served by the facility;

"(5) training of therapy staff;

"(6) training of physical and occupational therapy graduate and/or undergraduate students, interns, supportive staff, and volunteer workers;

"(7) assessment of program effectiveness; and

"(8) conduct of, or participation in, research, and dissemination and appropriate application of research findings.

"(c) Therapists should screen residents, in order to—

"(1) determine the characteristics of the facility's population;

"(2) identify resident needs and establish program priorities; and

"(3) determine the administrative, budgetary, and personnel requirements of the service.

"(d) Evaluation of individual residents by physical and occupational therapists should include—

"(1) observing and testing performance and motivation in sensorimotor, perceptual, behavioral, and self-care activities;

"(2) assessment and analysis of findings, to determine level of function and to identify deviations from accepted norms;

"(3) providing information for interdisciplinary staff use, in determining diagnosis, functional capacities, prognosis, and management goals; and

"(4) physical and occupational therapists shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents, for the purposes of initiation, monitoring, and followup of individualized habilitation programs.

"(e) Physical therapy and occupational therapy staff shall provide treatment-training programs that are designed to—

"(1) preserve and improve abilities for independent function, such as range of motion, strength, tolerance, coordination, and activities of daily living;

"(2) prevent, insofar as possible, irreducible or progressive disabilities, through means such as the use of orthotic and prosthetic appliances, assistive and adaptive devices, positioning, behavior adaptations, and sensory stimulation;

"(3) the therapist shall function closely with the resident's primary physician and with other medical specialists;

"(4) treatment-training progress shall be—

"(A) recorded regularly;

"(B) evaluated periodically; and

"(C) used as the basis for continuation or change of the resident's program.

"(f) Evaluation results; treatment objectives, plans, and procedures; and continuing observations of treatment progress shall be—

"(1) recorded accurately, summarized meaningfully, and communicated effectively;

"(2) effectively used in evaluating progress; and

"(3) included in the resident's unit record.

"(g) Consumers and their representatives, including residents, families, other disciplines, and community groups, shall be utilized in the planning and evaluation of physical therapy and occupational therapy services. There shall be available sufficient, appropriately qualified staff, and supporting personnel, to carry out the various physical and occupational therapy services, in accordance with stated goals and objectives. Physical and occupational therapists shall be—

"(1) graduates of a curriculum accredited by the appropriate nationally recognized association;

"(2) if a physical therapist, eligible to practice in the State in which the facility is located; and

"(3) if an occupational therapist, eligible for registration by the appropriate nationally recognized association.

"(h) A physical therapist and an occupational therapist shall be designated as being responsible for maintaining standards of professional and ethical practice in the rendering of their respective therapy services in the facility. Each such therapist shall be qualified as in subsection (g) and, an addition, shall—

"(1) have had three years of professional experience, two years of which should have been in working with the mentally retarded and other individuals with developmental disabilities;

"(2) have demonstrated competence in administration and supervision, as appropriate to the facility's program; and

"(3) preferably have a master's degree, in an area related to the program.

"(i) Therapy assistants shall—

"(1) be certified by the nationally recognized professional occupational therapy association or be graduates of a program accredited by the nationally recognized professional physical therapy association; and

"(2) work under the supervision of a qualified therapist.

"(j) Therapy aides shall—

"(1) be provided specific inservice training; and

"(2) work under the supervision of a qualified therapist or therapy assistant.

"(k) Physical and occupational therapy personnel shall be—

"(1) assigned responsibilities in accordance with their qualifications;

"(2) delegated authority commensurate with their responsibilities; and

"(3) provided appropriate professional direction and consultation.

"(l) Physical and occupational therapy personnel shall be familiar with, and adhere to, the ethical codes and standards of practice promulgated by their respective nationally recognized professional organizations.

"(m) Physical-therapy and occupational therapy services operated by a facility shall seek consultation, at periodic intervals, from experts in physical therapy and occupational therapy who are not directly associated with the facility. Appropriate to the nature and size of the facility and to the physical and occupational therapy services, there shall be a staff development program that is designed to maintain and improve the skills of physical and occupational therapy personnel, through methods, including but not limited to:

"(1) regular staff meetings;

"(2) an organized inservice training program in physical and occupational therapy;

"(3) visits to and from the staff of other facilities and programs;

"(4) participation in interdisciplinary meetings;

"(5) provision for financial assistance and time for attendance at professional conferences;

"(6) provisions for encouraging continuing education, including educational leave, financial assistance, and accommodation work schedules;

"(7) career ladders and other incentives to staff recruitment and development;

"(8) workshops and seminars;

"(9) consultations with specialists; and

"(10) access to adequate library resources, which include current and relevant books and journals in physical and occupational therapy, mental retardation, developmental disabilities, and related professions and fields.

"(n) Space, facilities, equipment, supplies, and resources shall be adequate for providing efficient and effective physical and occupational therapy services, including, but not necessarily limited to—

"(1) facilities for conducting administrative aspects of the program;

"(2) facilities for conducting screenings and evaluations;

"(3) facilities for providing treatment and training for individuals and groups;

"(4) such other space, staff, and services as are essential to support and maintain effective programs; and

"(5) appropriate physical and occupational therapy consultation shall be employed in the design, modification, and equipage of all physical and occupational therapy areas and facilities required to meet the specific goals of physical and occupational therapy services.

"Subchapter X—Psychological Services

"Sec. 271. (a) Psychological services shall be provided, in order to faciiltate, through the application of psychological principles, techniques, and skills, the optimal development of each resident. Psychological services shall be rendered—

"(1) directly, through personal contact between psychologists and residents;

"(2) indirectly, through contact between psychologists and other persons involved with the residents, designed to—

"(A) maintain an atmosphere that recognizes the psychological needs of residents and that is conducive to the development and maintenance of constructive interpersonal relationships; and

"(B) maximize the effectiveness of all programs for residents, through the application of knowledge concerning the understanding and change of behavior.

"(b) Psychological services available to the residential facility should include but not be limited to:

"(1) evaluation and assessment of individuals and programs;

"(2) therapy with individuals and groups;

"(3) program development services, including those relating to—

"(A) resident habilitation;

"(B) staff training;

"(C) community participation;

"(D) resident, staff, and community motivation;

"(4) consultation with, or relating to—

"(A) residents;

"(B) parents of residents;

"(C) the administration and operation of the facility;

"(D) the community served by the facility;

"(5) psychology staff training; and

"(6) conduct of research, consultation on research design, and dissemination of research findings.

"(c) Psychologists shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents, for the purposes of initiation, monitoring, and followup of individualized habilitation programs—

"(1) psychologists shall conduct evaluations necessary to—

"(A) meet legal requirements;

"(B) meet research needs; and

"(C) provide data for biostatistical reporting;

"(2) methods of data collection employed in evaluation and assessment shall include, as appropriate—

"(A) standardized tests and techniques;

"(B) observations in natural and experimental settings, using standardized or generally accepted techniques;

"(C) interviews with—

"(i) the resident (or prospective resident);

"(ii) members of the resident's family and other informants; and

"(D) review of all pertinent records, including the comparison of current and previous status;

"(3) collation, analysis, and interpretation of data shall—

"(A) be performed in accordance with standards generally acceptable in professional psychology;

"(B) provide, as appropriate, both intra- and interindividual comparisons, by reference to normative data; and

"(C) utilize appropriate equipment, which is made available for the purpose;

"(4) the reporting and dissemination of evaluation results shall be done in such a manner as to—

"(A) render the content of the report meaningful and useful to its intended recipient and user;

"(B) enhance clinical understanding of the individual;

"(C) promptly provide information useful to staff working directly with the resident;

"(D) facilitate use of data for research and professional education;

"(E) facilitate use of data for statistical reporting; and

"(F) maintain accepted standards of confidentiality;

"(5) there shall be developed and maintained for each resident a continuing evaluation record that is frequently updated and that includes, but is not limited to, psychometric data.

"(d) Psychologists shall participate, when appropriate, in the development of written, detailed, specific, and individualized habilitation program plans that—

"(1) provide for periodic review, followup, and updating;

"(2) are designed to maximize each resident's development and acquisition of—

"(A) perceptual skills;

"(B) sensorimotor skills;

"(C) self-help skills;

"(D) communication skills;

"(E) social skills;

"(F) self direction;

"(G) emotional stability;

"(H) effective use of time (including leisure time);

"(I) basic knowledge;

"(J) vocational-occupational skills; and

"(K) socioeconomic values relevant to the community in which he lives.

"(e) Psychologists should provide individual, and/or groups of, residents with

therapy designed to develop, modify, and maintain behavior and attitudes that are rewarding and effective in meeting the demands of their intrapersonal and interpersonal situations. Psychologists should provide consultation and training services to program staff concerning:

"(1) principles and methods of understanding and changing behavior, to the end of devising maximally effective programs for residents;

"(2) principles and methods of individual and program evaluation, for the purposes of assessing resident response to programs and of measuring program effectiveness;

"(3) psychologists should participate in the development of incentive systems designed to maximize motivation and to optimize, by means of provision for feedback, performance, and learning on the part of—

"(A) residents enrolled in habilitation programs;

"(B) staff engaged in resident habilitation programs; and

"(C) personnel involved in resident habilitation resources in the community.

"(f) Psychologists should provide assistance and/or consultation relative to—

"(1) developing and conducting evaluations designed to select and maintain appropriate and effective staff;

"(2) developing job analyses;

"(3) psychological problems of staff, including the making of appropriate referrals;

"(4) data concerning staff, and reports of evaluations of staff, shall—

"(A) be provided in appropriate form, and only to clearly appropriate supervisory staff;

"(B) enable data to be used for classification and reporting purposes;

"(C) enable data to be used for research purposes; and

"(D) maintain acceptable standards of confidentiality.

"(g) Psychologists should participate in—

"(1) educating appropriate members of the community, concerning the domiciliary, vocational, and recreational needs of residents who return to the community;

"(2) planning with community officials the adaptation of domiciliary, vocational, and recreational resources, to optimize resident adjustments; and

"(3) developing appropriate expectancies and attitudes within the community into which residents go.

"(h) There shall be available sufficient, appropriately qualified staff, and necessary supporting personnel, to carry out the various psychological service activities, in accordance with the needs of the following functions:

"(1) psychological services to residents, including evaluation, consultation, therapy, and program development;

"(2) administration and supervision of psychological services;

"(3) staff training;

"(4) research;

"(5) the facility should have available to it the services of at least one doctoral-level psychologist who is—

"(A) a diplomat of the nationally recognized board of professional psychology, or is licensed or certified by a State examining board, or is certified by a voluntary board established by a qualified State professional psychological association;

"(B) knowledgeable and experienced in the area of mental retardation or developmental disabilities;

"(6) a psychologist, qualified as specified in subsection (h)(5) shall be designated as being responsible for maintaining standards of professional and ethical practice in the rendering of psychological services in the facility;

"(7) all psychologists providing service to the facility shall—

"(A) possess the educational and experimental qualifications required for membership in the nationally recognized professional psychological association;

"(B) have demonstrated knowledge in the area of mental retardation and developmental disabilities;

"(8) all psychological technicians, assistants, and clerks employed by the facility shall work under the direct supervision of a psychologist who is qualified as specified in subsection (h)(8);

"(9) all members of the psychological services staff shall have and be familiar with, the ethical standards of psychologists and the nationally recognized casebook on ethical standards of psychologists, published by the nationally recognized appropriate professional psychological association, and all shall adhere to the ethical standards stated herein;

"(A) all new psychology service employees shall receive this material, and be familiarized with it, as a part of their orientation; and

"(B) the application of the ethical standards to practice with the mentally retarded and developmentally disabled in residential facilities shall be emphasized.

"(i) Appropriate to the size of the facility, an ongoing inservice training program shall be conducted that is designed to maintain and improve the skills of its psychology staff, through methods, including but not limited to—

"(1) staff seminars;

"(2) outside speakers;

"(3) visits to and from the staff of other facilities;

"(4) attendance at conferences;

"(5) participation in interdisciplinary groups;

"(6) informational exchanges with universities, teaching hospitals, community mental health and mental retardation centers, and other community resources; and

"(7) adequate library resources, including current and relevant books and journals in psychology and mental retardation and developmental disabilities shall be available.

"(j) The training of interns and graduate students in psychology shall be encouraged, and appropriate supervision shall be provided. There shall be appropriate space and equipment for psychological services, including—

"(1) offices for professional and clerical staff;

"(2) testing and observation rooms;

"(3) interviewing, counseling, and training/treatment rooms;

"(4) play therapy rooms ;

"(5) access to conference rooms; and

"(6) access to research and data analysis facilities.

"Subchapter XI—Recreation Services

"SEC. 272. (a) Recreation services should provide each resident with a program of activities that—

"(1) promotes physical and mental health;

"(2) promotes optimal sensorimotor, cognitive, affective, and social development;

"(3) encourages movement from dependent to independent and interdependent functioning; and

"(4) provides for the enjoyable use of leisure time.

"(b) The facility shall have a written statement of its recreation objectives for residents, consistent with—

"(1) the needs of its residents;

"(2) currently accepted recreation principles and goals;

"(3) the philosophy and goals of the facility; and

"(4) the services and resources the facility offers.

"(c) Recreation services available to the residential facility should include—

"(1) recreation activities for the residents;

"(2) recreation counseling;

"(3) individual and group instruction of residents in recreation skills, to achieve maximum proficiency and develop leadership potential;

"(4) therapeutic recreation;

"(5) education and consultation; and

"(6) research and evaluation.

"(d) Recreation activities available to the residents should include, as appropriate to the size and location of the facility, and as adapted to the needs of the resident being served—

"(1) excursions, outings, and other trips to familiarize the residents with community facilities;

"(2) spectator activities, such as movies, television, sports events, and theater;

"(3) participation in music, drama, and dance, such as rhythmics, folk dancing, community sings, group music sessions in the living units, performance in music or dramatic productions, performance in choral or instrumental groups, and informal listening to records or tapes;

"(4) outdoor and nature experiences, including activities such as camping, hiking, and gardening;

"(5) team sports and lead-up activities;

"(6) individual and dual sports, such as bowling, archery, badminton, horseshoes, miniature golf, bicycling, and shuffleboard;

"(7) hobbies, such as collecting, photography, model building, woodworking (including use of power tools) cooking, and sewing;

"(8) social activities, such as clubs, special interest and discussion groups, social dancing, cookouts, parties, and games;

"(9) service clubs and organizations, such as leaders clubs, scouting, 4-H, Junior Red Cross, Junior Chamber of Commerce, Hi-Y, Tri-Hi-Y, resident councils, and senior citizens clubs;

"(10) aquatics, including waterplay, swimming, and boating;

"(11) arts and crafts, including a wide range of activities from simple to complex, from reproductive to creative, and consistent with activities found in the community;

"(12) physical fitness activities designed to develop efficient cordiovascular and cardiorespiratory functions, strength, endurance, power, coordination, and agility, sufficient for both usual and extra demands;

"(13) library services for reading, listening, and viewing, such as looking at books, listening to records and tapes, and viewing film strips and slides;

"(14) celebration of special events, such as holidays and field days;

"(15) winter activities, including snow sculpture, snowplay, games, and sports;

"(16) opportunities to use leisure time in activities of the resident's own choosing in an informal setting under minimal supervision, such as a 'drop-in center';

"(17) frequent coeducational experiences, to promote acceptable social behavior and enjoyment of social relationships; and

"(18) activities for the nonambulatory, including the mobile and nonmobile.

"(e) Maximum use should be made of all community recreation resources. Recreation counseling should be a continuous process that provides for—

"(1) modification of resident's recreation behaviors;

"(2) guidance to residents on how to find, reach, and utilize community recreation resources;

"(3) family counseling in relation to recreation activities; and

"(4) interpretation of residents' needs and abilities to community agencies.

"(f) Therapeutic recreation, defined as purposive intervention, through recreation activities, to modify, ameliorate, or reinforce specific physical, emotional, or social behaviors, should include, as appropriate—

"(1) participation on an interdisciplinary team, to identify the habilitation needs and goals of the resident;

"(2) determination of appropriate recrea-

tion intervention, to achieve the stated habilitation goals;

"(3) a written plan for implementing the therapeutic recreation objectives, consistent with the recommendations of the evaluation team; and

"(4) evaluation of the effectiveness of such interventions, and subsequent redefinition of the resident's habilitation needs and goals.

"(g) Education and consultation services should include—

"(1) provision of stimulation, leadership, and assistance with recreation activities, conducted by the direct-care staff;

"(2) staff training and development;

"(3) orientation and training of volunteers;

"(4) training of interns and students in recreation;

"(5) consultation to community agencies and organizations, to stimulate the development and improvement of recreation services for the retarded; and

"(6) public education and information, to encourage acceptance of the retarded in recreation activities.

"(h) Recreational services shall be coordinated with other services and programs provided the residents, in order to make fullest possible use of the facility's resources and to maximize benefits to the residents. Activities in health, music, art, and physical education shall be coordinated with recreation activities relevant to these areas.

"(i) Records concerning residents should include—

"(1) periodic surveys of their recreation interests;

"(2) periodic surveys of their attitudes and opinions regarding recreation services;

"(3) the extent and level of each resident's participation in the activities program;

"(4) progress reports, as appropriate;

"(5) reports on relationships among peers, and between residents and staff; and

"(6) evaluations conducted by personnel at all levels and, where appropriate, by staff from other services.

"(j) Established procedures for evaluating and researching the effectiveness of recreation services, in relation to stated purposes, goals, and objectives, should include—

"(1) utilization of adequate records concerning residents' interests, attitudes, opinions, participations, and achievements;

"(2) time schedules for evaluation that are appropriate to the service or program being evaluated;

"(3) provision for using evaluation results in program planning and development;

"(4) provision for disseminating evaluation results in professional journals and in public education and information programs; and

"(5) encouragement of recreation staff to initiate, conduct, and participate in research studies, under the supervision of qualified personnel.

"(k) There shall be sufficient, appropriately qualified recreation staff, and necessary supporting staff, to carry out the various recreation services in accordance with stated goals and objectives.

"(1) Scheduling of staff shall provide—

"(A) coverage on evenings, weekends, and holidays; and

"(B) additional coverage during periods of peak activity.

"(2) Recreation personnel shall be—

"(A) assigned responsibilities in accordance with their qualifications;

"(B) delegated authority commensurate with their responsibility; and

"(C) provided appropriate professional recreation supervision.

"(3) Personnel conducting activities in recreation program areas should possess the following minimum educational and experiential qualifications:

"(A) a bachelor's degree in recreation, or in a specialty area, such as art, music, or physical education; or

"(B) an associate degree in recreation and one year of experience in recreation; or

"(C) a high school diploma, or an equivalency certificate; and two years of experience in recreation, or one year of experience in recreation plus completion of comprehensive inservice training in recreation; or

"(D) demonstrated proficiency and experience in conducting activities in one or more program areas.

"(4) Personnel performing recreation counseling or therapeutic recreation functions should possess the following minimum education and experiential qualifications, and should be eligible for registration with the appropriate nationally recognized therapeutic recreation society at the appropriate therapeutic recreation specialist level:

"(A) a master's degree in therapeutic recreation and one year of experience in a recreation program serving disabled persons; or

"(B) a master's degree in recreation and two years of experience in a recreation program serving disabled persons; or

"(C) a bachelor's degree in recreation and three years of experience in a recreation program serving disabled persons; or

"(D) a combination of education and experience in recreation serving disabled persons that totals six years.

"(5) Education and consultation functions in recreation should be conducted by staff members, in accordance with their education, experience, and role in the recreation program.

"(l) Appropriate to the size of the recreation program, there shall be a staff development program that provides opportunities for professional development, including—

"(1) regular staff meetings;

"(2) an organized inservice training program in recreation;

"(3) access to professional journals, books, and other literature in the fields of recreation, therapeutic recreation, rehabilitation, special education, and other allied professions;

"(4) provisions for financial assistance and time for attendance at professional conferences and meetings;

"(5) procedures for encouraging continuing education, including educational leaves, direct financial assistance, and rearrangement of work schedules;

"(6) provision for workshops and seminars relating to recreation, planned by the recreation and other professional and administrative staff; and

"(7) provision for staff consultation with specialists, as needed, to improve recreation services to residents.

"(m) Recreation areas and facilities shall be designed and constructed or modified so as to—

"(1) permit all recreation services to be carried out to the fullest possible extent in pleasant and functional surroundings;

"(2) be easily accessible to all residents, regardless of their disabilities;

"(3) appropriate recreation consultation shall be employed in the design or modification of all recreation areas and facilities;

"(4) toilet facilities, appropriately equipped in accordance with the needs of the residents, should be easily accessible from recreation areas; and

"(5) appropriate and necessary maintenance services shall be provided for all recreation areas and facilities.

"(n) Indoor recreation facilities should include, as appropriate to the facility—

"(1) a multipurpose room;

"(2) a quiet browsing room;

"(3) access to a gymnasium;

"(4) access to an auditorium;

"(5) access to suitable library facilities;

"(6) access to kitchen facilities;

"(7) adequate and convenient space for storage of supplies and large and small equipment; and

"(8) adequate office space for the recreation staff.

"(o) Outdoor recreation facilities should include, as appropriate to the facility—

"(1) access to a hard-top, all-weather-surface area;

"(2) access to gardening and nature activity areas;

"(3) access to adequately equipped recreation areas; and

"(4) the facility's residents should have, as appropriate and feasible, access to year-round swimming and aquatic facilities.

"(p) Adequate transportation services for recreation programs shall be provided. Recreation equipment and supplies in sufficient quantity and variety shall be provided to carry out the stated objectives of the activities programs. Toys, games, and equipment shall be—

"(1) selected on the basis of suitability, safety, durability, and multiplicity of use; and

"(2) adapted as necessary to the special needs of the residents.

"(q) If a music therapy program is provided, it should include—

"(1) participation by the music therapist, when appropriate, on an interdisciplinary evaluation team to identify the resident's needs and ways of meeting them;

"(2) determination of music therapy goals for the resident and development of a written plan for achieving them;

"(3) periodic progress reports, reevaluations, and program changes as indicated;

"(4) direction by a therapist eligible for registration with the appropriate nationally recognized association for music therapy; and

"(5) appropriate space, facilities, and equipment, with special consideration of the acoustical characteristics of rooms used for performing and listening.

"Subchapter XII—Religious Services

"SEC. 273. (a) Religious services shall be made available to residents, in accordance with their needs, desires, capabilities, and in accordance with their basic right to freedom of religion, in order to—

"(1) develop and enhance their dignity;

"(2) provide for the most meaningful and relevant practice of their religion; and

"(3) provide spiritual programs designed to aid their development and growth as persons.

"(b) Implementation of religious services should utilize community resources, whenever and wherever this is possible and in the best interests of the residents. The objectives of the facility's religious services for its residents shall be directed toward full integration into, and membership in, their faith, and should include—

"(1) upholding the dignity and worth of the individual;

"(2) building moral and ethical standards of behavior;

"(3) preparing for religious growth in their faith groups;

"(4) establishing healthy self, world, and God concepts;

"(5) establishing constructive value systems;

"(6) giving direction toward greater personal maturity;

"(7) strengthening interpersonal relationships; and

"(8) contributing to growth in personal adequacy and happiness.

"(c) Religious services shall be made available to all residents, regardless of their degree of retardation. Participation in religious programs shall be voluntary, in accordance with the wishes of the resident; if he expresses them, or with the wishes of his parent or guardian.

"(d) Religious services to residents should include—

"(1) worship opportunities, sacraments, and religious rites, according to the needs and abilities of the residents and consonant with the practices of their respective faiths;

"(2) religious education programs geared to the needs and abilities of the residents;

"(3) observation of dietary practices in keeping with the religious requirements of residents' faith groups;

"(4) observation of religious holidays and holy days in keeping with the religious requirements of residents' faith groups;

"(5) pastoral counseling, both individual and group, to residents and their families;

"(6) pastoral visits to residents, with special emphasis on the care of the troubled, the sick, and the dying;

"(7) pastoral consultation with persons concerned with the resident's welfare; and

"(8) referral and communication between religious workers in the facility and in the community.

"(e) Those who serve the religious needs of the residents, including clergy, religious educators, and volunteers, should whenever possible—

"(1) assert and safeguard the full human and civil rights of the residents;

"(2) participate, as appropriate, in team and other interdisciplinary planning regarding programs for individual residents; as well as in facility-wide or community programs;

"(3) keep appropriate records of significant religious events in the lives of each resident;

"(4) participate in training programs for facility personnel, including orientation of direct-care personnel in how they may help to further the religious programs for residents;

"(5) participate in training programs for community clergy, theological students, and others;

"(6) become involved with community clergy, and with religious and other groups, in their concerns for the spiritual care of the retarded;

"(7) promote public understanding and acceptance of the retarded; and

"(8) participate in their own faith group meetings, as required to maintain their standing.

"(f) There shall be available sufficient, appropriately qualified personnel, which may include clergy or religious leaders, religious educators, volunteers, and clerical and supporting personnel, to carry out the various religious programs—

"(1) religious services to residents shall be under the direction of a person who, in keeping with the size and nature of the facility, may be one of the following:

"(A) a chaplain certified for work with the mentally retarded or other individuals with developmental disabilities by a recognized certifying agency;

"(B) a clergyman or religious leader in good standing in his religious body;

"(C) a religious educator; or

"(D) a responsible person, who secures the services of qualified persons in carrying out the worship and education aspects of the program;

"(2) chaplains serving residential facilities for the retarded, on a full- or part-time basis, should—

"(A) be clergymen or religious leaders in good standing in their religious bodies; or

"(B) be endorsed or assigned by their recognized religious bodies; or

"(C) have B.A. and B.D. degrees, or their equivalents; and

"(D) be certified for work with the mentally retarded or other individuals with developmental disabilities by a recognized certifying agency;

"(3) professional religious educators serving residential facilities for the retarded or other individuals with developmental disabilities, on a full- or part-time basis, should—

"(A) be endorsed or assigned by their recognized religious bodies; or

"(B) have a bachelor's degree, or its equivalent; and

"(C) be certified for work with the mentally retarded or other individuals with developmental disabilities by a recognized certifying agency;

"(4) nonprofessional religious services personnel, including volunteers, should—

"(A) be screened for ability to perform their assigned duties;

"(B) be oriented to, and trained for, their assignments; and

"(C) be provided ongoing supervision by a clergyman, religious leader, or religious educator of the respective faith.

"(g) Appropriate to the size of the facility, there shall be an educational program designed to enhance the competencies of religious services personnel, through means such as:

"(1) staff meetings and inservice training;

"(2) seminars, workshops, conferences, and institutes;

"(3) college and university courses;

"(4) participation in professional organizations;

"(5) participation in interdisciplinary groups;

"(6) visits to other facilities;

"(7) access to relevant professional literature; and

"(8) religious services personnel should have access to qualified and appropriate consultation, as needed.

"(h) Religious services personnel should be encouraged, when possible, to involve themselves in activities such as—

"(1) offering clinical pastoral education programs;

"(2) providing educational experiences for students;

"(3) developing innovative religious education materials;

"(4) developing innovative worship services;

"(5) conducting specific research and development projects; and

"(6) exploring and expanding citizen advocacy programs.

"(i) Residents shall have access to places appropriate for worship and religious education that are adequate to meet the needs of all. Religious services personnel shall be provided with office and other space, equipment, and supplies adequate to carry out an effective program.

"Subchapter XIII—Social Services

"SEC. 274. (a) Social services shall be available to all residents and their families, in order to foster and facilitate—

"(1) maximum personal and social development of the resident;

"(2) positive family functioning; and

"(3) effective and satisfying social and community relationships.

"(b) Social services shall be provided, directly and indirectly, to—

"(1) the resident;

"(2) his family;

"(3) individuals or groups who represent different aspects of the social environment of the resident; and

"(4) the community.

"(c) Consumers and their representatives, including residents, families, other disciplines, and community groups, shall participate in the planning and evaluation of social service programs. Social services, as part of an interdisciplinary spectrum of services, shall be provided through the use of social work methods directed toward—

"(1) maximizing the social functioning of the resident;

"(2) enhancing the coping capacity of his family;

"(3) modifying environmental influences leading to, or aggravating, mental retardation or developmental disabilities;

"(4) increasing public understanding and acceptance of mental retardation or developmental disabilities and its associated problems;

"(5) creating a favorable climate to assist each retarded person to achieve as nearly normal living as is possible for him;

"(6) asserting and safeguarding the human and civil rights of the retarded and other individuals with developmental disabilities and their families; and

"(7) fostering the human dignity and personal worth of each resident.

"(d) Social services available to the facility should include, as appropriate—

"(1) preadmission evaluation and counseling, with referral to, and use of, other community resources, as appropriate;

"(2) psychological assessment of the individual resident and his environment, as a basis for formulating an individual treatment plan;

"(3) implementation of an individual social work treatment plan for the resident and his family;

"(4) planning for community placement, discharge, and followup;

"(5) participation in policy and program development within the facility in relation to—

"(A) the resident's psychosocial needs and development;

"(B) serving the families of the resident;

"(C) use of community supportive and habilitative services;

"(D) staff training and development;

"(6) consultation with, or in relation to—

"(A) programs offered by other disciplines;

"(B) administration and operation of the facility;

"(C) agencies and individuals in the community served by the facility;

"(7) collaboration with other service delivery systems in planning and implementing programs for residents; and

"(8) participation in social work and interdisciplinary program evaluation and research.

"(e) During the evaluation process, which may or may not lead to admission, the resident and his family should be helped by social workers to—

"(1) know the rights and services to which they are entitled, including the means of directing their appeals to the proper sources;

"(2) obtain advocacy on their behalf if rights and services are denied them; and

"(3) consider alternative services, based on the retarded or developmentally disabled person's status and salient family and community factors, and make a responsible choice as to whether and when residential placement is indicated.

"(f) During the preadmission process, the resident and his family should be helped by social workers to—

"(1) cope with problems of separation inherent in placement;

"(2) initiate planning for the resident's return to his family and/or community;

"(3) begin involving themselves as partners with the residential facility staff in developing a treatment/habilitation plan;

"(4) become oriented to the practices and procedures of the facility; and

"(5) share information about themselves that will provide the facility's staff with maximum understanding of their situation, so that effective services can be delivered.

"(g) Social workers shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents for the purposes of initiation, monitoring, and followup of individualized habilitation programs.

"(h) During the retarded or developmentally disabled person's admission to, and residence in, the facility, or while he is receiving services from the facility, social workers shall provide liaison between him, the facility, the family, and the community, so as to:

"(1) help the resident to—

"(A) cope with problems accompanying separation from family and community;

"(B) learn the roles and use the resources that will enable him to maximize his development;

"(C) participate in programs, in accordance with his individual treatment plan, that will maximize his ability for independent living, in or out of the residential facility;

"(2) help the staff to—

"(A) individualize and understand the needs of the resident and his family in relation to each other;

"(B) understand social factors in the resident's day-to-day behavior, including staff-resident relationships;

"(C) prepare the resident for changes in his living situations;

"(3) help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility through—

"(A) counseling concerned with problems associated with changes in family structure and functioning;

"(B) utilization of the family's and the resident's own strengths and resources;

"(C) referral to specific services, as appropriate; and

"(4) the family to participate in planning for the resident's return to home or other community placement.

"(i) After the resident leaves the facility, social workers shall provide systematic followup, including—

"(1) counseling with the resident;

"(2) counseling with family, employers, and other persons significant to the resident's adjustment in the community; and

"(3) referral to appropriate community agencies.

"(j) Social services shall help to integrate residential and other community services, through—

"(1) providing liaison between the residential facility and the community;

"(2) providing consultation to community agencies to facilitate the identification of needed resources for the retarded and other individual with developmental disabilities and his family;

"(3) interpreting the residential facility and its program to relevant sectors of the community;

"(4) collaborating with other disciplines to help the community develop appropriate resources; and

"(5) involvement with social policy issues that affect the retarded and other individuals with developmental disabilities.

"(k) Social services shall develop and maintain comprehensive, current records, useful for its own programs and those of other services. There shall be available sufficient, appropriately qualified staff and necessary supporting personnel to carry out the various social service activities.

"(1) The facility should have available to it a social worker who—

"(A) has a master's or doctoral degree from an accredited school of social work;

"(B) has had three years of post-master's experience in the field of social welfare;

"(C) meet the educational and experiential qualifications for certification by the appropriate nationally recognized academy of certified social workers; and

"(D) is knowledgeable and experienced in mental retardation.

"(2) A social worker having the qualifications specified in subsection (k) (1) shall be designated as being responsible for maintaining standards of professional practice in the rendering of social services to the facility, and for staff development.

"(3) Social workers providing service to the facility shall—

"(A) have a master's degree from an accredited school of social works; or

"(B) meet the educational qualifications required for full membership in the appropriate nationally recognized professional association of social workers and shall have had three years of experience in the field of social welfare.

"(4) Social work assistants or aides employed by the facility shall work under the supervision of a social worker having the qualifications specified in subsection (k) (3).

"(5) Social service personnel, at all levels of experience and competence, shall be—

"(A) assigned responsibilities in accordance with their qualifications;

"(B) delegated authority commensurate with their responsibilities; and

"(C) provided appropriate professional social work supervision.

"(6) A full-time supervisor should be responsible for the direct supervision of not more than six staff members, plus related activities.

"(7) All social service personnel shall be familiar with, and adhere to, the code of ethics of the National Association of Social Workers.

"(l) Appropriate to the size of the facility's social service program, an ongoing program of staff development shall be provided to improve the skills of the social work staff through such means as—

"(1) inservice training;

"(2) affiliation with schools of social work;

"(3) staff consultation with specialists, as needed, to improve social services to residents;

"(4) conference attendance, and other educational opportunities and forms of professional exchange; and

"(5) career ladders and other incentives to staff recruitment and development.

"(m) Space, facilities, equipment, supplies, and resources shall be adequate for providing effective social services, including—

"(1) offices for social service and clerical staff;

"(2) private interviewing rooms;

"(3) rooms suitable for conferences and group activities;

"(4) dictating and transcribing equipment;

"(5) telephone service;

"(6) travel provisions;

"(7) provision for recordkeeping and information retrieval; and

"(8) library services.

"Subchapter XIV—Speech Pathology and Audiology Services

"SEC. 275. (a) Speech pathology and audiology services shall be available, in order to—

"(1) maximize the communication skills of all residents; and

"(2) provide for the evaluation, counseling, treatment, and rehabilitation of those residents with speech, hearing and/or language handicaps.

"(b) The specific goals of speech pathology and audiology services shall be—

"(1) appropriate to the needs of the residents served;

"(2) consistent with the philosophy and goals of the facility;

"(3) consistent with the services and resources offered by the facility; and

"(4) known to, and coordinated with, other services provided by the facility.

"(c) Speech pathology and audiology services shall be rendered through—

"(1) direct contact between speech pathologists and audiologists and residents;

"(2) participation with administrative personnel in designing and maintaining social and physical environments that maximize the communication development of the resides; and

"(3) working with other personnel, such as teachers and direct-care staff, in implementing communication improvement programs in environmental settings.

"(d) Speech pathology and audiology services available to the facility shall include, as appropriate—

"(1) audiometric screening of—

"(A) all new residents;

"(B) children under the age of ten, at annual intervals;

"(C) other residents at regular intervals;

"(D) any resident referred;

"(2) speech and language screening of—

"(A) all new residents;

"(B) children under the age of ten at annual intervals;

"(C) all residents, as needed;

"(3) comprehensive audiological assessment of residents, as indicated by screening results, to include tests of pure-tone air and bone conduction, speech audiometry, and other procedures, as necessary, and to include assessment of the use of visual cues;

"(4) assessment of the use of amplification;

"(5) provision of procurement, maintenance, and replacement of hearing aids, as specified by a qualified audiologist;

"(6) comprehensive speech and language evaluation of residents, as indicated by screening results, including appraisal of articulation, voice, rhythm, and language;

"(7) participation in the continuing interdiciplinary evaluation of individual residents for purposes of initiation, monitoring, and followup of individualized habilitation programs;

"(8) treatment services, interpreted as an extension of the evaluation process, that include—

"(A) direct counseling with residents;

"(B) speech and language development and stimulation through daily living activities;

"(C) consultation with classroom teachers for speech improvement and speech education activities;

"(D) direct contact with residents to carry on programs designed to meet individual needs in comprehension (for example, speech reading, auditory training, and hearing aid utilization) as well as expression (for example, improvement in articulation, voice, rhythm, and language);

"(E) collaboration with appropriate educators and librarians to develop specialized programs for developing the communication skills of multiple handicapped residents, such as the deaf, retarded, and the cerebral palsied;

"(9) consultation with administrative staff regarding the planning of environments that facilitate communication development among residents in—

"(A) living areas;

"(B) dining areas;

"(C) educational areas;

"(D) other areas, where relevant;

"(10) participation in inservice training programs for direct-care and other staff;

"(11) training of speech pathology and audiology staff;

"(12) training of speech pathology and audiology graduate and/or undergraduate students, interns, supportive staff, and volunteer workers;

"(13) conclusion with, or relating to—

"(A) residents (for example, self-referral);

"(B) parents of residents;

"(C) medical (otological, pediatric, and so forth), dental, psychological, educational, and other services;

"(D) the administration and operation of the facility;

"(E) the community served by the facility; and

"(14) program evaluation and research.

"(e) Comprehensive evaluations in speech pathology and audiology shall consider the total person and his environment. Such evaluations should—

"(1) present a complete appraisal of the resident's communication skills;

"(2) evidence concern for, and evaluation of, conditions extending beyond observed speech, language, and hearing defects;

"(3) consider factors in the history and environment relevant to the origins and maintenance of the disability;

"(4) consider the effect of the disability upon the individual and the adjustments he makes to the problem as he perceives it; and

"(5) consider the reaction of the resident's family, associates, and peers to the speech and/or hearing problem.

"(f) Evaluation and assessment results shall be reported accurately and sytematically, and in such manner as to—

"(1) define the problem to provide a basis for formulating treatment objectives and procedures;

"(2) render the report meaningful and useful to its intended recipient and user;

"(3) where appropriate, provide information useful to other staff working directly with the resident;

"(4) conform to acceptable professional standards, provide for intraindividual and interindividual comparisons and facilitate the use of data for research and professional education; and

"(5) provide evaluative and summary reports for inclusion in the resident's unit record.

"(g) Treatment objectives, plans and procedures shall—

"(1) be based upon adequate evaluation and assessment;

"(2) be based upon a clear rationale;

"(3) reflect consideration of the objectives of the resident's total habilitation program;

"(4) be stated in terms that permit the progress of the individual to be assessed;

"(5) provide for periodic evaluation of the resident's response to treatment and of treatment effectiveness;

"(6) provide for revision of objectives and procedures as indicated; and

"(7) provide for assistance or consultation when necessary.

"(h) Continuing observations of treatment progress shall be—

"(1) recorded accurately, summarized meaningfully, and communicated effectively; and

"(2) effectively utilized in evaluating progress.

"(i) There shall be established procedures for evaluating and researching the effectiveness of speech pathology and audiology services, including but not limited to:

"(1) utilization of adequate records concerning residents' response and progress;

"(2) time schedules for evaluation that are appropriate to the service being evaluated;

"(3) provision for using evaluation results in program planning and development;

"(4) encouragement of speech pathology and audiology staff to participate in research activities; and

"(5) provision for dissemination of research results in professional journals.

"(j) There shall be available sufficient, appropriately qualified staff, and necessary supporting personnel, to carry out the various speech pathology and audiology services, in accordance with stated goals and objectives—

"(1) A speech pathologist or audiologist, who is qualified as specified in paragraph (2) of this subsection, and who, in addition, has had at least three years of professional experience, shall be designated as being responsible for maintaining standards of professional and ethical practice in the rendering of speech pathology and audiology services in the facility.

"(2) Staff who assume independent responsibilities for clinical services shall possess the educational and experiential qualifications required for the appropriate certificate of clinical competence issued by the appropriate nationally recognized professional speech and hearing association in the area (speech pathology or audiology) in which they provide services.

"(3) Staff not qualified for such association certification shall be provided adequate, direct, active, and continuing supervision by staff qualified for certification in the area in which supervision is rendered.

"(A) Supervising staff shall be responsible for the services rendered by uncertified staff under their supervision.

"(B) Adequate, direct, and continuing supervision shall be provided nonprofessionals, volunteers, or other supportive personnel utilized in providing clinical services.

"(4) Students in training and staff fulfilling experience requirements for such appropriate nationally recognized professional speech and hearing association certification shall receive direct supervision, in accordance with the requirements of the appropriate nationally recognized professional board of examiners in speech pathology and audiology.

"(5) All speech pathology and audiology staff shall be familiar with, and adhere to, the code of ethics published by the appropriate nationally recognized professional speech and hearing association.

"(k) Appropriate to the nature and size of the facility and to the speech pathology and audiology service, there shall be a staff development program that is designed to maintain and improve the skills of speech pathology and audiology staff, through methods, including but not limited to—

"(1) regular staff meetings;

"(2) an organized inservice training program in speech pathology and audiology;

"(3) visits to and from the staff of other facilities and programs;

"(4) participation in interdisciplinary meetings;

"(5) provision for financial assistance and time for attendance at professional conferences;

"(6) provisions for encouraging continuing education, including educational leave, financial assistance, and accommodation of work schedules;

"(7) workshops and seminars;

"(8) consultations with specialists; and

"(9) access to adequate library resources, which include current and relevant books and journals in speech pathology and audiology, mental retardation, and related professions and fields.

"(l) Space, facilities, equipment, and supplies shall be adequate for providing efficient and effective speech pathology and audiology services, in accordance with stated objectives, including—

"(1) adequate and convenient evaluation, treatment, counseling, and waiting rooms;

"(2) specially constructed and sound-treated suites for audiological services, meeting appropriate standards;

"(3) design and location such as to be easily accessible to all residents, regardless of disability;

"(4) specialized equipment needed by the speech pathologist;

"(5) specialized equipment needed by the audiologist, including an audiometer, with provisions for sound field audiometry, and equipment capable of performing at least the following procedures: hearing screening, contralateral masking, speech audiometry, pure-tone air and bone conduction with site-of-lesion battery, nonorganic hearing loss battery, and hearing aid evaluation;

"(6) provisions for adequate maintenance of all areas, facilities, and equipment, including—

"(A) electroacoustic calibration of audiometers at regular, at least quarterly, intervals;

"(B) calibration logs on all audiometers; and

"(7) appropriate speech pathology and audiology consultation shall be employed in the design, modification, and equipage of all speech pathology and audiology areas and facilities.

"Subchapter XV—Vocational Rehabilitation Services

"SEC. 276. (a) The facility shall provide all its residents with habilitation or rehabilitation services, which includes the establishment, maintenance, and implementation of those programs that will insure the optimal development or restoration of each resident, physically, psychologically socially, and vocationally—

"(1) The facility shall have a written, public statement of its rehabilitation objectives for its residents, consistent with—

"(A) the needs of its residents;

"(B) currently accepted rehabilitation principles and goals;

"(C) the facility's philosophy and goals; and

"(D) the services and resources the facility offers.

"(2) While the habilitation-rehabilitation concept and process embrace all efforts to achieve the optimal development of each resident, specific habilitation/rehabilitation services shall focus on the maximum achievement of—

"(A) self-help skills;

"(B) social competence, including communication skills;

"(C) vocational competence; and

"(D) independent living.

"(b) The ultimate objective of vocational rehabilitation services shall be to assist every resident to move as far as he can along the continuum from vocational afunction to remunerative employment and entry into the mainstream of society as an independent citizen and worker. Vocational rehabilitation services shall be rendered—

"(1) directly, through personnel contact between vocational rehabilitation personnel and residents; and

"(2) indirectly, through contact between vocational rehabilitation personnel and other persons working with residents, designed to enhance and facilitate the development and maintenance of a rehabilitative environment.

"(c) Vocational rehabilitation services available to the residents, in accordance with their needs, shall include—

"(1) vocational evaluation;

"(2) the formulation of written vocational objectives for each resident;

"(3) the formulation of a written plan to achieve the stated objectives;

"(4) implementation of the vocational plan through—

"(A) individual counseling;

"(B) prevocational programs;

"(C) vocational training;

"(D) vocational placement;

"(E) referral to appropriate sources for other services; and

"(F) followup.

"(d) Vocational evaluation of each resident shall—

"(1) be initiated within one month after admission to the facility;

"(2) arise out of a written comprehensive interdisciplinary evaluation (medical, psychological, social, and educational) that generates data relevant to vocational objectives and goals, such as information concerning—

"(A) aptitudes and abilities;

"(B) self-help and independent living skills;

"(C) interests;

"(D) self and vocational perception;

"(E) sensorimotor coordination;

"(F) communication skills;

"(G) current social adjustment;

"(H) educational history; and

"(I) vocational and avocational history;

"(3) be adequate for the formulation of vocational goals and of a detailed plan for the achievement of such goals;

"(4) be adequate for the assessment of current vocational status and for the prediction of possible future status; and

"(5) provide for periodic, but at least semiannual reevaluation, consistent with the progress of the resident toward the stated goals.

"(e) The written vocational plan for each resident shall—

"(1) be consistent with the vocational evaluation;

"(2) specify the program to be undertaken to achieve his vocational objectives;

"(3) indicate the order in which the program is to be undertaken;

"(4) provide for the implementation of the evaluation team's recommendations; and

"(5) assign the responsibility to carry out the plan.

"(f) The resident shall be fully involved in his vocational evaluation, and in the formulation of his program plan. Prevocational services shall contribute to the development of work readiness in the resident, and shall provide—

"(1) vocationally relevant academic instruction;

"(2) instruction in the self-help and social skills necessary for vocational success;

"(3) instruction and practice in the social skills necessary for maximally independent functioning in the community, such as travel, handling of money, and use of community resources;

"(4) an orientation to the world of work;

"(5) development of work attitudes needed for vocational success;

"(6) rotated exploration and try-out of job tasks;

"(7) continuous evaluation of vocational potential; and

"(8) any necessary supportive services, including physical and mental restoration.

"(g) Vocational training programs shall meet all applicable legal requirements, and shall be provided through means such as:

"(1) work training stations;

"(2) work activity centers;

"(3) transitional sheltered workshops;

"(4) work-study programs;

"(5) on-the-job training;

"(6) trade training, in the classroom or on the job;

"(7) vocational training programs shall—

"(A) provide for an evaluation of training progress at least every three months;

"(B) make maximum use of job training resources—

"(i) within the facility;

"(ii) within the community;

"(8) facilities conducting vocational training programs shall have vocational training personnel assigned, in such numbers and for such times as are necessary and appropriate to the situation, to supervise the training in each training area; and

"(9) written, detailed training guides and curricula shall be available for all vocational training area.

"(h) Job placement services shall assist the individual to enter into appropriate kinds of employment, such as:

"(1) competitive, remunerative employment;

"(2) trade training programs;

"(3) transitional or extended sheltered workshops;

"(4) sheltered employment;

"(5) homebound employment;

"(6) homemaker; and

"(7) in conjunction with job placement services, the individual shall be provided assistance related to off-the-job needs, activities, and resources, such as—

"(A) living arrangements;

"(B) social and recreation activities;

"(C) medical services;

"(D) educational resources;

"(E) religious activities;

"(F) transportation;

"(G) legal affairs;

"(H) financial affairs; and

"(I) counseling.

"(i) Systematic follow-up services shall be provided that—

"(1) continue to be available to the individual for at least one year following placement;

"(2) involve contact with—

"(A) the individual;

"(B) the individual's family or family-substitute; and

"(C) the individual's employer, if appropriate;

"(3) generate data concerning vocational outcomes to evaluate and improve the effectiveness of vocational rehabilitation programs.

"(j) There shall be a clearly designated person or team responsible for the implementation, evaluation, and revision of the facility's vocational rehabilitation program.

"(1) There shall be available to each resident in a vocational rehabilitation program a counselor who is responsible for seeing that the resident's vocational rehabilitation program is effectively carried out.

"(2) A vocational rehabilitation counselor shall—

"(A) have a master's degree in rehabilitation counseling, or a master's degree in a related area plus training and skill in the vocational rehabilitation process; or

"(B) have a bachelor's degree and work under the direct supervision of a person qualified as in (A).

"(3) Vocational rehabilitation personnel providing training to residents in vocational areas shall be—

"(A) vocational instructors certified by the appropriate state agency; or

"(B) tradesmen who have attained at least journeyman status.

"(k) Appropriate to the nature and size of the facility, provisions shall be made for vocational rehabilitation staff developments, through such means as—

"(1) inservice training;

"(2) short-term workshops;

"(3) seminars;

"(4) attendance at conferences; and

"(5) visits to other facilities.

"(l) Every facility that has a vocational rehabilitation program shall seek to establish working relationships with public and private rehabilitation agencies in the community. Each facility should have working relationships with university training programs in rehabilitation, including provision for—

"(1) research opportunities;

"(2) practicum experiences;

"(3) internship; and

"(4) consultation.

"Subchapter XVI—Volunteer Services

"SEC. 277. (a) Volunteer services shall be provided in order to enhance opportunities for the fullest realization of the potential of each resident by—

"(1) increasing the amount, and improving the quality, of services and programs; and

"(2) facilitating positive relationships between the facility and the community which it serves.

"(b) The facility shall have a written statement of the goals and objectives of its volunteer services program that are—

"(1) appropriate to the needs of the residents;

"(2) consistent with the philosophy and goals of the facility;

"(3) developed in collaboration with the facility's staff;

"(4) specific and measurable; and

"(5) continuously assessed and periodically revised.

"(c) Volunteers shall provide services, which may be direct or indirect, that are based on resident needs, staff requests, and volunteer skills, and that enhance programs, develop social competence, and build self-esteem—

"(1) volunteer services shall supplement, but shall not be used in lieu of, the services of paid employees;

"(2) volunteer participation shall comply with State laws, such as those relating to labor and insurance;

"(3) volunteer participation shall be open to persons of both sexes, and of all ages, races, creeds, and national origins; and

"(4) volunteer services shall be available to all residents, regardless of age, ability, or handicaps.

"(d) Direct services provided to residents by volunteers, as appropriate to the facility's program and in cooperation with its staff, may include, but are not limited to—

"(1) physical, occupational, and music therapy assistance;

"(2) psycological testing assistance;

"(3) behavior modification and programed instruction assistance;

"(4) teacher or classroom assistance;

"(5) religious instruction;

"(6) receration and leisure time activities;

"(7) social skills development;

"(8) library services;

"(9) nursing services;

"(10) transportation and escort assistance;

"(11) visits, vacations, and trips;

"(12) job and home findings; and

"(13) citizen advocacy.

"(e) Indirect services provided by volunteers, as appropriate to the facility's program and in cooperation with its staff, may include, but are not limited to—

"(1) conducting tours;

"(2) clerical and laboratory assistance;

"(3) gift shop and canteen operation;

"(4) public relations and community education; and

"(5) contributions.

"(f) Volunteer services staff should provide the following services—

"(1) to the facility's staff—

"(A) orientation in the need for, and philosophy of volunteer services;

"(B) identification of how and where volunteers can be utilized. and

"(C) assistance in developing training for volunteers;

"(2) to the volunteers—

"(A) orientation, training, and placement;

"(B) opportunities to participate in planning and evaluating their experiences; and

"(C) appropriate recognition of their services and contributions.

"(g) Volunteer services staff functions shall include—

"(1) development and implementation of a plan for recruitment, selection, deployment, orientation, training, supervision, evaluation, recognition, advancement, and separation of volunteers;

"(2) development in collaboration with appropriate staff, of job descriptions for volunteers;

'(3) maintenance of complete and accurate records, including, but not necessarily limited to—

"(A) hours of volunteer service rendered.

"(B) individuals and organizations providing services;

"(C) materials and moneys received; and

"(D) operational budget.

"(h) The staff members responsible for facility programs utilizing volunteers shall be responsible for providing such volunteers with on-the-job training, supervision, and consultation.

"(i) The cooperation and involvement of staff and community, which is essential to a successful volunteer services program, should be achieved by means such as—

"(1) a standing staff committee on volunteer services, to foster communications and cooperation, to evaluate and coordinate existing programs, and to stimulate new programs;

"(2) a volunteer services advisory committee, composed of representatives of appropriate community organizations;

"(3) encouragement of, and involvement with, parents groups;

"(4) collaboration with appropriate agencies and community groups; and

"(5) recruiting volunteers representative of the community served by the facility, in respect of age, sex, socioeconomic, religious, racial, and ethnic groups.

"(j) There shall be available sufficient, appropriately qualified staff, and necessary supporting personnel, to carry out the volunteer services program, in accordance with stated goals and objectives.

"(1) A facility staff member shall be designated to be responsible and accountable for volunteer services—

"(A) where the size of the facility and scope of the program warrant, the person responsible for volunteer services shall devote full time to this area;

"(B) volunteer services shall be organized within the administrative structure of the facility in such a way as to be available to, and maximally utilized by, all relevant services and programs; therefore, the staff member responsible for volunteer services should report to an individual with facility-wide administrative responsibility; and

"(C) the staff member responsible for volunteer services should have the same relationship to volunteers as a personnel officer has to paid employees.

"(2) The staff member responsible for volunteer services shall have—

"(A) the necessary interpersonal, consultative, leadership, and organizational and administrative skills and abilities;

"(B) demonstrated ability to identify, mobilize, and deploy volunteer resources to meet the needs of residents;

"(C) knowledge of community organization;

"(D) knowledge of current practices and concepts in mental retardation; and

"(E) training and/or experience in organizing and administering volunteer services, as appropriate to the nature and size of the facility, and preferably—

"(i) a baccalaureate degree in a behavioral science; and

"(ii) three years of experience in volunteer services or related area.

"(k) Appropriate to the size of the facility, there should be a staff development program designed to maintain and improve the skills of volunteer services staff, through means such as—

"(1) seminars, workshops, and conferences;

"(2) college and university courses;

"(3) participation in professional organizations;

"(4) participation in interdisciplinary groups;

"(5) visits to other facilities; and

"(6) access to relevant professional literature.

"(l) There shall be adequate and accessible space, facilities, equipment, and supplies for providing efficient and effective volunteer services. If a canteen is operated by the facility, it shall—

"(1) be operated for the benefit of the residents;

"(2) be open to residents, staff, families, and visitors, without segregation by space or hours of use, so as to facilitate interaction;

"(3) provide opportunities for residents to purchase items for their personal needs;

"(4) provide opportunities for the training of residents; and

"(5) be operated so that any profits derived are utilized for the benefit of residents.

"Chapter 4.—RECORDS

"Subchapter I—Maintenance of Residents' Records

"SEC. 278. (a) A record shall be maintained for each resident that is adequate for—

"(1) planning and continuous evaluating of the resident's habilitation program;

"(2) providing a means of communication among all persons contributing to the resident's habilitation program;

"(3) furnishing documentary evidence of the resident's progress and of his response to his habilitation program;

"(4) serving as a basis for review, study, and evaluation of the overall programs provided by the facility for its residents;

"(5) protecting the legal rights of the residents, facility, and staff; and

"(6) providing data for use in research and education.

"(b) All information pertinent to the above-stated purposes shall be incorporated in the resident's record, in sufficient detail to enable those persons involved in the resident's program to provide effective, contining services. All entries in the resident's record shall be—

"(1) legible;

"(2) dated; and

"(3) authenticated by the signature and identification of the individual making the entry.

"(c) Symbols and abbreviations may be used in record entries only if they are in a list approved by the facility's chief executive officer and a legend is provided to explain them. Diagnoses should be recorded in full and without the use of symbols or abbreviations.

"Subchapter II—Content of Records

"SEC. 279. (a) The following information should be obtained and entered in the resident's record at the time of admission to the facility:

"(1) name, date of admission, date of birth, place of birth, citizenship status, marital status, and social security number;

"(2) father's name and birthplace, mother's maiden name and birthplace, and parents' marital status;

"(3) name and address of parents, legal guardian, and/or next of kin;

"(4) sex, race, height, weight, color of hair, color of eyes, identifying marks, and recent photograph;

"(5) reason for admission or referral problem;

"(6) type and legal status of admission;

"(7) legal competency status;

"(8) language spoken or understood;

"(9) sources of support, including social security, veterans' benefits, and insurance;

"(10) provisions for clothing and other personal needs;

"(11) information relevant to religious affiliation;

"(12) report(s) of the preadmission evaluation(s); and

"(13) reports of previous histories and evaluations.

"(b) Within the period of one month after admission there shall be entered in the resident's record—

"(1) a report of the review and updating of the preadmission evaluation;

"(2) a statement of prognosis that can be used for programing and placement;

"(3) a comprehensive evaluation and individual program plan, designed by an interdisciplinary team; and

"(4) a diagnosis based on the appropriate nationally recognized professional association on mental deficiency's manual on terminology and classification in mental retardation and, where necessary, the diagnostic and statistical manual of mental disorders, most recent edition, published by the appropriate nationally recognized professional psychiatric association.

"(c) Records during residence should include—

"(1) reports of accidents, seizures, illnesses, and treatments thereof, and immunizations;

"(2) record of all periods of restraint, with justification and authorization for each;

"(3) report of regular, at least annual, review and evaluation of the program, developmental progress, and status of each resident;

"(4) observations of the resident's response to his program, recorded with sufficient frequency to enable evaluation of its efficacy;

"(5) record of significant behavior incidents;

"(6) record of family visits and contacts;

"(7) record of attendance and leaves;

"(8) correspondence;

"(9) periodic updating of the information recorded at the time of admission; and

"(10) appropriate authorizations and consents.

"(d) At the time of discharge from the facility, a discharge summary shall be prepared that should—

"(1) include a brief recapitulation of findings, events, and progress during residence, diagnosis, prognosis, and recommendations and arrangements for future programing:

"(2) be completed and entered in the resident's record within seven days following discharge; and

"(3) with the written consent of the resident or his guardian, be copied and sent to the individual or agency who will be responsible for future programing of the resident.

"(e) In the event of death—

"(1) a copy of the death certificate should be placed in the resident's record; and

"(2) when a necropsy is performed, provisional anatomic diagnoses should be recorded within seventy-two hours, where feasible, and the complete protocol should be made part of the record within three months.

"Subchapter III—Confidentiality of Records

"SEC. 280. (a) All information contained in a resident's records, including information contained in an automated data bank, shall be considered privileged and confidential—

"(1) the record is the property of the facility, whose responsibility it is to secure the information against loss, defacement, tampering, or use by unauthorized persons;

"(2) the record may be removed from the facility's jurisdiction and safekeeping only in accordance with a court order, subpena, or statute;

"(3) there shall be written policies governing access to, duplication of, and dissemination of information from the record; and

"(4) written consent of the resident or his guardian shall be required for the release of information to persons not otherwise authorized to receive it.

"Subchapter IV—Central Record Service

"SEC. 281. (a) The facility shall maintain an organized central record service for the collection and disseminatiton of information regarding residents. A centralized or decentralized system of recordkeeping may be used in accordance with the needs of the facility—

"(1) there shall be a unit record that contains all information pertaining to an individual resident for all admissions to the facility;

"(2) where particular professional services require the maintenance of separate records, a summary of the information contained therein shall be entered in the unit record at stated intervals;

"(3) records shall be readily accessible to authorized personnel;

"(4) where a centralized system is used, appropriate records shall also be availble in the resident-living units; and

"(5) a periodic review of the content of the records should be made by—

"(A) record personnel, to assure that they are current and complete; and

"(B) a committee of appropriate staff, including the record librarian, to assure that they meet the standards set forth in section 278;

"(6) there shall be a master alphabetical index of all residents admitted to the facility; and

"(7) records shall be retained for the period of time specified by the facility, but at least for the period of time consistent with the statute of limitations of the State in which the facility is located.

"Subchapter V—Statistical Records

"SEC. 282. (a) While the type and amount of statistical information will depend upon the facilities particular needs, such information should include at least the following:

"(1) number of residents by age groups, sex, race, and place of residence;

"(2) number of residents by level of retardation, according to the appropriate nationally recognized professional association on mental deficiency classification;

"(3) number of residents by level of adaptive behavior, according to the appropriate nationally recognized professional association of mental deficiency classification;

"(4) number of residents with physical disabilities;

"(5) number of residents who are ambulatory and nonambulatory (mobile and nonmobile);

"(6) number of residents with sensory defects;

"(7) number of residents with convulsive disorders, grouped by level of seizure control;

"(8) number of residents by etiological diagnoses, according to the appropriate nationally recognized professional association and, where necessary, the DSM–II classifications;

"(9) movement of residents into, out of, and within the facility; and

"(10) length of stay.

"(b) Data shall be reported to appropriate Federal and other agencies as requested.

"Subchapter VI—Records Personnel

"SEC. 283. (a) There shall be available sufficient, appropriately qualified staff, and necessary supporting personnel, to facilitate the accurate processing, checking, indexing, filing, and prompt retrieval of records and record data.

"(b) The record system should be supervised on a full- or part-time basis, according to the needs of the facility, by an individual who—

"(1) is a registered record librarian; or

"(2) is an accredited record technician; or

"(3) has demonstrated competence and experience in administering and supervising the maintenance and use of records and reports.

"(c) Record personnel should—

"(1) be involved in educational programs relative to their activities, including orientation, on-the-job training, and regular in-service education programs; and

"(2) participate in workshops institutes or correspondence education courses available outside the facility.

"(d) There shall be adequate space, facilities, equipment, and supplies for providing efficient and effective record servcies.

"Chapter 5.—RESEARCH

"Subchapter I—Encouragement of Research

"SEC. 284. (a) Recognizing that the understanding, prevention, and amelioration of mental retardation and other developmental disabilities ultimately depends upon knowledge gained through research, the administration and staff of the facility (and, in the case of public facilities, the appropriate governmental agency) shall encourage research activity.

"(1) opportunities and resources should be made available to members of the staff who are equipped by interest and training to conduct applied and/or basic research. Research resources and/or necessary research assistance should be made available to all staff members who have identified researchable problems related to the programs for which they are responsible;

"(2) research by qualified investigators who are not staff members of the facility shall be encouraged. There shall be a written policy concerning the conduct of research in the facility by investigators who are not staff members. Outside researchers shall fulfill the same obligations relative to staff information and feedback as do facility staff members. Consideration should be given to the assignment of a facility staff member to each research project conducted by outside investigators; and

"(3) where feasible, there shall be ongoing, cooperative programs of research and research training with colleges, universities, and research agencies.

"(b) The administration of the facility shall make provision for the design and conduct, or the supervision, of research that will objectively evaluate the effectiveness of program components and contribute to informed decisionmaking in the facility.

"Subchapter II—Review of Research Proposals

"SEC. 285. (a) An interdisciplinary research committee shall review all proposed studies to insure—

"(1) adequacy of research design; and

"(2) implementation of ethical standards in the design.

"(b) Facility staff members shall be consulted regarding the planning of research and the utilization of research findings in their areas of competence and interest.

"Subchapter III—Conduct of Research

"SEC. 286. (a) The facility shall follow, and comply with the statement of assurance on research involving human subject required by the United States Department of Health, Education, and Welfare for projects supported by that Agency or any appropriate more stringent such statement, as appropriate.

"(b) Investigators and others directly involved in the research shall—

"(1) adhere to the ethical standards of their professions concerning the conduct of research; and

"(2) have access to the record of informed consent.

"Subchapter IV—Reporting Research Results

"SEC. 287. (a) The principal investigator of each research project shall be responsible for communicating to the staff of the facility the purpose, nature, outcome, and possible practical or theoretical implications of the research. Copies of the reports resulting from research projects shall be maintained in the facility.

"(b) Where research findings are made public, care shall be taken to assure the anonymity of individual residents and parents.

"(c) Clearly defined mechanisms shall exist for informing staff members of new research findings that have applicability to the programs and administration of the facility. There shall be evidence that currently applicable research results are being implemented in the facility's programs.

"Chapter 6.—SAFETY AND SANITATION

"Subchapter I—Safety

SEC. 288. (a) The requirements of the Secretary shall be met, with specific reference to the following—

"(1) provision of adequate and alternate exits and exit doors;

"(2) provision of exit ramps, with nonskip surface and slope not exceeding one foot in twelve; and

"(3) provision in handrails on stairways.

"(b) There shall be records that document strict compliance with the regulations of the State or local fire safety authority that has primary jurisdiction over the facility—

"(1) aisles and exits shall be free from all encumbrances and floors shall be uncluttered;

"(2) flammable materials shall be properly stored and safeguarded;

"(3) attics and basements shall be kept orderly and free of rubbish; and

"(4) there shall be records of periodic fire safety inspections and reports.

"(c) There shall be a written staff organization plan and detailed, written procedures, which are clearly communicated to, and periodically reviewed with staff, for meeting all potential emergencies and disasters pertinent to the area, such as fire, severe weather, and missing persons.

"(1) The plans and procedures should include—

"(A) plans for the assignment of personnel to specific tasks and responsibilities;

"(B) instructions relating to the use of alarm systems and signals;

"(C) information concerning methods of fire containment;

"(D) systems for notification of appropriate persons;

"(E) information concerning the location of firefighting equipment; and

"(F) specification of evacuation routes and procedures.

"(2) the plans and procedures shall be posted at suitable locations through the facility.

"(d) Evacuation drills shall be held at least quarterly, for each shift of facility personnel and under varied conditions, in order to—

"(1) insure that all personnel on all shifts are trained to perform assigned tasks;

"(2) insure that all personnel on all shifts are familiar with the use of the firefighting equipment in the facility;

"(3) evaluate the effectiveness of disaster plans and procedures;

"(4) evacuation drills shall include actual evacuation of residents to safe areas during at least one drill each year, on each shift. There shall be special provisions for the evacuation of the physically handicapped, such as fire chutes and mattress loops with poles; and

"(5) there shall be a written, filed report and evaluation of each evacuation drill.

"(e) An active safety program shall be maintained by a multidisciplinary safety committee that investigates all accidents and makes recommendations for prevention. Records of the activities of the safety committee shall be kept. There shall be adequate safety shields on the moving parts of all dumb waiters, elevators, and other machinery, as provided for in applicable standards and codes.

"(f) All buildings and outdoor recreation facilities constructed after 1971 shall be accessible to, and usable by, the nonambulatory and shall meet standards of the Secretary for making building accessible to, and usable, by the physically handicapped—

"(1) all existing buildings and outdoor recreation facilities shall be modified so as to conform to the above standards by December 31, 1976; and

"(2) existing facilities shall provide—

"(A) entrance ramps wide enough for wheelchairs, not exceeding a rise of one foot in twelve, with nonslip surfaces, and with rails on both sides;

"(B) doorways and corridors wide enough for wheelchairs; and

"(C) grab bars in toilet and bathing facilities.

"(g) Paint used in the facility shall be lead free. Old paint or plaster containing lead shall have been removed, or covered in such manner that it is not accessible to residents.

"(h) Appropriate provisions shall be made for emergency auxiliary heat by means of alternate sources of electric power, alternate fuels, and/or standby equipment.

"Subchapter II—Sanitation

"SEC. 289. (a) There shall be records that document strict compliance with the sanitation, health, and environmental safety codes of the State or local authorities having primary jurisdiction over the facility. Written reports of inspections by State or local health authorities, and records of action taken on their recommendations, shall be kept on file at the facility.

"(b) The holding, transferring, and disposal of waste and garbage shall be done in a manner that will not create a nuisance, nor permit the transmission of disease, nor create a breeding place for insects or rodents—

"(1) waste that is not disposed of by mechanical means shall be—

"(A) kept in leakproof, nonabsorbent containers with close-fitting covers; and

"(B) disposed of daily.

"(2) containers shall be thoroughly cleaned inside and out, each time they are emptied; and

"(3) impervious plastic liners should be used.

"(c) Handwashing facilities shall be available in, or immediately adjacent to—

"(1) bathrooms;

"(2) toilet rooms;

"(3) sleeping areas; and

"(4) kitchens.

"(d) There shall be adequate insect screens on all windows and doors where needed and adequate janitorial equipment and storage space in each unit of the facility.

"Chapter 7.—ADMINISTRATIVE SUPPORT SERVICES

"Subchapter I—Functions, Personnel, and Facilities

"SEC. 290. (a) Adequate, modern administrative support shall be provided to efficiently meet the needs of, and contribute to, program services for residents, and to facilitate support of a variety of resources, which may include, but need not be limited to, the following kinds of services: clerical, communication, dietary, financial, housekeeping, laundry, personnel, physical plant, records, safety and security, and supply and purchasing.

"(b) Administrative support functions should be directed by a qualified administrator, trained and experienced to provide skilled and efficient coordination of these services, to adequately meet the facility's program objectives. In larger facilities, provision may be made for both executive direction, via a chief executive officer (superintendent, director, and so forth), and administration of support services (via a business manager, and so forth). In smaller facilities, a single person may provide both support services—

"(1) the administrator of support services should—

"(A) have at least a baccalaureate degree; or

"(B) have completed formal graduate education in health administration or its equivalent.

"(2) all administrative support personnel shall have sufficient understanding and appreciation of the nature and behavior of the mentally retarded and developmentally disabled resident, to assure that each employee's work and his relations to the residents contribute positively to their welfare.

"(c) There shall be adequate office space, facilities, equipment, and supplies for the efficient conduct of all administrative support functions.

"Subchapter II—Fiscal Affairs

"SEC. 291. (a) Funds shall be budgeted and spent in accordance with the principles and procedures of program budgeting.

"(1) the budget requests submitted by the facility shall—

"(A) adequately reflect the program needs of the residents, as developed by program staff; and

"(B) be adequately documented and interpreted.

"(2) budget preparation shall be the product of team management;

"(3) budget preparation and implementation shall include active participation of professional team members;

"(4) budget development shall include incorporation of effectiveness measures; and

"(5) there shall be sufficient latitude to permit rebudgeting of funds in response to changing program needs, and in accordance with the principles and procedures of program budgeting.

"(b) Individuals acting on the facility's budget requests (board members, State budget officials, members of appropriations committees, and so forth) should have first-hand knowledge of its operations and needs, obtained by regular visitation and observation of its programs.

"(c) Budget performance reports shall be prepared at appropriate intervals and submitted to those individuals participating in budgeting and management responsibilities.

"(d) Funds for community (that is, nonresidential) programs and services shall not be included in computing the per capita (that is, per resident) cost of operation. The per capita expenditure for residential services, divided by the cost of living index for the State or area, should compare favorably with the same ratio for the Nation as a whole, that is, come within 90 per centum of the Nation as a whole or, preferably, exceed 100 per centum. Maintenance expenditures should be at least the same as would be required by age peers in the community.

"(e) There shall be a formal system of internal control in handling the fiscal affairs of the facility. The facility shall have an adequate 'responsibility' accounting system.

"(f) A full audit of the facility's fiscal activities shall be performed regularly, preferably annually, by a qualified accountant independent of the facility.

"(g) Fiscal reports shall be prepared and communicated to the facility's public at least annually.

"(h) Facilities charging for services shall have a written schedule of rates and charge policies, which shall be available to all concerned.

"(i) Where the size of the facility's operation warrants a fiscal officer, he shall have appropriate training and experience in accounting and auditing. Sufficient accountants, account clerks, and clerk-typists shall be provided to assure maximum support to the efforts of personnel directly involved in service to resident.

"Subchapter III—Purchase, Supply, and Property Control

"SEC. 292. (a) There shall be written purchasing policies regarding authority and approvals for supplies, services, and equipment.

"(b) There shall be adequate documentation of the purchasing process, including, where appropriate, requisitions, bids from a number of suppliers, purchase orders, and receiving reports.

"(c) The inventory control system and stockroom operation shall be adequate for—

"(1) receiving supplies;

"(2) issuing supplies as needed in programs;

"(3) maintaining necessary stock level;

"(4) establishing responsibility for stocks; and

"(5) there shall be appropriate storage facilities for all supplies and surplus equipment.

"(d) Where the size of the facility's operation warrants, the person responsible for directing purchase, supply, and property control should have had several years of progressively more responsible experience in these fields, and/or related training. There shall be sufficient trained and experienced personnel to accomplish the necessary purchase, supply, and property control functions.

"Subchapter IV—Communications

"SEC. 293. (a) There shall be adequate communication service, including adequate telephone service, whenever residents are in the facility.

"(b) The communication system shall assure—

"(1) prompt contact of on-duty personnel; and

"(2) prompt notification of responsible personnel in the event of emergency.

"Subchapter V—Engineering and Maintenance

"SEC. 294. (a) The facility shall have an appropriate and written preventive maintenance program.

"(b) Where the size of the facility warrants, engineering and maintenance shall be directed by an engineer who—

"(1) has had at least three years of progressively more responsible experience in institutional engineering and maintenance;

"(2) is licensed or certificated, as appropriate to the nature of the facility; and

"(3) there shall be sufficient trained and experienced personnel to accomplish the required engineering and maintenance functions.

"Subchapter IV—Housekeeping Services

"SEC. 295. Appropriate to the size and nature of the facility, the person responsible for directing housekeeping services should have had—

(1) several years of progressively more responsible experience in this field, and/or related training;

(2) formal training in short courses or vocational schools; and

(3) experience and training in supervision and management.

"Subchapter VII—Laundry Services

"SEC. 296. (a) Laundry services shall be managed so that—

(1) daily clothing and linen needs are met without delay; and

(2) there is a minimum loss and damage to clothing.

"(b) Appropriate to the size and nature of the facility, the person responsible for directing laundry services should have had several years of progressively more responsible experience in this field, and/or related training. The person responsible for directing laundry service shall have the ability to supervise residents who work in the laundry.

"Chapter 8.—DEFINITIONS

"SEC. 297. As used in this part the term—

"(1) 'Advocacy' means that which is done by an advocate.

"(2) 'Advocate' means an individual, whether a professional employed by a private or public agency, or a volunteer (a citizen advocate), who acts on behlaf of a resident to secure both the services that the resident requires and the exercise of his full human and legal rights.

"(3) 'Ambulatory' means able to walk independently, without assistance.

"(4) 'Chief executive officer' means the individual appointed by the governing body of a facility to act in its behalf in the overall management of the facility. Job titles may include, but are not limited to, superintendent, director, and administrator.

"(5) 'Developmental disability' means a disability—

"(A) attributable to mental retardation, or cerebral palsy, or epilepsy, or autism, or learning disability; or

"(B) attributable to any other condition of an individual found to be related to mental retardation as it refers to general intellectual functioning or impairment in adaptive behavior or to require treatment similar to that required for mentally retarded individuals,

which disability (i) originates before such individual attains age eighteen, (ii) which has continued or can be expected to continue indefinitely, and (iii) which constitutes a severe handicap to such individual's ability to function normally in society.

"(6) 'Direct-care staff' means individuals who conduct the resident-living program; resident-living staff.

"(7) 'Facility' means a residential facility for the mentally retarded.

"(8) 'Generic services' means services offered or available to the general public, as distinguished from specialized services intended only for the mentally retarded.

"(9) 'Governing board' means a group of individuals that constitutes the governing body of a facility; one form of a governing body. A governing board may be called a board of trustees, board of directors, or board of governors.

"(10) 'Governing body' means the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individual it serves.

"(11) 'Guardian' means an individual who has legal control and management of the person, or of the property or estate, or of both the person and the property, of a resident. A natural guardian is a parent lawfully in control of the person or his minor child; natural guardianship terminates when the child attains his majority. A legal guardian is one appointed by a court. A guardian of the person is one appointed to see that the resident has proper care and protective supervision in keeping with his needs. A guardian of the property is one appointed to see that the financial affairs of the resident are handled in his best interests. A guardian ad litem is one appointed to represent a resident in a particular legal proceeding, without control over either the resident's person or his estate. A public guardian is a public official empowered to accept court appointment as a legal guardian. A testimentary guardian is one designated by the last will and testament of a natural guardian.

"(12 'Legal incompetence' means the legal determination that a resident is unable to exercise his full civil and legal rights, and that a guardian is required.

"(13) 'Living unit' means a resident-living unit that includes sleeping, dining, and activity areas.

"(14) 'Mobile nonambulatory' means unable to walk independently or without assistance, but able to move from place to place with the use of devices such as walkers, crutches, wheelchairs, wheeled platforms, and so forth.

"(15) 'Nonambulatory' means unable to walk independently, without assistance.

"(16) 'Nonmobile' means unable to move from place to place.

"(17) 'Normalization principle' means the principle of letting the mentally retarded and other individuals with developmental disabilities 'obtain an existence as close to the normal as possible,' making available to them "patterns and conditions of everyday life which are as close as possible to the norms and patterns of the mainstream of society.' Specifically, 'the use of means that are as culturally normative as possible to elicit and maintain behavior that is as culturally normative as possible to elicit and maintain behavior that is as culturally normative as possible.'

"(18) 'Public financial support programs' include, but are not limited to, services for crippled children; aid to the disabled, old age, survivors, and disability insurance, and other benefits available under the Social Security Act; and benefits administered by the Veterans' Administration.

"(19) 'Resident' means the general term used in the standards to refer to an individual who receives service from a residential facility, whether or not such individual is actually in residence in the facility. The term thus includes individuals who are being considered for residence in a facility, individuals who were formerly in residence in a facility, and individuals who are receiving services other than domiciliary from a facility. (A residential facility, on the other hand, may use the term 'resident' to refer only to those individuals actually in residence, and may thus distinguish between resident and nonresident recipients of its services.)

"(20) 'Resident-living' means pertaining to residential or domiciliary services provided by a facility.

"(21) 'Residential facility' means a facility that provides twenty-four-hour programing services, including residential or domiciliary services, directed to enhancing the healh, wel fare, and development of individuals classified as mentally retarded. While the facility must provide twenty-four-hour programing for residents, in accordance with their needs, it need not itself operate any programs or services other than residential or domiciliary.

"(22) 'Rhythm of life' means relating to the normalization principle, under which making available to the mentally retarded and other individuals with developmental disabilities 'patterns and conditions of everyday life which are as close as possible to the norms and patterns of the mainstream of society' means providing a normal rhythm of the day (in respect to arising, getting dressed, participating in play and work activities, eating meals, retiring, and so forth), normal rhythm of the week (differentiation of daily activities and schedules), and normal rhythm of the year.

"(23) 'Surrogate' means an individual who functions in lieu of a resident's parents or family.

"(24) 'Time out' means time out from positive reinforcement. A behavior modification procedure in which, contingent upon the emission of undesired behavior, the resident is removed from the situation in which positive reinforcement is available.".

"Chapter 9.—REVISION OF STANDARDS

"SEC. 299. (a) It shall be the duty and function of the Council established under section 133(a) of this Act to (1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by him in the implementation of the standards established under part A of this Act, (2) study and evaluate such standards authorized by this Act through site visits and other appropriate methods with a view of determining their effectiveness in carrying out the purposes for which they were established, and (3) based upon site visits or other studies, evaluations, or reviews recommend to the Secretary any changes, revisions, modifications, or improvements in the standards established under part A of this Act, which will strengthen or upgrade such standards.

"(b) Nothing herein shall limit the authority of the Secretary to seek and receive advice and respect to the above matters from any source he deems appropriate, including but not limited to the national accrediting body for facilities and programs for the mentally retarded, and other individuals with developmental disabilities.

"PART B—INSTITUTIONAL ASSISTANCE

"GRANTS TO ASSIST INSTITUTIONS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

"SEC. 300. For the purpose of assisting States in meeting the expenses, directly or indirectly, for bringing publicly operated facilities and publicly assisted facilites into conformity with the standards established under part A of ths title, which seek to assure the humane care, protection, habilitation, and treatment of individuals with developmental disabilities in residential facilities, there are authorzed to be appropriated such sums as are necessary to enable the Secretary to make grants under this title.

"STATE PLANS

"SEC. 301. (a) Any State desiring to receive a grant under this title shall submit a plan to the Secretary—

"(1) setting forth a schedule for compliance with the standards established under part A of this title for each facility for which assistance is requested;

"(2) assuring reasonable State financial participation in the cost of carrying out the plan to comply with the standards set forth in this title and how the residential facility for individuals with developmental disabilities will complement and augment rather than duplicate or replace other community services for individuals with development disabilities or meet the requirements of part A of this title;

"(3) setting forth a schedule of costs to achieve compliance with the standards established under part A of this title; and

"(4) designating how placement in residential facilities shall be minimized through alternative regional and community programs and services for individuals with developmental disabilities, and be in coordination with the plan established under title I of this Act.

"(b) The Secretary shall approve a plan which sets forth a reasonable time for compliance with the standards established under this title, and he shall not finally disapprove a plan except after reasonable notice and opportunity for a hearing to such State.

"AMOUNT OF GRANTS; PAYMENTS

"SEC. 302. (a) The total of the grants with respect to any project under this part may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary.

"(b) Payments of grants under this part shall be made in advance or by way of reimbursement, and on such conditions as the Secretary may determine.

"MAINTENANCE OF EFFORT

"SEC. 303. Applications for grants under this part may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the grants will not result in any decrease in the level of State, local, and other non-Federal funds for services for individuals with developmental disabilities which would (except for such grant) be available to the applicant, but that such grants will be used to supplement, and, to the extent practicable, to increase the level of such funds.

"WITHHOLDING OF GRANTS

"SEC. 304. (a) Five years after the date of enactment of this title, no residential facility for individuals with developmental disabilities shall be eligible to receive payments either directly or indirectly under any Federal law, unless such facility meets the standards promulgated under part A of this title.

"(b) The funds to which any individual would otherwise be entitled to have paid on his behalf to any vendor of residential services, public or private, shall be reserved for him and administered by the Social Security Administration in the same manner as benefits under title II of the Social Security Act would be administered on his behalf were he entitled to same.".

Mr. JAVITS. Mr. President, I am deeply gratified to join with Senator RANDOLPH, chairman of the Handicapped Subcommittee of the Labor and Public Welfare Committee, of which I am ranking minority member, in the introduction of the Developmentally Disabled Assistance and Bill of Rights Act. The bill incorporates as title II thereof my bill of rights for the mentally retarded, S. 1654.

Title I of the instant bill extends and substantially modifies the program operation of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, as Senator RANDOLPH set forth in detail in his introductory remarks. I am particularly gratified that the present definition of developmentally disabled has been broadened to include, as well as those suffering from

mental retardation, cerebral palsy or epilepsy, autism, and learning disability, or any other condition which is closely related to mental retardation as it refers to general intellectual functioning or impairment in adaptive behavior; or to require treatment similar to that required by mentally retarded individuals.

When I introduced S. 1654, the administration bill which would have broadened the definition by including "autism"—which I supported—I urged the inclusion of learning disability and I am pleased that this bill carries forward my recommendation.

The bill is an important contribution to establishing a truly national commitment to the deinstitutionalization of the mentally retarded and other individuals with developmental disabilities and at the same time insuring that those mentally retarded and other developmentally disabled citizens who require institutionalization receive humane care, treatment, habilitation, and protection.

The commitment of the chairman of the Handicapped Subcommittee, Senator RANDOLPH, to the inclusion of my bill of rights in a comprehensive bill serving the needs of the developmentally disabled—a bill which is cosponsored by 24 Senators including the chairman of the Labor and Public Welfare Committee, Senator WILLIAMS, the chairman of the Health Subcommittee, Senator KENNEDY, and the ranking minority member of the Handicapped Subcommittee, Senator STAFFORD, marks recognition that assistance with safeguards— exemplified by my bill of rights—which had such broad bipartisan cosponsorship—is the appropriate way for the Congress to proceed in regard to this critically important area.

The bill of rights for the mentally retarded—which has been modified to insure that its safeguards apply to all developmentally disabled citizens—utilizes standards developed under the leadership of the Accreditation Council for Facilities for the Mentally Retarded by committees representing all the disciplines and interests that must be involved in providing fully adequate programs for the mentally retarded and other individuals with developmental disabilities.

I believe the Federal Government has an obligation to implement and honor the commitment to provide humane care and treatment to the institutionalized mentally retarded and other individuals with developmental disabilities, and to deemphasize long-term institutionalization.

I believe that when the committee completes its hearings on this measure, now scheduled for May 1, the case will be complete for the Senate shortly thereafter to pass this landmark legislation.

By Mr. ROBERT C. BYRD (for Mr. METZENBAUM):

S. 3379. A bill to establish a National Economic Preparedness Council and a National Commodities Survey Office, to control self-dealing pricing practices of oil companies and to terminate certain tax preferences of such companies, and for other purposes. Referred to the Committees on Government Operations and Finance, by unanimous consent.

ECONOMIC PREPAREDNESS ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be permitted to introduce today for appropriate reference on behalf of the Senator from Ohio (Mr. METZENBAUM) an Economic Preparedness Act of 1974, and that the statement of Mr. METZENBAUM in explanation of his bill be printed in the RECORD at this point, together with the text of the bill.

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

S. 3379

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 "Economic Preparedness Act of 1974".

TITLE I—NATIONAL ECONOMIC PREPAREDNESS COUNCIL ESTABLISHMENT

SEC. 101. (a) There is established a National Economic Preparedness Council (hereafter in this title referred to as the "Council"). The Council shall be composed of the following twelve members:

(1) Four members appointed by the President, two of whom shall be private citizens;

(2) Four members appointed by the President pro tempore of the Senate, two of whom shall be private citizens; and

(3) Four members appointed by the Speaker of the House of Representatives, two of whom shall be private citizens.

(b) The Council shall elect a Chairman and a Vice Chairman from among its members.

(c) Seven members of the Council shall constitute a quorum. Any vacancy in the Council shall not affect its powers but shall be filled in the same manner as the original appointment was made.

(d) Each member of the Council who is not an officer or employee of the United States shall receive $125 a day (including travel time) during which he is engaged in the actual performance of his duties as a member of the Council. A member of the Council who is an officer or employee of the United States shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

DUTIES

SEC. 102. (a) The Council shall study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the United States government and other institutions participating in the management of the economy of the United States and shall make recommendations which the Council considers appropriate, including, but not limited to, recommendations with respect to—

(1) redesigning the economic institutions of the executive branch of the government to make them more responsive to the needs of the American people;

(2) the achievement of the true potential for sustained prosperity and economic growth of the United States;

(3) special employment problems that afflict particular segments of the national economy, women, young people, and minorities;

(4) the accurate measurement of the costs and benefits of inflation, unemployment, leisure time, and such activities as raising a family and volunteer work;

(5) useful participation in building a more effective system of international economics, including stabilization of international monetary markets and a workable system of international trade; and

(6) the achievement of efficiency, competitiveness, and pride in work.

(b) (1) The Council shall submit a comprehensive report to the President and Congress containing the findings and recommendations of the Council with respect to its study and investigation. Such recommendations may include proposed legislative and administrative actions the Council considers appropriate. The report required by this paragraph shall be submitted not later than one year after the date on which all the Council members have been appointed.

(2) The Council shall submit an annual report to the President and Congress beginning not later than one year after submission of the report required under paragraph (1). Such reports shall update and perfect the recommendations and information contained in the initial report of the Council.

(3) The Council shall cease to exist on the thirtieth day after the date on which it files the fourth annual report required under paragraph (2).

POWERS

SEC. 103. (a) The Council or, on the authorization of the Council, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, and administer such oaths as the Council or such subcommittee or member may deem advisable.

(b) The Council is authorized to secure directly from any department, agency, independent establishment, or instrumentality of the United States information, suggestions, estimates and statistics for the purposes of this title. Each such department, agency, independent establishment, and instrumentality is authorized and directed, to the extent authorized by law, to furnish such information, suggestions, estimates and statistics directly to the Council upon request made by the Chairman or Vice Chairman.

STAFF

SEC. 104. (a) The Council shall have power to appoint and fix the compensation of such personnel as it deems advisable wtihout regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter 53 of chapter 53 of such title relating to classification and general schedule pay rates.

(b) The Council is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at GS–18.

AUTHORIZATION OF APPROPRIATIONS

SEC. 105. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE II—NATIONAL COMMODITIES SURVEY OFFICE

ESTABLISHMENT

SEC. 201. There is established within the General Accounting Office a National Commodities Survey Office. The Office shall be under the direction and supervision of a Director who shall be appointed by the Comptroller General of the United States.

DUTIES

SEC. 202. (a) The Director shall gather, analyze, and interpret data related to the availability of strategic commodities and resources including, but not limited to, food, petroleum, aluminum, copper, tin, and zinc.

(b) (1) In carrying out his duties under this section, the Director is authorized to obtain information from government departments and agencies, private organizations, and to obtain, by request or subpena, from any source whatever, such addtional information as may be necessary to carry out his duties under this section.

(2) Any appropriate United States district court may, in the case of contumacy or refusal to obey a subpena issued pursuant to this section, issue an order requiring the party to whom such subpena is directed to appear before the Director and to give testimony touching on the matter in question or

to produce any such information, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

REPORTS

SEC. 203. The Director shall from time to time but not less often than annually, report to the Congress on the data and information gathered under the provisions of this title, together with his recommendations thereon.

AUTHORIZATION OF APPROPRIATIONS

SEC. 204. There are authorized to be appropriated to the General Accounting Office such sums as may be necessary to carry out the provisions of this title.

TITLE III—IMPORTED PETROLEUM AND PETROLEUM PRODUCTS

SELF-DEALING PRICING POLICIES

SEC. 301. In exercising his authority, under the Emergency Petroleum Allocation of 1973 or any other law, to specify (or prescribe a manner for determining) equitable ceiling prices for first sales or exchanges of crude oil, natural gas liquids, condensate, residual fuel oil, or refined petroleum products, the President shall provide, with respect to the prices of imported crude oil, natural gas liquids, condensate, residual fuel oil, and refined petroleum products, produced or refined by the person importing such product into the United States, or purchased or exchanged by him (directly or indirectly) from an affiliate, no more than a dollar-for-dollar passthrough of net increases in foreign taxes and in royalties paid to nonaffiliates for crude oil, natural gas liquids, or condensate, or in the actual price paid at the first purchase from a nonaffiliate of such crude oil, natural gas liquids, condensate, residual fuel oil, or refined petroleum products. The calculation of any net increase in taxes, royalties, or prices at first purchase under this section shall take into consideration any reduction, by virtue of increases in foreign taxes, royalties, or prices, upon the liability of the importer or his affiliates for United States income taxes.

TITLE IV—INCOME TAX PROVISIONS

OPTIONAL CREDIT AGAINST TAX, IN LIEU OF DEDUCTION, FOR PERSONAL EXEMPTIONS

SEC. 401. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by renumbering section 42 as section 43 and by inserting after section 41 the following new section:

"SEC. 42. PERSONAL EXEMPTIONS.

"(a) GENERAL RULE.—At the election of the taxpayer, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to $250 multiplied by the number of exemptions to which the taxpayer is entitled under section 151. Such credit shall not exceed the tax imposed by this chapter for the taxable year.

"(b) ELECTION.—An election under subsection (a) for a taxable year may be made at any time before the expiration of the period for filing a claim for a refund or credit of an overpayment of tax for such taxable year and shall be made in such form and manner as the Secretary or his delegate prescribes by regulations.

"(c) DENIAL OF DEDUCTION.—If a taxpayer elects the credit provided by subsection (a) for a taxable year, no deduction shall be allowed under section 151 for any exemption to which he is entitled under such section."

(b) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Personal exemptions.
"Sec. 43. Overpayments of tax."

(c) Section 37 (a) of such Code (relating to retirement income credit) is amended by striking out "and" before "section 35" and by inserting before the period at the end thereof ", and section 42 (relating to personal exemptions)".

(d) Section 41(b)(2) of such Code (relating to contributions to candidates for public office) is amended by striking out "and" before "section 38" and by inserting before the period at the end thereof ", and section 42 (relating to personal exemptions)".

(e) Section 46(a)(3)(B) of such Code (relating to the investment credit) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) section 42 (relating to personal exemptions)."

(f) Section 50A(a)(3) of such Code (relating to credit for expenses of work incentive programs) is amended—

(1) by striking out "and" at the end of subparagraph (D),

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) section 42 (relating to personal exemptions)."

(g) The amendments made by this section shall apply to taxable years ending on or after the date of the enactment of this Act.

REMOVAL OF TAX PREFERENCES FOR OIL AND GAS

SEC. 402. (a) Section 263(c) of the Internal Revenue Code of 1954 (relating to intangible drilling and development costs in the case of oil and gas wells) is repealed.

(b) Section 613(b)(1) of such Code (relating to percentage depletion) is amended by striking out "(A) oil and gas wells;".

(c) Section 901 of such Code (relating to foreign tax credit) is amended by redesignating subsection (f) as (g), and by inserting after subsection (e) the following new subsection:

"(f) Taxes on Income Derived from Oil and Gas Production.—This subpart shall not apply to taxes paid or accrued to any foreign country with respect to income derived from the extraction, production, or refining of oil or gas in such country."

(d) The repeal made by subsection (a) and the amendment made by subsection (b) shall apply to taxable years beginning after the date of the enactment of this Act. The amendments made by subsection (c) shall apply with respect to taxes paid or accrued during taxable years beginning after such date.

TERMINATION OF ASSET DEPRECIATION RANGE SYSTEM

SEC. 403. (a) Section 167(m) of the Internal Revenue Code of 1954 (relating to class lives) is repealed.

(b) The repeal made by subsection (a) shall apply with respect to property placed in service during taxable years beginning after the date of the enactment of this Act.

RESTRICTION OF ACCELERATED DEPRECIATION FOR RENTAL HOUSING

SEC. 404. (a) Section 167(j) of the Internal Revenue Code of 1954 (relating to special rules of section 1250 property) is amended by striking out so much of paragraph (2) as precedes subparagraph (B) and inserting in lieu thereof the following:

"(2) Federally subsidized residential rental property.—

"(A) In general.—Paragraph (1) of this subsection shall not apply, and subsection (b) shall apply in any taxable year, to a building or structure—

"(i) which is Federally subsidized residential rental property, and

"(ii) the original use of which commences with the taxpayer.

For purposes of this subparagraph, the term 'Federally subsidized residential rental property' means residential rental property which is subject to a contract for interest reduction payments under section 236 of the National Housing Act, subject to a contract for leased housing in private accommodations under the United States Housing Act of 1937, or financed by a loan under section 202 of the Housing Act of 1959."

(b) Section 167 (j)(5) of such Code (relating to used residential property) is amended by striking out "residential rental property (as defined in paragraph (2) (B)) acquired after July 24, 1969," and inserting in lieu thereof "Federally subsidized residential rental property (within the meaning of paragraph (2))".

(c) The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act. Any change in the computation of the allowance for depreciation for any taxable year, required by reason of the application of such amendments, shall not be considered a change in a method of accounting.

TITLE V—PUBLIC SERVICE EMPLOYMENT

ADDITIONAL PUBLIC SERVICE FUNDS AUTHORIZED

SEC. 501. (a) Section 4(d) of the Comprehensive Employment and Training Act of 1973 is amended by redesignating paragraph (2) thereof as paragraph (3) and by inserting immediately after paragraph (1) the following new paragraph:

"(2) In addition to the amounts reserved under paragraph (1) of this subsection, for any fiscal year ending prior to July 1, 1978, in which there are any three consecutive months (including the last three consecutive months) in that fiscal year in which the national rate of unemployment (seasonably adjusted)—

"(A) equals or exceeds 5 per centum there is authorized to be appropriated and made available $250,000,000 to carry out the public service employment programs under title II;

"(B) equals or exceeds 5½ per centum but less than 6 per centum there is authorized to be appropriated and made available $350,000,000 for such programs; and

"(C) equals or exceeds 6 per centum there is authorized to be appropriated and made available $500,000,000 for such programs."

(b)(1) Paragraph (3) of section 4(d) of such Act (as redesignated by this section) is amended by inserting after "paragraph (1)" in the first sentence thereof the following: "or authorized under paragraph (2)".

(2) The second sentence of such paragraph is amended by striking out "There" and inserting in lieu thereof the following: "In addition to the amounts authorized under paragraph (2), there".

(c) Section 4(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) Sums appropriated for any fiscal year pursuant to this subsection shall remain available for the succeeding fiscal year for which they were appropriated.".

SPECIAL EMERGENCY EMPLOYMENT PROGRAM

SEC. 502. The Comprehensive Employment and Training Act of 1973 is amended by redesignating title VI, and all references thereto, as title VII and by redesignating sections 601 through 615, and all references thereto, as sections 701 through 715, respectively, and by inserting after title V thereof the following new title:

"TITLE VI—SPECIAL EMERGENCY EMPLOYMENT ASSISTANCE PROGRAM

"APPROPRIATIONS AUTHORIZED

"SEC. 601. In addition to the amounts authorized to be appropriated for carrying out this Act under section 4, there are authorized to be appropriated for the fiscal year ending June 30, 1975, and the succeeding fiscal year, such sums, not to exceed $5,000,000,000 in the aggregate for such period, as may be necessary to carry out the provisions of this title.

"EMERGENCY EMPLOYMENT ASSISTANCE FUND

"SEC. 602. There is established in the Treasury a fund to be known as the Emergency Employment Assistance Fund (hereafter in this title referred to as the "fund"). Amounts appropriated pursuant to section 601 which are not needed for immediate expenditure in accordance with this title shall be deposited in such fund to be available for obligation without fiscal year limitation in accordance with the provisions of this title. The Secretary is authorized to utilize sums deposited in the fund to provide assistance under this title.

"FINANCIAL ASSISTANCE AUTHORIZED

"SEC. 603. (a) Whenever—

"(1) the President determines, after reviewing forecasts of anticipated levels of economic activity, that specified amounts available in the fund should be obligated in order to diminish expected levels of unemployment, and notifies the Congress and the Secretary of such determination; or

"(2) the Congress, by concurrent resolution, determines, after reviewing forecasts of anticipated levels of economic activity, that specified amounts available in the fund should be obligated in order to diminish expected levels of unemployment, and notifies the President and the Secretary of such determination; or

"(3) the Secretary determines that the rate of national unemployment (seasonally adjusted) exceeds 5.5 per centum for three consecutive months;

the Secretary shall obligate such amounts to provide unemployed and underemployed persons with transitional employment in jobs providing needed public services, and, wherever feasible, related training and manpower services to enable such persons to move into employment or training not supported under this title. Such assistance shall be provided in accordance with the terms of any determination under paragraph (1) of this subsection or concurrent resolution under paragraph (2) of this subsection and in the case of a determination under paragraph (3) of this subsection to the full extent that funds are available in the fund.

"(b) Except pursuant to section 3 of this Act, the Secretary shall apportion funds made available pursuant to this title among prime sponsors designated under title I of this Act and eligible applicants under title II of this Act throughout the United States on an equitable basis, taking into account the rate of unemployment in areas served by such prime sponsors and eligible applicants.

"(c) Transitional public service employment opportunities financed under this title shall be subject to the terms and conditions set forth in sections 205, 206, 207, 208, and 209 of this Act.

"SPECIAL REPORT

"SEC. 604. (a) Within twenty-one days after enactment of this title, the President, after consultation with the Council of Economic Advisers, the Secretary and the heads of other appropriate departments and agencies, shall submit to the Congress a special report with respect to implementation of this title. The report required under this section shall include—

"(1) a detailed analysis of anticipated levels of economic activity and unemployment and the criteria to be applied in making various determinations under paragraph (1) of section 603(a); and

"(2) comprehensive plans for implementation of provisions of this title under paragraphs (1) and (3) of section 603(a).

"(b) The President and the Secretary may submit to the Congress such other reports as are necessary to the fulfillment of the objectives of this title.

"(c) Reports transmitted under this section, shall, when transmitted to the Congress, be referred to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. Nothing in this subsection shall be construed to prohibit the consideration of the report by any other committee of the Senate or the House of Representatives with respect to any matter within the jurisdiction of any such committee.".

TITLE VI—SPECIAL UNEMPLOYMENT COMPENSATION PROGRAM

SHORT TITLE

SEC. 601. This title may be cited as the "Special Unemployment Compensation Act of 1974".

GRANTS TO STATES; AGREEMENTS WITH STATES

SEC. 602. Each State which enters into an agreement with the Secretary of Labor, pursuant to which it makes payments of special unemployment compensation in accordance with the provisions of this title and the rules and regulations prescribed by the Secretary of Labor hereunder, shall be paid by the United States from time to time such amounts as are deemed necessary by the Secretary of Labor to carry out the provisions of this title in the State. Special unemployment compensation may be paid to individuals only pursuant to such an agreement.

ELIGIBLE INDIVIDUALS

SEC. 603. An individual shall be eligible to receive a payment of special unemployment compensation or waiting period credit with respect to a week of unemployment occurring during and subsequent to a special unemployment compensation period in accordance with the provisions of this title if—

(a) the individual—

(1) has exhausted all rights to regular, additional, and extended compensation under all State unemployment compensation laws and chapter 85 of title 5, United States Code, and has no further rights to regular, additional, or extended compensation under any State or Federal unemployment compensation law (including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)) with respect to such week of unemployment, and is not receiving compensation with respect to such week of unemployment under the unemployment compensation law of Canada: *Provided*, That such rights to compensation were exhausted in or subsequent to the first week beginning on or after October 1, 1973, or, such rights to compensation having been exhausted prior to the date, the benefit year in which such rights to compensation were exhausted did not end until on or after October 1, 1973, and the individual was last employed on or after such date; or

(2) is not otherwise eligible for compensation under any State or Federal unemployment compensation law (including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)) with respect to such week of unemployment, and is not receiving compensation with respect to such week of unemployment under the unemployment compensation law of Canada: *Provided*, That the individual meets the qualifying employment and wage requirements of the applicable State unemployment compensation law in a base year which, notwithstanding the State law, shall be the 52-week period preceding the first week with respect to which the individual: (A) files a claim for compensation or waiting period credit under this Act; (B) is totally or partially unemployed; and (C) meets such qualifying employment and wage requirements; and for the purpose of this proviso employment and wages which are not covered by the State law shall be treated as though they were covered, except that employment and wages covered by the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages: *Provided further*, That the individual became totally or partially unemployed on or after October 1, 1973, and has met any waiting period requirement of the applicable State unemployment compensation law; and

(b) the individual is totally or partially unemployed, and is able to work, and is available for work, within the meaning of the applicable State unemployment compensation law, and is not subject to disqualification under that law; and

(c) the individual has filed a claim for compensation or waiting period credit under this title; and

(d) in the area in which the individual was last employed for at least 1 week prior to filing a claim under this title for compensation or waiting period credit with respect to such week of unemployment, a special unemployment compensation period is in effect with respect to such week of unemployment: *Provided*, That if the individual, except for the imposition of a disqualification in accordance with subsection (b), was otherwise eligible for a payment of compensation or waiting period credit under this title with respect to a week of unemployment which began during a special unemployment compensation period, but did not exhaust entitlement to special unemployment compensation during the special unemployment compensation period, entitlement shall continue after the end of the special unemployment compensation period but no compensation shall be paid under this title for any week of unemployment that begins more than 26 weeks after the end of such period; and

(e) the State in which the individual was last employed for at least a week prior to filing a claim under this title for compensation or waiting period credit with respect to such week of unemployment has an agreement with the Secretary of Labor under section 602 which is in effect with respect to such week of unemployment.

SPECIAL UNEMPLOYMENT COMPENSATION PERIOD

SEC. 604. (a) A special unemployment compensation period shall commence in an area designated by the Secretary with the third week after the first week for which there is an "on" indicator for such area, and shall terminate with the third week after the first week for which there is an "off" indicator for such area: *Provided*, That no special unemployment compensation period shall have a duration of less than 13 weeks: *And Provided further*, That each area in a State which (without regard to this proviso) is not in a special compensation period shall be deemed to be in such a period if and for so long as there is in effect (without regard to this proviso) such a period in other areas of the State the aggregate of the population of which is not less than 50 per centum of the total population of the State.

(b) The Secretary shall designate as an area under this section—

(1) each area within or among the States which he determines to be a "labor area" and which has a population of at least 250,000 persons. For the purposes of this section a "labor area" shall consist of an economically integrated geographical unit within which workers may readily change jobs without changing their places of residence; and

(2) all parts of a State which are not within a "labor area" designated under paragraph (1).

(c) There is an "on" indicator in an area for a week if for the period consisting of such week and the immediately preceding 12 weeks the rate of insured unemployment in the area equaled or exceeded 4 percent.

(d) There is an "off" indicator for a week if, for the period consisting of such week and the immediately preceding 12 weeks, subsection (c) is not satisfied.

(e) For the purposes of this section, the term "rate of insured unemployment" shall mean the percentage arrived at by dividing—

(1) the average weekly number of individuals who filed claims in the area, under State unemployment compensation laws, for unemployment compensation with respect to weeks of unemployment in the 13-week period specified in subsections (c) and (d), as determined on the basis of the reports made by the appropriate State agencies to the Secretary, by

(2) the average monthly employment in the area, which is covered by State unemployment compensation laws applicable to the area, for the last 4 consecutive calendar quarters ending before the close of such period for which data is available.

In determining, pursuant to paragraph (1), the average weekly number of individuals who filed claims in the area, individuals who filed claims under this title shall be excluded.

WEEKLY BENEFIT AMOUNT

SEC. 605. The amount of special unemployment compensation to which an eligible individual shall be entitled for a week of total unemployment shall be—

(a) for an individual referred to in paragraph (1) of subsection (a) of section 603, the average weekly benefit amount of regular compensation which was payable to the individual for a week of total unemployment in the individual's most recent benefit year; and

(b) for an individual referred to in paragraph (2) of subsection (a) of section 603, the average weekly benefit amount for a week of total unemployment that would be payable to the individual as regular compensation under the applicable State unemployment compensation law: *Provided*, That in computing the weekly benefit amount under this subsection the individual's base year, notwithstanding the State law, shall be the 52-week period preceding the first week with respect to which the individual: (1) files a claim for compensation or waiting period credit under this title; (2) is totally or partially unemployed; and (3) meets such qualifying employment and wage requirements; and for the purpose of this proviso employment and wages which are not covered by the State law shall be treated as though they were covered, except that employment and wages covered by the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.) shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.

MAXIMUM BENEFIT AMOUNT

SEC. 606. The maximum amount of special unemployment compensation which an eligible individual shall be entitled to receive shall be—

(a) for an individual referred to in paragraph (1) of subsection (a) of section 603, one-half the maximum amount of regular compensation payable to the individual in the individual's most recent benefit year, but not exceeding the lesser of: (1) 13 times the average weekly benefit amount which was payable to the individual for a week of total unemployment as determined under subsection (a) of section 605; and (2) 52 times such weekly benefit amount reduced by the regular, additional, and extended compensation payable to the individual with respect to such benefit year; and

(b) for an individual referred to in paragraph (2) of subsection (a) of section 603, the maximum amount of regular compensation that would be payable to such individual as computed under the provisions of the applicable State unemployment compensation law, but not exceeding 26 times the weekly benefit amount payable to the individual for a week of total unemployment as determined under subsection (b) of section 605: *Provided*, That in computing duration under this subsection the individual's base year, notwithstanding the State law, shall be the 52-week period preceding the first week with respect to which the individual: (1) files a claim for compensation or waiting period credit under this title; (2) is totally or partially unemployed; and (3) meets such qualifying employment and wage requirements; and for the purpose of this proviso employment and wages which are not covered by the State law shall be treated as though they were covered, except that employment and wages covered by the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.) shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.

APPLICABLE STATE LAW PROVISIONS

SEC. 607. Except where inconsistent with the provisions of this title, the terms and conditions of the applicable State unemployment compensation law which apply to claims thereunder for regular compensation and the payment thereof shall apply to claims for special unemployment compensation and the payment thereof.

TERMINATION DATE

SEC. 608. Notwithstanding any other provisions of this title, no payment of special compensation shall be made to any individual with respect to any week of unemployment ending after June 30, 1975.

RULES AND REGULATIONS

SEC. 609 The Secretary of Labor is empowered to promulgate such rules and regulations as he shall deem necessary and appropriate to carry out the provisions of this title, including regulations governing the payment of grants to the States under this title and prescribing the form and content of agreements with the States entered into under this title.

DEFINITIONS

SEC. 610. As used in this title—

(a) The term "applicable State unemployment compensation law" means the law of the State in which the individual was last employed for at least 1 week prior to filing a claim for compensation or waiting period credit under this title.

(b) The terms "regular compensation", "additional compensation", and "extended compensation" shall not include special unemployment compensation provided for in this title, but shall have the meanings assigned to those terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended (Public Law 91–373; 84 Stat. 708 et seq.).

(c) The term "State" means the States of the United States, the District of Columbia, Puerto Rico, and the Virgin Islands.

(d) The term "week" means a calendar week.

EFFECTIVE DATE

SEC. 611. This title shall take effect on the thirtieth day after the date it is enacted and special unemployment compensation may be paid with respect to weeks of unemployment beginning on and after the effective date only in accordance with the provisions of this title.

APPROPRIATIONS AUTHORIZATION

SEC. 612. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

INTRODUCTORY REMARKS AND TEXT OF THE ECONOMIC PREPAREDNESS ACT BY SENATOR HOWARD M. METZENBAUM

Mr. President I introduce today for appropriate reference my Economic Preparedness Act of 1974.

An April 10, in my maiden speech in the Senate, I set forth the key elements of my Economic Preparedness Program. I now submit the bill that I have prepared to accomplish principal objectives of that Program.

There is no need for me to reiterate the basic features of my proposals. But I would like to point out that several economic developments that have occurred since my speech dramatically emphasize the need for prompt action by Congress.

First, the sharp decline in the Gross National Product, coupled with an annual rate of inflation that has now reached 14.5 percent, should remove all doubts as to the wisdom of Congress enacting the $250 Federal tax credit for individuals that I propose in this bill.

Second, the record level of first-quarter profits by major oil producers being reported this week drives home the need for equally prompt action in stopping the outrageous practice of self-dealing between domestic oil companies and their foreign affiliates, and in repealing the special tax breaks enjoyed exclusively by major oil companies. The Economic Preparedness Act of 1974 would restore some measure of economic justice in the price of petroleum products that are sold in this country.

Third, the recent round of hand-wringing and inaction by economists employed by the Nixon Administration underlines once again the need for a fundamental review and restructuring of the economic machinery of the Federal government. The National Economic Preparedness Council proposed in my bill would do just that.

The guiding philosophy of the Economic Preparedness Act is to devise ways of acting before the country is threatened by a genuine recession and before inflation rises even beyond its already quite incredible levels. That is the only kind of government policy that makes sense. And that is why I urge the swiftest possible action on the legislation I introduce today.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the bill introduced earlier today on behalf of Mr. METZENBAUM be referred jointly to the Committee on Government Operations and to the Committee on Finance.

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

By Mr. HARTKE:

S.J. Res. 207. A joint resolution to create an Economic and Social Community of the Americas. Referred to the Committee on Foreign Relations.

ECONOMIC AND SOCIAL COMMUNITY OF THE AMERICAS

Mr. HARTKE. Mr. President, in 1813, one of the leading founders of this great Nation, Thomas Jefferson, understood that the American system should include the entire Western Hemisphere, north and south. His philosophy was that whatever form the governments of the new Latin American nations might take, they would, nevertheless, be American governments.

Mr. President, the resolution I introduce today will bring Thomas Jefferson's dream to reality.

This resolution will move the Western Hemisphere one step closer to mutual understanding, happiness, prosperity and peace. I call upon the Congress to take this major step toward furthering the mutual development of the Western Hemisphere. Our dynamic renewal of the faith we have in our destiny and the destinies of the peoples of the Western World will manifest rewards in terms of prosperity yet unimagined by the millions

of poor people who live for their next meal.

The establishment of an Economic and Social Community of the Americas will be the beginning of a cohesive continent. We must begin by establishing a delegation authorized to invite all nations of the Western Hemisphere to join in a conference leading to the creation of a common unity among the nations in economic, cultural, and social exchange.

The United States of America has long enjoyed the leadership of the Western Hemisphere, because of its advanced and prosperous society. While periods of history have experienced mountains and valleys in the relationship between the United States and the various governments of the Western Hemisphere, we must now level out our relationship, and provide for a consistent policy and relationship for the betterment of planning and organization for all concerned.

The resolution that I introduce does not set forth details of the relationship. I do not anticipate the form of the organization which I believe the Economic and Social Community of the Americas should take. Likewise, I do not anticipate the countries which will join in this undertaking. The delegation, once selected, will have to determine which countries are within the Western Hemisphere. Though the record is unclear which countries may be invited, it is anticipated that including the United States there would be 29. These would include: Argentina, Bahamas, Barbados, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, French Guiana, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Surinam, Trinidad and Tobago, the United States, Uruguay, and Venezuela.

The structure of the Economic and Social Community of the Americas will have numerous organizations to draw upon with varied experiences when consideration narrows to an adoptable system. One example of such an organization is the European Economic Community which has gained credibility as an international economic integrated effort that has proved its merit. While there have been problems associated with the Community, the structure has been able to resolve differences to the betterment of the member countries.

Mr. President, I do not here imply association with the EEC or any other economic organization, present or past. The delegation should seek out the most suitable organization for the peculiarities of the participating members. We need not look only to the south for furthering of relationships; our friend to the north, Canada, must have an integrated posture in any undertaking of this magnitude. Marquis Childs wrote a syndicated column which appeared in the Washington Post indicative of the thoughts of our closest neighbors concerning their relationship:

Canadian Prime Minister Pierre Trudeau once said that living next door to the United States was like sleeping with an elephant. You could never know when the huge beast might turn over in his sleep and crush you without ever intending any harm. This is a lesson Mexico has learned.

Our challenge should not and must not be conditioned upon the careless error potential through our posture in the international economic community. We must support our friends by assuring them, through agreements, that their economic future is stable and secure.

Mr. President, I ask unanimous consent that Mr. Childs' column be printed in the RECORD, following the text of my resolution, as exhibit 1.

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

(See exhibit 1.)

Mr. HARTKE. Mr. President, recently, the Washington Star-News published a special section entitled "Focus on Latin America." They assigned one of their specialists, Jeremiah O'Leary, to further the investigation into Latin America. I call to the attention of my colleagues, the many valuable insights which Mr. O'Leary has into the economic situation in Latin America. He begins by stating:

Latin America, which has been taken for granted, if not ignored to a large extent, by the United States since World War II, is well on its way to achieving new status and importance in 1974 because of new political and economic factors that are now belatedly being recognized. The low priority given the Latins by the United States for three decades has been rooted in the fact that no Latin nation, including Cuba, represents any threat to world peace.

He further points out the many interests which the United States should have with our neighbors to the south. It is time for the United States to seek, not shun, the community of nations within our hemisphere. I ask unanimous consent that the article by Mr. O'Leary be printed in the RECORD following my remarks as exhibit No. 2.

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

(See exhibit 2.)

Mr. HARTKE. Mr. President, the same Washington Star-News special section contained articles by Galo Plaza on the "Fuel Crisis Clouds '74 Outlook" and by Antonio Ortiz Mena entitled "Gains Noted But Growth Rate Varies" which I ask unanimous consent be printed in the RECORD as exhibits 3 and 4 respectively.

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

(See exhibits 3 and 4.)

Mr. HARTKE. Mr. President, governments are formed to represent the interests of the people within their sovereign boundaries. We have come to realize that the actions of one nation often have profound impact on others. Interdependent relationships between nations have brought together nations for common reasons. The uneven distribution of the world's natural resources coupled with the unequal distribution of the technology to use those resources for the betterment of mankind will forge new directions producing new friends.

We dare not enter the 21st century forming more bilateral partnerships based upon illusory agreements. We must now seek the security of all nations by guaranteeing to the peoples of the Western Hemisphere a fair distribution of the economic wealth of the world. Our 200 years of history will mark the test of a new civilization when man will be free, prosperous, and happy.

The Latin American picture is not barren in cooperative economic relationships, nor world organizations which consider the economic situation of the countries to our South and North. The United Nations Economic Commission for Latin America has existed for nearly 20 years. It is a competent center for research and investigation into the technical abilities of economic integration in Latin America, which could contribute many valuable thoughts.

There are several major economic integration movements in Latin America. The first is the Central American Common Market—CACM—made up of nations within the Central American area.

The second is the Latin American Free Trade Area—LAFTA—formed by a treaty signed in 1960, by the governments of Argentina, Bolivia, Brazil, Chile, Mexico, Peru, and Uruguay. These two economic, social, and culturally based organizations in the Americas have marked a beginning in the interdependence of nations. I mention these organizations here for source materials when the delegates seek wisdom in structuring the new Economic and Social Communities of the Americas.

Mr. President, the world will continue to grow smaller as increased communication capabilities reach further corners of civilization. We must be ever cognizant of the reaches of the policies and interests of the United States upon the lives of millions of peoples. A dynamic America heading for the 21st century dare not resign its system or fate to anarchy at home or in the world. We must be a cohesive hemisphere with economically sound continents which may enter the international economic community with stability. We in the United States have a proud heritage of strength and wisdom in dealing with the problems of the day. Our pride in our Government should be the foundation upon which we build a durable and lasting economic, cultural, and social relationship with the other nations around us. With a rededication to the values of our forefathers we can establish a community of interest common to the cause of man, insuring further economic prosperity for the developed nations, and increasing the prosperity of the developing nations.

We must be ever mindful of the international general trade and tariff agreements to which the United States is a party. Yet, our economic foreign policy must not be to the detriment of either the American businessman or laborer.

There are many political governments included in the Western Hemisphere. We in the United States must be proud of our Government which has brought freedom and liberty to its citizens. Yet, a prosperous happiness should be encouraged both at home and abroad. We must renew our faith in the values of liberty, freedom, and humanity.

Let not a man among us cry out that the United States will lessen its position or values if we enter into a community spirit within our hemisphere.

Mr. President, I ask unanimous consent that the text of my resolution be printed in the RECORD at this point.

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

S.J. RES. 207

Joint resolution to create an Economic and Social Community of the Americas

Whereas it is necessary for the United States to lay the foundation for an ever closer union among the peoples of the Americas by ensuring the economic, social and cultural progress of the States of the Americas by common action to eliminate the barriers which divide said States; and

Whereas the essential objective of the efforts of the States of the Americas should be the constant improvement of the living and working conditions of their peoples; and

Whereas the removal of existing obstacles calls for concerted action in order to guarantee steady expansion, fair trade and competition; and

Whereas the cultural exchange of all the arts of the States of the Americas will greatly increase the understanding of the peoples of the Americas; and

Whereas the bridging of the social differences among the peoples of the Americas will strengthen the bond between the States of the Americas; and

Whereas the development, not destruction, of all human beings lies at the essence of the States of the Americas, which essence binds, not separates, and constructs a just and honorable foundation for all mankind; and

Whereas the States of the Americas must lay aside their political differences in search of a lasting economic, cultural and social agreement in recognition of the universal advancement of man in spiritual excellence and physical welfare; and

Whereas it is necessary to strengthen the unity of the economies of the States and to ensure their harmonious development by reducing the differences existing between the various developed and developing States; and

Whereas it is necessary for the States of the Americas to contribute, by means of a common commercial policy, to the progressive reform of restrictions on international trade; and

Whereas to confirm the solidarity which binds the Americas and the overseas countries and desiring to ensure the development of their prosperity, in accordance with the principles of the Charters of the United Nations and the Organization of American States; and

Whereas by thus pooling their resources to preserve and strengthen peace and liberty, and calling upon the other peoples of the World who share their ideals to join in their efforts; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) The Congress hereby creates an Economic and Social Community of the Americas delegation, composed of twelve eminent citizens, and authorized to organize and participate in a convention made up of similar delegations from such other States of the Western Hemisphere as desire to join in the enterprise to explore the possibility of an agreement on:

(a) a declaration that the economic, social and cultural progress of the States of the Americas by common action will eliminate the barriers which divide States;

(b) a timetable for the transition by stages to this goal; and

(c) a commission to facilitate advancement toward such stages.

(2) The convention's recommendations shall be submitted to the Congress.

(3) Not more than half of the delegation's members shall be from one political party.

(4) (a) Four of the delegates shall be appointed by the Speaker of the House of Representatives, after consultation with the House Committee on Foreign Affairs and the leadership; four by the President pro tempore of the Senate, after consultation with the Senate Committee on Foreign Relations and the leadership; and four by the President of the United States, after consultation with the Secretary of State and the Cabinet;

(b) Vacancies shall not affect its powers and shall be filled in the same manner as the original selection;

(c) The delegation shall elect a chairman and vice-chairman from among its members.

(5) To promote the purposes set forth in this joint resolution; the delegation is hereby authorized—

(a) to seek to arrange an international convention and such other meetings and conferences as it may deem necessary;

(b) to employ and fix the compensation of such temporary professional and clerical staff as it deems necessary; Provided, that the number of professional staff shall not exceed twenty, and the number of clerical staff shall not exceed fifteen: And, Provided further, that compensation shall not exceed the maximum rates authorized for committees of the Congress; and

(c) to pay not in excess of $200,000 toward such expenses as may be involved as a consequence of holding any meetings or conferences authorized by subparagraph (a) above.

(6) Members of the delegation, who shall serve without compensation, shall be reimbursed for, or shall be furnished, travel, subsistence, and other necessary expenses incurred by them in the performance of their duties under this joint resolution, upon approval of vouchers by the chairman of said delegation.

(7)) Not to exceed $300,000 is hereby authorized to be appropriated to the Department of State to carry out the purposes of this resolution, payments to be made upon vouchers approved by the Chairman of the delegation subject to the laws, rules, and regulations applicable to the obligation and expenditure of appropriated funds. The delegation shall make semiannual reports to Congress accounting for all expenditures and such other information as it deems appropriate.

(8) The delegation shall cease to exist at the expiration of the four-year period beginning on the date of the approval of this resolution, or upon the submission to the Economic and Social Community of the Americas, whichever comes first.

EXHIBIT 1

THE U.S. CHALLENGE IN LATIN AMERICA

(By Marquis Childs)

MEXICO CITY.—For Latin America a tour by President Nixon would have come far short of answering long-persistent problems. But canceling the projected tour stirred the old suspicion that the world below the Rio Grande is taken for granted, if not ignored.

Not only practical matters such as trade and industrial development are involved: Latin pride is an important element. The overweening conduct of great North American multinational corporations such as ITT, revealed in the conflict in Chile, stirs fierce resentment and feeds the extreme leftists who seek to bring down the old order. Economic troubles have been increased by natural disasters of flood and earthquake.

The immediate challenge to the United States is over continuing sanctions against Fidel Castro's Cuba. Support for the U.S. position within the Organization of American States has been steadily eroded until today a majority of the 22 members might vote against the barriers to Cuban trade. A two-thirds vote is required to abolish the sanctions.

The Latins are puzzled by the paradox of the Nixon initiatives establishing close relations with Communist China and new agreements with the Soviet Union while keeping Cuba, only 70 miles off the Florida coast, under a tight grip. The Latins note that, so far as can be determined, Fidel Castro has ceased exporting his revolution as he did when he sent Che Guevara into Bolivia for a futile attempt to raise the campesinos in revolt.

Mexico never broke relations with Cuba, as did the other Latin-American nations. Trade continues, although it is limited, since the two have more or less complementary economies. Washington has not been too unhappy, since Mexico City has been a back door through which Americans with Cuban visas can go to Havana, and it is a valuable intelligence source.

But the erosion in the past two years is troubling for the big neighbor to the north seeking to hold the line against Castro. Four Caribbean countries and Peru have exchanged ambassadors with Havana. Chile, at the start of Salvador Allende's Marxist government, recognized Cuba, Ecuador, Panama and Venezuela are reported moving in that direction.

Washington's chief backing in keeping the heat on Castro comes from Brazil, Bolivia and Paraguay. These are all under more or less tight military control. The five Central American republics have also thus far stayed in line to help stave off a two-thirds vote when the OAS General Assembly meets next spring in Atlanta, Ga.

A majority vote against the U.S. position would be no reason for rejoicing, since it would reflect the rapid deterioration and the decline of the once widely heralded hope for democratic institutions and developing industry. The growing abrasions, as Peru seeks to nationalize U.S. oil companies and the ferment in Chile threatens to break into civil war, are ominous indicators that Big Brother can no longer call the tune. Bitterness in Panama over the U.S. hold on the Canal Zone smolders beneath the surface. It took a U.S. veto in the U.N. Security Council to kill a resolution restoring the zone to Panamanian authority.

Canadian Prime Minister Pierre Trudeau once said that living next door to the United States was like sleeping with an elephant. You could never know when the huge beast might turn over in his sleep and crush you without ever intending any harm. This is a lesson Mexico has learned.

Being a next-door neighbor brings certain advantages, such as a tourist industry that is a large dollar earner. But it also brings disadvantages as Big Brother settles his own problems in his own way, regardless of the consequences to others.

President Luis Echeverria, now at the halfway point of his six-year term, has struck a remarkable balance between independence and friendship. This has been evident in the bold initiatives in foreign policy he has carried through, staking out a forward position virtually unprecedented in Mexico's foreign policy. Some progress has come out of collaboration between the two neighbors but so much is still to be done.

EXHIBIT 2

LATIN WORLD IS ACHIEVING NEW STATUS

(By Jeremiah O'Leary)

Latin America, which has been taken for granted if not ignored to a large extent by the United States since World War II, is well on its way to achieving new status and importance in 1974 because of new political and economic factors that are now belatedly being recognized.

These factors for the United States in the simplest terms are:

The estimated 300 million people of the Latin world represent an enormous, relatively

untapped market and one that will grow geometrically in population and purchasing power in the generation ahead.

Latin America is, and always has been, a treasure house of raw materials, energy and labor that has critical potential importance in world commerce.

The 25 independent nations of the region south of the Rio Grande are no longer yes-man clients of the United States in global politics either at the United Nations, the Organization of American States or the world economic equilibrium.

Secretary of State Henry A. Kissinger, the world's most skilled and powerful geopolitician, last week went to a conference of Latin foreign ministers and demonstrated plainly that he recognizes the importance of the region. It was his first real exposure to the reality that Latin America is no longer to be thought of by the United States as so many banana republics ready to bow to Washington's will at the appearance of a few Marines.

The low priority given the Latins by the United States for three decades has been rooted in the fact that no Latin nation, including Cuba, represents any threat to world peace. The missile crisis of 1962 was a confrontation with the Soviet Union, not Fidel Castro. The U.S. order of priorities since V–J Day has been, first, NATO vis a vis the Warsaw pact nations, followed by Asia and the Middle East. Only Africa has stood lower on the North American scale of priorities.

This situation, now ripe for reassessment and change, has been galling to Latin leaders who have sensed that the attention of Washington could be attracted only by two trigger words: Revolution and earthquake. This tendency by U.S. diplomats to write the other American states off as unstable backwaters is obsolete, as Kissinger's clear interest demonstrates.

The anomaly of the situation is that the United States is turning its eyes southward precisely at the point in history that Latin America is achieving economic and political importance that has nothing to do with help or encouragement from the outside. The huge market was always there and, indeed, Latin America was the only area of the world where the United States maintained a favorable balance of payments in trade a year ago. Even Africa, least developed region of the world, sells more to the United States than it buys.

In a political sense, the Western Hemisphere nations represent a formidable bloc in terms of the United Nations and in any issue on which all of them see eye to eye. But overriding all else is the economic fact that Latin America is coming into its own as a source for metals, cellulose, energy and foodstuffs which the world, and especially the United States, can no longer afford to overlook.

A single illustrative example is the case of cellulose, primary substance for the manufacture of a myriad of products from clothing to paper. A world shortage of cellulose has been developing for years as the world's forests have been dwindling in mankind's short-sighted exploitation of raw resources. Brazil has planted millions of acres in the Amazon basin with early-maturing mimosalike African trees and is likely to have a virtual world monopoly on cellulose within this decade.

The fragility of the dependence on the Middle East for hydrocarbon energy brings the Latin oil producers into new importance, at least for the 5 to 10 years it will take the United States to achieve energy independence. Venezuela, Colombia and Ecuador are already major producers of petroleum and there is evidence that the entire eastern slope of the Andes sits atop a fantastic oil pool from Venezuela to the edge of the Argentine pampas.

It is a fact of life, however, that throughout the world the days of cheap energy are over. It is also a fact, largely recognized and accepted by the United States, that the era has passed when North American companies can expect to own majority interests in Latin industries, either extractive as in the case of mines and oil or in overseas subsidiaries of U.S. manufacturing firms. Pepsi Cola and Sears recognized this trend long before the wave of nationalizations began in 1968 when Peru led the way with seizure of the International Petroleum Corp. For years, Pepsi Cola and Sears have been locally owned, managed and supplied.

From Mexico to Tierra del Fuego, the rules for foreign investment have changed drastically along the lines of what is called the Brazil formula. This means, with some variations and exceptions, that at least 51 percent of the ownership of an enterprise must be locally owned but there is remittance of profits up to 10 percent for foreign investors with liberal tax forgiveness for such profits as are plowed back into the local economy.

As the region has evolved politically, along dictatorial or democratic lines, the United States also has drastically changed its national attitude. Where once, in the days of President John F. Kennedy, the United States reserved its special friendship for democracies, the United States policy now is to accept Latin governments as it finds them.

The sole exception is that of Cuba, which for 15 years has been a grubby theater for the ambitions of the Marxist leader, Castro. Once a major worry to the United States, Cuba has now receded to the status of an extremely expensive outpost for the Soviet Union. The United States has, since the Eisenhower years, played into Castro's hands by supporting isolation of Cuba as a pariah state. That policy is now under active study in Washington but no examination is needed to demonstrate that Cuba is neither isolated nor a menace to its neighbors.

The only barrier to Cuban-U.S. rapprochement, according to Kissinger, is Cuban hostility. But some close observers in Washington believe that President Nixon himself is opposed to any improvement in relations for both emotional and political reasons.

The fact Kissinger, a certified pragmatist, faces is that continued standoffishness raises the real possibility that it will be the United States that is isolated, not Cuba, if present Latin trends continue. Once denied diplomatic and trade relations by every member of the Organization of American States except Mexico, Cuba now has relations with Argentina, Peru and the now-independent former British West Indian colonies, and other nations are talking about reestablishing relations with Havana with or without the OAS blessing.

In the past several years, the United States has had thornier problems with other Latin nations than with the Cubans. Until the Chilean armed forces overthrew Marxist President Salvador Allende last September, Chile and the United States were at continual and acrimonious odds. Other short- or long-term U.S. problems in the region have been: Argentina, the wave of terrorist kidnapings; Uruguay, the murder of police advisor Dan Mitrione: Paraguay, the extradition of dope smuggler Auguste Ricord; Bolivia, expropriation of oil properties; Peru, the IPC seizure and the tuna boat confrontations; Ecuador, the tuna boat and 200-mile territorial limit problem; Brazil, a now-settled question of fishing rights on the continental shelf; Venezuela, the status of American oil companies and the soaring price of oil; Guyana, the prospect of nationalization of Reynolds Metals Co. bauxite interests.

Panama and the U.S. have been in continual dispute over the future of the Canal Zone, control of the waterway and the presence of U.S. military forces. Costa Rica and the Bahamas have had problems with the United States over the refusal of those nations to extradite indicted financier Robert Vesco. The United States and Mexico have happily settled their probelm with use of the Colorado River water but future investment rules may cause new frictions. The Dominican Republic still remembers the 1965 unilateral U.S. military intervention and Haiti almost received similar attention in 1963.

But the impression of many specialists is that Latin Americans are almost as interested in dignified attention and mutual respect as they are in more mundane relationships. The overriding reality of Latin America today is that no one policy will serve so vast and populous a region. Every country south of the Rio Grande has its own special identity and each is as different from the others as, for example, Greece is from Sweden in the European context.

There is no Latin America, except as a handy geographic reference. The region has dictatorships and democracies. It has black nations like Haiti and Jamaica; Indian countries, like Bolivia and Peru; mestizo countries, like Mexico and Honduras, and countries of nearly pure European blood, like Argentina, Uruguay and Costa Rica.

Brazil is a descendant of the Portuguese with African cultural and ethnic infusions. Haiti looks to both France and West Africa for its roots. The Plata estuary countries are Italianate and the former colonies of Britain take afternoon tea and play at cricket.

Some Latin nations, like Uruguay, Brazil, Chile and Argentina suffer heavily from inflation. Some, like El Salvador and Venezuela, are relatively unaffected by inflation. Some countries, such as Argentina, are nearly 100 percent literate; Haiti is 90 percent illiterate.

Politically, the democracies are not in the ascendancy. Colombia and Venezuela alone in South America can be called democracies. Soldiers, caudillos or juntas rule with varying degrees of rigidity everywhere except Mexico, Costa Rica and some of the Caribbean islands.

The outstanding human phenomenon is the explosive population growth rate which is over 2 or 3 percent everywhere except Argentina, Barbados, Chile, Haiti, Jamaica and Uruguay. A country with a 3 percent annual population growth doubles its population within 20 years. By comparison the U.S. rate is about 1.2 percent. This means that, by 1980, Latin America across the board will have nearly 350 million inhabitants when as a whole it cannot feed and house the existing populace adequately now.

Here are thumbnail sketches of the general situations in each of the Latin American countries, omitting a few tiny places and entities with political ties to Europe:

Argentina—Highly urbanized Argentina, blessed with a temperate climate and the richest agricultural earth in the New World, could feed half the world if it could correct its staggering political and economic problems. The 24 million Argentines are beset with terrorists but the major flaw is cynicism. After seven dreary years of military rules, the Argentines have placed themselves in the hands of septuagenarian former dictator Juan Peron who is doing his best to combat terrorists.

Peron's Justicialista movement is a labor-dominated conglomerate of the political spectrum representing a majority of the people, but Peron is not physically strong. His young wife, Isabelita, is his vice president but she probably could not succeed him in office, and Peron has created no mechanism for taking charge of the state in event of his death. The armed forces, once again, are waiting in the wings. An economic upsurge accompanied by suppression of guerrilla violence would give Argentina its best chance for its experiment of democracy with Peronism.

Barbados—An island of only 166 square miles with a population of 240,000, Barbados has a delightful climate and a tidiness that has earned it the name of "Little England."

Prime Minister Eric Barrow is one of the most solid of the Caribbean leaders, but in an economy dependent on tourism and sugar his greatest problem is an unemployment rate of 13 percent. Barbados is sort of a neutral ground among the more populous rivals for former British Caribbean preeminence: Jamaica, Trinidad and Tobago, and Guyana.

Bolivia—President Hugo Banzer, a right-wing army general, rules Bolivia as head of a political coalition which until recently included the old reformist party, MNR, of Victor Paz Estenssoro. The primitive economy is based on tin mining on the 13,000-foot high Altiplano and oil-gas fields in the lowlands. Bolivia's curse has been her volatile politics, which have produced a revolution about every eight months since independence. The country also is hampered by the inertness of the Indian majority, lack of communications and roads and the landlocked condition of the nation. High prices for tin and oil are helpful.

Brazil—The 100 million people of Brazil are caught up in a giant boom that is the result of nearly 10 years of stability and wise economic planning. Next month, Gen. Emilio Garrastazu Medici will be succeeded as president by Gen. Ernesto Giesel in the programmed succession created by the military officers who control Brazil. Brazil has turned its eyes toward its own heartland to open up the Amazonian wilderness. All Brazilians feel they are on the verge of national greatness, and the dream is coming true as the soldiers continue to leave the national development in the hands of the experts.

The government's built-in majority is hardly a democratic situation but Brazilians have great individual talent for ignoring or outwitting those who would regulate them. Brazil, a giant in both size and potential, is the close ally of the United States in a North-South axis that is the dominating factor of the hemisphere. Militantly anti-Communist, the Brazilian government has gone all-out to attract foreign investment and is a burgeoning industrial power as well as a source of raw materials. Brazil is self-sufficient in everything except petroleum and wheat. Sao Paulo, with 13 automobile plants and larger than Chicago, is the most populous city in the Latin world.

Chile—On Sept. 11, 1973, the armed forces and police of Chile intervened in the nation's political life for the first time in 40 years to overthrow the elected government of Marxist President Salvador Allende. More than 3,000 people, including Allende, died in strife. Allende was not quite halfway through his six-year term which had brought Chile to the brink of ruin in the effort to convert the nation to Marxist-Leninist economic and social structuring.

A combination of strikes, loss of incentive by farmers and sources of industrial production and unrealistic wage and production requirements raised inflation to over 300 percent. When the junta forces, headed by Army Gen. Augusto Pinochet struck, they rounded up thousands of leftists, closed down the leftist press and radio-TV media and imposed a curfew that is still in force. They broke relations with Communist countries and announced that Chile would now be open to discussion on compensation for nationalized U.S. copper properties. They also made it clear they are not going to permit elections until Chile has been purged of leftist extremists.

Chile, in short, has undergone a political shift to the right and, economically, is attempting to regain its credit and to attract foreign investment. There is every reason to believe that credit, international assistance and foreign investment will now flow to Chile again.

Colombia—Along with neighboring Venezuela, Colombia shines brightly as a nation which has broken away from the Latin penchant for dictatorial rule and is resolutely pursuing the democratic way. For the last 16 years, Colombia has abided by a bipartisan "parity" system of government with the Liberals and Conservatives alternating in the presidency and lesser posts. In April, 1974, the restraints are off in a presidential election campaign where the Liberals, Conservatives and ANAPO followers of aging former dictator Gen. Gustavo Rojas Pinilla may now campaign all-out along party lines.

There is every reason to expect that Colombia will not now slip back into the "violencia" which caused more than 100,000 deaths in the '40s and '50s. Colombia benefits from high coffee prices but the 22 million Colombians, like most Latins, are deeply affected by the energy crisis. Long before the Mideast war, Colombian officials knew the country would shift from net exporter to importer of oil by 1975 and a 10-year plan has already begun to find alternate energy sources in hydroelectric power, coal and gas.

The two favorites among six presidential candidates are Alfonso Lopez Michelsen and Alvaro Gomez Hurtado, both sons of former presidents. A dark horse is the populist ANAPO featuring a formidable woman, 40-year-old Maria Eugenia Rojas de Moreno, daughter of the ex-dictator. But the front-runners are the progressive Lopez of the Liberals and the openly right-wing Conservative Gomez. Only if ANAPO's "La Capitana" wins do experts anticipate any chance of intervention by the armed forces opposed to her Socialist leaning.

Costa Rica—The democratic Costa Ricans have just gone through a vibrant presidential election won by former Foreign Minister Daniel Oduber Quiros of the National Liberation Party. It was the first time in recent history that any party has won back-to-back elections with Oduber succeeding his patron, Jose "Don Pepe" Figueres. Costa Rica's main problems are energy and inflation, plus the expensive but admirable way this attractive Central American nation attempts to provide welfare benefits for its largely Hispanic population.

Dominican Republic—On May 16, the 4½ million Dominicans will go to the polls to elect President Joaquin Balaguer for his third four-year term just nine years after the United States sent 25,000 troops to intervene in a burgeoning civil war. Balaguer is on the closest terms with Washington and the once-turbulent Dominican Republic is enjoying an economic boom marred only by the energy situation. Sugar prices are at peak levels for the nation's principal export. The university is a hotbed of leftist sentiment, but Balaguer, backed by the armed forces, is a sure winner if, indeed, his candidacy is opposed at all. The opposition talks of a united front against him but this will lead to nothing.

Ecuador—The principal problem facing Gen. Guillermo Rodriguez Lara, who has run the country since a military coup last February, is how to spend the bonanza of oil revenues that has come to Ecuador just when the price soared and supplies dropped. Almost overnight, Ecuador became the second largest oil exporter after Venezuela, in Latin America. The oil fields developed by a Texaco-Gulf consortium east of the Andes are pumping out 250,000 barrels a day while the banana industry is still good for nearly $150 million a year. The new riches are not filtering down to the poor among the nation's 6 million inhabitants, and the dictatorial rule is challenged by rivalry between the Army and Navy.

El Salvador—Col. Arturo Molina is a democratically elected president but El Salvador is traditionally controlled by the armed forces and a handful of the rich. Like the rest of Central America, El Salvador is hard hit by the energy crisis and virtual collapse of the regional Common Market as an aftermath of the inconclusive war between Honduras and El Salvador. That conflict was precipitated by El Salvador's booming population, now about 4 million with an annual growth rate of 3.4 percent. The proportion of land to population in minuscule El Salvador is one of the world's lowest.

Guatemala—On March 1, Guatemala's 5.5 million people will elect a president, but no matter who wins he will be a military officer succeeding the incumbent, Gen. Carlos Arana Osorio. Arana's party has indorsed Gen. Kjell Laugerud Garcia, 52, whose opponents are Col. Ernesto Paiz and Gen. Efrain Rios Montt. Laugerud should win. Guatemala, except for the impact of the oil crisis and inflation, is in a state of relative boom but most of the population is made up of Indians who are outside the national economy.

Guyana—The former British colony on the South American mainland cannot join the OAS under present rules because of its unsettled territorial dispute with Venezuela. Internally, Prime Minister Forbes Burnham, of African descent, rules with handy electoral margins even though the East Indians are more than 50 percent of the population. Indian Marxist leader Cheddi Jajan has become a political has-been. Burnham, although the 25 percent unemployment rate is a constant thorn, gained popularity by nationalizing the Canadian aluminum company DEMBA. Racial strife is dormant.

Haiti—President Jean-Claude "Baby Doc" Duvalier, with help from his family and the army, has changed the bloody image of his country created by the cruel dictatorship of his father, the late Francois Duvalier. Most of the 5 million black Haitians still live a hand-to-mouth existence but tourism and assembly plants are doing a booming business. "Baby Doc" is president for life, but, compared with his tyrannical father, is relatively bland.

Honduras—If it were not for the energy crisis, Honduras would be relatively well off despite the debilitating effects of the war with El Salvador and the uncertain future of the Central American Common Market. President Osvaldo Lopez Arellano is a dictator but probably provides more stability than Honduras had under its former elected government. Agricultural prices are high and a boon but Honduras is the least developed country of middle America, and inflation hits the peasant hard.

Jamaica—The principal importance of Jamaica to the U.S. is that more than 50 percent of America's aluminum comes from there. The English-speaking former British colony is also a tourist haven popular with Americans. Unemployment is a continuing problem for Prime Minister Michael Manley and the 2 million Jamaican people.

Mexico—Our independent-minded neighbor to the south is one of the best managed and most stable of the Latin nations, but as the country continues to industrialize and expand its economy, it inevitably is affected by world economic problems. President Luis Echeverria and the ruling PRI party have established new rules for investment that are still attractive to foreigners but inflation is a growing problem.

Mexico, while on the best of terms with the United States, resolutely pursues an independent foreign policy which includes advocacy of the return of Cuba to the Organization of American States. Millions of U.S. tourists spend big money in Mexico and the salinity of the Colorado River water has been solved by agreements between the two nations. But Mexico now wants improved conditions for its migratory workers in the United States and is clearly anxious that these farm laborers continue to work here because it cuts down unemployment and brings dollars back to the homeland. Echeverria has vigorous leftist opponents but PRI does not seem to be seriously challenged.

Nicaragua—The disastorus earthquake of

December, 1972, flattened Managua at the same time that severe drought was ruining the cotton crop, but things are looking up. Although housing the 300,000 made homeless is a major problem, the rains have returned and Nicaragua anticipates a bumper cotton crop at top prices. Gen. Anastasio Somoza of the ruling dynasty faces no major challenge except that of rebuilding.

Panama—Brig. Gen. Omar Torrijos, Panama's strongman, has made political hay from the agreement concluded earlier this month with Secretary Kissinger for an agenda for negotiating a new treaty on the canal. With the United States evidently prepared to make major concessions, including elimination of the hated Canal Zone; both Torjos and Kissinger appear to have defused a potentially explosive situation. Torjos has been having domestic political troubles, but probably nothing he cannot handle with his sharply trained Guardia Nacional. Panama is becoming an attractive banking haven for big money because of its good interest rates, numbered accounts and the total convertibility of dollars in a country that uses U.S. paper currency as its own.

Paraguay—Like Old Man River, Paraguay continues to roll along under the relatively bland dictatorship of Gen. Alfredo Stroessner as a smuggler's heaven in a setting that has a 19th century flavor. The 2.3 million Paraguayans, far removed from the world's center stage, are affected by the energy crisis but less than more industrial countries.

Peru—The military government of Gen. Juan Velasco Alvarado is now in its sixth year and has demonstrated its ability to run the country even though the much-trumpeted new social system is still an illusion. Velasco rules through the military institution, not as a one-man show, and does so with almost no political activity. The economy is in good condition even though things have not changed much for the descendants of the Incas since the coming of Pizarro. The military spends far more than it should on sophisticated arms. Strikes have caused some clashes between the troops and the people but in general Peru is stable despite the uncertainty of private investors about government economic policies.

Trinidad and Tobago—There will never be enough jobs for the 1 million inhabitants nor enough arable land for much expansion of agriculture. Prime Minister Eric Williams, who survived a military rebellion several years ago, presides over a nation that has restive labor and racial problems. Petroleum and natural gas production, plus small industry and agriculture and the high literacy of the population, are Trinidad's greatest hopes for the future.

Uruguay—The Uruguayan army came out of its barracks to defeat the urban guerrilla Tupamarro organization and has refused to go back. Thus, in defeat, the Tupamaros with their aim of eliminating the traditional democracy and giving all opposition groups a single target. Uruguay, which is modeled on Switzerland, is a welfare state that has gone broke. On a wool and meat export economy, Uruguay cannot afford cradle-to-grave welfare statism. Now, the nation is ruled by fiat and probably will remain so for the indeterminate future.

Venezuela—The soaring price of oil has brought Venezuela a financial windfall that may total $10 billion this year. Newly elected President Carlos Andres Perez takes office next month in what should be a smooth transition from outgoing Social Democrat Rafael Caldera. The new president is not expected to take any action on unilateral recognition of Cuba, as his opponent might have done, and the oil ownership problem with U.S. companies was not an issue.

All oil concessions revert to Venezuela in 1983 in any case. The new oil income may be plowed into the technology to develop the nearly boundless tar sands of the Orinoco. The question is how much of these unprecedented earnings will go to the common people and to stabilizing the economy. One danger: If the prices of oil remain at their present staggering height, Venezuela like other producers will find itself getting paid in deflated currencies.

EXHIBIT 3

FROM THE OAS: FUEL CRISIS CLOUDS '74 OUTLOOK

(By Galo Plaza)

Latin America enjoyed impressive economic expansion in 1973, but the outlook for 1974 is clouded for most of the region by economic effects of the worldwide energy crisis and particularly its impact on economic activity in the developed countries and on the demand for imports.

Last year economic growth in Latin America recovered to the record level of 6.8 percent attained in 1970, with per capita income climbing by a record 3.8 percent. Except for 1971, this is the fourth consecutive year during which Latin American per capita economic growth has exceeded 3.5 percent, a level that has been among the highest in the world.

Particularly encouraging is the fact that the increasing buoyancy of the Latin American economies last year was not only due to the economic "take-off" in Brazil and the vigorous economic performance of a few other countries, but in 1973 12 countries exceeded the 6 percent growth rate established as a target for the international development strategy by the United Nations. The performance of such smaller countries as Ecuador, El Salvador, Guatemala, Panama, and the Dominican Republic was particularly impressive. Mexico and Argentina also showed a substantial expansion, as did Colombia and Venezuela.

In Chile, however, growth declined drastically to a rate of minus 5.7 percent. There hyperinflation accounted for a precipitous decline despite favorable prices for copper. Had Chile's growth rate approached the level recorded in 1971, the overall Latin American expansion would have edged toward the unprecedented rate of 7 percent.

As is usual in Latin America, the economic expansion last year was propelled by an export growth virtually without parallel in recent times. The value of Latin American exports expanded 32.5 percent, with exports of non-traditional products, mainly semi-manufactured and manufactured products, probably climbing at an even faster rhythm once the latest figures are compiled.

Despite the negative effects of world currency alignments on Latin America's international reserves, the latter grew and added to the availability of resources for investment. The 1973 rise in exports was primarily attributable to a strengthening of prices of virtually all raw materials and foodstuffs produced by Latin America, except bananas. It should be underlined that this picture does not yet include the rise in petroleum prices toward the year-end.

As regards the distribution of Latin American experts, close to two-thirds still go to Western Europe, United States and Canada. It is interesting that in recent years this proportion has not changed significantly. What is encouraging, however, is the rapid increase of the share going to Japan or being traded within the region itself.

An estimated 13 percent of Latin American exports now move within the region compared with an average of about 9 percent during the period 1961–65. The latter figures underline the continued importance of economic integration. On the other hand, despite numerous trade agreements signed in recent years with the Soviet region, exports to that part of the world do not show any significant gain over the last 6 years, and hover around 2½ percent of the total during the past three years.

Coupled with the favorable external trade developments and the growth of the Latin American economics, the region's capacity for absorbing international lending also tended to increase. Official loan authorizations reached a record of more than 2.9 million dollars in 1972; and although the first quarter figures for 1973 are somewhat below those for the first quarter of 1972, the outlook for the year as a whole and for 1974 shows further increases beyond the peaks previously attained.

As regards the flow of private funds to Latin America, these appear to be recovering from previous declines, as investors begin to take advantage of the wide opportunities offered in Brazil and several other countries, and as they begin to adapt to the new investment rules set up in recent years by a number of Latin American countries, especially those of the Andean Group.

While the flow of foreign private investment to some Latin American countries declined in 1973, there is little indication that numbers of recent foreign investment disputes have resulted in a marked loss of foreign investors interest. The increased ability of many Latin American countries to float securities in the U.S. capitol market also augers well for the period ahead.

Despite the vitality of the Latin American region on the economic front, advances in the social sector are still lagging. Even though virtually all countries have established policies giving priority to the solution of their unemployment problem, further redistribution of income, and providing expanded education, housing, and health facilities, the limited statistics available do not suggest any significant advances.

It is also somewhat disquieting that agricultural production, especially foodstuffs, remains weak and is growing slightly slower than the population. Part of the explanation continues to be the backwardness of technology for the agricultural sector, although in 1972 and 1973 climatic factors contributed to the mediocre showing. Most countries are now engaged in vigorous efforts to reduce drastically the high unemployment rates which in many cases exceed 20 percent.

The governments are making concerted efforts to accelerate income redistribution through the fiscal system, where major reforms have taken place in recent years. The same can be said for education where increased shares of government budgets are being channeled into education, especially at the elementary level. Both in this sector and in housing the rapid rise of population tends to aggravate the deficits.

Should the impressive economic performance of Latin America be sustained, however, there is every indication that this year and in 1975, progress in the social sector should be swifter, both as a result of the effects of internal policies now being adopted and implemented and the growing emphasis which the Inter-American Development Bank, the World Bank and especially the U.S. Agency for International Development place upon the financing of social programs.

Alleviation of open unemployment, especially in the urban sectors, is of key importance and increasingly Latin America will begin to import not only new and up-to-date technology but also the type of technology that will permit maximum use of manpower. As regards the latter, the growing stress on education, health, and nutrition will undoubtedly buttress the effort to find productive work for the redundant labor force. During 1974 and beyond we may well see a breakthrough in this field, provided the international economic panorama does not darken and international cooperation can be sustained.

At the year end, the international energy crisis began to color what otherwise would have been an extremely favorable outlook for Latin American economic and social progress this year. The likely drop in industrial production in the developed countries, especially Britain and Japan, but also in the rest of Western Europe and in the United States, may mean a leveling off or even a decline in the demand for imports from Latin America. It may also mean increasing protectionist tendencies and a stagnation of external credit.

As one surveys and projects economic and social trends in Latin America today, it is clear that the region is gradually moving toward more self-sustaining growth and social progress.

It is precisely because the Latin American region more than any other developing region, has been able to achieve substantial progress in the structure and viability of its economies that the flow of international financial and technical cooperation and the gains from expanding trade can bring the most rapid and effective returns in terms of overall development, thereby making Latin America an important market and source of supply for the industrialized world.

EXHIBIT 4

BANKER'S VIEW: GAINS NOTED BUT GROWTH RATE VARIES

(By Antonio Ortiz Mena)

As a whole, Latin America has made record economic gains since the turn of the 1970s. The combined gross product of the 22 member countries of the Inter-American Bank in the area has expanded at 6.7 percent a year since 1969. Moreover, in 1972 and 1973 the region's combined gross product grew almost 7 percent each year—the highest rates recorded by the region in the last two decades.

In judging this auspicious performance, however, we must remember that Latin America embraces more than 20 widely varying independent nations. Their economic growth patterns have been far from uniform, so that some countries have been expanding much faster than others. The same is true of the major sectors of economic activity, where there has been a pronounced lag in the growth of agriculture relative to other sectors and the over-all gross product. Moreover, looking ahead, the oil crisis could easily dampen the current high growth rates of some countries.

Regarding disparities in country performance, in 1972, the last year for which complete statistics are available, Brazil's booming economy, for example, expanded more than 10 percent, those of Colombia, Ecuador, Mexico and Panama approached or exceeded 11 percent, while eight countries recorded rates below 5 percent.

In terms of sectoral growth, while regional output in manufacturing, construction, electricity and transportation expanded almost 9 percent in 1972, and trade and other services more than 7 percent, growth of agricultural production was only marginal. This is significant in regard to per capita income gains because the farm sector continues to be the largest employer—it absorbs about 39 percent of the labor force of the whole region—and per capita product per worker in the agricultural sector is only about one-fourth that in manufacturing.

This suggests that, despite the impressive gains in over-all production, problems besetting the agricultural sector remains as one of the central obstacles in Latin America's efforts to achieve higher living standards for all of its population.

Looking to the future, evidently the current energy crisis casts a shadow not only on the industrialized countries, but also on the developing world, including Latin America. While it is too early to assess its full implications for the region, it is obvious that such major oil exporters as Venezuela and Ecuador, as well as Bolivia and Trinidad and Tobago, stand to gain in the short term. Of the remaining countries, some import only a fraction of their oil and petroleum-by-product requirements to supplement domestic production, while others lack this energy resource altogether and must import all their needs.

Hence, solely with reference to petroleum as a source of energy and as a raw material for the petro-chemical industry, were the crisis to continue the Latin American countries would be affected in varying degrees. In a broader context, however, it is possible that to the extent that oil shortages induce lower levels of economics activity among the industrial nations, the Latin American countries may feel the impact through a lower demand for their exports and through related trade and investment repercussions that could easily depress their internal activity.

Three main factors have largely accounted for the region's economic expansion in recent years: buoyant domestic investment, combined with rising levels of foreign capital inflows and sales abroad.

Regarding investment, total gross capital expenditures in the region as a whole amounted to about $3 billion in 1972—more than twice the 1960 level, and very likely expanded in 1973. Significantly, 87 percent of this investment came from domestic savings, while the other 13 percent came from sources outside the region, primarily in the form of financing from multilateral lending institutions such as the Inter-American Bank and the World Bank, from U.S. government agencies and from private sources including suppliers, commercial banks, world money markets and private direct investment.

Of the gross domestic investment in 1972, the consolidated public sector—central and local governments—accounted for about one-third (about $11 billion) of the total and the private sector for the other two-thirds. Domestic investment has been rising steadily in recent years owing to two complementary factors: public revenues have been growing markedly as a result of major improvements in collections, particularly income taxes.

In 1969, out of $13.9 billion in central government revenues, $4.2 billion came from income taxes; by 1972 these revenues had risen to $19.6 billion, of which more than $6.5 billion were income taxes. Mention should be made that the value added tax, which now is the main revenue source in Brazil, is becoming increasingly important in Ecuador and Uruguay and is in the process of being adopted in Argentina.

The other factor has been the rapid growth of the commercial banking systems, savings and loan associations, credit unions and, in the larger countries, stock exchanges. As a result, many of the countries in Latin America have established development banks to finance industrial and agricultural projects, as well as institutions to stimulate mortgage lending and, more recently, investment banks which provide underwriting services.

Yet the rate of growth of domestic savings has been trailing that of domestic investment in the last few years and, as a result, the share of these savings in total investment declined from 91 percent in 1969 to 87 percent in 1972. The gap has been filled by net external resource inflows, which in 1972 represented 13 percent of total investment.

External financing since 1969 has averaged about $3 billion a year, of which about 40 percent is accounted for by financing from multilateral institutions and governments, largely the United States, and the rest by private lending flows and direct private foreign investment.

It is interesting to note that in the bilateral and multilateral aid component, a clear trend has been evident toward higher multilateral flows. This reflects in good measure the effect of U.S. policies since the early 1960s designed to channel an increasing proportion of U.S. assistance via multilateral institutions such as the World Bank, the Inter-American Development Bank and the Asian Bank.

Such policy rests on the rationale that the foreign aid responsibility should be shared by more than one donor country, as well as by the receiving countries themselves through capital contributions to these multilateral institutions.

The Inter-American Bank, created in late 1959, is a case in point: Its loan commitments for development projects in Latin America, which in 1973 reached a record of about $884 million—bringing its total lending to date to $6 billion—have been made possible by capital contributions which all 24 member countries have supplied the Bank, including the United States and Canada, as well as some funds raised in the European and Japanese capital markets.

There has been a rising trend in net foreign capital flows in the last five years, with current levels substantially above the average for the 1960s. About one-half of the current private external flow encompasses direct investments, which in 1972 were estimated at about $1 billion; the remainder is made up of U.S., European and Japanese suppliers' credits, commercial bank loans and bond sales in those countries.

Direct private investment is largely accounted for by branches, subsidiaries, affiliates or minority participation in local enterprises of U.S. firms. Significantly, most of the new foreign direct investment is in manufacturing plants, a welcome change from its traditional concentration in mining and public utilities.

Parallel to the dynamic behavior of investment, a third major factor behind the vigorous performance of the Latin American economy has been the large growth in export revenues, particularly as a result of the higher world prices for the region's main primary commodity exports. The region's merchandise exports expanded from $14.7 billion in 1970 to $18 billion in 1972, and estimates for 1973 point to a rise above $20 billion.

Export gains have been following closely the pattern of economic activity in the United States (which accounts for about one-third the value of the region's sales abroad) as well as other industrialized trading partners. Thus, in 1971, the U.S. "mini-recession" and the imposition of a temporary surcharge of 10 percent of all dutiable imports not subject to mandatory quantitative limitations dampened the U.S. demand for Latin America's exports. Similarly, the resurgence of U.S. domestic demand in 1972 induced a 13.7 percent rise in imports which prompted a boost in Latin American shipments from $4.8 billion in 1971 to $6.2 billion in 1972.

Fortunately for Latin America, when the U.S. economy was slackening in 1971, Western Europe and Japan were in an expansionary phase and they did not reach their respective cyclical troughs until after the U.S. had commenced its recovery late in the year.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 411

At the request of Mr. MCGEE, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 411, a bill to amend title 39, United States Code, relating to the Postal Service, and for other purposes.

S. 633

At the request of Mr. CHURCH, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 633, a bill to authorize the Secretary of Labor to make grants for the conduct of older

Americans home repair projects, and for other purposes.

S. 1654

At the request of Mr. JAVITS, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1654, to provide for the extension of the Developmental Disabilities Services and Facilities Construction Act, and for other purposes.

S. 2200

At the request of Mr. CRANSTON, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2200, a bill to govern the disclosure of certain financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes.

S. 2801

At the request of Mr. PROXMIRE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2801, to amend the Food, Drug, and Cosmetic Act, and for other purposes.

S. 2854

At the request of Mr. CRANSTON, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 2854, a bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolic and Digestive Diseases in order to advance a national attack on arthritis.

S. 3064

At the request of Mr. ABOUREZK, the Senator from North Dakota (Mr. YOUNG), the Senator from Iowa (Mr. CLARK), the Senator from Maryland (Mr. MATHIAS), the Senator from Wyoming (Mr. MCGEE), the Senator from Iowa (Mr. HUGHES), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Ohio (Mr. TAFT), the Senator from Minnesota (Mr. MONDALE), and the Senator from Nevada (Mr. BIBLE) were added as cosponsors to S. 3064, to amend the current rate of payment for travel expenses for persons traveling to and from Veterans' Administration facilities.

S. 3095

At the request of Mr. HASKELL, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor to S. 3095, a bill to deny treatment as a foreign tax payment to any payment that is in the nature of a royalty payment made to a foreign government in connection with the extraction of oil or gas from a foreign country.

S. 3108

At the request of Mr. STAFFORD, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3108, to amend the Rehabilitation Act of 1973.

S. 3136

At the request of Mr. DOMENICI, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 3136, the American Arts and Handicrafts Act.

S. 3159

At the request of Mr. BUCKLEY, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 3159, to provide aid for the construction of highways.

S. 3259

At the request of Mr. TAFT, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3259, to amend the Rail Passenger Service Act of 1970 in order to authorize certain use of rail passenger equipment by the National Railroad Passenger Corporation.

S. 3317

At the request of Mr. CHURCH, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 3317, a bill to amend the Internal Revenue Code of 1954 with respect to .22 caliber ammunition recordkeeping requirements.

S. 3351

At the request of Mr. BIDEN, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 3351, a bill to amend the Rail Passenger Service Act of 1970 in order to require a public hearing before the National Railroad Passenger Corporation increases any rate, fare, or charge for passenger transportation.

S. 3361

At the request of Mr. PROXMIRE, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 3361, a bill to assure the continuation and publication of the Consumer Price Index for urban wage earners and clerical workers.

SENATE JOINT RESOLUTION 115

At the request of Mr. BARTLETT, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Joint Resolution 115, to eliminate the use of limousines below Cabinet level and to encourage the use of economy cars by Government agencies.

SENATE JOINT RESOLUTION 173

At the request of Mr. DOMINICK, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of Senate Joint Resolution 173, requesting that the President appoint a National Commission for the Control of Epilepsy and its Consequences.

SENATE JOINT RESOLUTION 202

At the request of Mr. GRIFFIN, the Senator from Iowa (Mr. HUGHES), and the Senator from New Jersey (Mr. CASE) were added as cosponsors of Senate Joint Resolution 202, designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of the service of the incumbent Chief of Naval Operations.

SENATE RESOLUTION 311—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution:

S. RES. 311

Resolved, That the Committee on the Judiciary is authorized to expend from the contingent fund of the Senate, during the 93d Congress, $10,000.00 in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 103, 93d Congress, agreed to May 10, 1973.

NATIONWIDE SYSTEM OF NO-FAULT MOTOR VEHICLE INSURANCE—AMENDMENTS

AMENDMENTS NO. 1209

(Ordered to be printed and to lie on the table.)

Mr. BIDEN. Mr. President, for myself and Senator PACKWOOD, I am submitting an amendment to S. 354 which is intended to provide a 3-year exemption from the Federal no-fault insurance standards for any State which has enacted no-fault legislation of its own.

The purpose of this amendment is to give additional time to meet the *Federal* standards to those States already pursuing independent paths to no-fault. Those States, therefore, that have already taken some action would be given benefit of a more gradual phase-in toward meeting Federal requirements.

While I have long supported the concept of no-fault insurance, I recognize that there are many forms such insurance may take. I therefore believe it is sensible to accumulate some experience under alternative plans while working our way toward minimum Federal standards. This amendment is designed for this purpose and I hope it will be a useful addition to the legislation.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

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

AMENDMENT NO. 1209

On page 98, between lines 14 and 15, insert the following new subsection:

"(g) EXCEPTIONS.—(1) The provisions of this section are inapplicable to the extent inconsistent with this subsection.

"(2) Any State which is a no-fault State as of the date of enactment of this Act may establish a no-fault plan for motor vehicle insurance in accordance with this title by the third anniversary of the date of enactment of this Act.

"(3) The alternative State no-fault plan for motor vehicle insurance (the State no-fault plan in accordance with title III of this Act) shall become applicable in any State which is a no-fault State as of the date of enactment of this Act on the third anniversary of the date of enactment of this Act unless, prior to such date, the Secretary has made a determination that such State has established a no-fault plan for motor vehicle insurance in accordance with this title.

"(4) As used in this subsection, a 'no-fault State' means a State which has enacted into law and put into effect a motor vehicle insurance law which provides, at a minimum, for compulsory motor vehicle insurance; payment of benefits without regard to fault to each victim on a first-party basis where the value of such available benefits is not less than $2,000; and restrictions on the bringing of lawsuits in tort by victims for noneconomic detriment, in the form of a prohibition of such suits unless the victim suffers a certain quantum of loss or in the form of a relevant change in the evidentiary rules of practice and proof with respect to such lawsuits."

AMENDMENT NO. 1216

(Ordered to be printed, and to lie on the table.)

Mr. COOK submitted an amendment, intended to be proposed by him, to Senate bill 354, supra.

STANDBY ENERGY EMERGENCY AUTHORITY—AMENDMENT

AMENDMENT NO. 1210

(Ordered to be printed and to lie on the table.)

Mr. BAYH submitted an amendment intended to be proposed by him to the bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

AMENDMENT OF THE NATIONAL LABOR RELATIONS ACT—AMENDMENTS

AMENDMENTS NOS. 1211 THROUGH 1215

(Ordered to be printed and to lie on the table.)

Mr. DOMINICK submitted five amendments intended to be proposed by him to the bill (S. 3203) to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

AMENDMENT OF ARMS CONTROL AND DISARMAMENT ACT—AMENDMENT

AMENDMENT NO 1217

(Ordered to be printed and to lie on the table.)

ARMS CONTROL IMPACT

Mr. NELSON. Mr. President, more than a decade ago John F. Kennedy said:

> The ingenuity that had made the weapons of war vastly more destructive should be applied to the development of a system of control of these weapons.

This amendment to the Arms Control and Disarmament Act, H.R. 12799, which I am submitting today aims to apply man's ingenuity and the Government's resources to enhancing the arms control capabilities of this Nation.

This is a modest proposal. It is both responsible and responsive to the defense needs of this Nation and to the universal principles of arms control for the peace of the world as expressed in the legislative goals of the Arms Control and Disarmament Agency: "To deal with the problem of reduction and control of armaments looking toward ultimate world disarmament." (ACDA Act, Sec. 2.)

This amendment which institutionalizes arms control impact statements will give this Nation a framework for a planned, deliberative, rational policy of arms reduction. It directs the Defense Department and the Atomic Energy Commission to analyze and make public the impact on arms control efforts of weapons it proposes to develop or deploy.

Under this proposal, whenever the Department of Defense or the Atomic Energy Commission decides to fund any program of research, development, testing, engineering, deployment, or modernization of a weapon or weapons system for which the total program cost is estimated to exceed $250 million or for which a requested annual appropriation exceeds $50 million or whenever the Director of the Arms Control and Disarmament Agency determines that a program which the Department or Commission is undertaking will have a substantial impact on arms control policies and negotiations and notifies the Department or Commission, then the Secretary of Defense or the Atomic Energy Commission is required to prepare and submit a statement to the Director of the Arms Control and Disarmament Agency. The report should consider the nature, scope, mission, and impact of such weapon or weapons system if developed or deployed. The ACDA Director would then be required to review and appraise any such statement and within 60 days submit a report of his review and appraisal to Congress.

This legislation will institutionalize advanced thinking in the executive and legislative branches about the arms control implications of new weapons schemes in the earliest stage—the blueprint stage—before millions of dollars and man-hours have been committed. It will achieve a thorough evaluation of chances for planning for peace in a systematic, professional manner.

Arms control is not something one can practice every other day. It is not something which can be pulled out of a hat at an occasional summit before the inquiring eyes of America's television cameras. It is something which responsible leadership must exercise daily, and plan ahead for.

Too often arms controls policies and negotiations have been conducted without benefit of foresight. Bureaucratic momentum within the Department of Defense and other governmental agencies plus the inevitable onrush of technological breakthroughs have generated research and production of agents of death and destruction without consideration for the consequences for the peace of the world.

Insufficient analysis and public discussion in the past have imposed unforeseen roadblocks in arms control efforts, and in some cases may have actually inflamed international tension.

Take U.S. deployment of nuclear missiles with several warheads—MIRV's or multiple independent re-entry vehicles, for example. Because the United States moved independently, and because it is exceptionally difficult to verify adherence to agreements concerning these weapons, the Soviet Union is reluctant to negotiate the MIRV questions and continues its testing. Now MIRV's is a major stumbling block in successful conclusion of Strategic Arms Limitations Talks between the two nations.

Prof. Herbert York of the University of California has discussed the origins of MIRV in a study for the Stockholm International Peace Research Institute. Dr. York states that—

> As early as 1964 ways in which MIRV deployment could upset the "balance of terror" and destabilize the arms race, was foreseen by officials in the U.S. Arms Control and Disarmament Agency, especially Herbert Scoville and George Rathjens. They predicted that the deployment of MIRV by one side would be seen by the other as part of a possible preparation for making a first strike. Indeed, an anticipated deployment of MIRV by the Soviet Union on its large SS-9 ICBM's was seen in exactly that light by Secretary of Defense Melvin Laird and his associates in 1969. ACDA therefore opposed MIRV deployment from the start of the development programme.

York continues:

> During most of the period while MIRV was under development, an especially tight security blanket was placed over the programme. As a result, these important controversies were not known to the public, nor even to any but a select few in the Congress. Eventually, the MIRV program came to the public's attention but to no avail; the first deployment of MIRV took place while the issue was still being debated.

Arms control impact statements may or may not have prevented this problem. But one thing is certain; the arms control impact statements prescribed in this legislation would have advanced thorough public examination and discussion of MIRV deployment at any early stage and could have at least identified the potential trouble.

Another example of how this system might have been beneficial had it been operating a decade or two ago is the case of herbicides used as weapons in Vietnam. Until environmental, health and international abuses caused by herbicides became notorious in Vietnam, there was little discussion of the dangers of herbicides. A recent study by the National Academy of Sciences conducted in contract with the Department of Defense has now concluded that the millions of tons of plant killer sprayed on the Vietnamese land—ostensibly to remove Vietcong hiding places—have caused ecological damage that will take a century to repair.

U.S. officials, moreover, have become entangled in a controversy concerning the Geneva protocols that ban chemical and biological warfare; a majority of the United Nations is on record as saying that military use of herbicides is banned by the Geneva agreement. This controversy about the possible violation of international law by the United States might have been avoided, along with the incredible environmental devastation and health dangers, had authorities been allowed to comment about the military use of herbicides in advance.

Such a review would have also embraced the Trident advanced nuclear submarine system before the Defense Department began its controversial acceleration program and the theory of manned strategic bombers in connection with the multibillion-dollar B–1 bomber program.

Unusual weapons like cluster bombs used in Vietnam and the binary chemical munitions program, which experts say will perpetuate the danger of chemical warfare and cost the United States hundreds of millions of dollars, would also be scrutinized.

Precedents for legislation like this are many. The U.S. system of government is founded on the theory of checks and balances. Congress has established specific agencies such as the General Accounting Office to review the executive branch's spending and to assess the le-

gality of specific acts within the executive branch. In this decade, we passed the National Environmental Protection Act which establishes a system of environmental impact statements and requires that all U.S. agencies examine and report on the environmental impact of major projects they propose. More recently, by establishing the Office of Technology Assessment, Congress recognized the need in the Federal Government for systematic evaluation of technology before its effects became irreversible.

Likewise, there are precedents for ACDA reports. Section 50 of the original statute, Public Law 87-297, requires the ACDA Director to file an annual report with the Congress. Further, section 302 of the Foreign Relations Authorization Act of 1972 (Public Law 92-352), required ACDA to furnish the Congress, not later than July 12, 1973, a comprehensive study of conventional arms transfers—the international arms trade.

This proposal establishes an improved channel of information for Congress. It institutionalizes an arms control perspective in the weapons planning stage. And it will strengthen ACDA itself. The proposal addresses two crucial deficiencies in our arms control planning: the lack of early, expert, and conspicuous monitoring of the arms control implications of proposed weapons and the lack of any early and regular input to the Congress on these matters for congressional use in making overall evaluations of weapons system policies.

Furthermore, the amendment would institutionalize the review process in the executive branch of the Government. In the field of strategic arms limitation, President Nixon and Secretary Kissinger have already developed an ongoing process of review of weapons systems and policy options as part of the national security process. Forums for such review include ACDA, the verification panel, chaired by the Director of ACDA, the verification panel working group, and the defense program review committee. The ACDA Director sits on all of these forums. This legislation would formalize and regularize this review process instead of leaving it as is to an ad hoc process.

This amendment should not require additional budgetary authorization. Much of the information required by this amendment is already being prepared within the Department of Defense, Atomic Energy Commission, or Arms Control and Disarmament Agency. This amendment would simply institutionalize a process and provide to Congress the information that is largely available but which is not organized or presented in response to the question of how new weapons systems impact on arms control policies or negotiations.

Mr. President, in considering this proposal, let me close by reminding this body what the policy goals of the act which established ACDA states:

> To free the world from the scourge of war and the dangers and burdens of armaments, in which the use of force has been subordinated to the rule of law. (Section 2.)

In order to accomplish these goals, we must use advanced thinking and forethought. Arms control impact statements, which this legislation requires, is one important way to achieve this approach.

Dr. Fred Ikle, ACDA Director, recently remarked that in the arms control area—

> The impact of decisions extends over decades. . . . Our choices of weapons systems determine the scope of arms limitations decades into the future.

Mr. President, it is imperative that we begin today to plan for peace tomorrow.

Mr. President, I ask unanimous consent to have the text of this proposed amendment to H.R. 12799 printed in the RECORD at this point.

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

AMENDMENT No. 1217

Add to section 2, the following, beginning on line 18:

"(b) Whenever—

"(1) the Department of Defense or the Atomic Energy Commission decides to fund any program of research, development, testing, engineering, deployment, or modernization of a weapon or weapons system for which the total program cost is estimated to exceed $250 million or for which a requested annual appropriation exceeds $50 million; or

"(2) the Director of the Arms Control and Disarmament Agency (ACDA) (A) determines that a program of research, development, testing, engineering, deployment or modernization of a weapon or weapons system, which the Department or Commission has decided to fund, will have a substantial impact on arms control policies and negotiations if developed or deployed, and (B) notifies the Department or Commission, as the case may be, of his determination;

the Secretary of Defense or the Commission making such decision or being so notified shall, within 30 days after such decision or notification, prepare and submit to the Director a statement on the nature, scope, mission, and impact of such weapon or weapons system if developed or deployed. The Director shall review and appraise any such statement. Within 60 days after that statement has been submitted to him, the Director of the Arms Control and Disarmament Agency shall submit to the Committee on Foreign Relations of the Senate and to the Speaker of the the House of Representatives a report on his review and appraisal of such weapon or weapons system as they might impact on arms control policies and negotiations, with such recommendations as he considers appropriate. The report shall also include the text of the statement from the Secretary or Commission submitted to the Director which was so reviewed and appraised."

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary;

Leonard E. Alderson, of Wisconsin, to be U.S. marshal for the western district of Wisconsin for the term of 4 years (reappointment).

Harry D. Berglund, of Minnesota, to be U.S. marshal for the district of Minnesota for the term of 4 years (reappointment).

Ollie L. Canion, of Louisiana, to be U.S. marshal for the northern district of Louisiana for the term of 4 years (reappointment).

Raymond J. Howard, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin for the term of 4 years (reappointment).

Robert G. Renner, of Minnesota, to be U.S. attorney for the district of Minnesota for the term of 4 years (reappointment).

Eugene E. Siler, Jr., of Kentucky, to be U.S. attorney for the eastern district of Kentucky for the term of 4 years (reappointment).

Carl H. Slayback, of Illinois, to be U.S. marshal for the southern district of Illinois for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, May 1, 1974, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARINGS ON BILLS TO REGULATE FUTURES TRADING IN AGRICULTURAL AND OTHER COMMODITIES

Mr. TALMADGE. Mr. President, the Committee on Agriculture and Forestry will hold hearings on bills to regulate futures trading in agricultural and other commodities Monday through Friday, May 13-17, in room 324 Russell Office Building, beginning at 10 a.m. each day. The bills under consideration are S. 2485, S. 2578, S. 2837, and H.R. 13113. Anyone wishing to testify should contact the committee clerk as soon as possible. In view of the large number of persons expecting to appear, oral presentations of Members of Congress and public witnesses will be limited to 10 minutes and their full statements will be inserted in the record.

NOTICE ON HEARINGS ON H.R. 5463, AN ACT TO ESTABLISH THE FEDERAL RULES OF EVIDENCE

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for June 4, 5, and 6, 1974, at 10:30 a.m., in room 2228 Dirksen Office Building, on the bill H.R. 5463, an act to establish the Federal rules of evidence.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The hearing will be before the full Judiciary Committee.

NOTICE OF HEARING ON A NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, May 1, 1974, at 9:30 a.m., in room 2228,

Dirksen Office Building, on the following nomination:

Philip W. Tone, of Illinois, to be U.S. circuit judge for the seventh circuit, vice Roger J. Kiley, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

SECRECY IN GOVERNMENT—ANNOUNCEMENT OF HEARINGS

Mr. MUSKIE. Mr. President, beginning May 2 and 3, and continuing May 29, 30, and 31, the Subcommittee on Intergovernmental Relations will hold hearings on secrecy in Government, including consideration of S. 1520, S. 1726, S. 2451, and S. 2738, dealing with the classification of official information and with Government surveillance of individuals. These hearings are an extension of those conducted last year by the subcommittee jointly with two subcommittees of the Committee on the Judiciary. The joint hearings dealt with executive privilege, Government secrecy, and freedom of information.

The hearings next month will focus particularly on classification practices and regulations governing secrecy in the executive branch. The hearings will be held in room 3302 of the Dirksen Senate Office Building, beginning at 10 a.m., May 2, with testimony from Prof. Arthur M. Schlesinger, Jr., followed by a panel discussion by Prof. Robert Bowie, Mr. Herbert Scoville, and Mr. Chester Cooper. On May 3, sponsors of some of the pending legislation will testify and will be followed by Dr. James B. Rhoads, chairman of the Interagency Classification Review Committee and Archivist of the United States. Any person wishing additional information should contact Mrs. Lucinda T. Dennis, chief clerk of the subcommittee at 225–4718.

NOTICE OF HEARINGS ON DEFENSE PRODUCTION ACT

Mr. JOHNSTON. Mr. President, I wish to announce that hearings will be held on May 21 and 22 at 10 a.m. in room 5302, New Senate Office Building, by the Production and Stabilization Subcommittee regarding the extension of the Defense Production Act.

Please contact Jerry Allen in room 5230 New Senate Office Building.

NOTICE OF HEARINGS ON BILLS TO CODIFY, REVISE, AND REFORM THE FEDERAL CRIMINAL LAWS

Mr. McCLELLAN. Mr. President, I wish to announce for the information of the Members and the public that the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary will resume its hearings on S. 1 and S. 1400, bills to codify, revise and reform the Federal criminal laws.

During this series of hearings we will be receiving testimony on provisions relating to codification, jurisdiction, culpability, defenses, obscenity, national security, complicity, attempt, conspiracy, solicitation, insanity, intoxication, offenses involving governmental operations, offenses against the person, and general comments.

The hearings will commence each day at 10 a.m., on the following dates and in the indicated room:

May 8, 154, Russell Building.
May 9, 2228, Dirksen Building.
May 14, 2228, Dirksen Building.
May 15, 154, Russell Building.
May 16, 2228, Dirksen Building.
May 28, 2228, Dirksen Building.
May 29, 2228, Dirksen Building.
May 30, 2228, Dirksen Building.

Additional information on the hearings is available from the staff in room 2204, Dirksen Senate Office Building, telephone AC 202–225–3281.

ADDITIONAL STATEMENTS

RESTORATION OF THE CHESAPEAKE AND OHIO CANAL

Mr. BEALL. Mr. President, in June 1972, the Middle Atlantic States were victimized by the devastating force of tropical storm Agnes, which caused great loss of life and untold millions of dollars of damage throughout the east coast. One particularly hard-hit area in my State was the Chesapeake and Ohio Canal National Historic park. The canal suffered 26 major breaks some more than 300 feet wide and 20 to 30 feet deep. Damage has been estimated by the National Park Service at $34 million.

Unfortunately, the Federal Government has not moved with the speed at which I had hoped to repair the canal. In the 22 months since the storm, only $1.8 million has been spent to restore the canal to its pre-Agnes condition. For fiscal year 1975, the Department of the Interior has requested $3 million, but almost all of this money is desperately needed to stabilize the decaying structures along the canal and little, if any, will be available to repair this unique parkland.

Congress, in passing Public Law 91–664, which established the canal as a historical park decided clearly that the canal ought to be saved. Now, I believe, we must make good on this commitment by assuring that restoration is carried out as quickly as possible.

On April 16, 1974, I had the privilege of addressing the Chesapeake and Ohio Canal Association at their kickoff dinner preparatory to this year's walk along the canal, from Cumberland to Georgetown, a distance of about 185 miles. I ask unanimous consent that my remarks on that occasion be printed in the RECORD.

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

ADDRESS BY SENATOR J. GLENN BEALL, JR.

It is indeed a pleasure to be with you tonight to kick-off the 1974 annual canal hike of the C & O Canal Association.

This evening is particularly meaningful to me, since my father served as toastmaster for the dinner during the first Canal Walk in 1954. That dinner was perhaps the turning point in the history of the C & O Canal, for it began the long, hard fight that in the end created the Chesapeake and Ohio National Historical Park.

Many of us remember 1954. At that time there were many suggestions for possible uses of the canal, among them a proposal to construct a water-level highway along the length of the canal, to better accommodate the automobile, which was beginning to appear in larger and larger numbers. Only through the hard work—not to mention the feet—of the newly organized C & O Canal Association and other interested persons from throughout the area and across the country was that proposal shelved, and movement begun towards National Park status for this historically and ecologically unique area.

In 1954, the canal was in trouble. Unfortunately, today, twenty years later, the canal is in trouble again.

The culprit this time is nature. The big blow, of course, was delivered by tropical storm Agnes, when in June, 1972, the canal suffered 26 major breaks, some more than 300 feet wide and 20 to 30 feet deep. Each of us here tonight knows the tragic story of damaged culverts, eroded banks, and destroyed locks which resulted from Agnes' fury.

And if that wasn't enough, the process of decay has begun to claim more and more structures along the canal. The October 31st collapse of the 140 year-old Catoctin Creek Aqueduct was dramatic evidence of the critical need for the restoration if in fact the canal is to be saved.

The Congress in passing the 1971 Act which established the C & O Canal Historical Park decided quite clearly that the canal ought to be saved. Now we must make sure that this restoration is carried out as rapidly as possible. The process of deterioration is quickly reaching the irreversible stage, and certainly the costs of repair will not go down as time goes by—on the contrary, they will escalate tremendously.

Our Nation's Bicentennial Celebration is only two years away. Millions of people will flow to the Maryland-D.C.-Virginia area to visit the many historic areas in the region. The C & O Canal should be an integral part of the celebration. Portions of the Canal could be used as an outdoor museum of life in the 19th century and provide a lasting tribute to the engineering skill of American builders at that time. Barge trips can be planned along the Canal. Uninterrupted hiking can be available. And, of course, major portions would serve as a haven from daily life, where one can sit along the banks of the Canal, and imagine in his mind's eye, the passing of a canal barge destined for Washington, loaded with George's Creek coal.

But because of Federal inaction, the C & O Canal may well not be ready for our Nation's Bicentennial.

It is estimated by the National Parks Service that to restore the C & O Canal to its pre-Agnes condition will require $34 million. Yet, in the 22 months since that disaster, the Government has spent only $1.8 million, little more than one-twentieth of the need.

For Fiscal Year 1975, the Department of the Interior has requested 3 million dollars. Yet they readily admit that all of this funding will be necessary for aqueduct and culvert stabilization.

In other words, almost every cent will be used to hopefully halt further deterioration, and little will be available to restore the Canal to its pre-Agnes condition.

In fact, it is estimated that it will take 10 million dollars to stabilize the present aqueducts, so it is clear that, at this rate, significant restoration work would be years in the future.

The C & O Canal—its structures and its ecology—are fragile objects, and they must be protected. But we are rapidly moving to the point where restoration in many cases may not be possible. Then we will have lost forever a unique part of our Nation's heritage.

I believe the Federal Government must move now to preserve the C & O Canal, and prepare it for our country's Bicentennial.

Therefore, I can assure you that I will work toward the prompt and full restoration of the C & O Canal.

On April 29th, for instance, Senator Mathias and I will meet with Secretary Morton and other Interior officials and we intend to emphasize to him the commitment that the Department must make to restore the Canal in the shortest possible time period.

Additionally, I intend to work through the legislative process to insure that the canal receives adequate funding for restoration in the fiscal year 1975 budget. Just as Congress made a commitment in 1971 to restore the canal, now it must make good that commitment by providing adequate money to carry it out.

Full funding now makes ecological sense, because action must be taken soon to shore up and improve the deteriorating condition of the canal.

Full funding now also makes economic sense, because if we want to save the C & O Canal—and I am sure we do—the job will grow more costly every year.

I do want to point out, however, that there are many dedicated people with the National Park Service who are trying to do the best possible job, given these heavy budgetary restraints.

Right now, work is underway to stabilize the remaining masonry of the Catoctin Creek Aqueduct.

Also, plans are being made now for fiscal year 1975, within a spending limit of $3 million.

Extensive investigations of major structures, including a study to determine the underwater conditions of the most critical aqueducts will be carried out. This work will include the stabilization of the Tonoloway Aqueduct and partial stabilization of the aqueducts at Monocacy, Evitts Creek, Sideling Hill Creek and Fifteen Mile Creek.

Repair and stabilization work on major culverts at Little Monocacy, Little Catoctin Creek, Woodmont, Muddy Branch and Milepost 119.78 is also needed to save these structures from serious damage or collapse.

Preservation is critically needed at Locks 23, 48 and 54 to prevent collapse of the walls. Yet, because of the serious lack of funds facing the project, the best solution that the National Park Service can come up with is to photograph the sites, then cover them with soil, seed the surface, and hope the Congress gives it some money with which to initiate the work.

Additionally, the Busey Cabin, the only remaining cabin of its kind built to house canal construction crews, and the mule barn at Four Locks, the only such structure left on the canal, need to be stabilized before they become totally disintegrated. Yet the best we can do, if the canal work is limited to $3 million in FY 75, is to provide temporary protection in hopes money will one day be forthcoming. They also plan to photograph the structures, which to me seems like a good idea, because at this rate in a very few years the only thing we will have left of these structures, and so many others like them, is pictures.

The villain in our story is not, in my judgment, the Department of the Interior. Soon after the disastrous flood, Interior requested sufficient emergency repair funds for the Canal. All but a few dollars, however, got lost somewhere in the corridors of the Office of Management and Budget.

As a result, the C & O Canal today is in worse shape now than when Public Law 91-664, which so many of us worked so hard on to create the Park, was passed.

We must turn this record of delay and indifference around by providing the necessary funds this year, along with proper carryover authority which will allow the Department of the Interior to move expeditiously but wisely to restore the Canal.

Certainly this $34 million appropriation will not finish the job of fully restoring the Canal. But it will repair the damage wrought by tropical storm Agnes, and begin a new effort toward completing the restoration on the C & O Canal.

I see this new money as a seed for further development, acting as a base upon which countless volunteer groups can direct their assistance efforts to supplement the work being done by the Federal Government.

In short, I foresee a re-birth of interest in the Canal as a result of this massive restoration effort.

So your walk, which begins tomorrow, is potentially just as important as the one twenty years ago.

The canal is in trouble today. But hopefully through your hike you can again bring attention to this valuable national resource and to the deteriorating conditions prevalent along the Canal.

I certainly pledge my support in turning that public concern into hard dollars and cents for Canal restoration.

I do this because I believe the C & O Canal has as bright a future as it has had an historic past.

The repair effort will open up a unique and irreplaceable parkland to our people.

I commend you for your commitment to the Canal and urge you to continue your fine work on its behalf. The Annual Canal Hike serves now, just as in 1954, to focus public attention on the problems and possibilities of this unique area, and undoubtedly will spur efforts to restore it to its proper condition.

I am pleased to join with you tonight in this most important task of Canal restoration, and I offer my best wishes for a most successful and enjoyable hike.

JOE RAUH: A MAN FOR ALL CAUSES

Mr. McGOVERN. Mr. President, one of the most courageous and generously motivated men in our national life is Mr. Joe Rauh of Washington, D.C.

Mr. Rauh's many contributions to the enrichment of justice and compassion in America have been well told by the highly respected Columnist Clayton Fritchey in a peace appearing in the Washington Post of April 20, 1974; I ask unanimous consent that this superb article about Mr. Rauh be printed in the RECORD.

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

JOE RAUH: A MAN FOR ALL CAUSES

(By Clayton Fritchey)

In the wake of the cleanup of the United Mine Workers and the conviction of its former president, W. A. (Tony) Boyle, for murder, various individuals and groups have deservedly been praised for their contributions to this great effort. But the man who masterminded the five-year fight to bring down Boyle has not been mentioned.

Boyle and eight others have now been found guilty in the hired killing of Joseph A. (Jock) Yablonski, and his wife and daughter on the night of Dec. 30, 1969. Before that, Yablonski, guided and sustained by Washington attorney Joseph Rauh Jr., had begun a dangerous and seemingly hopeless struggle to oust Boyle as the corrupt dictator of the mine workers' union.

The mass murder of the Yablonskis naturally spread fear throughout the union, but the crusade was carried on when Rauh met with a little band of 100 reformers just after the Yablonskis were buried and helped organize Miners For Democracy (MFD). Rauh and two surviving Yablonski sons then went after Boyle in the courts. They smashed his effort to expel MFD leaders from the union; they forced free elections of district officers; they pushed criminal charges against Boyle for embezzling union funds, and they pressed for indictment of the Yablonski murderers.

Meanwhile, Rauh successfully renewed his pressure on the Labor Department to intervene. Earlier, after Yablonski had lost a close election to Boyle in 1969, Rauh had tried to get the Labor Department to impound the ballots and investigate 100 complaints of pre-election fraud, but George Shultz, then the Secretary of Labor, refused to act.

After the murders, however, Rauh turned on the heat and finally got action from the government agency, which enabled the reformers to upset Boyle's 1969 "victory" by proving massive vote fraud and financial manipulation. Boyle was sentenced to five years in prison and ordered to pay a $130,000 fine. More than $11 million was restored to the union's pension fund.

Above all, Rauh obtained new and honest elections. The MFD backed reformer Arnold Miller against Boyle, who was still free on bail, and Miller won. When he took office on Dec. 22, 1972, he was able to say with confidence, "The era of one-man rule in this union is over."

One reason Rauh's role has aroused so little attention is that over the last 40 years he has been in the thick of so many notable, even historic crusades for justice and human rights that the press has come to take his performance for granted. In many, if not most, of his public cases, incidentally, Rauh has received little or no compensation.

Although he is well known and appreciated in the circles that matter to him, Rauh has never had the spectacular kind of publicity generated by such flamboyant lawyers as F. Lee Bailey, William Kunstler and Melvin Belli among others. Nevertheless, in the nation's capital, Rauh is now a living monument to civil rights, civil liberties and political liberalism in the classic sense.

As a protege of the late Felix Frankfurter, Rauh went straight from Harvard to the new Securities and Exchange Commission, which reformed Wall Street in the early days of the New Deal. Later he was a law clerk to Supreme Court Justices Benjamin Cardozo and Frankfurter. During World War II he served as an officer on the staff of Gen. Douglas MacArthur. When the war ended he returned to Washington as deputy chief of the federal housing agency. His great achievements, however, date from 1947 when he left government and went into private practice.

He became one of the founders of the liberal but anti-Communist Americans for Democratic Action, which he later headed for many years. At the height of the Joe McCarthy witchhunting era, Rauh defended (usually without fee) more than 100 government employees charged with disloyalty or being security risks. It was thankless work.

As counsel for playwrights Arthur Miller and Lillian Hellman, Rauh did much to limit the freewheeling persecutions of the House Un-American Activities Committee. The lawyer's family got some unexpected attention when Marilyn Monroe, then married to Arthur Miller, came to stay with the Rauhs during the case.

As the unpaid general counsel for the Leadership Conference on Civil Rights, Rauh was in the forefront of the fight for the civil rights bills of 1964 and 1965, which revolutionized the U.S. political scene. He was also a leader in the fight to save the Supreme Court from Nixon appointees G. Harrold Carswell and Clement Haynsworth.

For many years, this youngish-looking lawyer of 63 was chairman of the District of Columbia Democratic Central Committee and, as a delegation leader to numerous national Democratic conventions, he has left a lasting and enlighted imprint on the party's platform and rules.

"As long as American liberalism can deliver a few Joe Rauhs every generation, powerfully wielding the weapons of freedom, reason and persuasion," remarks Arthur Schlesinger, "we stand a good chance of bringing about necessary social changes a few steps ahead of catastrophe."

A FRIEND VIEWS HAL BOYLE

Mr. SYMINGTON. Mr. President, recently the Nation was saddened to learn of the loss of a great journalist—Hal Boyle. To his millions of readers he was a friend, a real professional, and one of the most poignant observers of the drama of American life. Since War II, we all have looked to Hal's column to find him writing about the hopes, dreams, and experiences of people everywhere.

Hal Boyle was a Missourian and a graduate of the University of Missouri—Columbia School of Journalism.

Another Missourian, Letty Morton, wrote about Hal earlier this year, shortly after he had finished his last column. All of his admirers will appreciate her warm observations.

I ask that "A Woman's View" from the February 27, 1974 St. Joseph News-Press be printed in the RECORD.

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

[From the St. Joseph, Mo., News-Press, Feb. 27, 1974]

A WOMAN'S VIEWS

(By Letty Morton)

Last Friday Hal Boyle told his numerous readers goodbye in an understated story of his "Lou Gehrig" malady. I first learned of his condition last Christmas from our mutual friends, Marie and Don Whitehead. They had written that, with one arm in a permanent brace and a neck collar part of the time, Hal found it painful to type but his doctors encouraged him to use his fingers as long as he felt that he could. The news did not cheer my Christmas.

Hal and his late wife, Mary Frances, were the nearest neighbors in our own small and intimate set in Greenwich Village days back in the 1940s. Fran and Hal were typical Villagers. They lived in a restored "original" Greenwich Village three-story structure. On the first floor was the "Helen Lane Restaurant," one of the favorite eating places for our personal clique.

The upper two stories were apartments. Fran and Hal lived on the second floor. Quite contrary to the Village, my late husband Joe and I lived a block away in a 17-story red brick apartment hotel—complete with liveried doorman, uniformed elevator operator, switchboard service, a bar and dining room.

Its sole connection to the original Village was that, during construction, Minetta Creek was discovered. This was a stream that meandered through Greenwich Village during Colonial days. The architects brought it up into the lobby as a fountain and the Greenwich Village Historical Society erected a statue from whence the stream flowed. We also overlooked Washington Square.

Our apartment was on the 10th floor. The Boyles, from their second floor bedroom, could look out and see if our living room light was on. When Joe, the first of four Associated Press men to go off to World War II, left me alone in the Village I was as bereft as the widow I was destined to become. The Boyles literally "adopted" me.

Any evening that they were out and came home and saw the light burning in my living room the phone would ring. Hal would say, "Turn off the light, Letty, and go to bed. Fran and I are home." He was quietly telling me that I was not alone.

On Sunday mornings the phone would ring and Hal would say, "Fran has the water boiling. Come on over for breakfast." Off I would scurry to walk the block to the Boyles with a small glass in hand with a mite of cream. The Boyles drank tea and I drank coffee—with cream in those days.

Now Hal and I loved Emily Dickinson poetry. Fran couldn't have cared less about anything. Hal and I would sit in a chair by their wood-burning fireplace and we would read our favorite poems. Hal did most of the reading but once in a while I would take a turn. Mary Frances would busy herself polishing their beautifully furnished apartment. Once in a while she would come by the chair and fleck me in the face or Hal on top of his head and laugh, "You two nuts!" We would laugh and return to Emily's gems.

Six months after Joe's departure the AP tapped Hal to cover the war. My instant thought was what to give him as a going away present. Emily Dickinson was the answer. I carefully made a small book that would fit into the pocket of his uniform jacket. The pages were of various colored construction paper and the cover was carefully sewn by me out of a bright calico print.

I took my own Emily Dickinson book and meticulously cut from its pages the poems that would fit the small book. I presented the book to Hal with great pride and he accepted it with delight. Shortly afterwards my phone rang. Hal said, "I am coming over to tell you goodbye. I leave tomorrow morning."

"Hal," I screamed, "You can't come over. I'm in bed!" He shouted, "Put on your robe. You have to see me in my uniform. I am on my way over!" Slam went the receiver. I hurriedly grabbed my robe and there was a knock on the door. Hal stood proudly in his uniform with "War Correspondent" on the shoulder. He gave me a bear hug and a goodbye kiss and said, most casually, "Emily Dickinson is in my pocket."

During the war, William McDermott of the Cleveland Plain Dealer wrote of being overseas for a while. One column was on Hal (a later one was a tribute to my deceased husband). Of Hal he wrote, "Hal would walk off from the group and sit down alone at the end of a wharf and pull a small book of poetry from his jacket and sit and quietly read alone." This was the book of Emily Dickinson poems that I had given to him.

My book, with the pages cut out, still stands on the bookshelf. At the war's conclusion, when it was known that my Joe was not coming home, Mary Frances and Hal came to St. Joseph to see me. What gift did they bring? Why two new books of Emily Dickinson's poems not previously published.

"Some wretched creature, Savior, take.
Who would exult to die,
And leave for thy sweet mercy's sake
Another hour to me!"—Emily Dickinson

Hal, have many hours of pleasant reading of Emily Dickinson, I, too, still love her poems. Your hands may no longer feel up to typing, but you can be assured that you are very much in the thoughts of the readers of your column—and in the hearts of our wonderful group of Greenwich Village days.

DEMONSTRATION NEIGHBORHOOD PRESERVATION PROGRAM

Mr. TAFT. Mr. President, I welcome the announcement by the Department of Housing and Urban Development and the Federal Home Loan Bank Board that a demonstration neighborhood preservation program will be instituted, based upon the experience of neighborhood housing services programs in Pittsburgh, Cincinnati, and several other cities. As many Senators are aware, I have been fighting for programs designed to preserve existing neighborhoods and to stave off further deterioration for a long time. I believe strongly that a concentrated, federally assisted effort to preserve neighborhoods beginning to show signs of deterioration can pay off mightily by staving off the bulldozers and in some cases replacing comprehensive renewal. The payoff would come in terms of reduced neighborhood disruption and lower Federal and private investment in the long run.

I believe that such efforts are vital to the future of our cities and it was the purpose of both the Urban Rehabilitation Act of 1972 and the Home Preservation Act of 1973—introduced by Senator CRANSTON and me—to scale them up. As I understand the new neighborhood preservation program, it would pursue these goals through an ideal partnership of the Federal Government, local government, local financial institutions, and the citizens of the neighborhoods involved.

While recognizing that such programs must be instituted only with thorough time-consuming groundwork, we must also recognize that the demonstration proposal constitutes a drop in the bucket compared to the need for neighborhood preservation actions. It would involve $750,000 this fiscal year and $2 million in fiscal 1975.

The demand for section 312 3-percent rehabilitation loans alone was estimated by the National Association of Housing and Redevelopment officials to be over $200 million in 1972. The proposed demonstration is certainly important, but obviously it remains essential to provide full funding—for the first time ever—for the section 312 program, to press for the enactment of a community development bill, and to explore other new approaches.

In particular, the enactment of a federally guaranteed refinancing program so that landlords and homeowners in deteriorating neighborhoods could obtain repair money without increasing monthly housing payments—contained in sections 401(h) and 501(k) of chapter I of the Senate-passed housing bill—and the provision of Federal insurance on a portfolio basis for State or locally administered rehabilitation loan funds—contained in section 309 of that chapter—could boost neighborhood preservation efforts considerably.

I introduced the latter proposal with the neighborhood housing services model

in mind, as a means of attracting private capital to the local rehabilitation loan funds. Under my original proposal insurance could have been provided to funds administered by private nonprofit organizations, but the proposal as passed by the Senate will be less useful to neighborhood housing services now that State or local government administration of the funds has been made a prerequisite for insurance. The House Banking and Currency Committee should reexamine that requirement.

A beginning has been made on the urban preservation front, but the kinds of actions I have outlined are also necessary if our neighborhood preservation efforts are to have any major effect. I urge Congress and the administration to continue moving in this direction.

I have written to the Secretary of Housing and Urban Development on this subject and I ask unanimous consent that the letter be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., April 23, 1974.

Hon. JAMES T. LYNN,
Secretary of Housing and Urban Development, Washington, D.C.

MY DEAR MR. SECRETARY: I was pleased to learn of the joint efforts proposed by your department and the Federal Home Loan Bank to create a Neighborhood Preservation Program. As you know, I have been calling for increased action to preserve our deteriorating urban neighborhoods for a long time.

There are two provisions of the Senate housing bill (S. 3066) which may be of interest in this regard. I originally introduced Section 309 of Chap. I with the Neighborhood Housing Services model in mind, because I felt that a portfolio coinsurance program of this type would help to attract private capital for local neighborhood preservation efforts at little or no cost to taxpayers. The proposal in its present form would be less helpful to Neighborhod Housing Services than the proposal as I introduced it because it would require the loan funds to be administered by State or local governments, whereas the original proposal would have allowed funds administered by private nonprofit groups to qualify for insurance.

The proposal to allow FHA guaranteed refinancing of mortgages, contained in Section 401(h) and 501(k) of that bill, should also advance neighborhood preservation efforts by allowing landlords and homeowners to make repairs without increasing their monthly expenses for housing. I know that you support FHA guaranteed refinancing in general, but I am uncertain of your exact position on this language.

Please let me know whether you support these provisions of the Senate bill. Any specific recommendations for improving these provisions would be most helpful.

Sincerely,

ROBERT TAFT, JR.

NEW MEXICO WOMEN IN POLITICS

Mr. MONTOYA. Mr. President, I am often pleased to be able to report progress in New Mexico which is indicative of our southwestern openness to new and better ways of doing things. We have an outstanding record for concern about equality of opportunity for minorities in education and in government. Things that happen first in New Mexico often are repeated in a year or two in other places.

Today I would like to bring to the attention of my colleagues another indication of change in New Mexico, as reported in the Albuquerque Journal, Sunday, March 17, 1974.

The United Nations has declared 1974 to be the Year of the Woman. Certainly, throughout the United States, we are being reminded daily of the "majority" which has often been denied equality in the same way that ethnic minorities have—equality in work, in education or in pay. This year, I am sure, we will see progress made by women in many parts of our Nation, in education and in our business systems. Women bank presidents, women corporation presidents, women executives, and women managers are all becoming more and more numerous, as, of course, they should.

One institution which has presented great barriers to women, however, is government—especially elective office. We need only to look around this Chamber to realize that we are sadly lacking a balanced representation here.

Yet, the most important place in government is the State and local level. Women now represent 7 percent of the State legislators in the Nation. More than 1,000 women ran for office in 1972. There will be many more this year. These women bring to the political process deep concerns about current problems and a willingness to work with great dedication. They bring an understanding of local issues and the needs of their own communities. They are a very necessary part of representative government. I am anxious to see them succeed in breaking through the barriers of political prejudice.

That is why, Mr. President, I was so pleased to see the Albuquerque Journal article, "Women Win Municipal Offices Around State", reporting on the success of New Mexico women in local and State government. I congratulate these outstanding women for their courage and effort. I am proud that they live and work in New Mexico.

I ask that the newspaper article attached be printed in the RECORD following my remarks.

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

[From the Albuquerque Journal, Mar. 17, 1974]

WOMEN WIN MUNICIPAL OFFICES AROUND STATE

(By Pat Kailer)

A new note—women—was introduced, somewhat surprisingly, into some city governments following the March 5 municipal elections at different points around the state.

The female tally includes a mayor at Bayard and three council or commission members—at Las Cruces, Bloomfield and Springer—all four the first women to hold municipal office in the history of their communities.

One is a county assessor, one a part-time saleswoman and the other two housewives, and they join a growing number of women in government in the state including two state senators, some reelected village mayors, and city council members, and a growing number who have announced for either the state legislative race in the fall or the municipal election for a mayor and council in May in Albuquerque where present commissioner Nancy Koch was the first woman to hold such a position.

The common denominator for running in the case of the four just elected was not the beginning of any drive for a political career, simply appreciation of the places where they lived and an earnest desire to improve them.

Says Marrianne Thaeler of Las Cruces, who was second highest vote-getter out of six running for two positions, "I am really most concerned about Las Cruces. It's a great place to live and I don't want to look back two years later and see what I could have done."

A former president of the League of Women Voters in Las Cruces, Mrs. Traeler spent a long time deliberating whether to go on in the League's state hierarchy or run for office, finally deciding she could serve the community better if she could get into office.

Shirley Curtis of Bloomfield was approached to run by a group of men, friends of her husband and hers, and told them, "I don't know anything about it. I'd be scared to death.

"Then I started thinking about it and I got very interested in it. I decided it wouldn't be that time-consuming, that I could still be with my family and that a woman could do it just as well as a man could, so why not try it?"

She not only tried, she came in second out of five running for two openings and was surprised to be only eight votes behind the leader, more than 100 ahead of the next candidate.

Up at Springer, Jacque Rice, who was second out of three running for the two council openings, felt there were areas in city government which men tend to overlook.

"They don't have time to followup programs and they sometimes neglect areas which might be of more interest to women."

And peppy Lucy Escudero of Bayard, the Grant County assessor who ran a close race to defeat the incumbent mayor, has just always been intrigued by public office.

Her assessor's term is up in December (having served two terms she can't succeed herself), and she is eager to transfer her county office track record to the mayor's office.

"I'll put my assessor's office up against any in the state for efficiency," she says, noting she added a full-time appraiser and a draftsman to the staff of three deputies and started new programs never thought of before.

"I raised the value of all the land in Grant County and the only protest came from someone out of state handling an estate," she said, adding that she has taken every summer appraiser course offered at the University of New Mexico in cooperation with the state.

The fact that the candidates were women—and perhaps voted for or against because of it—was a factor in some of the races.

"You could almost tell the way the ladies went," says Mrs. Escudero, and, "You should have seen some of the feuds. It was so funny. One couple feuding with each other went separately to vote." She's fairly certain they canceled each other out.

It was the women in the town who urged Jacque Rice most strongly to run at Springer and Marion Virgil, a member of the Governor's Committee on the Status of Women, did a great deal toward persuading her to try for the council.

Mrs. Rice labels herself "not a women's libber by any matter or means," and it's a protestation which the others echo and which Mrs. Thaeler attempts to explain.

To her, semantically, the term women's lib refers to those "looking for a social change (I'm not), and there is a great distinction between it and the legal status of

women and equality under the law"—which she has strongly supported.

"I think the social change is an entirely separate issue and because we were able to get that distinction across, the state equal rights amendment was passed and then people could see that none of the ridiculous scare tactics of the opposition—like only one bathroom for both men and women—came to pass."

Mrs. Thaeler spoke to many organizations urging passage of the amendment, cochaired the League's committee on it, and after its passage wrote the brochure, "Legal Rights and Responsibilities" which the League put out simplifying the changes.

She warns that it would be a mistake for any candidate to fall into the trap of thinking that just because she's a woman, all women are going to vote for her.

"Women are very discriminating voters. That's why I knew I had to do my homework for the campaign."

A zoology major and a graduate of the University of California and the wife of Charles S. Thaeler Jr., an associate professor of biology at New Mexico State University, Mrs. Thaeler and her husband moved to Las Cruces from the Indiana State campus at South Bend in 1966.

They are the parents of three sons, Charles III (Chipper), 15, Kent, 13, and Bret, 8.

The new council member is a member of the Governor's Outdoor Recreation Priority Advisory Committee, the Dona Ana Historical Society, and was on the board of directors of the Las Cruces Boys Club until she resigned lest there be a conflict of interest with her new position.

Her campaign was conducted door-to-door and entirely issue-oriented: open government, full disclosure, bike paths, a museum for Las Cruces, an affirmative action plan for city hiring and promotion policies, a line item city commissioner review of the budget.

She pointed out the largest single contribution was $75, that she spent a little over $700 on all media, signs and brochures, and that her support was scattered, pulling some from precincts all over the city.

Mrs. Escudero, on the other hand, did not campaign at all but "let the opposition defeat itself. I just announced and handed out cards all election day.

"When my friends asked what promises I was going to make, I told them, 'you ought to know me better than that.' Even the girls working for me now had no idea ahead who would be hired before I won the assessor's job."

She says she has always liked math, worked briefly as a grocery checker before she went to work in the assessor's office 10 years ago and always wanted to be an accountant, "I guess this is as close as I'm going to get."

She is the wife of Joe Escudero who works for Kennecot Copper and who served on the council in Bayard six years ago, and the mother of four—a married daughter, Mrs. Felix Holguin who has a 17-month-old son; Ronnie, 17; Susan, 16; and Jeannie, 15.

Her parents, Adolfo and Sally Majalca, live in nearby Hanover, her in-laws in Bayard. In fact, her sister Evangeline is married to Joe's brother, Arnold Escudero Jr., and Ronnie and Evangeline's son Gary are as inseparable as twins.

They are currently competing for valedictorian honors at Cobry High School, are both accepted at UNM for the fall semester, where both would like to go into medicine.

The new mayor knows she'll have to deal with antiquated water and sewer lines, inadequate paving and will investigate the situation with the city's enclosed pool which has never been a paying proposition. "It used to be a great source of pride and every child could swim when he left school but now it's closed in the winter."

She also plans to look into the revenue-sharing situation, "there has been much criticism of how the money has been handled."

Shirley Curtis, born in Oklahoma, moved with her parents, Mr. and Mrs. Trevenor L. Evans to Bloomfield in 1956.

A graduate of NMSU, she taught school first in Anthony, where her first son, Tom, 6, was born, then in Bloomfield until the birth of her second son, Dan, 3.

She did homework for the campaign too.

Bloomfield was around 1600 people in 1970, may already have doubled and is expected to triple within the next 10 years, she said, and she spent time studying the comprehensive plan for expansion the city is now considering section by section: new sewer plant, water lines, paving—all the problems that go with rapid growth.

She also asked the former councilors just what their work involved and has decided one of the advantages she'll have is that she'll be by her home phone all day, and citizens can call her with questions she can bring up in council.

She goes to the library when necessary to study materials and takes the boys along.

When it's necessary for her to be away evenings, she says her husband, John Curtis, Jr. who works in purchasing for Southern Union and is behind her all the way, will come home early to baby sit.

Jacque Rice, wife of State Policeman Frank Rice, and the mother of Matt, 13, and Brett, 12, brings a variety of experience to her new office.

A New Mexico native born in Albuquerque, she is the daughter of Mr. and Mrs. Robert Simpson who live on a small ranch south of Las Vegas, N.M., and has sisters and brothers in the state.

After graduation from Silver City high school she worked as a telephone operator there, also as a hotel PBX operator and desk clerk, for awhile as desk clerk at the old Alvarado Hotel here.

After the family moved to Springer in 1968, she worked for three years as assistant clerk, now works out of her home selling cosmetics.

Some areas she'll focus on include cleaning up streets and alleys, having vacant property burned off and cleaned up, more parks and recreation for children, a strong Little League program and good supervision at the town's swimming pool.

A special area she'll look into is the recently completed 5000-foot paved airstrip built under a joint city-federal program.

"No one has made any attempt to encourage air traffic, there is no provision for refueling or accommodation for travelers who land and have no means of getting into town a mile or so away."

THE WORLD: AGING GRACEFULLY?

Mr. CHURCH. Mr. President, a few weeks ago the Franklin Institute of Philadephia invited me to deliver one of the lectures scheduled during the sesquicentennial celebration year of the institute.

I chose to direct my remarks toward aging as a worldwide economic and social force, with special attention, of course, to recent developments in the United States.

The address also discusses my proposal for a world assembly on aging within the next few years. I offer the text of that speech for printing in the RECORD.

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

THE WORLD: AGING GRACEFULLY

You who attend these lectures at the Franklin Institute on a fairly regular basis may entertain each other beforehand by trying to guess what quotation the speaker will borrow from Benjamin Franklin to begin his talk.

In honor of our topic, I have chosen a Franklinism which pays its respects to our elders. It goes like this:

"At 20 years of age, the will reigns; at thirty, the wit, and at 40, the judgement."

An interesting thing about that statement is that it appeared in the Poor Richard's Almanac of June 1740, when Mr. Franklin was only 34 years old.

Presumably, he had wit enough to know that he would soon possess judgement.

Ben Franklin lived to age 84. He certainly must rank as one of our most illustrious senior citizens—of any era.

I can't help wondering, though, whether even he could have coped with the rigidities of our present-day bureaucracy.

Franklin, let us remember, was 70 years old when—in 1776—he was named Ambassador to France.

Under today's State Department policy, he would have had to retire from his post at that age, rather than assume it.

I commence these remarks with this reference to arbitrary retirement simply to make the point that the practice of requiring workers to stop full-time employment at a given age is relatively new.

One distinguished economist, Juanita Kreps, tells us:

"Between the beginning of the century—when two out of three men 65 and over were in the labor force—and its midpoint—when only one out of three older men worked—retirement came to be the established pattern. Now among the 65-and-over males, only about one in four continues to work."

This is true, even though many people don't feel as old at age 65 today as other people think they should. Some even feel that the 60s bring new beginnings.

Yet retire they must at 65, often unwillingly, where still physically able to carry on. In the United States, age 65 has become the "official" retirement age.

Other nations vary considerably. Normal retirement age in Norway and Ireland is 70; in Sweden and Iceland it is 67. Seven other nations agree with the United States about 65, but Israel makes it 63 for women and 65 for men. In the U.S.S.R. it's 55 for women and 60 for men, as it is in Czechoslovakia, Japan, Italy, Hungary, and Yugoslavia.

I draw a distinction between retirement and aging to underscore the point that a retired person is often thought of as "old" despite vigorous good health. The real facts of each retired person's life may often be obscured by society's tendency to place persons into convenient categories, no matter how unrealistic they may be.

What is true in the United States is true in other nations as well. One gerontologist says flatly that growth in the proportion of older people in any nation's population during the Twentieth Century has brought about a decline in the very attributes that make these older years desirable.

And he adds:

"It is both ironic and doubly frustrating that the successes in the recent achievement of longer life should also produce the 'problems of aging.'"

He does *not* say that *all* nations have failed to deal with these "problems of aging," but he does say that no nation anticipated them, despite the certain knowledge that the older population was on the increase. Scandinavian nations and some western European countries have made solid progress after the fact, but the track record on foresight has been dismal.

In answer, then, to the question posed by the title of this lecture—"The World: Aging Gracefully?"—my gerontologist friend would answer sadly in the negative.

He would point to such problems as:

A general lag in arriving at a sound economic base for retirement, a lag made more

difficult to overcome because of what apparently is a worldwide trend toward earlier retirement;

A general shortage of housing arrangements designed, in terms of cost and suitability, for an aging population; and

Major deficiencies in health and social services.

If this is the situation today, what of the future?

There is, after all, a future for each one of us not yet old, but nearing that state. We hope that this future will be secure and satisfying.

There is a future for those now in or near retirement. Despite the tendency to write off this age group, there *is* life after 65, lots of it.

A third future in aging belongs to those now very young. As I will document later, there is reason to believe that fifty years from now they will be caught up in a critical test of our society's ability to cope with an unprecedented bulge in the older age bracket.

And finally, there is a global future in aging: taking differing forms in differing nations, but already at a stage which will determine whether mankind's years on earth may have happy endings.

In making my presentation this evening, I must necessarily utilize statistics, projections, and other elements of the "big picture."

Don't allow these figures to obscure the fact that we are talking about people—individual persons now caught up in what has been described as a "retirement revolution."

Older Americans are not a population blob to be thought of—and perhaps dismissed—as a "problem group." They are the same individuals after age 65, as they were before. True, many encounter new difficulties upon becoming elderly, the most certain, on the average, being that of getting along on an income which is less than half of the earnings for those still in the work force.

Furthermore, much of this limited income must go for high-cost items: food, rent, property taxes, transportation, and—even with Medicare—soaring health costs.

Yes, there are pervasive problems. But before I discuss them, I would like you to meet, by way of color slides, a few Americans who—while they share in the problems of aging—remain notable individuals who have lost nothing of their pungency simply because they have celebrated a good many birthdays.

SLIDES ONE AND TWO

You are looking at a fiercely independent, 93-year-old woman I met in Idaho after conducting a hearing on Barriers to Health Care for Older Americans. She could not come to the hearing because she has several troublesome ailments, but she happens to be served by a good home health service and she can live with her family. She is so enthusiastic about the in-home services that she wrote a poem for her nurses which I read at the hearing. She is a remarkable woman, who told me, among many other things, that she once scandalized her family as well as the entire community during her youth by riding a horse astride rather than sidesaddle. I enjoyed my visit; her spirit will stay young for all her days.

SLIDE THREE

Here is a retired professor, also in his nineties. With the help of a former student, he made a plea before the Senate Committee on Aging for more sympathetic treatment of institutionalized persons experiencing terminal illnesses. To make his point, he told us of his wife's final weeks. He was willing to share his own ordeal in order to help change the depersonalized attitudes toward death that now prevail in our hospitals.

SLIDES FOUR AND FIVE

Many here in Philadelphia will recognize Maggie Kuhn as leader of a group called the Gray Panthers. That name was deliberately chosen in order to marshal a militant spirit among persons, young and old, who feel that the elderly are too important to be either ignored or patronized. Maggie has already fought many battles and relishes many more to come.

She is shown here as she told our Committee about the problems encountered by older people in need of health care.

SLIDES SIX AND SEVEN

And now I would like you to meet a 75-year-old woman who became a widow when she was 55. She lives alone; she has Parkinson's disease and her monthly income is $83.20. From that she pays $18.40 a month, or 22 percent of her income, for medicine. In her community, a Meals-on-Wheels program brings her sustenance five days a week at a cost of $30 a month. Mrs. Lucy McAdams—that is her name—has severe problems. But she also has courage and she has help from her neighbors and a local office on aging. Notice the young man sitting nearby. He is an outreach worker who first was a helper to Mrs. McAdams, and then became a friend. As is so often the case, youth and age get along well—when they have a chance to get acquainted.

SLIDE EIGHT

Here you see a panel of elderly persons who recently testified at a hearing on housing. On this day, several witnesses told of paying $130 or $150 for rent out of monthly incomes of $155 and $175. All lived in fear of new rent increases and didn't know what they would do if they came. The clergyman has a pile of papers in front of him: they represent just part of the file he doggedly built up in order to win Federal approval of one high-rise apartment house for low-income elderly. Permission was finally given two years ago and the apartment house opened in January. But the long delay had caused sharp increases in costs and, of course, a rise in rents. Now the minister finds that these rents are out of reach for many of the persons he had hoped to serve. Housing problems, by the way, are not limited to the big cities. In my home state, small communities suffer harsh shortages.

SLIDES NINE, TEN, ELEVEN, TWELVE

Many other persons, young and old, come before our Committee or one of its seven Subcommittees. Most of them refuse to regard our elderly population as a drag on society. Rather they tell us about the rich resources an aging population can and should confer upon this nation.

They tell us about older people who, more and more, are serving others through community action programs.

They tell us about the energy and the will among the 21 million Americans now 65 or older, that pivotal age so often regarded as the dividing mark between the productive and the nonproductive years.

NONPRODUCTIVE—what a negative way of looking at the retirement years.

NONPRODUCTIVE—and yet so often a fourth of a lifetime.

NONPRODUCTIVE—and yet so capable of learning and doing.

Nonproductive—not by their own choice, but because society has declared them so.

Yes, the problems of aging still outstrip the progress in aging. Or, to put it in more blunt language, I'll refer you to the motto which hangs in a public health office in northern Idaho.

It says: "Old age is not for sissies."

Why, in a nation which has a fondness for happy endings, do the final years of life so often end in bitterness?

To deal at least partially with that question, I'd like first to relate quickly a few of the statistics of aging in the United States today and then suggest the major challenges, as I see them, together with suggestions about how to meet those challenges.

STATISTICS OF AGING IN THE U.S. TODAY

My first point about the statistics of aging is to watch out for them.

I worry, for example, when I use that 21 million total for the 65 year and over population, for the grand total keeps changing, every minute, not only in number but in composition.

Administration on Aging studies tell us that there is a net increase every day of almost 1,000 in the aged population: 4,000 persons reach age 65 and 3,000 persons at or above that age die. But this does not mean that 4,000 newcomers replace 3,000 persons of the same ages, taste, and experience. Far from it.

There are now about 15 million Americans between age 65 and 74. There are about half that many more, 7½ million, 75 and over. In fact, the median age of our elderly is now 73, with about 30 percent between 75 and 84, and 6 percent—more than 1 million persons—over 85. At last check, one man of age 126 was on the Social Security rolls. His age was almost double "normal" retirement age. All in all, by the way, there are more than 7,000 centenarians in the United States today.

What a wide variety of lifetime experiences are represented in that "mix" of age groups. The more than 1 million persons of age 85 or over were born in another century, many in other nations; parents of the native-born spoke of the Civil War from firsthand experience, when more people lived on farms than in cities.

Another fact to mull over: A person born in 1891 was 40 years old when the Depression of the 30s really took hold of the nation. Let's hope that now, 44 years later, those persons don't have to experience still another collapse of our economic machine.

We should pay careful attention to the "old" elderly: Those past age 75. Their numbers are increasing. The 75 to 84 group is expected to reach almost 35 percent of all the elderly by the year 2000, while the 85 and up segment will increase to 8.5 percent, representing about 2½ million persons.

One final view of where we have been and where we are headed:

In 1900, there were 3.1 million persons 65 and over.

In 1940 that number had climbed to 9 million.

By 1970 it was almost 21 million.

And by the turn of this century, it will approach 30 million.

The increase will be about 3 to 4 million every decade, or about 300,000 to 400,000 every year.

These are not numbers we are talking about; they are people. And they are people who, in 1974 at least, have too many problems.

CHALLENGE NO. 1: INCOME

The first problem is retirement income, and the question which naturally arises is: How well is Social Security doing its job?

As a Senator who has worked for adequate Social Security, I can say I'm proud that benefits have increased by 68.5 percent since 1969.

Yes, 68.5 percent. Ordinarily, this kind of gain would represent a milestone in social and economic progress.

But inflation has voraciously eaten up the dollars added to Social Security checks of recent years.

Look, for a moment, at what has happened since 1972. To improve the lot of the elderly, Congress enacted a proposal I sponsored for a 20 percent increase in Social Security benefits, and it also approved a mechanism intended henceforth to make Social Security inflation-proof, through automatic cost-of-living adjustments at yearly intervals.

In other words, we hoped that we had raised the benefit base to a reasonable level, so that it would be possible to stop playing "catch-up ball" with persistent inflation.

A few months later, however, it became clear that the elderly were again falling behind. The 20 percent was being rapidly overtaken by an inflation running wild with budget items of special importance to the elderly: food, shelter, and health care.

And so the Congress once again had to take emergency action. And as it turned out, we had to make it an across-the-board increase. That is, we applied the same percentage of increase to the low-payment beneficiary as well as to the high-income one. Personally, I would have preferred a sliding scale for greater equity, but a complex procedural situation—together with the press of time and Administration opposition—made that impossible.

The result was a two-part, 11 percent increase in Social Security during 1974.

It should be clear, from this brief description, that the first requirement for attaining economic security in retirement is to stop inflation.

What are the next steps?

I believe that our government and people did a very sensible thing back in 1935 by adopting a social insurance system requiring payroll contributions, rather than adopting a program of doles financed by general taxation.

As one eminent witness told our Committee at a hearing on Future Directions in Social Security:

"Wage earners are willing to contribute because they will receive benefits as a matter of right when they or their families need them most. For centuries, working people have learned that one cannot get something for nothing, at least you cannot count on it."

Yes, Social Security, conforming to our strong work ethic, is psychologically sound for the United States. But is it adequate and is it fair?

We have a long distance to go to achieve overall adequacy.

Part of our shortfall can be expressed in terms of average monthly benefits. Even with the new 11 percent increase, these levels will be:

$181 for the typical retired worker.

$310 for a retired couple, and

$177 for an aged widow.

Another measure of inadequacy is the number of older persons living in statistical poverty: about 3.5 million still are poverty stricken.

To deal with that problem and with the overall challenge of retirement income, I have my own set of goals.

First, I believe that we should end poverty once and for all among older Americans. It is intolerable that the elderly must pay so personal a price for vast economic changes not of their making. Many who have been poor most of their lives deserve help now. Those who were not poor until they became old must be rescued from economic despair. And so, our first priortiy should be to improve the Supplemental Security Income Program which went into effect at the start of this year. It should be broadened and upgraded until it brings all older Americans who need it above bare poverty standards.

Second, the nation should adopt a goal of "adequacy" for retirement income, drawing upon Social Security, private pensions, and other sources for a reasonable "mix." At our hearings on "Future Directions in Social Security," we are paying special heed to the potential role of each of the components in this "mix."

Third, the Social Security system should be re-examined with a greater eye to social justice. The payroll tax now bears heavily upon low-income groups, and many minority members in that group don't live long enough to collect benefits. Proposals for greater equity are being considered at the "Future Directions" hearings, along with suggestions for more sensible treatment of women.

CHALLENGE NO. 2: HEALTH

A second great challenge to the elderly of this nation—and to the people who care about the elderly—is the need for comprehensive health care.

That, of course, is what many people thought Medicare was all about, when it was enacted in 1965. I supported Medicare then and I support it now. But I think that the Medicare of 1974 falls far short of what is needed. Coverage has dwindled, and the cost to the participant has gone up.

Look at what has happened. The monthly premium for doctor fees under Medicare was $3.00 in 1966 and it now stands at $6.30.

The deductible—a kind of down payment on the hospital bill the patient must pay—was $40 in 1966 and now it is $84. Coinsurance, the part of the hospital bill the patient pays after 60 days, has gone from a daily rate of $10 to $21.

These charges make a deep rent in retirement budgets, but they reflect only a portion of the high costs of health care for older Americans. Uncovered by Medicare are such necessities as out-of-hospital prescription drugs, dental services, eyeglasses, and hearing aid. Today, less than 40% of the cost of medical care for the elderly is covered by the Medicare program.

Another problem is the damaging effects caused by the drastic curtailment of in-home services. I'm speaking about carefully managed home health programs which can enable many ill or incapacitated persons to remain at home. There is reason to believe that in-home services, when appropriate, can save dollars. More important, in-home services can prevent family disruption and needless placement in an institution.

And yet, because of restrictive HEW policies since 1969, the number of home health agencies has declined and the percentage of Medicare funds for their services is now less than 1 percent.

This trend, to my mind, is a calamity. At a time when costs keep going up in hospitals and in nursing homes—and at a time when there is much lip service to the idea of "alternatives to institutionalization," the Administration is withholding support from home services.

You have already seen the photograph of one Idaho woman who was happy to receive treatment at home with her family. I've spoken to many others who are fortunate enough to live in a part of Idaho with that kind of service. I've spoken to the providers of such services, and they are hanging by just a few threads, not knowing when the next Federal policy shift or Cost of Living Council directive may force them to shut down. And if they shut down, people who had a chance to stay out of institutions may find themselves in a bed they don't really need, trying to adjust to an institutional routine, when with a little help, they could have stayed at home.

Mind you, I am not one who claims that in-home services can substitute for institutional care in every case.

On the contrary, I think that the need for good, appropriate hospital and nursing home care is certain to rise as the number of old elderly—those past age 75—continues to increase. One of the sobering considerations about this trend is that the largest increase in this upper-age bracket will occur among women and many of them will be widows. These very women, who may well have nursed their husbands in earlier days, are not likely to have such personal care available to them when they decline.

We are going to need more institutional care, along with more home-health care. It is not either-or. We must have both.

Wouldn't you think, in view of the obvious need, that the President's new proposal for a national health scheme would encourage home health care? On the contrary, it would reduce allowable visits. In addition, it would raise coinsurance and it would raise deductibles and it would introduce a welfare income test into Medicare: something Congress sought to avoid when it designed that program.

Our nation now stands on the verge, apparently of a great debate on national health insurance coverage for all Americans.

It would be unfortunate—and it would be regressive—for a new health plan to buy watered-down protection for the whole population at the expense of the elderly. Medicare should be improved, not riddled or weakened, if the nation's great decisions on health care are to be constructive, farsighted, and humane.

CHALLENGE NO. 3: OLDER WORKERS

This lecture can be stretched only so far, and I will not deal with housing—which is in a state of suspended animation, but not suspended need—because of the Presidential moratorium of over a year ago. Nor will I deal with such important subjects as the development of social service networks with the help of the significant, but little understood, Older Americans Act.

Rather, I would like to focus on a matter that might not, at first, seem to be within the purview of the Senate Committee on Aging. I'm referring to the difficulties encountered by men and women in their 40s and 50s facing the loss or curtailment of employment. These are the so-called "older workers," persons whose lives are disrupted by layoffs, plant shutdowns, or their own decision to change employment in hopes of finding a "second career."

To the Department of Labor, an "older worker" is someone of age 45 or over; and once unemployed, the older worker is unlikely to have a quick return to the labor force.

Their stay of idleness is far longer than that for younger workers, and the likelihood of a return to a comparable job is dim, particularly for those over 55.

Not enough attention is being paid to older workers, even though it is clear that something is very much amiss. Many persons, especially mature individuals who have been breadwinners for decades, finally give up looking for work and become labor force dropouts.

We have ample reason to believe that the number of idle older workers increases significantly as they reach their mid-fifties. Many run out of unemployment compensation and are too young even for reduced Social Security benefits. Theirs is a peculiar kind of limbo.

Unless we are wise enough to make better use of older workers, we will lose larger and larger numbers of seasoned, knowledgeable Americans capable of doing a job. The right kind of manpower training, therefore, will become even more vital for those who must, out of choice or sheer necessity, find new careers.

In fact, two or more careers may become the common pattern in our labor force and in other nations. Recent studies show that the older workers problems and age discrimination is rampant in Europe. Want ads ask for "recent college graduates" or "junior executives"; "No one over age 40 need apply."

Here in the United States, we've had a law since 1967 intended to counteract such bias, and it's true that the want ads here are not as blatant as they once were. I have introduced legislation to strengthen enforcement of this statute, but laws can't help as much as a better understanding of the dependable service older workers usually render. Older workers of today have problems because their younger employers hold the wrong impression of their capabilities.

THE WORLD VIEW

My perspective thus far has been directed primarily upon the United States, with an occasional tip of the hat to other nations.

But, whether it's energy or aging, the world and all its people spin together.

A recent United Nations survey notes that the world's population is aging: The number of persons 60 years or older in all the nations of the world increased by 100 million persons between 1950 and 1970, reaching a grand total of almost 300 million.

By the turn of the century, a mere 25 years away, it will reach nearly 600 million.

That, my friends, represents a projected increase of 100 percent in 30 years.

The UN survey, I believe, makes several important points in the following summation on expanding longevity.

"At no time in the existence of the human species have so many individuals lived into old age. When the elderly were few, there was a place for those who lived into old age in the social structure. Past values and traditions supported the place of older persons in the family and community. With urbanization and secularization of societies accompanied by higher rates of mobility, rapid social change and value systems which tend to stress the importance of the individual over the responsibilities of the social group, there is a breakdown in traditional approaches to human needs, especially those of the aged."

A WORLD ASSEMBLY ON AGING

This universal phenomenon, taking differing forms in differing parts of the world, deserves intensive attention within nations and careful comparisons among nations. I have, therefore, proposed that a World Assembly on Aging be held within the next few years, probably under the auspices of the United Nations.

I chose the word "assembly" advisedly. I did not want to give the impression that I was recommending a conference at which biological scientists and social scientists would trade notes on aging. Several international meetings now serve that function admirably.

Instead, I believe that a World Assembly on Aging should be called to involve governments in a cooperative venture which would help each nation determine what kind of commitments must be made at a time when increasingly large segments of the population live longer.

On the basis of what we now know, we already have many questions, such as:

How much of an economy should be committed to retirement income?

How do we deal with the problem of skills which become obsolete by the time workers become middle-aged in industrial countries?

If nations around the world follow one after the other in establishing lower compulsory retirement ages, how will the lower number of productive years affect life-styles and retirement?

The Stockholm Conference on the Human Environment—conducted in 1972—provides a helpful, but not exact, example of what could be done on aging. One of the secondary, but significant achievements of that conference was the packaging of important information about environmental issues. Aging needs a similar inventory as the starting point for an exchange of ideas.

The first steps toward a World Assembly are now under way. I am receiving encouraging support from gerontologists and others in many parts of the world, and I believe that the assembly could become a reality by 1976 or 1977.

CONCLUSION

Earlier in this lecture I said that aging is not for sissies.

Now that you have aged for 40 minutes or so while listening, you have even more reason to believe this statement is true.

I'll close now by saying that the work of the Senate Committee on Aging, my own relationships with my parents and my wife's parents, and talks with young and old people throughout the country have provided me with differing insights into the aging process and its impact upon people.

I've come to agree heartily with an energetic elderly lady from Boise who once said: "The young person who rejects age rejects his future self."

Each of us, if we are fortunate, has a rendezvous with old age.

That culmination can be tragic, as it now so often is. Or it can be a period of personal growth and fulfillment.

I constantly meet older persons who have found more than a new lease on life. They have found an entirely new life.

Not everyone is as ambitious, of course, as the 85-year-old mother of the Governor in my neighboring State of Oregon. She's decided to run for the post he will vacate next year, in order to continue her son's work and program. She has since decided, by the way, not to withdraw, largely on the grounds that she has made office-holders more aware of the feelings of older persons.

I like her spirit, and I was very much impressed with a statement she made on national television a few weeks ago. She said that if persons live to be 50, they should start thinking about how they will use their brains when they reach age 70 and beyond.

Her attitude is positive.

I hope it is contagious.

OIL PROFITS

Mr. FANNIN. Mr. President, this week the oil companies are releasing quarterly reports which indicate very sizable increases in profits.

This should be good news for everyone in view of the fact that these companies are going to have to make huge investments this year and in the coming decade if we are to attain our national goals in energy production.

Over the past two decades the oil industry has fared rather poorly, despite the impressions to the contrary being conveyed in much of the national media. It has not attained the profitability of other major industries.

Mr. President, politicians who have been riding the energy issue for their own purposes, have been awaiting these quarterly reports so that they can be used as ammunition in another emotional outburst against the petroleum producers. Reason, not emotion, is the key to resolving the energy crisis. The Arizona Republic, in an editorial last Saturday, brought out some important considerations regarding oil profits. I ask unanimous consent that this editorial be printed in the RECORD.

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

OIL'S PROFITS

Motorists understandably are annoyed by the rise in the price of gasoline, and, when they read that oil industry profits climbed even faster last year, by 70.9 per cent, many lend a sympathetic ear to demands of liberal congressmen for a rollback.

What the congressmen overlook is that, despite the recent jump in earnings, oil still is not a very profitable industry.

Over the last five years, according to Forbes magazine, the median return on equity of the 20 biggest oil companies was only 10.3 per cent, well below the median return of 11.4 per cent for all U.S. industries.

The Jan. 1 issue of Forbes ranked the 851 largest corporations in the United States in profitability. On that list, Texaco was 235th in average five-year return on equity and 234th in average return on capital.

Exxon was 269th in return on equity and 211th in return on capital.

Mobil Oil, 400th and 306th.

Standard Oil of California, 427th and 298th.

Standard of Indiana, 479th and 399th.

Sun Oil, 505th and 467th.

Gulf, 512th and 425th.

Shell, 526th and 462nd.

Getty, 637th and 489th.

Atlantic Richfield, 646th and 563rd.

Nor does the stock market, which knows a good deal more about the oil industry than do liberal congressmen, think much of the industry's future. It gives Texaco, Exxon, and Mobil each a price-earnings ratio of 5.

The oil industry actually is a good deal less profitable than any of the newspapers which constantly fault it.

Knight Newspapers, for eample, rank 132nd in return on equity and 177th in return on capital; the Times-Mirror Co., publishers of the Los Angeles Times, 211th and 197th; the redoubtable Washington Post, Inc., 215th anw 286th.

There are two other facts those who talk about profiteering overlook.

One is that most of the rise in profits last year came from abroad and reflected the devaluation of the dollar.

The other is that oil companies plow back their profits and then some.

According to Chase Manhattan Bank, in the last five years global capital expenditures of 30 large oil companies exceeded their earnings by almost 67 per cent. For the United States alone, investments amounted to approximately twice as much as profits.

The rise in profits enables companies to increase capital exuenditures further. In the same quarter that saw Sun Oil's earnings rise by 85 per cent, the company's expenditures for new drilling in the United States sextupled, from $20 million to $120 million.

Without such expenditures, the United States would become increasingly dependent on the Mideast for oil, with all the consequences that motorists who recently had to wait in line for an hour to buy $3 worth of gas know.

Those who demand a rollback, falsely asserting that oil profits are too high, would subject motorists to a recurrence of such an experience.

THE PANAMA CANAL

Mr. McCLELLAN. Mr. President, last Monday the Honorable DANIEL J. FLOOD, U.S. Representative from Pennsylvania, addressed the National Aviation Club here in Washington, D.C., on the subject "Panama Canal: Pawn in International Power Politics."

While I did not have the opportunity and privilege of hearing Congressman FLOOD's address, I have read his remarks on that occasion with great interest. I am very much in accord with the views that he expressed.

Congressman FLOOD reviewed the canal's history and very ably discussed the issues associated with its future and our Nation's responsibility with respect thereto.

So that many others may also have an opportunity to read and consider his speech, I ask unanimous consent that it be printed in the RECORD as a part of my remarks:

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

PANAMA CANAL: PAWN IN INTERNATIONAL POWER POLITICS

(By Hon. DANIEL J. FLOOD)

Mr. President, Members of the National Aviation Club, Distinguished Guests, Ladies and Gentlemen:

Among the most gravely vital issues now before the Congress are those affecting what is the jugular vein of the Americas: (1) the threat to continued undiluted United States sovereign control of the Canal Zone and Panama Canal; and (2) the completion of the Canal's suspended major modernization (Ho. Rept. No. 92–1629, p. 36).

Before these subjects can be properly understood and evaluated, it is essential to know certain elemental facts in canal history:

First, in 1901, in a treaty with Great Britain, the United States made the long term commitment to construct and operate an Isthmian canal under the rules governing the operation of the Suez Canal.

Second, in 1902, the Congress authorized the President to acquire by treaty the "perpetual control" of a Canal Zone, as well as the purchase of all property in it, for the "perpetual" operation of the Canal.

Third, in 1903, after the secession of Panama from Colombia, the United States purchased from Panama a grant "in perpetuity" of sovereign rights, power and authority over the indispensable protective frame of the Canal known as the Canal Zone for $10,000,000. This sum, though small on the basis of 1974 values, is greater than that paid for either Florida or Alaska. In the same treaty, our country assumed the annual obligation of the Panama Railroad for $250,000, previously paid by that company to Colombia. This annuity, justifiably adjusted in the 1936 treaty and gratuitously increased in the 1955 Treaty, is not a "rental" for the use of the Canal Zone, as so often stated in the press, but only the augmented annuity of the Panama Railroad, the entire stock of which was bought by the United States for the unrestricted use of that rail line for constructing the canal and its later maintenance and operation.

Fourth, after acquiring the Zone, the United States obtained title to all privately owned land and property in it from individual owners, making the Zone our most expensive territorial acquisition, estimated in 1973 to have cost $161,938,571, which is more than the costs of all our other acquisitions combined (Congressional Record, Vol. 119, pt. 14, p. 18431).

Fifth, the United States between 1904 and 1914 constructed the Canal in a spot that was the pest hole of the world and a land of endemic revolution, transforming the Zone and surrounding areas into models of tropical health and sanitation that won world acclaim and has served as a force for political stability.

Sixth, the United States under a 1914 Treaty with Colombia, ratified in 1922, paid that country $25,000,000 and gave it valuable transit rights in the use of both the Canal and Railroad. In return Colombia, the sovereign of the Isthmus prior to November 3, 1903, recognized the title to both the Canal and Railroad as vested "entirely and absolutely" in the United States.

Seventh, the total investment of the taxpayers of our country in the canal enterprise, including its defense, from 1904 through June 30, 1971, was $5,695,745,000.

Eighth, Article IV, Section 3, Clause 2 of the U.S. Constitution vests the power to dispose of territory and other property of the United States solely in the Congress, which includes the House of Representatives as well as the Senate.

From all of the above, the evidence is conclusive that the United States is not a squatter resting on the banks of the Panama Canal but its lawful owner. In addition, the validity of the title of the United States to it has been recognized by the Supreme Court (Wilson vs. Shaw, 204 U.S. 24, 1907, at 31–3) and no amount of demagoguery or sophistry can alter the essential facts.

As was foreseen by the able leaders of our government, in the early part of the 20th Century, who developed our historic Isthmian Canal policies, the Canal Zone and Panama Canal, in a realistic sense, form part of the coast line of the United States; and today it transits some 15,000 vessels annually. Thus its continued efficient operation and protection are just as vital to interoceanic commerce and Hemispheric security as are the safe navigation and defense of the Chesapeake Bay or the Mississippi River.

Perceptive students of U.S. foreign policy in recent years have increasingly recognized that the U.S. Department of State has been infiltrated by elements hostile to continued United States sovereign control over the U.S. owned Canal Zone. Its record has been one of misrepresentation and falsification. Its purpose has been not the protection of United States interests at Panama but the waging of campaigns of deceit against the people of our country as so often illustrated by that agency's repeated efforts to dismember the Canal Zone by piecemeal erosions. For example, in the case of the Panama Railroad, the State Department planned to liquidate that important rail link and actually succeeded in giving away its freight yards and passenger stations in Panama City and Colon. The Congress stepped into the situation and after thorough study of the road's operations, saved the main line. Now, you have a railroad without its designed terminals. Can you imagine anything more stupid?

It was, therefore, no surprise to a growing number of well informed members of the Congress, when on February 7, 1974, U.S. Secretary of State, Henry A. Kissinger, and Panamanian Foreign Minister, Juan A. Tack, without advance authorization by the Congress, signed an 8-point "agreement on principles" to govern the negotiation of a new canal treaty. (Congressional Record, Vol. 120, Feb. 13, 1974, p. 2998.)

Stripped of its ambiguities, contradictions and fallacies, this piece of diplomatic trickery is a blueprint for an abject surrender of United States treaty-based sovereign rights, power and authority over our most strategic waterway that is certain to open a Pandora's Box of difficulties. Related to these will be the treaty rights of Great Britain and Colombia as well as the interests of all maritime nations that use the canal and have to pay tolls. Some of these countries are already delving into the situation and will undoubtedly take steps to protect their interests.

As to the appeal so often made to North American idealism and generosity in the form of "returning" the Canal Zone to Panama, what are the facts? That country prior to November 3, 1903, was a part of Colombia, from which it seceded. It did this only after years of frustrated waiting for Colombia to arrange for the construction of the canal at the Panama site. When Panamanian leaders saw their long hoped for project endangered by the authorized construction of a canal at Nicaragua, Panama revolted and declared its independence from Colombia to obtain this vital waterway.

When construction by the United States was started in 1904 the jubilation of the Panamanian people was practically unanimous. As foreseen, extensive employment of Panamanians and other economic advantages quickly brought a prosperity to Panama not equally elsewhere in Central America.

Panama's jurisdiction over what was to become the Canal Zone territory was brief, officially ceasing on ratification of the 1903 Treaty, which was February 26, 1904. This means that Panama had jurisdiction over the Zone for only three months and 23 days—a very weak basis on which to justify giving Panama the Zone territory. If the Zone is to be given to any country it should not be to Panama but to Colombia; but I feel certain that Congress would be just as adamant in opposing such proposal as it is to giving it to Panama.

The President of the United States, in a mistaken gesture of friendship and on recommendation of the State Department, on September 14, 1960, after the adjournment of the Congress and in disregard of a resolution adopted by the House of Representatives by a vote of 382 to 12 in opposition to the display of the Panama flag in the Zone, directed that it be flown at one place in the Canal Zone as "visual evidence" of Panama's "titular sovereignty" over that territory. Instead of improving relations this action served to extend the breach in the dikes of our juridical structure on the Isthmus caused by the 1936 and 1955 Treaties, with the predicted result that Panama would interpret such display as an admission by the United States of full Panamanian sovereignty. Today, Panama flags are flying from one end of the Zone to the other equal with those of the United States, and even on such vital structures as the locks, thus tending to promote agitations for full Panamanian control. Most certainly, these flags should be removed for the flag has only one meaning and that is sovereignty; and the only flag that should fly in the Zone is that of the United States.

What is meant by "titular sovereignty" that has been so often used in the press? This expression has a long history going back to the time of Secretary Hay and Secretary of War Taft, who recognized that by the terms of the 1903 Treaty Panama retained what those statesmen in an unfortunate slip of language, called a "titular sovereignty" over the Canal Zone.

Actually no such phrase can be found in the treaty by which the United States acquired the Canal Zone. Neither a Secretary of State nor any government functionary had the authority then or at any time to imply any curtailment whatever of the total sovereignty as defined in the Treaty. Any abridgement involving the disposal of territory or other property of the United States would require the preponderant action of both Houses of the Congress. At best, "titular sovereignty" can only mean a reversionary interest on the part of Panama in the sole event the United States should abandon the Canal or fail to meet its treaty obligations to maintain, operate, sanitate and protect it. Despite my repeated requests, the State Department has failed to correct that unfortunate error, "titular sovereignty", which failure has added to the public confusion surrounding the Canal Zone sovereignty question.

As previously indicated, there are only two basic issues regarding the Panama Canal: (1) continued undiluted U.S. sovereignty over the Canal Zone; and (2) the major modernization of the existing canal. All other matters, however important, including the extensively propagandized sea level proposal, are asserted to be "irrelevant" (Ho. Rept. No. 92–1629, p. 36).

The prolonged agitations over Canal Zone sovereignty have served to delay and confuse the proper solution for major modernization, with resulting inconvenience to the users of the Canal and those who operate it.

As to whether the United States should surrender its sovereignty over the Canal Zone to Panama, there is no doubt as to how our people feel. Following a national TV debate on this question over *The Advocate* program on March 15, 1973, more than 12,000 citizens reported their views, with 86 percent of them against any surrender at Panama. In recent weeks, my own correspondence from 48 of the United States and abroad is almost unanimous in opposition to the projected give-away. In addition, State Legistures have passed resolutions opposing it and more are in the process of doing so.

As stated on other occasions, I can think of no better way to cause another time-wasting confrontation with the Congress than to send to it a treaty calling for the transfer to Panama of the U.S. Canal Zone territory. In that event, the Congress, in the exercise of its Constitutional responsibility (U.S. Constitution, Art. IV, Section 3, Clause 2) will dispose of such a pact of intended subservience where it belongs—in the waste basket.

United States policy of exclusive sovereign control over the Canal Zone and Canal is based upon realities, including treaties with Great Britain and Colombia. For the United States to assume the obligation of operating and defending the Canal after surrender of sovereignty over its protective frame of the Canal Zone, would place our country in the position of having grave responsibility without requisite authority, which is unthinkable in the management of a project of such magnitude of importance.

The operation of the Canal by the United States on an extra-territorial basis in a land of endless intrigue and turmoil could only result in endless conflicts and recriminations. Besides, it would result in the removal of an island of stability on the Isthmus that has often served as a haven of refuge for Panamanian leaders seeking to escape assassination. One of the most recent Panamanians to seek refuge there was Senora Torrijos, the wife of Panama's Chief of Government, during an attempt to depose her husband while he was out of his country. Most certainly, the Congress will never appropriate huge funds for a canal project in an area that the United States does not control and that during the last 70 years has had 59 presidents.

To clarify the sovereignty question there have been introduced in both House and Senate multi-sponsored and fully pro-United States resolutions expressing in the strongest possible terms opposition to the surrender at Panama of any of our sovereign rights, power, authority or property, except by treaty authorized in advance by the Congress and ratified by the United States. The giveaways contemplated in the previously mentioned "agreement on principles" for the negotiation of a new canal treaty were not authorized by the Congress and are obvious attempted usurpations of power that must be put down.

The recent attitude of the State Department as regards the sovereignty issue can have no reasonable interpretation as an honest effort to ease tensions. Instead, its officials know that Dictator Torrijos of Panama has publicly proclaimed his esteem for the Castro regime in Cuba, expressed his admiration for the Soviets, and openly threatened violence against the Canal Zone. This is the strong man of the pro-Red de facto government in Panama to which self proclaimed liberals in the State Department seek to deliver our Panama Canal. These officials have not even troubled to stipulate any terms for payment by Panama for the billions that the taxpayers of the United States have spent on the Canal enterprise and its defense.

As for the major modernization of the existing Canal, this project was authorized in 1939 under existing treaty provisions, started in 1940, but suspended in 1942 because of more urgent war needs after the expenditure of some $76,000,000, mostly for huge lock site excavations at Miraflores and Gatun that are usable. When to this sum are added $95,000,000 spent on the widening of Gaillard Cut that was completed in 1970, the amounts already applied toward the major modernization of the Canal total more than $171,000,000.

During World War II there was developed in the Panama Canal organization, as a result of war experience, what is known as the Terminal Lake-Third Locks Plan which won the approval of President Franklin D. Roosevelt as a post war project. Most significantly, this plan does not require a new treaty with Panama, which fact is a paramount consideration. Legislation for it, now pending in both Senate and House, has aroused strong support among important shipping interests, engineers, ecologists, navigators, and other experts, including Panama Canal pilots, who know more about the marine operations of the canal than any other professional group in the world. Moreover, the Terminal Lake-Third Locks solution has the great advantage of preserving the fresh water barrier of Gatun Lake between the oceans, thus preventing the infestation of the Atlantic Ocean with the poisonous Pacific sea snake and the voracious crown of thorns starfish.

When the long overdue work on the major modernization proposal is resumed, its economic and other advantages to the Isthmus and interoceanic commerce will be so obvious that current agitations in Panama over sovereignty should vanish like a tropical fog in the morning sun.

Historically, the Caribbean has long been a focal area of conflict because its location is strategic. Today, Soviet power has Cuba, Soviet submarines cruise regularly in nearby waters, and the main Soviet objective is directed toward wresting control of the Panama Canal from the United States, making that vital waterway a pawn in international power politics. Thus, the real issue involved in the Canal Zone sovereignty question is not United States control versus Panamanian but continued undiluted U.S. sovereignty over the Zone versus U.S.S.R. control; and these are the issues that should be debated in the Congress and the mass news media. The importance of these questions is shown by the recent co-sponsorship in the U.S. Senate by 35 members of a resolution opposing any surrender at Panama and their discussion in Atlanta of the current meeting of O.A.S. foreign ministers.

The elements of the news media that most loudly advocate surrender of the Canal Zone to Panama are precisely those that urged United States support to Communist Mao Tse-Tung in China with the claim that he was only a mild agrarian reformer and later urged the installation of Fidel Castro in Cuba while ridiculing evidence that Castro was a Red revolutionary.

What is needed now is prompt action on pending measures in the Congress concerning sovereignty and major modernization. Their adoption and enactment, respectively, will quickly clear up the present confused atmosphere as regards United States sovereign control over the Canal Zone and facilitate resumption of work on the major increase of transit capacity and long needed operational improvements. Completion of this project will provide at least cost the best canal for the transit of vessels practicable of achievement and greatly increase its concentrational capabilities for our naval forces. The last will be of increasing importance as the numbers of our naval vessels go down toward their pre-World War II level.

Thus to get on with our great responsibility and obligation to enlarge the Panama Canal and improve its operations, we must be uncompromisingly emphatic in declaring that our answer to any proposed abrogation or curtailment of complete United States sovereignty over the Canal Zone is a resounding no; and we will say it again, again and again—NO!

EDWIN W. MURPHY

Mr. CHURCH. Mr. President, I was deeply saddened by the untimely death of Edwin W. Murphy, a member of the National Council of Senior Citizens and the assistant editor for Senior Citizens News.

To a very large degree, the National Council of Senior Citizens owes its well-deserved and highly respected reputation to people like Ed Murphy.

Throughout his long career in journalism, Ed was an activist on behalf of the disadvantaged and deprived. He was always in the forefront on issues of direct concern to older Americans: medicare, social security increases, the Older Americans Act, and many others.

He was also a leading advocate for comprehensive reform in our private pension system. In fact, he testified very eloquently—citing in many cases his personal experiences—when the Committee on Aging conducted hearings on this subject in 1970.

Ed Murphy had many legislative priorities for aged and aging Americans. But his No. 1 goal was to improve and strengthen our private pension system.

Ed worked in excess of 40 years, but he was unable to accrue sufficient credits for a pension by the time he reached 65. He worked for three newspapers, each of which went out of business. Then he obtained employment at the headquarters of a trade union, which required 10 years of service to be eligible for vested benefits. However, Ed was able to complete only 9 years of service before reaching the mandatory retirement age of 65.

He then joined the staff of the National Council of Senior Citizens, where he became eligible for a pension under the immediate vesting provision.

Ed would, I know, be heartened by the enactment of major private pension reforms by the 93d Congress. And I am hopeful that this goal can become a reality.

The field of aging will, of course, miss Ed's wise counsel and sense of commitment. People of his caliber are always difficult to replace. But his excellent example can be a moving inspiration for all in the field of aging to emulate in meeting the challenges ahead.

Mr. President, I ask unanimous consent that the April 15 obituary in the Washington Post—which describes in greater detail Ed Murphy's full and vigorous life—be printed in the RECORD.

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

[From the Washington Post, Apr. 15, 1974]

E. W. MURPHY, 73, ACTIVIST, JOURNALIST

Edwin W. Murphy, assistant editor of the publication of the National Council of Senior Citizens, died Saturday of cancer at the Mar-Salle Convalescent Home.

Mr. Murphy and his wife, Gwyneth, who died in 1971, were ardent civil rights advocates and during the 1960s opened up their home in Bannockburn, Bethesda, as temporary housing for Southern black families coming north to live.

A cum laude graduate of Notre Dame University, Mr. Murphy had a long career in journalism and politics before becoming assistant editor of Senior Citizens News. He often appeared before Congressional Committees to testify on legislation affecting the retired.

During his early career as a newspaper reporter, he worked for the Muskegon, Michigan Chronicle and for the Grand Rapids News and Michigan Herald. When that paper folded in 1959, he joined the staff of The Machinist, the official publication of the International Association of Machinists, where he worked until he retired in 1966.

During the 1930s between newspaper jobs, he was on the staff of Jim Farley, then Chairman of the Democratic National Committee.

Although he was 40 years old when World War II broke out Mr. Murphy joined the Army and saw action in Europe with the headquarters company of General Patton's Third Army.

There are no immediate survivors.

TRIBUTE TO THE LATE "CHAPPIE" CHAPMAN

Mr. FONG. Mr. President, the State of Hawaii recently lost one of its best known sports and entertainment figures with the passing of E. Walker Chapman.

Known affectionately to his legion of friends as "Chappie," he was born in San Francisco but had made Honolulu his home for the last 40 years. Mr. Chapman came to work in Honolulu as the first employee of Royal Theatres. At the time of his death on March 18 this year, at the age of 65, he was assistant general manager and director of advertising and public relations of Royal Development Co., Ltd.

His community service was extensive. He was a charter member of the Press Club and the Variety Club of Hawaii and its charity, the School of Children With Learning Disabilities. He helped organize what is now known as the Hula Bowl and was instrumental in starting the State fair through the Honolulu Junior Chamber of Commerce.

Of the many tributes paid to him, I wish to quote one from Mr. Herman Rosen, head of the Royal Development Co., Ltd., who was associated in the show business with "Chappie" Chapman for so many years:

Chappie was a generous man to everyone and a credit to Hawaii.

Mrs. Fong and I extend a sorrowful aloha to his widow, Mrs. Thora Chapman, and family.

I ask unanimous consent to have printed in the RECORD several articles and a resolution of condolences adopted by the Senate of the State of Hawaii.

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

[State of Hawaii]

SENATE RESOLUTION EXPRESSING CONDOLENCES TO THE FAMILY OF THE LATE E. WALKER CHAPMAN

Whereas, E. Walker Chapman, affectionately known as "Chappie" to his legion of friends in the world of show business and sports both in Hawaii and on the mainland, died on March 18, 1974; and

Whereas, "Chappie" Chapman for a period of 40 years distinguished himself and the Royal Amusement Company of Hawaii by his unstinting efforts to provide the finest in family motion picture entertainment throughout the State; and

Whereas, "Chappie" donated his time, efforts and funds to community service; and

Whereas, he was a charter member of the Variety Cub of Hawaii, Tent 50, and helped found the School for Children With Learning Disabilities; and

Whereas, as a charter member of the Honolulu Press Club, his efforts on the Club's behalf were instrumental in its expansion and financial stability; and

Whereas, his work on behalf of the Hula Bowl in its early years helped the sports classic gain national recognition; and

Whereas, "Chappie" Chapman was admired and respected for his professionalism and generosity and truly exemplified the "Aloha Spirit"; now, therefore,

Be it resolved by the Senate of the Seventh Legislature of the State of Hawaii, Regular Session of 1974, that this body extend its deepest condolences to the family of the late E. Walker Chapman; and,

Be it further resolved that certified copies of this Resolution be transmitted to Thora Chapman, his widow; Mr. Herman Rosen, President of the Royal Development Company; Mr. Art Gordon, Chief Barker of the Variety Club of Hawaii, Tent 50; and Mr. Buck Buchwach, President of the Honolulu Press Club.

E. WALKER "CHAPPIE" CHAPMAN

HOLLYWOOD, CALIF.—Word has been received here that E. Walker (Chappie) Chapman, 65, assistant general manager of Royal Theatres, died in Honolulu on March 18, 1974, following cardiac surgery.

Mr. Chapman came to work as the first employee of Royal Theatres forty years ago, and for the past twenty-five years was Assistant General Manager and Director of Advertising and Public Relations.

Born in San Francisco, Mr. Chapman was employed by Rosener Circuit and was instrumental in starting Mickey Mouse Clubs in the Bay area. In Honolulu he organized the Press Club, the Quarter-Back Club, and he was a founding member of the Variety Club of Hawaii—Tent 50 and its charity, the Variety Club School for Children with Learning Disabilities. In addition, he served as director of the Junior Chamber of Commerce of Hawaii, and as a sportsman helped to organize the Hula Bowl, and for many years was sports broadcaster at the Honolulu Stadium.

He is survived by his wife Thora Williams Chapman; a son, E. Walker Chapman, Jr.; two daughters, Linda Cunningham and Sarah Heather Chapman; and two grandchildren.

An athlete in his younger days, Mr. Chapman's entire working career was in exhibition and distribution of films.

The family asks that, in lieu of flowers, donations be made to the Variety Club School for Children with Learning Disabilities in Honolulu or the Hawaii Heart Association or the charity of your choice.

"CHAPPIE" CHAPMAN DIES AT 65

E. Walker "Chappie" Chapman, 65, of 3847 Mariposa Drive, long active in Island show business, died yesterday in Queen's Medical Center while undergoing heart surgery.

Mr. Chapman helped found Royal Development Co., Ltd. about 33 years ago. He first handled advertising and public relations for the amusement company, then became vice president and assistant general manager.

He was one of those responsible for starting the Hula Bowl, and did the announcing at early games. And he was one of the charter members of the Honolulu Press Club and of Variety Club 1050.

Mr. Chapman formerly worked for the Walt Disney studios in Hollywood.

During his college days, he was a football star at the University of Southern California. He was also a swimming champion. And he was a top golfer.

Mr. Chapman is survived by his widow, Thora W.; a son, E. Walker Jr.; two daughters, Sarah Heather Chapman and Mrs. Linda Cunningham; two grandchildren; and a sister, Irma Ludwig of San Francisco.

Funeral services are pending.

[From the Honolulu Advertiser, Mar. 23, 1974]

A FRIEND HAS GONE

(By Dan McGuire)

They sang the last refrain yesterday for Chappie Chapman, one of the warmest, nicest guys ever to adopt these sunny Isles as his homeland.

From the day he arrived here in the 1930's, Chappie was in the forefront for many worthy causes, especially in the sports field. A great storyteller, he was for years in demand as a master of ceremonies and his oratorical talents included the broadcasting of high school football after World War II.

One time they gave Chappie a new arrival from the Mainland as a radio assistant and the poor fellow referred to golfer Jimmy Ukauka as "Jimmy Ooka-ooka." Chappie fell off his chair laughing and the broadcast was halted for several minutes.

Those years of the late '40's—the days of our youth—were fast and frantic . . . at least in retrospect. Few of us, particularly the ink-splattered wretches of the press, had any money. But you could buy a complete dinner at the Times Grill, now the Columbia Inn, for less than a buck. And you got your laughs out of "Duffy's Tavern" on the radio. Or Laurel and Hardy at the movies.

High school football was really big in those days, but Honolulu went crazy over boxing after the war. Frankie Fernandez, one of the best crowd pleasers of any era, took on topnotchers from the States, as we then called the big island to the East; David Kui Kong tangled with bantamweight champ Manuel Ortiz.

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HELPED FORM QB'S

Chappie helped Pan Am's George Pottorff form the Quarterback Club and was instrumental in lining up guest appearances by such celebrities as Johnny Lujack, Strangler Lewis, Jim Aiken, Jimmy Londos and Herman Wedemeyer.

Wedey brought an All-Star team over in January of 1948, meeting the Leilehuas at the Stadium in two games that pulled in overflow crowds. Chappie was emcee at a luau for Wedey and his gang and asked a couple of the players to sing their school song. Being footballers, they didn't know it. So he sang it for them.

Sam Uyehara's Smile Cafe was the big hangout for the sports gang and was where Chappie staged one of his greatest feats. In those days, Don Klein, Joe Rose and Les Keiter were doing radio recreations of major league games off fragmentary information transmitted on the United Press wire.

They used to wait until they had about five or six innings available before starting the broadcasts. Chappie sneaked into the U.P. office one afternoon and memorized the first three innings of a Yankee-Tiger game. Then he sped out to the Smile and, as usual, found an avid group waiting for the game to begin.

It was not yet common knowledge that the local radiomen doing delayed accounts of the major league action and Chappie took full advantage of the situation by mak-

ing bets on what each batter would do. His uncanny predictions soon had the patsies screaming for his scalp.

Unfortunately, he got a little greedy and stretched his streak to such a length that someone dropped in who knew what was going on. So Chappie returned all bets, bought several rounds for the house, sang a few of his favorite songs and headed into the night.

We'll miss him.

THE GENOCIDE TREATY: A STAND FOR MORALITY

Mr. PROXMIRE. Mr. President, recently the film "Judgment at Nuremberg" was shown again on national television. I am sure that anyone who has seen it, either on television or when it was originally released, has been affected by its gripping depiction of the Nazi horrors—the casualties, the corruption of justice, and the decline of morality.

I mention all of this because when recalling the brutalities of the Nazi era, we can do more than simply hope that they will never be repeated. We can put ourselves and our country on record as being unalterably opposed to all the heinous and inhuman crimes which fall under the heading of genocide. And we can do this by giving our swift and speedy approval to a most valuable document—the United Nations Genocide Convention Treaty.

Mr. President, as long as we delay action on this matter, our commitment against genocide—as practiced not only by the Nazis but by several governments up to and including the present era—can only be questioned, and our international status suffer as a result. Our having neglected this treaty for so long has been a tragic mistake; let us not compound the mistake by further postponing consideration.

AFFLUENCE AND SURVIVAL

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of my colleagues a very provocative article by Anthony Lewis entitled "Affluence and Survival II," which appeared in the New York Times on April 22, 1974.

The feeding of Americans requires many more calories than is necessary to support a healthy existence. For instance, the amount of food consumed by 210 million Americans would nourish 1.5 billion Chinese on a standard Chinese diet.

The fertilizer shortage, combined with reduced fuel for production, will help to intensify an already serious food supply problem. In Asia, the yearly population expansion of 2 to 3 percent increases the demand for food, but with the present shortage, a substantial percentage of the world's population will face the prospect of famine.

The United States, as the largest exporter of food, is in the best position to deal with the shortfalls in world food production. Considering the fact that we have almost no reserves and anticipate only a minimal year-end carryover, a modification of the American diet may have to occur.

In the past it was generally accepted as a fact that the solution to insufficient food production was the introduction of the U.S. style of high technology food production. This assumption is being questioned on the grounds that high technology farming is energy intensive. Considering the high costs of energy and barring a breakthrough in renewable energy sources, it may be necessary to turn to labor as opposed to energy intensive food production.

The issue, as Mr. Lewis so eloquently summarizes, is:

Will we, can we go on pursuing our extravagant way of life in an increasingly hungry world? It is not some remote or speculative question. Half the people in the world now go to bed hungry every night. And the looming probability is that thousands, even millions may starve in the year ahead unless they get help from outside—mainly from the United States.

Unfortunately, the media has, for the most part, paid so little attention to this critical issue. We cannot remain insensitive and indifferent and we should not expect to continue to live in an island of opulence surrounded by hunger and starvation.

We need to develop a unified policy for dealing with the rapidly emerging food crisis. We need bold leadership to raise these issues and develop solutions.

Mr. President, I ask unanimous consent that this outstanding article be printed in the RECORD.

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

AFFLUENCE AND SURVIVAL II

(By Anthony Lewis)

BOSTON, April 21.—In one short sentence recently Professor Jean Mayer of Harvard, the great nutritionist, illuminated the profound moral and political test that awaits this country on the issue of food.

"The same amount of food that is feeding 210 million Americans," he said, "would feed 1.5 billion Chinese on an average Chinese diet."

The question is: Will we, can we go on pursuing our extravagant way of life in an increasing hungry world? It is not some remote or speculative question. Half the people in the world now go to bed hungry every night. And the looming probability is that thousands, even millions may starve in the year ahead unless they get help from outside—mainly from the United States.

That prospect is based on factors that can already be estimated with fair accuracy. For one, there is a serious worldwide fertilizer shortage, caused in part by the quadrupling in the price of oil that goes into nitrate fertilizer and in part by insufficient fertilizer plants to meet demand.

In India, the fertilizer scarcity has already hit hard, along with difficulty in pumping water because of gasoline shortages. The spring wheat crop target was 30 million tons. Recent estimates put the actual figure nearer twenty million.

In Asia generally, fertilizer supplies will be inadequate at least through this year. Crops are therefore expected to be down substantially. But the rising population inexorably pushes the need for food up 2 to 3 per cent a year. For those reasons, the experts foresee a huge food deficit in Asia this year—the largest in memory, one has said.

As a practical matter, grain to make up the shortfall in Asia would have to come in large part from the United States. Only the U.S., Canada, Australia and New Zealand are net grain exporters now, and America is by far the largest.

And so we Americans shall probably have to decide before the end of 1974: Do we avert our gaze from Asia, cut ourselves adrift from a main problem of mankind? Or do we help others survive by doing the food equivalent of turning down our thermostats?

We have no surplus now, and no grain carryover to speak of. We can probably help on the scale needed, then, only by adjusting our own eating habits.

The American diet has turned more and more toward meat: fifty pounds of beef per capita in 1950, 119 pounds in 1973. And beef is a terribly wasteful food to produce. Feeding corn to cattle in feed lots, you end up putting on the table in steaks and stews only 5 per cent of the calories that were in the corn. An American now uses 22,000 pounds of grain per year to feed himself, a Chinese 400. But of the American figure only 140 pounds are eaten directly as grain in bread and other cereal products. Of the Chinese 400, 360 are eaten as grain.

If the United States is going to play a substantial part in bridging the world food deficit, there will have to be a change in our diet. Of course we need not eat less nourishing or appetizing food; in terms of taste and real value the American diet is a well-known disaster. American food habits have been spreading, and that trend also will have to change. That leads to a longer run point about the world food situation. The general assumption has been that the growing problem of population and food could be met by spreading American agricultural methods to the less developed world, with mechanization and intensive use of commercial fertilizer and pesticides. That assumption is now under challenge.

The problem is brilliantly, fascinatingly analyzed in the current issue of Science by Professor John S. Steinhart of the University of Wisconsin and Carol E. Steinhart. What they demonstrate is that the American food system is immensely energy-intensive. Huge amounts of energy are poured into growing crops without much labor, then even more into processing and packaging, and still more at the consumer end into auto-powered shopping, refrigeration and the like.

In "primitive" cultures, the Steinharts say, each one calorie of energy invested produces five to fifty calories of food. In industrialized food systems, it takes five to ten calories of energy to get one in food. If all countries followed our energy-intensive pattern, the world would use 80 per cent of its annual energy just to produce food.

Barring some breakthrough in renewable energy sources, the Steinharts conclude, the choices for man "appear to be either less-intensive food production or famine for many areas of the world." As energy costs go up, even developed countries will have to find ways of using more labor and less energy in their food production.

One commodity is essential for needed change in either the immediate future or longer term, and unfortunately it is in short supply. That is leadership in Washington. We can only hope that it will appear, and work toward that end. If man does not deal with his food problem in terms of the small world he inhabits, as the Steinharts say, then "the food shortage will solve our population problem."

WORLD HUNGER

Mr. DOLE. Mr. President, America's agricultural harvests in recent years reached record levels. Yet there are some people of the world that remain hungry. Poor rains, fertilizer shortages, and other shortfalls have meant that this year many countries of the world stand in the shadow of increasingly short food supplies.

The American voluntary agencies have for more than 20 years been using our agricultural resources made available under Public Law 480 to feed the hungry and to assist people in the least developed countries to improve the quality of their life through self-help projects at the community level.

One such agency is Church World Service, a department of the National Council of Churches of Christ in the USA. As a relief and rehabilitation unit representing 31 Protestant and Orthodox denominations, it has since 1954 used more than 4½ billion pounds of Food for Peace commodities, valued at more than $320 million for emergency relief and community development projects in such places of need as India, Bangladesh, the Sudan, Brazil, and Haiti.

In addition, CWS has since 1946 made available, with the help of CROP, its Community Hunger Appeal, millions of dollars worth of private resources in direct relief, technical, and material development assistance, and family planning in 60 countries. It has helped resettle in the United States more than 200,000 refugees and escapees from abroad.

CWS has just published a booklet, "Church World Service in a Hungry World," by Melvin B. Myers. In view of the escalating world food crisis, CWS has pledged itself to increased effort to alleviate world hunger and is asking its member agencies to do the same.

Mr. President, contained therein is an excellent outline of humanitarian food need and CWS policy. Because of the urgency of the world food crisis and the timeliness of the CWS statement, I ask unanimous consent that it be printed in the RECORD.

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

CHURCH WORLD SERVICE POLICY

(Adopted January 17, 1974)

Church World Service and its acts always stand under the judgment of God. It is committed to reach out in compassionate service to all people everywhere because it shares a common humanity under the Fatherhood of God. Church World Service recognizes the theological, moral and ethical imperative to meet human need by sharing our food with a hungry world, even at expense to our own diets.

Church World Service believes that food aid, whether produced locally or imported from whatever source, should be used as a constructive tool by Church World Service, and encourages its counterpart agencies and the churches of the world to utilize it to:

a. Foster the dignity of labor and improve the quality of the lives of people served;

b. Alleviate hunger, human suffering, and improve nutritional status especially of children, toward the goal that one day every child in need in the world may have a nutritionally adequate daily meal;

c. Increase agricultural production;

d. Achieve positive impact on the economic structure so as to seek to place adequate food within the reach of the lowest economic strata of the community served.

Church World Service believes that American food must be deemed a public utility, deserving and requiring the same serious legislative consideration as traffic safety, fuel conservation, and ecological protection. Americans as private citizens must also regard food with the same seriousness as they ask of their Government. American food made available by legislative enactment, as well as that provided by other developed countries, should be divorced, to the fullest extent possible, from use as a tool of foreign, economic, and political policy. Similarly, in the developing countries and those in which food shortages exist, food should not be denied any segment of the population by reason of national pride, ideology, or in furtherance of a national self-sufficiency plan.

An adequate diet for all segments of society within a country should be a primary and basic governmental responsibility, with food requirements met to the fullest extent possible by and from local production and commercial imports, and augmented and supplemented to the extent necessary by food aid through intergovernmental agencies such as the World Food Program and other mutually acceptable bilateral arrangements.

Church World Service and other voluntary agency food imports should normally be supplemental, catalytic, and of relatively short term in the absence of other alternatives. Such food should be channeled through and distributed by indigenous instrumentalities, including those that are church-related, that are capable of carrying out such programs, rather than through a U.S.-based and controlled agency. In its distribution and use of food. Church World Service will continue to be sensitive to the dignity and self-respect of the recipients, and will continue to work to prevent over-dependence on imported food aid.

The indigenous non-governmental food distributing agency in a country should be encouraged to establish, within its own policy and priority framework, prior coordination with its own government for food and other subventions whereby such agency may secure additional resources to meet the expressed needs of the communities to which it relates, for use without reference to race, color, creed, or political association.

Concerned that under present policies and administrative regulations the quantities of food donated to Church World Service and other U.S. voluntary agencies under the Food for Peace Act will be increasingly limited, Church World Service

a. Reconfirms its policy of limiting its utilization of and dependence on Food for Peace commodities, while at the same time remaining sensitive and receptive to the possibility and necessity for new programs and the augmentation of present programs.

b. Urges the U.S. Government to guarantee the supply of food and freight funds for voluntary agency programs on a three-to-five year time span so that counterpart agencies may plan and mount constructive programs with assurance of commodity availabilities. Food assistance for disasters and emergencies, and commercial market demands should not be permitted to vitiate such programs, but should be met from reserves and other funding resources, in cooperation with other countries.

c. Church World Service, within the spirit of the Judeo-Christian tradition, recommends a U.S. Government policy of at least a tithe of its exportable agricultural commodities, setting aside this ten percent to provide a more adequate supply of food for humanitarian assistance and development programs of the voluntary agencies under Title II of Public Law 480, and in support of other elements of the law.

At the same time, Church World Service encourages the churches in developed countries which export food, or import food on a wholly commercial basis, to intercede with their Governments for a comparable tithe for humanitarian purposes, either in food or in fund equivalent, and urges the U.S. Government to communicate to these Governments its intent to tithe also.

d. Recommends to the U.S. Government that administrative regulations and oversight applied to U.S. voluntary agencies under Public Law 480 be made to conform with those applied to intergovernmental agencies, and that restrictive and complicated requirements of documentation, auditing, monitoring, and bilateral agency-government agreements be removed or simplified.

e. Food should be regarded as the most viable base for people to unite in a common task; local leadership should be encouraged to the fullest extent possible as a primary instrument for development of human resources and initiative. To this end, Church World Service believes that the requirement for U.S. citizen representation should be removed as restrictive and counter-productive.

f. Commends to the U.S. Government a proposal that the voluntary agencies be given latitude to choose the commodities and the quantities thereof, within the budgetary and availability parameters that may apply, in order that these commodities are the most utile for particular types of programs and are culturally acceptable in the particular country.

Church World Service applauds the past and current humanitarian efforts and food assistance provided by the U.S. Government in times of disaster and emergencies and will, to the extent of its ability and that of its counterpart agencies,

a. Assist local government, the U.S. Government, and intergovernmental agencies in distributing food, and in supplying other needed resources at such times;

b. Extend its best efforts beyond relief into rehabilitation and development, in concert with the World Council of Churches, regional and local bodies and church agencies throughout the world.

Church World Service recognizes Public Law 480 as a constructively humanitarian legislative action and one which deserves strengthening and support in the face of the world food situation. The presently diminishing availability of Food for Peace is therefore a major concern. Despite its own decreased utilization of Food for Peace commodities, Church World Service will continue to maintain close liaison and communication with the U.S. Government, separately and in concert with other voluntary agencies, in the firm belief that both the Legislative and Executive Branches are sensitive and receptive to the experience and counsel of voluntary agencies.

In prospect of closer working relationships with the U.N. and especially ECOSOC, the FAO and World Food Program, Church World Service will continue its liaison and communication with these bodies within the context of pertaining structure and policy.

Church World Service asks CROP, its Community Hunger Appeal, to treble and even quadruple its efforts to secure from a concerned and compassionate public the additional resources required in tools, seeds, fertilizers, food, and funds necessary to a massive effort to increase food production overseas, and recommends to the denominations and other church leaders that they urge their own constituencies to take leadership roles in CROP's community efforts to combat hunger and malnutrition.

Church World Service believes that massive and immediate research efforts on an international scale must be undertaken in the face of the present world food crisis to foreshorten by decades the application of new techniques. The Secretary-General of the United Nations is therefore encouraged to bring together the specialized agencies of the United Nations in a concentrated, well-funded and crash effort directed to this end, and applauds the action of the United Nations General Assembly in calling a World

Food Conference in 1974 as a first step in this process.

Church World Service endorses the proposal of the UN/FAO for the establishment of national food reserves which will provide food security for each particular country as well as to provide for emergency situations in the world. An adequate food reserve will only be possible now and in the immediate future if the affluent members of society, especially in the United States, undertake to change their present eating habits, so as to minimize the present drain of food resources, particularly of grain. Church World Service believes that the church is a potent moral and educational channel, and will itself and through its constituent denominations and CROP endeavor to encourage maximum conservation of food.

SANGRE DE CRISTO COMPREHENSIVE HEALTH SYSTEM

Mr. MONTOYA. Mr. President, recently I received a copy of an interesting report from the Sangre de Cristo Comprehensive Health System.

We hear so many stories of crises these days. It is rare for us to hear about a success. That is one reason it is important for all of us to be aware of what happened in this small corner of the Southwest.

We seldom hear in Washington about the end product of the Government programs which we fund, and when we do, it is usually a complaint.

This report tells another story. It tells us about the people of Costilla County in Colorado and Taos County in New Mexico—two poor and underdeveloped counties where years ago modern health care was only a dream.

It tells us about private citizens, a church group, and medical people who worked with State and Federal Governments to build a comprehensive health care system for their community. It tells us about the years of hard work, and the inspirational successes.

Most of all, it makes clear the substantial assistance Federal health care support gave to this local effort. It illustrates better than any statistics could the need for a continuation of the health care partnership between local citizens, the State and the Federal Government.

I think the growth of this program speaks for itself. It cries out for the attention of every Senator or Congressman who is considering continued support for Federal health care funding. Mr. President, I ask that the report from Sangre de Cristo be printed in the RECORD.

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

SANGRE DE CRISTO COMPREHENSIVE HEALTH SYSTEM

The Sangre de Cristo Comprehensive Health System, headquartered in San Luis Colorado, serves 6,500 residents through a program oriented toward ambulatory and preventive care. During the past three years it has become a major force in the delivery of health care in Conejos County, Colorado, and the northern half of adjoining Taos County, New Mexico. The System's three major clinics, three outlying nursing health stations, and an alcoholic recovery center, provide treatment services in the two and one-half county area of approximately 20,000 people, most of whom are low-income Spanish-Americans.

Sangre de Cristo started in 1946 when a group of concerned citizens founded the Costilla County Health Association. At that time, the county had no hospital or outpatient medical facilities. The Association designed, built and equipped the Sangre de Cristo Health Center in San Luis as a small inpatient and outpatient hospital of about a dozen beds.

In 1955, the county leased the Center to the Board of National Missions of the United Presbyterian Church as a missionary outpatient clinic. The Board administered the Center from its New York City headquarters for ten years, assigning staff physicians to serve terms in the facility. In 1965, the Board of National Missions formed the Presbyterian Medical Services (PMS) in Santa Fe as a local arm to operate the Sangre de Cristo Health Center and three other medical facilities in the Southwest. With the endorsement of the National Board, PMS later became an independent non-profit health care corporation with its own Board of Directors, and curtailed missionary activities in its facilities.

In 1968, PMS received a grant from OEO's Office of Health Affairs and converted Sangre de Cristo from a missionary outpatient clinic to an OEO Neighborhood Health Center. Since that time, the Sangre de Cristo Health Center has gradually developed into a comprehensive health network with seven facilities. In 1970, the Center established two outlying nursing stations in Fort Garland in the northern part of Costilla County and Costilla in the northern part of Taos County. It also set up an Alcoholic Recovery Center in San Acacio, Colorado.

In 1971, the project became the Sangre de Cristo Comprehensive Health System, a multi-institutional health care network responsible for all public health programs in Conejos and Costilla Counties. It also took over the operation of a PMS health center in Questa in northern Taos County and established a nursing outpost in southern Taos County. During 1973, responsibility for the operation of the System passed from PMS to an elected Board of Directors representing the two and one-half county area.

The Sangre de Cristo Comprehensive Health System, operating on sliding fees scaled to a patient's ability to pay, now employs four physicians, four dentists, eight registered nurses, six licensed practical nurses, two dental hygienists and a wide variety of unique new professional health practitioners. The remainder of the staff are mostly local low-income people who have been trained by the project as health and clerical aides, drivers and assistant technicians. The System, therefore, is providing skill training and employment in an area where jobs are extremely scarce, but more importantly, another vital, scarce commodity—comprehensive health care, is being made available to the population for the first time.

The present staff offers not only regular and emergency medical and dental care, but also an outreach program of home health aides, vehicles and drivers. Patients are visited for care and, when necessary, transported to and from the various clinics. The home health aides give advice and classes in hygiene, sanitation, family planning, prenatal care, nutrition and meal planning, diet and weight control. Consultants and specialists from Denver visit the System regularly, including mental health professionals.

A director of training and education is on the staff. In addition to arranging for in-service training and for special outside education for staff members, he writes and publishes a monthly newspaper, in both Spanish and English, which is widely distributed throughout the San Luis Valley.

A CONSUMER ORIENTED BOARD

Sangre de Cristo is incorporated as an independent, free-standing, non-profit corporation in the State of Colorado, qualified to do business in the State of New Mexico. The Board of Directors is made up of twenty-two residents of San Luis Valley and is broadly representative of consumer interests. Its members have long been active in the social, cultural, political, and religious life of the Valley's communities. This consumer representation on the Board is directly responsible for the involvement of community residents in the operation of the health centers within the System by assuring that services are rendered in a manner that is responsive to the needs and wishes of the people.

The Board has established the following criteria as objectives to meet for consumers within the System:

1. The highest possible quality of clinical skill in the management of a patient's health problems.

2. The highest possible degree of patient satisfaction with the total care provided consistent with consumer interest in accessible, personalized and kindly health care.

3. The most efficient and effective use and management of these services possible, in the interest of achieving an economical health care delivery system which can eventually sustain itself without grant assistance.

4. The greatest possible improvement in the health status of the people being served by the new system as measured by improvements in mortality and morbidity rates, and by other indicators showing the prevention of illness and the maintenance of a better state of health among the persons involved in the system.

The objectives identified by the Board are interrelated, and when taken together, form the basis for a responsive organization which deals realistically with problems of health care delivery, while at the same time advancing the legitimate self-interests of both consumers and providers. The Board recognizes the fact that any effort to organize health care delivery in the San Luis Valley must be a social enterprise in which providers and consumers are concerned with the final products: the well-being of the population. Obviously, providers have to be able to work in a climate of personal and professional satisfaction. But consumers must be the subject, not the object, of the health care process, involved and participating in the advancement of their own well-being.

Another basic objective is the Board's concern with the process of patient management and practice management. It is convinced that care must be family-centered, and is impressed with the potential of Problem Oriented Practice health care delivery. It feels that this would impact on the System by the development of an effective team practice and the creation of a data base which will permit a more rational management of health care problems.

The Board has actively pursued a policy of participation in decision making among all involved parties. It looks forward to a sense of true partnership with providers, rather than becoming protagonists. The guiding conviction here is that the common interests of each will serve to overcome differences. The Board recognizes that consumers and providers, working together as partners in the San Luis Valley, not one dictating to or manipulating the other, can best be accomplished by a continuing, frank exchange of views among all concerned. Toward this end, Board members view their role as guardian of the private and public dollars which flow into the System from those citizens in the

Valley who elect to have their health care needs met through this organization.

PREPAID HEALTH CARE

Sangre de Cristo has now embarked on the organization of a prepaid health plan capable of providing accessible, coordinated, high quality services to an enrolled membership in the San Luis Valley, with continuity of care to consumers assured across the entire spectrum of their health needs. The Board intends to add at least ten to twelve additional health centers throughout the Valley during the next three to five years. This will come about primarily by linking other existing health centers, usually Federally funded, into the new prepaid health plan. Federal officials with jurisdiction in both New Mexico and Colorado entirely support the efforts by Sangre de Cristo to bring about mergers of a number of presently unrelated Federal investments in health service programs. The Board strongly believes that a network of twelve to fifteen ambulatory health care centers, serving as "entry points" into a coordinated health care delivery system, with clear and effective linkages to high quality specialty care, represents a realistic five-year goal for the Sangre de Cristo System.

In striving to establish this kind of network, a major organization principle adopted by Sangre de Cristo is the policy of using existing physicians and other health care resources. That is, the Board seeks to enter into contractual agreements with physicians and physician groups for the provisions of all physician services, in and out of hospitals, on the basis of prepayment of a fixed, per capita sum, paid monthly in advance. Conversely, Sangre de Cristo wishes to avoid the direct employment of salaried physicians or other health care personnel, although in those circumstances where it proves impossible to secure contractual agreements with local physicians, this course may represent the only other alternative.

A similar policy has been adopted by the Board to secure underwriting for hospital care provided to members of the new prepaid plan. Sangre de Cristo has no interest in trying to become a health insurance company. Instead, contracts to underwrite semi-private coverage for members of the plan have been negotiated with Blue Cross in New Mexico and Colorado.

The Health Insurance Plan of Greater New York (HIP), with an enrollment of over 700,000 persons, is perhaps the best example of what Sangre de Cristo is attempting to establish. HIP has contractual agreements with thirty-five different medical groups for the provision of all physician services on the basis of prepayment of fixed, per capita sums. However, one major improvement of the Sangre plan over HIP will be the return to physicians of fifty percent of any savings resulting from a more efficient use of hospital beds. Thus, if Blue Cross underwriting is based upon a predicted utilization of 800 bed days per 1000 patients per year, and the actual utilization should turn out to be 400 bed days per 1000, fifty percent of the monies thus saved would be paid to the physicians responsible for the lower utilization patterns. The remaining savings will be passed on to members in the form of increased benefits or reduced rates.

Sangre de Cristo intends to offer the new prepaid plan to the entire community throughout San Luis Valley as an optional, alternative method of securing their health and hospital care on a prepaid basis, with quality, continuity, accessibility and cost-efficiency assured. With a Board of Directors elected by and responsive to the membership and the community, Sangre de Cristo is unusually well-equipped to reach families in the Valley for this purpose. To secure the enrollment of residents who currently have group health insurance coverage through their place of employment, the Board is pursuing contractual agreements with Blue Cross plans for the cooperative marketing of Sangre de Cristo prepaid benefits as an option for such group membership.

The process of enrolling a cross section of the population is critical to achieving an enduring impact on the delivery system, in terms of quality of clinical performance, the distribution of resources, and the character and manner in which services are provided. The ability of the Board to achieve contractual agreements among all parties based on cost effectiveness is directly related to a pooling of health care expenditures, regardless of the sources for their payment. The merging of memberships group enrollment from among employed and/or unionized workers, individual payors, as well as those whose income level requires external financing for health care, is a principal objective of Sangre de Cristo's Board.

In view of the economic realities prevailing in San Luis Valley, and given a heavy Federal health care investment at the present time (perhaps 8 million dollars if the myriad of Federally funded health programs are totalled up) the Sangre de Cristo Board is convinced that the approach it is taking is sound and practical and can, with appropriate support from providers and underwriters, result in a prepaid health plan which will eventually be able to operate without direct Federal subsidy. If Sangre de Cristo can secure Title XVIII and XIX contracts based upon prepayment of fixed capitation, and if in the future some form of national health insurance is provided to cover the present "gray areas", then the health plan being established in Sangre de Cristo will eventually provide full health services for its membership without further need for Federal grant funds.

The Sangre de Cristo system stands today on the threshold of becoming a stable, organized network for the delivery of comprehensive health care services to residents of the area. There are many hurdles yet to be overcome unfortunately not the least being the inflexibility and slowness of some parts of the federal and state administrative apparatus. However, the Sangre leadership is convinced of the soundness of their course, and is firmly committed to achieving the goals of this social enterprise, no matter what the obstacles.

THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. McGEE. Mr. President, since the House of Representatives voted earlier this year to defeat the fourth replenishment to the International Development Association, I have been deluged with letters of concern from hundreds of organizations and individuals expressing concern and dismay over this action.

In one of these letters, the Director of the Office for World Justice and Peace wrote:

We are convinced you realize that a country as blessed as ours is in general material well-being, because of these present troubles, cannot turn its back on the millions of the world's poorest human beings, many hundreds of thousands of whom are threatened with starvation and the quality of whose very lives seems to depend these days on decisions in which they have no part.

Quite apart from the political considerations involved in honoring a carefully negotiated commitment like this contribution to IDA, there is at stake the moral awareness and conscience of the American people, the image of which has its own political repercussions in the world at large, as you well know.

From the American Council of Voluntary Agencies for Foreign Service, Inc., James MacCracken writes:

It would be most unfortunate if our support were not given to IDA at precisely this time when the United Nations and its Specialized Agencies, including the World Bank, have directed the thrust of the Second Development Decade at development in the rural areas where the poorest of the poor are concentrated. These are the very people whom the voluntary agencies are dedicated to helping.

Finally, the United Nations Association of the United States of America has compiled an excellent analysis of IDA which I believe each of my colleagues should give their closest attention. It sets the issue in its proper perspective and is an excellent contribution to the IDA debate.

I ask unanimous consent that these materials be printed in the RECORD.

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

THE INTERNATIONAL DEVELOPMENT ASSOCIATION: THE ISSUE OF THE FOURTH REPLENISHMENT

The International Development Association (IDA) is part of the World Bank group and was established in 1960 at the instigation of the United States. IDA was a response to the need of developing countries for developmental loans at low rates of interest. The realization had grown that many of the countries most desperately in need of assistance could not afford to borrow at the conventional rates of interest the World Bank could make available.

Thus, IDA offers loans known as credits. These are generally for a 50 year period and though interest free carry a ¾ of 1% service charge. To qualify, a country must have a per capita annual income of $375 or less. IDA is an attempt to mobilize capital for the development of the poorest nations and to shield them from a crushing debt service burden. The World Bank group, through IDA approved credits for developmental aid, generally aimed at improving the infrastructure of the developing recipient nation. They are for projects in such fields as *transportation, agriculture* (including many irrigation projects), *education* and *health*.

The U.S. contributed 42.6% of the initial $750 M. Since then, there have been three successive replenishments. For the first, the U.S. share was again 42.6%, and for the second and third, approximately 40%. The U.S. is presently one year behind schedule for the Third Replenishment. In fact, fifteen countries made advance commitments so that IDA's programs could continue before the Third Replenishment became effective, on the assumption the U.S. would come through with its share.

Agreement was reached on the Fourth Replenishment among the member nations of IDA in September, 1973, at Nairobi, Kenya. It called for a U.S. contribution of $1.5 B., ⅓ of the total. As is usual, payments would be in non-interest bearing letters of credit, to be drawn down as needed by IDA.

H.R. 11354, the IDA replenishment authorization, was reported favorably by the House Banking and Currency Committee. It was defeated in the House on January 23, 1974, 248–155. The defeat was the result of a combination of Administration inaction and domestic political considerations. As one observer noted in early January, speaking of the impending House action, "This is going to be a question of timing and circumstance; if things get really bad on the domestic scene (i.e., the oil crisis), there could certainly be an upsurge in isolationist feeling and in hostility

to development assistance." Little note was made in the House of the significance of the bill.

The House ignored several important aspects of the Fourth Replenishment. Provisions had been made to extend the period for U.S. payment an extra year; the U.S. share had been reduced from 40% to 33.3%; maintenance of value obligations (that could raise the amount obligated) had been dropped. The amount of the total, and the U.S. share, had been negotiated with full U.S. participation. *Full functioning of the replenishment depends on full U.S. participation. Anything less than the authorization of the full amount will most likely require complete renegotiation.* Time is now very much a factor; IDA's funds will be fully committed by June 30, 1974.

The Senate Foreign Relations Committee has held hearings on S. 2665, the Senate bill to authorize the replenishment, since the House defeat. Many of the issues raised on the floor of the House were discussed. This was important because it gave spokesmen for the IDA replenishment a chance to clear up some misconceptions and assumptions that have arisen concerning the Fourth Replenishment. Some of these are as follows:

Assumption: Foreign aid really isn't that effective; IDA projects may not produce any more identifiable results than any other type of aid.

IDA grants credits only for soundly conceived projects. IDA, it must be remembered, is an integral part of the World Bank group, and the World Bank has lent over $18 B. for the last 28 years without a loss. In that time it has acquired expertise and a highly skilled staff, specifically trained to assist in developmental lending. This same staff is used by IDA. Both organizations operate under the same high business standards. Many identifiable benefits have certainly resulted from IDA projects; 21 countries are currently receiving agricultural and educational benefits. 3½ B. acres of land are now under cultivation which were undeveloped 10 years ago. The living standards of over 2 M. people have been dramatically improved. IDA's agricultural projects affect 1,250,000 farmers. 9 M. people in 5 countries are benefiting from IDA improvements in water supply and sewer drainage. In education $185 M. of IDA credits have built 360 schools and trained 377,000 teachers. Since 1970 $40 M. of IDA money has been used for 1,360 new health clinics and a staff of 8,600 medical technicians, bringing health services to over 21 M. people who were without it.

Assumption: Since the price of oil has gone up so sharply, any foreign aid to the developing countries will really just go to pay for oil.

The developing countries were of course the hardest hit by the current increases in the price of oil. The IDA, however, does not subsidize petroleum imports. IDA money finances only *specific* goods and services required for the execution of the project. A country could not siphon off IDA funds for items not related to the projects.

Assumption: IDA money goes directly to finance projects in the oil rich Arab countries.

No; IDA only invests funds in countries with incomes of less than $375. 70% of its money goes to countries with less than $100 per capita incomes. Oil producing countries have GNP per capita incomes of more than $375 per year and therefore do not qualify for IDA loans. The Arab countries fall into two catagories—those with per capita incomes approaching the U.S., and those still very close to the IDA threshold. Kuwait's per capita income is $3,380; Libya, $1,450; Quatar, $2,370; United Arab Emirates, $3,150; Iran, $450; Saudi Arabia, $540; Iraq, $380.

Question: Why don't these oil producing nations contribute more?

Iran, Saudi Arabia and Iraq still consider themselves under developed, and by nearly all standards they are. They all, however, are beginning to assume some of the responsibility that goes with their newly acquired wealth. Kuwait has been an underwriter for World Bank loans; Iran has established a $1 B. program for aid to the developing countries. Libya is also considering a donation to the World Bank. Current negotiations are going on in Geneva to establish an Arab development loan fund.

Question: The U.S. has enough problems of its own; why should we be concerned with IDA?

Our failure to support IDA could undermine a reliable and sorely needed supply of raw materials, one third of which we obtain for the developing world, and that proportion will only grow in the future. LDC's supply the U.S. with 99% imports of natural rubber, 37%, iron ore, 79% of copper ore, 98% of bauxite and 62% of oil. For example, Jamaica and Surinam provide us with ⅔ of our aluminum ore and metal. Every ounce of the tin we use comes from developing countries such as Malaysia, Thailand and Brazil. We need the markets and materials that so many of these countries provide just as desperately as they need our capital and technical expertise. We also sell abroad—5 million American jobs depend upon export of our products. In 1972, exports to the developing countries amount to $14.6 B., close to *30% of our total exports.* We had a *surplus trade balance* with the LDC's at a time when we were suffering an overall $6 B. trade deficit. Markets for U.S. goods can only grow as these nations develop. *We cannot afford to not invest in the development of the world because we are a part of it. Our own welfare, our own progress is vitally linked with the economic realities of the rest of the world.* We have far more to lose than any other country. Our future progress may well depend upon the growth of the developing world's economy, the focus of IDA's concern.

Question: Why IDA?

IDA provides the best way of helping the developing countries. IDA represents the united effort of the developed world to assist the lesser developed countries by loans for sound, well thought out projects, not bilateral handouts. *IDA money is never a gift.* Money is dispersed only as contracts are arranged for a specific project, and then only after it has been evaluated by the World Bank team for its overall effectiveness and benefit. *IDA is a multilateral loan agency, actually providing a mere 15% of the funds for each project.* The local country puts up 85% of the funding for the project. IDA's 15% provides the hard currency needed to purchase project supplies and know-how from the industrialized countries. By using IDA, the U.S. can get the developing countries off the AID payroll, and discourage their bilateral dependence on the developed nations.

Question: $1.5 B. is still a lot of money. Why should the U.S. pay that much?

Actually the amount of funds to be expended is very small. The U.S. has been granted a special extension of one year instead of the usual three year time period given to other countries. The U.S. may now take four years over which to spread her share of the replenishment. The IDA has also permitted the U.S. to pay $375 M. per year rather than the whole sum as other nations do. As the GNP of the other nations has risen, the percentage of funds coming from the U.S. has decreased. U.S. participation has declined from an initial 42.6% to the current 33.3%. As a percentage of GNP, *the U.S. ranks at the bottom of the industrialized nations in amount given.* The U.S. assistance percentage of GNP in 1972 was only .29% or 3/10 of one percent. France contributed .67% of her GNP or nearly 7/10 of one percent. Australia contributed .61%; Belgium, .55%; Sweden, 148%; and the United Kingdom, .40%.

SUMMARY

Failure to act by the U.S. will prevent the Fourth Replenishment from taking effect. At the very least, this would require a renegotiation of the replenishment with the other donor countries. Further, any delay at such a crucial time for the world's poor would be disastrous. It would also be interpreted as a U.S. retreat from developmental assistance even as the U.S. seeks to negotiate important changes in the world's economy, aimed at promoting peaceful growth.

APRIL 9, 1974.

Hon. GALE W. MCGEE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The American Council of Voluntary Agencies for Foreign Service, with 43 member agencies representing the major religious denominations, national and non-sectarian groups engaged in overseas relief, rehabilitation, and development work, strongly urges favorable Senate action on S. 2665 a measure authorizing United States participation in the fourth replenishment of the International Development Association.

Member agencies of the American Council have had long experience in helping the poor overseas, pioneering in development assistance at the grass-roots level. We are therefore acutely aware of the dire need of the most deprived element of the population in the least developed countries for assistance of the sort provided by IDA.

The United States Government, with a tradition of humanitarian concern for the poor and destitute, has been a prime organizer and constant supporter of IDA for the past 13 years. Following U.S. leadership, other developed nations have given increasing support to IDA, pledging funds covering two-thirds of its budget. The remaining one-third, which is our share, is crucial to IDA's continued existence.

It would be most unfortunate if our support were not given to IDA at precisely this time when the United Nations and its Specialized Agencies, including the World Bank, have directed the thrust of the Second Development Decade at development in the rural areas where the poorest of the poor are concentrated. These are the very people whom the voluntary agencies are dedicated to helping.

In its recent study, *World Poverty and Development: A Survey of American Opinion,* the Overseas Development Council reports that "Better than two thirds of the American public, 68%, are in favor of providing U.S. foreign assistance to the poor countries," as compared to 51% in 1958 and 58% in 1966. This support for foreign assistance has been reflected in the unprecedented level of almost half a billion dollars contributed by the American people to the overseas programs of voluntary agencies registered with the Advisory Committee on Voluntary Foreign Aid.

We feel that your favorable vote on the replenishment of IDA would be in keeping with the wishes of the American people.

Sincerely,

JAMES MCCRACKEN,
Chairman, American Council of Voluntary Agencies for Foreign Service, Inc.

MARCH 18, 1974.

Hon. GALE W. MCGEE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGEE: I am writing to you as a member of the Senate Foreign Relations Committee to urge you to do your utmost to secure a favorable Senate vote on S. 2665 au-

thorizing the US contribution of $1.5 billion to the International Development Association.

We who are dedicated to working for justice for all God's people, for their right to freedom from hunger and from a level of living hardly befiting the dignity of the human person, are placing our confident trust in the Senate to maintain our country's proud and honorable record of leadership in the field of humanitarian concerns.

We are quite aware of the needs of our own poor and of the inconveniences and difficulties most of us are now experiencing because of inflation and the oil crisis. But we are convinced you realize that a country as blessed as ours is in general material well-being cannot, because of these present troubles, turn its back on the millions of the world's poorest human beings, many hundreds of thousands of whom are threatened with starvation and the quality of whose very lives seems to depend these days on decisions in which they have no part.

Quite apart from the political considerations involved in honoring a carefully negotiated commitment like this contribution to IDA, there is at stake the moral awareness and conscience of the American people, the image of which has its own political repercussions in the world at large, as you well know. I earnestly entreat your sympathetic support for S. 2665.

With every good wish to you personally and for the success of your efforts, I am,

Sincerely yours,

Rev. Msgr. WILLIAM J. MCCORMACK,
Director.

THE TURKISH OPIUM BAN

Mr. BIDEN. Mr. President, the columnist, Jack Anderson, recently wrote a piece in the Washington Post on the lifting of the Turkish opium ban that interested me. In addition, this article supported many of my speculations on the effects in our cities of the reintroduction of illegal heroin and opium:

This expected Turkish action would have an inevitable impact on the U.S. crime rate. For out of the new opium harvest would come an illegal flood of heroin into this country. As more heroin became available, hundreds of thousands of young people would try it and become addicted. Most of them would be forced to turn to crime to support their habit.

Mr. President, Mr. Anderson's observations speak clearly to this serious problem that might face our Nation unless we speak strongly to deter the recultivation of the opium poppy. I ask unanimous consent that an editorial from the Washington Post, of April 14, 1974, be printed in the RECORD.

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

LIFTING THE TURKISH OPIUM BAN

The streets of America have become safer since opium growing was outlawed in the distant hills of Turkey. But by early summer, barring a political miracle, the Turkish government will tell the impoverished opium farmers in the remote Afyon region that they can once again plant their traditional money crop: the opium poppy which gives Afyon its name.

This expected Turkish action would have an inevitable impact on the U.S. crime rate. For out of the new opium harvest would come an illegal flood of heroin into this country. As more heroin became available, hundreds of thousands of young people would try it and become addicted. Most of them would be forced to turn to crime to support their habit.

The effect on U.S. cities, narcotics officials tell us, would be measured in robbery, violence and death. They use words like "disastrous" and "catastrophic" to describe the consequences.

Yet the pressure to lift the opium ban is coming, in part, from a few U.S. pharmaceutical firms looking for cheap morphine. They are in strange company, ranging from opium growers and international smugglers to Mafia mobsters and corrupt Turkish legislators—all eager to revive the heroin traffic.

Before 1972, when opium growing was banned in Turkey in exchange for $35.7 million compensation from the American taxpayers, huge opium shipments were diverted to France for refining into heroin and then were smuggled into the United States.

We have obtained a secret House report, which estimates at one point "up to 80 per cent of heroin in the United States came from Turkish opium gum." The 1972 ban dramatically reduced the flow into this country until only the hard-core addicts could obtain heroin. Suddenly, it became almost unavailable to the young drug "chippers," who like to live dangerously.

The report, authored by Narcotics Subcommittee Chairman Lester Wolff (D-N.Y.), describes what happened after the Turkish connection was cut off. "Heroin addiction," it states, "(was) reduced from between 500,000 and 700,000 to about 200,000 active addicts. . . .

"The price of one milligram of heroin in New York City was 44 cents in 1972; by mid-1973, (it) had risen to $1.52. The street level purity of heroin sold to addicts decreased . . . from 7.7 per cent to 3.7 per cent."

With the decline in addiction came a corresponding reduction in crime and misery. "Overdose deaths, drug-related hepatitis and drug-related property crimes," declares the report, "have declined throughout most areas of the United States for the first time in six years."

The end of opium planting in Turkey caused repercussions, indeed, throughout the subterranean world of drugs. In Europe, the Corsican criminals who had made huge profits from heroin smuggling were compelled to invest their money in more or less legitimate businesses. The federal narcotics investigators warn, however, that the Mafia is keeping its investments semi-liquid in anticipation of a reopening of the opium traffic.

In Southeast Asia, opium traders in the mountainous Golden Triangle of Burma, Thailand and Laos began to feel out the United States on an exchange deal similar to that made with Turkey. One group offered to sell 400 tons of opium to the United States to get it off the market.

In India, the Soviets began buying up legal opium feverishly for medical purposes. Suddenly India, which leads the world in legitimate opium sales, also found about 25 per cent of its crop being diverted to criminal elements.

But in Turkey itself, an outcry against the ban began to swell. The farmers who were supposed to get the American aid complained it arrived late when it came at all. They suspected, with some justice, that the U.S. payments were going into the bottomless pockets of corrupt officials.

Chairman Wolff, accompanied by Rep. Charles Rangel (D-N.Y.) traveled into the Turkish hinterland to get, as the report puts it, "some insight into the poppy ban in Turkish eyes." Feeling among the opium traders ran so high that the two congressmen had to be guarded by armed Turkish and American security men.

The congressmen met a 70-year-old farmer who "had grown poppies on those hills every year until 1972," they relate. "He had, at the government's suggestion, grown sunflowers as a substitute . . . But he did not like the taste of sunflower seed oil. He also planted barley now . . . but it earned less money than the poppy."

Wolff asked him whether he wanted to grow poppies again. "Yes," said the old farmer simply.

Most of those interviewed along the rocky roads of Afyon felt the same way. Some said grudgingly they would abide by the government decree. But others were openly rebellious, admitting they had illegally sold opium gum.

"Two opium pressers spoke with indignation about how their small businesses disappeared with the end of the poppy seed supply," recounts the report. "A local doctor said that the ban was imposed with haste and without adequate consideration."

But perhaps Wolff's most disturbing discovery was the role of some U.S. pharmaceutical firms in the backstage campaign to lift the opium ban. He found the firms were quietly but actively lobbying with the Turkish government, Geneva narcotics conference and even the U.S. Congress. In short, these pharmaceutical firms are more interested in reducing the price they have to pay for opium than in preventing drug addiction and street crime.

The secret report concludes gloomily: "An apparently insoluble problem faces the United States and Turkey concerning the opium ban. Each has taken a course which, when fulfilled, will probably result in a frontal collision with the other."

The report urges that the channels be kept open with Turkey and that the crop diversification program be pursued. "Raising the level of understanding in Turkey about the international drug problem is a vital basis for any future cooperation," states the study.

OPENING STATEMENT OF SENATOR ERVIN AT MILITARY SURVEILLANCE HEARINGS

Mr. ERVIN. Mr. President, on April 9 and 10, the Subcommittee on Constitutional Rights held hearings on S. 2318, a bill I introduced to put an end to military surveillance of civilians.

In my opening statement at those hearings I summarized what the subcommittee has been able to determine to date regarding the success of the Defense Department in bringing its domestic intelligence operations under control. For the most part, its work has been commendable. But the investigation also showed that the regulatory system is flawed by ambiguities and exceptions which could permit a return to domestic surveillance in the future. I think the subcommittee's work well demonstrates the need for some form of statutory control.

In order that the public have greater access to the results of the subcommittee's followup inquiry, I ask unanimous consent that the text of my opening statement be printed in the RECORD.

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

OPENING STATEMENT OF SENATOR SAM J. ERVIN, JR., CHAIRMAN, SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS—HEARING ON MILITARY SURVEILLANCE, S. 2318.

The Subcommittee begins two days of hearings this morning on S. 2318, a bill I introduced last November with the co-sponsorship of thirty-four Senators.

The bill provides that military personnel shall not be used to conduct surveillance of the political activities of civilians or civilian

organizations except in those limited situations where the military actually has a need for such information to further a lawful objective.

The bill is, at bottom, privacy legislation. It seeks to shield the expression of one's political views from the eyes and ears of government. It seeks to protect one's associations from the perpetuity of a government computer. And, it seeks to preserve the promise of a free society where men are not entrapped by their past.

As I contemplate this computerized society we have entered upon, I am reminded of the passage in Lewis Carroll's *Through the Looking Glass* where the King raves: "The horror of that moment . . . I shall never, never forget it." "You will, though," says the Queen, "if you don't make a memorandum of it."

A democratic society must be compassionate as well as just. It must be willing to forget past indiscretions and allow its citizens to begin again. But the Queen is right. Beginning anew is much more difficult when there are "memorandums" of the past to live down and contend with.

It is no accident that most of the so-called "privacy" bills before Congress today focus upon limiting the "memorandums" that government agencies are allowed to collect and disseminate on Americans. Protecting privacy, after all, is really a matter of protecting information, of restricting the means by which it is obtained and the means by which it is disseminated.

The dangers to privacy and the constitutional rights of expression and due process of law posed by political surveillance have been widely recognized and I will not dwell upon them here except to emphasize that political surveillance of any kind which is not directly relevant to a legitimate governmental purpose is repugnant to a free society.

It is all the more repugnant when it is carried out by the military and is directed at the political and private affairs of law-abiding civilians. This is true even when the information being gathered is no different from that gathered by other agencies of the executive branch. There is a longstanding tradition in this country that the military will be separate from, and subordinate to, the civilian realm. This policy is embodied in the Constitution and it is embodied in numerous provisions of the *United States Code*.

Thus, the Subcommittee opens these hearings conscious of the fact that there is a strong presumption in law and policy against military intrusion into civilian politics in any form. It follows that any exceptions which the Subcommittee chooses to make to this policy must clearly define those circumstances in which intrusion may be justified.

S. 2318, which is before the Subcommittee, is one attempt to do just that. It contains a general prohibition against military surveillance of persons not affiliated with the armed forces and then suggests four instances in which data-gathering for certain limited purposes may nevertheless be appropriate.

I might say, despite my authorship of the bill, that I retain an open mind with regard to all of its qualifications. They should be regarded as the starting point for debate.

Many people ask me whether military surveillance is still going on. They remember the Subcommittee's hearings in 1971, but they are not aware of what became of it. As the Subcommittee will recall, the hearings in February and March 1971 disclosed that Army intelligence had carried out a widespread program of surveillance against "dissident" groups and individuals in the late 1960's.

The subsequent reports of the Subcommittee—one entitled, "Army Surveillance of Civilians: A Documentary Analysis," published in 1972; and the other entitled, "Military Surveillance of Civilian Politics," published in 1973—concluded that the surveillance had been "both massive and unrestrained." The Subcommittee estimated that at the height of the surveillance, Army intelligence alone engaged over 1500 plainclothes agents to collect information on civilians. This information was stored in scores of data banks across the country, and was routinely exchanged with other governmental agencies. The Subcommittee's reports did indicate, however, that in 1971 the Defense Department began to restrict its domestic intelligence operations to the gathering of information essential to the military mission.

The Subcommittee staff has been monitoring the effectiveness of these new restrictions since their creation, and I think that it may be worthwhile, as a prelude to the testimony of our witnesses, to describe briefly where I think we now stand.

On March 1, 1971, in the course of our hearings, the Defense Department issued a directive which sought to put an end to the military surveillance of civilians under all but certain exceptional circumstances. It further provided that most of the information which had been collected on civilians in the past would be destroyed.

To enforce these restrictions, the Defense Investigative Review Council (DIRC) was created to monitor the implementation of the new policies. The Assistant Secretary of Defense for Administration was designated as having primary responsibility for domestic intelligence matters.

Subsequent to the issuance of the DoD directive, each branch of service issued its own implementing orders. The DIRC also issued supplementary guidance in the form of studies and policy decisions to all subordinate agencies.

In September 1971 DIRC began a series of unannounced inspections of intelligence units throughout the United States and its territories and possessions. To date, fourteen such inspections have been conducted. The Subcommittee staff has been provided with the results of the first eleven. In addition, the staff has been informed from time to time of the supplementary policy decisions and study reports which have been issued by DIRC.

We have also directed a number of written inquires to the Defense Department seeking explanations of incidents which have come to our attention. In some cases, the department's responses have indicated improper or at least questionable behavior. I will touch upon these in a moment, but I do want to say at the outset that from what the Subcommittee staff has been able to determine to date, the Defense Department has made a good faith and apparently successful effort to get itself out of the business of spying on civilians, at least those living in the United States. In particular:

(1) To date, no significant departures from the operational restrictions imposed by the DoD directive have been found, insofar as the collection of domestic intelligence is concerned. There have been exceptions permitted to the directive's restrictions, but these have been approved in accordance with procedures established by the directive.

(2) Most of the intelligence reports on civilians prepared prior to 1971 apparently have been destroyed. We have the explicit assurance of DoD that all civil disturbance intelligence files have been destroyed. The possibility remains that at least part of the old files are being retained in accordance with the new criteria contained in the DoD Directive. But the sheer volume of files whose destruction has been reported to the Subcommittee tends to confirm that prior holdings have been dramatically reduced.

(3) The Defense Investigative Review Council appears to be energetically and conscientiously performing its oversight role. Its inspection reports and policy decisions indicate that it is indeed serious in its desire to limit military intelligence operations to legitimate bounds. It is also apparent that the DIRC has gotten its message across at the "grass roots" level of military intelligence.

Despite these commendable developments, however, I continue to have misgivings about the present regulatory scheme. Say what you will, the only protection which the American people have against a return to the military spying of the past is a regulation of the Defense Department itself. This regulation contains qualifications, exceptions and ambiguities which permit surveillance even within the confines of an otherwise restrictive policy. If these permitted exceptions to the general rule are classified, chances are they will never come to the attention of the public. What this comes down to is that if the Defense Department should decide to invoke such qualifications and exceptions or, even worse, violate its own regulation, there is no one in a position to say "no." The system of checks and balances which the Founding Fathers so ingeniously wove into the fabric of our government finds no application here. For this reason, if for no other, I believe a statutory resolution of this problem is called for.

To be sure, the Subcommittee staff's follow-up investigation does indicate the Defense Department has achieved significant success in bringing its domestic intelligence operations under control. But it also demonstrates that the potential for continued surveillance is lurking just beneath the surface. Specifically:

(1) The Subcommittee has been informed that, under the provision in the DoD Directive prohibiting covert penetration of civilian organizations unless approved by the Secretary of Defense or his designees, several such penetrations—"no more than three in any given year"—have been authorized since 1971. Although the Subcommittee has not been informed of the details of these special operations, they apparently involved the covert penetration of anti-military civilian groups who were thought to pose a threat to military personnel or property.

(2) The Subcommittee staff has found that the majority of units inspected by DIRC possessed files on civilians or civilian organizations which either were flatly prohibited by the DOD Directive or which, if authorized, were being held beyond the time limitations provided by the DOD Directive, or DIRC retention criteria.

(3) the DOD Directive permits the collection of intelligence on civilians and civilian organizations which constitute a "threat" to Defense Department property and personnel. The Subcommittee staff has found, in point of fact, that the "threat" rationale has replaced the "preparation-of-civil-disturbance" rationale of the late 1960's as the primary justification for the *current* collection and retention of files on civilians. In all fairness, it should be pointed out that the DIRC has attempted to define the term narrowly, limiting it to activities which genuinely menace the military mission. Furthermore, it has verified that "threat" information be continuously updated and verified. Nevertheless, it cannot be disputed that the term is a vague one which lends itself very well to subjective interpretation by field commanders and field operatives alike. The DIRC inspection reports made available to the Subcommittee confirm this as a recurring problem.

(4) Although the work of the DIRC has been commendable, I am not without qualms regarding its effectiveness as a "watchdog." Its inspection reports are typically designated "For Official Use Only" and not normally available to the public. Moreover, the two inspections which revealed the most egregious departures from the DOD Directive were classified as "Confidential." The

upshot of this is, of course, that the public will not become aware of any violations of the directive or shifts in policy. The DIRC, for all of its fine work, clearly does not view its role as a public watchdog.

I also would point out that DIRC inspections must, of necessity, be infrequent. There have been only fourteen inspection trips since 1971. I suspect that any unit inspected could breathe a sigh of relief for the next five or six years before the next DIRC inspection would take place. The number of defense intelligence offices is so large that more frequent DIRC inspections are all but impossible.

(5) The Subcommittee has been informed that the Defense Investigative Service has undertaken three "plumber" operations to determine the source of leaks to the press of classified defense information. Although the Subcommittee was assured that DIS agents interviewed only persons affiliated with the Defense Department in connection with these leaks, there appears to be no limitation on such investigations provided by the DOD Directive, even if they were to spill over into the civilian community.

(6) It is clear that the Defense Department maintains strong liaison with law enforcement agencies at all levels of government. Ordinarily, such liaison is of great benefit to the department in carrying out such legitimate functions as conducting security clearance investigations, conducting espionage investigations under the Delimitations Agreement, and responding to civil disturbance situations. Judging from incidents reported to the Subcommittee, however, it is clear that liaison with law enforcement agencies constitutes a major pitfall for military intelligence.

To cite a few examples, it has been reported to the Subcommittee that the Defense Department participated in the now-defunct Intelligence Evaluation Committee (IEC) of the Justice Department from 1971–1973. Participation has been justified by the military's need to prepare for civil disturbances. But the IEC gathered and analyzed intelligence information regarding not only civil disturbances but a host of other "dissident" activities, none of which concerned the mission of the military per se. Although it is my considered opinion that the Defense Department's participation was, in fact, not inconsistent with its own directive, it very well might have been had its representatives not been as conscious of the new restrictive policies as they were.

The Subcommittee has also been informed that the Defense Department provided three military intelligence analysts for a communications center run by the Justice Department during the Democratic and Republican National Conventions at Miami Beach. The analysts were provided at the request of the Justice Department on the basis that a civil disturbance situation might develop which would require bringing in federal troops. The DOD specifically found that this support was not inconsistent with the DOD Directive.

Another incident reported to the Subcommittee by the DIRC involved a military intelligence unit in San Diego, which, prior to the decision to move the GOP convention from San Diego to Miami Beach, had begun to build its files on dissident groups in the area in contemplation of liaison responsibility with the Secret Service at convention time. The DIRC advised that this activity should be halted.

Occasionally, military liaison with local law enforcement, used for the purpose of investigating military personnel, becomes a pretext for assisting local authorities to investigate civilians. In a case which took place in Prince William County, Virginia, shortly after the promulgation of the DoD Directive, military intelligence agents were assigned to assist local police by posing as members of a drug ring. Ostensibly, they were "loaned" to the local police because military personnel were thought to be involved. As it turned out, none were, but military agents helped to identify 29 civilians for the local authorities.

I mention these cases to illustrate that the borderline between permissible and impermissible intelligence activity is sometimes blurred by the contingencies of the moment. Liaison is helpful in the performance of legitimate functions, but it often offers tempting and compelling opportunities to hedge, if not avoid, the parameters of the DoD Directive.

(7) The Subcommittee notes, finally, that the DoD Directive applies only to military personnel stationed in the United States or its territories and possessions. It does not apply to personnel stationed overseas. The DIRC reported to the Subcommittee that it had considered expanding the applicability of the directive to overseas posts but had unanimously rejected the idea because it might interfere with the gathering of foreign intelligence by military agents.

Regardless of the merits of their objection, I am not satisfied that the DIRC has chosen to turn its back on the problem altogether. It is one thing for the military to investigate civilians abroad, even American civilians, who are suspected of being agents of a foreign power. It is quite another thing for the military to have its agents watch civilians living or travelling abroad who have no remote connection with any foreign power or its intelligence services. I believe the DIRC would do well to reconsider its decision and draw more precise lines between overseas "intelligence" investigations and overseas "dissidence" investigations.

As has been reported in the press, the Subcommittee does have evidence that Army intelligence did, in fact, conduct extensive surveillance of American citizens in West Germany in 1972 and 1973. Most of the groups and individuals under surveillance were what might be described as "political activists" whose concerns focused primarily upon domestic politics in the United States. As far as we have been able to determine, there is no evidence to connect these groups and individuals under surveillance with the operations of any foreign government. The Subcommittee is still awaiting the Defense Department's response to its inquiry of last December 10th, which dealt with these matters. But I think it is clear that these sorts of operations violate the spirit of the DoD Directive, if not its letter. In the minds of many, they mar what had otherwise been a highly successful turnabout.

I do not plan to have these hearings concentrate unduly on overseas operations. I certainly do not think they should divert us from the larger and more significant fact that very commendable reforms have taken place within the United States. I do think, however, that the overseas operations remind us that the issue of military surveillance is not moot.

With this in mind, I intend to submit certain evidentiary materials relating to these operations, now in the possession of the Subcommittee, for inclusion in the record of these hearings. Some of these materials are classified and I propose to ask the Department's cooperation in having them declassified.

In conclusion, then, while the Defense Department has taken significant and commendable strides to bring its domestic intelligence operations in line, the regulatory structure has shown itself to be still defective and inadequate as a matter of fully protecting our constitutional guarantees. The rights endangered by military surveillance are too precious to be left to an equivocal policy of self-restraint on the part of the military.

While I would be the first to agree that enactment of a statute offers no cure-all in itself, it is an opportunity to clarify and remedy many of the current ambiguities and shortcomings, and it would go much further in deterring future surveillance than a mere departmental directive.

I am hopeful that the Department will give us its support and its assistance in developing this legislation. I can think of no better way for it to demonstrate to the American people its sincerity in putting an end to domestic spying than to have its support on this legislation. Its 1971 directive established commendable policy guidelines. This legislation only attempts to give them the permanence and dignity they deserve as a part of the law of the land.

THE IMPORTANCE OF THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. JAVITS. Mr. President, yesterday the Foreign Relations Committee voted to report S. 2665, with an amendment I had proposed, to spread the payments over 4 years to support the Fourth Replenishment of the International Development Association, the soft loan window of the World Bank. This important international institution was set in motion by a resolution introduced by Senator Mike Monroney in 1958, which won the overwhelming acceptance of the Senate.

Since that date the International Development Association has performed a crucial role in providing funds for the poorest of the developing countries. The plight of a number of developing countries has worsened as a result of higher oil prices, severe drought, and unchecked population growth. Without a major leadership effort from the United States, including funding for the International Development Association, certain of the developing countries face catastrophe including the starvation of perhaps millions of their people. The world, for both political and humanitarian reasons, cannot allow the immense human tragedy that could be now unfolding.

Mr. President, I ask unanimous consent that the editorial by James Reston in today's New York Times, and an article from the London Economist be printed in the RECORD.

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

[From the New York Times, Apr. 24, 1974]

IMPEACHING AT TURTLE BAY

(By James Reston)

UNITED NATIONS, N.Y., April 23.—There is a kind of impeachment trial going on here at the United Nations too—not of a man but of a civilization. The poor nations are drawing up the articles of impeachment every day against the rich nations. Please listen, they say:

Article One: Out of every three children born in most nations of the world today, one dies before the age of five.

Article Two: For those who survive, as Dr. Mubashir Hasan, the Finance Minister of Pakistan, put it, "it is a life of deprivation, desperation and degradation. It is an intense but, mercifully, a short struggle, as their life expectancy is no more than thirty years."

Article Three: One of the worst tragedies in human history is unfolding on the continent of Africa. The suffering caused by drought in Mauritania, Mali, Niger, Chad,

Upper Volta and Ethiopia seems to be beyond the imagination of the advanced nations and a rebuke to the United Nations, which promised in its Charter (Article 55) to promote "a higher standard of living, full employment, and conditions of economic and social progress and development."

Article Four: You, in what used to be called the Christian West and is now called the Industrial West or the Developed or Advanced World, are cheating the poor countries by buying their products cheap and selling your products dear. This unequal exchange between the cost of labor in the rich nations and the poor nations is the heart of the problem.

Article Five. The rich countries are paying their workers between ten and twenty times as much as the workers are paid in the poor countries. If the wages for labor were even roughly equal, the poor countries would receive at least $250 billion more a year for their work and products, and the danger of class war between the rich and the poor nations might be eased.

The articles of impeachment go on well beyond the space of this column, but the poor nations are not only making some fundamental charges but asking some awkward questions. Dr. Hasan of Pakistan, a long, lean, highly intelligent, almost beautiful man, asked the rich nations to choose.

They could (1) increase and share production of (2) equalize the wages of labor and reduce consumption in the advanced nations, or (3) deal with the consequences of malnutrition, poverty, starvation and death in the poor nations.

"Over the last few decades," Dr. Hasan told the delegates here at the United Nations, "the developing countries have struggled successfully for their political independence. They are now struggling for their economic emancipation. It is not natural that the struggle should continue until peace on earth and goodwill among mankind are established.

"What is required," he added, "is a vision on the part of the rich, both in the oil-consuming and the oil-producing countries. In this vision lies the only chance of a peaceful solution of the current crisis. Should we fail to find a solution based on justice and equity, let us always remember that nature has its own grand design for fulfillment of the destiny of mankind."

The contrast between the impeachment debates in Washington and here at the United Nations is startling. In Washington, the issue is about handing over some tapes, whether they should be delivered this week or next, whether Chairman Rodino had authority to grant a postponement, and what they might tell anyway about the President's involvement in Watergate, or his "executive privilege," his language or his vindictive comments about members of the other and even his own political party.

All this now dominates the political mind of Washington, and people wonder about the national political consequences, and why Teddy Kennedy is holding seminars at Moscow University and talking for four hours with Chairman Brezhnev, and why President Sadat of Egypt is telling Cy Sulzberger of the The New York Times that maybe he wants to buy arms from the United States instead of from Moscow, and what Itzhak Rabin will do if he becomes the new premier of Israel.

These are the front page stories, the primary news of the day, while the impeachment charges of the poor nation against the rich nations, the fundamental questions of the prices and resources of the earth are ignored. In fact, Mr. Mubashir Hasan's definition of the growing class war between the rich and the poor nations of the world was scarcely noticed.

Yet he raised a question that will probably be troubling the world even at the end of the century, long after the question of the impeachment of President Nixon is forgotten. Can the rich and poor nations go on like this? Can the advanced nations consume and waste and charge for labor as they are, and ignore the misery of the majority of the human race in the poor countries?

Will the big countries even listen? Dr. Hasan asked, and the answer obviously is "not yet."

[From the Economist, March 23, 1974]

THE FORGOTTEN POOR—THE LESS-DEVELOPED COUNTRIES ARE THE REAL VICTIMS OF OIL

The combined oil bills of the less-developed countries will rise by no more than $8 billion—$10 billion in 1974. This is less than a fifth of the expected rise in the oil bills of industrial countries and amounts to no more than a quarter of the accumulated reserves of a country like Germany. But those are not the comparisons that count. Paying up on oil will mean, in effect, handing over virtually the whole of the gains of the poorer countries from the commodity boom—or, alternatively, the whole of their normal receipts of aid.

The picture is even less pretty when it is realised how cruelly uneven the impact will be from one country to the next. It is not only such obvious weak brethren like India who will need rescuing. So will some high performers like Korea who have been particularly successful in building up industry, yet whose income a head remains vulnerably low. They have not been the main gainers from the commodity boom. For that matter, it is easy to forget to what extent the gainers have been the industrial countries themselves: members of the Organisation for Economic Co-operation and Development are 80 per cent self-sufficient in raw materials. On food and fertilisers alone the terms of trade have swung against the developing countries to the tune of $5 billion over the past year.

The World Bank divides the developing countries into three broad groups—leaving aside those oil-lucky devils like Nigeria and Indonesia in a league all of their own. There are those, like Ghana, which have built up their reserves on the back of the commodity boom (or, like Turkey, on the backs of their emigrant workers). Second, there are those, like Brazil and Mexico, which have high enough credit ratings to hope to keep their toeholds in the Eurocurrency markets—though the going here will be much tougher this year than last (when publicly-announced medium-term Eurobank lending to less developed countries soared to $8 billion) and relative newcomers to the market, like Chile, may find themselves pushed to the very end of the queue. Third, there are those unfortunates with virtually no reserves, insufficient credit ratings to tap the private international markets for funds and yet not much capacity to reduce imports.

India, of course, is the prime example in the last group. Its oil bill will rise this year by at least $550m–600m, or maybe, some say, by nearer $1 billion. At most India can cover about $300m from its own slim resources—but not much more and not for long. A modest $62m drawing from the International Monetary Fund has pushed the deadline back a shade but before that came, it looked as if India would be out of funds entirely by end-May. Other countries particularly hard-hit by the oil crisis include the rest of the subcontinent—Bangladesh, Pakistan and Syr Lanka—and some of the Latin and central American countries, particularly Uruguay. Most of these are such obvious hard-luck cases that, at the crunch, their very weakness might prove their strength—the rich are resigned to bailing out India regularly. But other countries normally regarded as at least the partial successes of past aid programmes will also be in serious trouble, above all Korea, as we have already said, but also Taiwan and Thailand.

The need for special outside help to pay increased oil bills may be held down this year to perhaps no more than $3 billion—$4 billion. Current earnings of key commodity producers are still very healthy; there is perhaps $3 billion in developing countries' reserves that can be used in payments. Another $2 billion might still be wrinkled out of the Euro-markets by the creditworthy countries. But what of next year? The commodity price boom, already past its peak, will then have been finally punctured by the lagged impact of the slowdown in world growth, and the fat now in countries' reserves will have been eaten up. Also, mounting debt burdens and curtailed export earnings will make the Euro-bankers most unreceptive to calls from the third world. (Obviously the more you have borrowed the lower your credit rating goes.) The financing gap for the less developed countries in 1975 is more likely to be on the order of $7 billion—$9 billion than this year's $3 billion—$4 billion.

Who will fill the gap, and how? The popular answer—certainly from the industrial countries facing oil deficits of their own—is that the money ought to come from the oil producers themselves This is fair enough, but the rich think they need not play a part. The oil producers are extremely unlikely to be willing to lend enough either directly to the less-developed countries or, at one remove, to the established intermediaries like the World Bank.

Though some promising noises are being made from various quarters, notably Iran, the actual aid effort of oil-producting countries to date has not been impressive. Middle East countries (and particularly Kuwait) have been lending about $700m—$750m a year to the World Bank, but such sums amount to no more than a recycling of the net aid ($770m in 1972) garnered by the 12 major oil producing countries from OECD sources in the first place. To the extent that the oil producers do not themselves give back to the developing countries as much as they take from them on oil, the industrial countries (which, obviously, will be the net gainers) will have to bridge the gap instead.

WHICH ROUTE?

Unfortunately, the industrial countries, facing payments problems of their own, will be tempted to reduce, rather than increase, their own aid programmers. Indeed, even the relatively well-placed Americans have been making ominous noises. Not only has the House of Representatives baulked at contributing toward the replenishment of the exhausted resources of the World Bank's soft-loan agency, the International Development Association (IRA); the normally responsible Senator Fulbright has gone so far as to argue that the United States should scrap all of its aid save some modest "compassionate" programmes. This may be silly as well as mean—after all, a dollar given to less-developed countries is likely to come back almost immediately in the form of an export order and so help both to sustain growth and to diminish the current payments imbalance of the OECD countries as a whole. It is nonetheless a political fact of life.

This danger makes it all the more important that the major international organisations, which can act as intermediaries for Arab money, do their jobs efficiently. Two points follow. First, the International Monetary Fund will have to become more of a source of medium- to long-term general support aid for the poor—a point already noted implicitly in the plans of the new managing director, Mr. Johannes Witteveen, for a special oil-financing facility. Second, the rules of World Bank lending, and the demarcation lines between the Bank and its affiliate organisation, IDA, will need a radical rejiggling.

Much has been made of the ability of the World Bank to tap the oil producers' new

wealth indirectly, through the Euromarkets or New York, as well as directly, through, for example, Kuwaiti dollar issues. The bank's own credit rating is excellent, but it does not have the flexibility to direct its funds where they are most needed, or as quickly as they are needed. Because its loan terms are relatively hard, the World Bank tends to finance the relatively strong, just those countries which do, or should, go directly to the commercial Euromarkets. This February alone the bank not only lent as much as $214m to Mexico but also $75m to Iran, while Venezuela obtained $22m the month before. Also the World Bank, like most of its regional counterparts, is geared to financing specific projects; the inevitable time spent finding these, then vetting and launching them explains why the bank's disbursements have lagged so embarrassingly behind its commitments. There is no quick-footing here. Nor is that all; although the bank has made some effort to discriminate between various categories of borrowers in the past few years, all too often all comers, relatively strong and weak alike, have wound up being subsidised, getting their money at less than it cost the bank to acquire the funds.

Probably it would be wrong to argue that the World Bank should drop its project approach to lending altogether; the job of finding general balance of payments support (as well as specific financing for oil) for the poor might be better left to the IMF. However, it would clearly be useful if the World Bank could use its financial muscle more directly to help beef up the resources of IDA. Indeed, perhaps the demarcation lines here should be broken down completely, not only on the fund-raising but also on the lending side of the equation, and a single schedule of rules drawn up to govern which less-developed country would be allowed to borrow how much on what terms. Such a schedule should make the relatively strong eligible for loans only if alternative finance is not forthcoming from private market sources and then make it available only on commercial terms. The very poor, on the other hand, should be given particularly concessionary terms—and the scale of charges in between judged much more flexibily, on a case by case basis, than it is now.

Finally, there should be much closer coordination between the IMF on the one hand and the World Bank group on the other. It is reassuring that the staff of the two organisations are already swapping data and guesstimates on the impact of oil on their members. It is less reassuring that their respective chiefs, Mr. Witteveen and Mr. Robert MacNamara, are touring the Middle East on separate fund-raising missions. This is a time for a policy of togetherness in all fields of international finance but, above all, on development aid.

WORLD FOOD: PRICES AND THE POOR

Mr. HUMPHREY. Mr. President, a very comprehensive and thoughtful article, "World Food: Prices and the Poor," by Lyle Schertz, appears in the current issue of Foreign Affairs. This article outlines recent developments in the world food picture and the particularly serious impact these changes pose for the developing countries.

The article makes it quite clear that the competition for food in the last 2 years has been between the developed and relatively affluent countries on the one hand, and the poor developing countries on the other.

The developed countries, in spite of rising prices, have been buying increased quantities of food, while the developing countries have had to face declining Public Law 480 availabilities and higher prices on the international markets.

Under these circumstances, the energy shortage has compounded the problem for the developing countries. The availability of increased quantities of fertilizer is critical in expanding food production, but countries such as India have found their traditional sources sharply reduced.

Under these circumstances, the United States must weigh its responsibilities toward the developing countries. What should its policy be with regard to the Public Law 480 program? What kind of reserve program makes the most sense in terms of meeting our domestic and international requirements?

The United States must also face the possible manipulation of its market by China and the Soviet Union. Canada has successfully dealt with this possibility in its export program, but to date the United States has not faced up to the problem.

With food increasingly scarce and no longer as available for developing countries, the United States should consider new approaches to emphasize agricultural development and research. This was the major thrust of the reforms I helped initiate in last year's foreign aid legislation.

This article usefully points up the major issues confronting the world with regard to food, particularly the critical requirements of the developing world. However, it does not recommend an action program or a set of policies for the United States.

The administration has yet to begin to face up to these very complex issues, and in this regard the article makes a significant contribution. However, we cannot wait indefinitely for that educational process to take place. The Congress will have to assume some of the burden of leadership in grappling with these key issues.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

[From Foreign Affairs, Spring, 1974]

WORLD FOOD: PRICES AND THE POOR

(By Lyle P. Schertz)

Events of the past two years have made food an increasingly worrisome item in household budgets and in the budgets of nations. In early 1974, food prices to the American consumer were 25 percent greater than two years earlier. This reflected dramatic increases in farm beef prices, while farm corn prices were double and wheat price triple those of early 1972. Clearly something new has happened to a food market which has historically fed Americans well and for a uniquely small proportion of their income.

A series of events was associated with these price adjustments. In August 1971 the U.S. dollar was floated and a major realignment of international currencies set underway. Then inadequate rain cut the 1972 Soviet grain crop, while drought in Argentina and Soviets began to purchase 28 million tons of grain, 18 of them from the United States. India's monsoon dropped below normal, cutting the cereal crop and eroding hopes for near-term self-sufficiency in cereal production. Peru's fish catch was a disaster; drought and typhoons slashed rice and corn crops in the Philippines; and, in the United States, the corn and soybean harvest was stalled by wet weather in the fall of 1972. The following spring still more wet weather delayed U.S. plantings. In July 1973 the United States, to limit rocketing price increases, instituted export controls on soybeans and soybean products. Finally, Congress adopted legislation that drastically altered the framework of American agriculture in the direction of a free market, with sharply lowered price supports and incentives for stockpiling.

In the developing new market situation, U.S. agricultural exports in calendar 1973 reached $18 billion, up from $9.4 billion the previous year and an average of $6.7 billion over the past five years. Although world cereal production recovered and indeed reached record levels in 1973, American agricultural exports in the current year continue high, and remain a critical element in the deficits. At the same time, quantities of cereals allocated to PL 480 food aid programs have dropped to the lowest levels since the start of the program in 1954.

To comprehend the close interdependence among countries and peoples of the world these events reflect, a good place to start is with the brutal facts of the world food market—how it has been dominated by the affluent, whether Communist or capitalist, and how the poor have been the first to suffer in times of restricted overall food supplies. Next, we must explore whether the tight food situation of the past two years is likely to continue. What is the medium-term outlook for the world food balance, and how confident can we be of the best available predictions, given the variability of weather, the unpredictability of government decisions, and the energy crisis?

Key policy issues emerge. While they are stated in terms primarily of U.S. policy, they are in fact worldwide in their implications. In view of the new U.S. farm legislation and programs which essentially pull out all production stops, what will be the impact of international markets on our domestic food markets? How can the United States and the world adjust to—or moderate—the prospect of widely fluctuating prices in the future? Under anticipated conditions, will the United States share food with low-income countries and on what terms? And if American PL 480 programs continue to wind down, what needs in the lower-income countries will go unmet; what can be done about them?

II

For as long as there has been trade among nations, developed nations have commanded the food they wanted, when they wanted it. Wealth and high incomes have been the instruments of command. In times of abundance, this purchasing power has been subtle and has displayed a low profile; its impact has not quite achieved a critical mass which would earn the enmity of the have-nots. Only in times of food shortage and high prices does this power, and its related imperialistic effects, become shocking to its victims. Then, whether they be nations or citizens within, those with money have preempted what food they wanted; those without money have tightened their belts.

Today, people in the developing nations, two-thirds of the world's population, eat only one-fourth of the world's protein, and most of that is in the form of cereals. In countries such as India people consumer less than 400 pounds of cereals per capita each year. On the other hand, in the developed countries, where large quantities of cereals are converted to protein, per capita grain consumption is 1,435 pounds in the Soviet Union, about 1,800 pounds in West Germany and France, and 1,850 pounds in the United States. All told, the billion people in the rich nations, with Cadillac tastes for livestock

products, use practically as much cereal as feed for livestock as the two billion people in the low-income nations use directly as food.

The conversion factor is by now well-known. Although forages and other products inedible for humans can usually make some contribution to livestock productions, substantial shifts in such production are heavily dependent on cereals. In the United States, even after advances in feeding technology, a little less than two pounds of cereals are now needed to produce one pound of poultry. For hogs the ratio is 3.5 to 1, for beef 6.5 to 1.

Nonetheless, high-quality protein, particularly from livestock products, is a consumer preference throughout the developed nations—and they can afford to indulge their tastes more and more. Americans have come to consume an average of 110 pounds or more of beef per person a year, in addition to substantial amounts of other meats and livestock products. Similar trends in Western Europe and Japan have been increasing rapidly in recent years, and now the Soviet Union and the East European countries are showing the impact of policies and programs to upgrade the diet of their peoples.

Such consumption of livestock products is in large part a matter of taste, not nutritional requirements. While the protein quality of livestock products is higher than that of cereals, that of soybeans and other food legumes is also high. The fact is that the physical requirement for protein intake is considerably less than that now consumed by the majority of Americans and many in other developed countries. Yet its continued expansion—with the use through conversion of ever-larger amounts of cereals for this purpose—appears to be virtually a political imperative.

Thus, while population growth has obviously been a significant factor in increasing world food demand, an even more striking feature of the demand situation has been the sharp recent increase in cereal consumption per capita in developed countries where populations have *not* been growing rapidly. The figures are startling:

PER CAPITA CEREAL CONSUMPTION

[In pounds]

	1964–66 average	1972–74 average	Percent increase
United States	1,600	1,850	16
U.S.S.R.	1,105	1,435	30
European Community	900	1,000	11
Japan	530	620	17
China	420	430	2
Developing countries (ex-China)	370	395	7

The reader will note that in this eight-year period the *increases* in per capita consumption for the United States and U.S.S.R. (250 and 330 pounds respectively, although some of the latter may have gone into stockpiles) were more than half the *total* consumption per capita in the developing countries. The table helps to explain the Soviet grain purchases of 1972. Traditionally, when the Soviet came up short on production, they steeled themselves to wait out the shortage, sometimes to the point of accepting large-scale livestock slaughter. But not in 1972, when winter-kill and dry midsummer weather disrupted the Soviets' cereal harvest expectations. Instead of tightening their belts, they made massive grain purchases on the world market. With the aid of these imports, the pace of their livestock development efforts continued unabated.

The Soviet Union's decision to protect diets was felt worldwide by both rich and poor. When the Soviets purchased practically one-fifth of the total U.S. wheat supply—production and beginning-of-the-year stocks—in the 1972–73 crop year, supplies normally available to other dropped sharply. Nations and people reacted by bidding up the price of the remaining wheat, the more aggressively because Japan and several other commercial importers of U.S. foodstuffs found their currencies worth substantially more in terms of dollars as a result of successive devaluations.

In contrast, the low levels of wealth and income of the poor countries once again determined how well they could compete in the food purchasing power bame. So long as the overall production of cereals is relatively responsive to needs, effects on the poor are minimal, especially over time. But in times of severe dislocation of the balance of demand and supply through sharply increased demand or curtailed supplies, the impacts can be harsh—especially in those countries unable to insulate their poor from the market through concessional means such as the U.S. food stamp program. For example, the 1972–73 Indian food grain crop dropped from 105 million to 96 million tons. In the tug-of-war between maintaining diets and saving foreign exchange, diets lost and food prices were allowed to increase. In some areas, food grain rations were cut in half in fair-price food shops, which serve many of the lowest income Indians. Per capita calorie availability dropped toward the critical levels of the mid-1960s.

Thus, in a world having great wealth and affluence among only one-third of its population, the 2,300-year-old words of the Greek cynic Diogenes come back to haunt us. When asked for the proper time to eat, he responded, in his own practical manner: "If a rich man, when you will; if a poor man, when you can."

III

Only a person of great—but false—confidence would speak with assurance of future developments in international food markets. We are dealing with a multitude of fundamental uncertainties. But perspective can be gained through an examination of history and of major forces impinging upon food production and consumption.

On the production side, only in the last 25 years have figures from all over the world been systematically compiled, and even today the data for many developing countries are at best broad estimates. Nonetheless, one can assess certain trends.

Over the period since 1955, the Third World has generated agricultural increases almost in step with the developed world. In both developed and less-developed countries (excluding Communist Asia), food production in 1973 was more than 30 percent above levels of the early 1960s and more than 50 percent above the mid-1950s.

Unfortunately, the upward production trend in the developing nations has been almost totally eclipsed by population growth, so that food production per capita over the past two decades has increased slightly less than half of one percent per year.

(Africa has not shared in the increase and in fact has shown a downtrend since 1961.) By comparison, per capita food production in the developed regions of the world has increased at an annual rate of one and one-half percent, or three times as rapidly. Mr. Micawber would have recognized the problem depicted in the tables below.

In recent years the sharpest increases in per capita food production among the developed countries have occurred in Eastern Europe and Russia: 1973 per capita food production in both areas was more than 25 percent greater than in the early 1960s. Over the same period, increases in the United States and Canada were much more modest, at least partially due to programs restricting production; Western Europe's increases fell somewhere in between.

Africa's continuing decline in per capita production and accelerating dependence on food imports have now been further exacerbated by the devastating drought in the Sahelian Zone. South America's progress is spotty: Chile has had serious problems; Mexico has not lived up to forecasts of self-sufficiency; but Brazil and Colombia have made considerable gains. Asia's Green Revolution has improved that area's feeding ability, but even there, as well as in Africa and Latin America, weather variability remains a highly important factor accentuating crop declines and exaggerating production peaks.

All in all, worldwide trends have caused the United States to become more and more the major food supplier in international markets. American production has not only supported large and growing exports, but has also sustained domestic food consumption at the highest level of any people in the world. Outstanding land and water resources, along with a rapidly advancing technology based on heavy investments in research and large supplies of low-cost fossil fuels, have made it possible for American agriculture to move ahead while directly employing a steadily smaller work force.

When it comes to forecasting the future balance of food demand and supply, many factors must be taken into account: population and income changes, the availability and acceptability of substitutes for traditional foods, development and adoption of new technologies of production, potential changes in the use of water and land, prices of inputs such as fertilizers and fuels, and of course, weather. For most of these variables one can make assumptions for the future with fair confidence. Let us initially assume also that (1) fuel, fertilizers and pesticides will be available in adequate quantity and at prices consistent with trends up to October 1973, and (2) that weather will approximate the long-term average (normal weather).

Using the above approach, two points of overwhelming importance emerge in the projections of the U.S. Department of Agriculture. First, the role of the United States as the major supplier of food in international markets is expected to expand. Second, the dependence of the lower-income countries on food imports is expected, by 1985, to be nearly double the 1970 level. The two points add up to heavy dependence by the developing countries on the United States as a supplier of food.

The projections for the United States anticipate continued advancement of agricultural technology, as well as policy pressures to use exports of food to help pay for imports which underpin the American standard of living. Moreover, levels of production will depend substantially on returns to farmers and on government programs. If farm product profits remain at recent high levels, significant expansion of production is likely to occur as land not now in production is utilized to grow crops for forages, and new technologies are adopted more readily in order to capture these potential profits.

The expected expanding role for the United States also reflects anticipated developments in other countries. In Japan, for example, resource limitation coupled with a continuing drive to upgrade the diet as incomes increase should lead to a growing dependence on imports of food. On the other hand, the European Community has aggressively pursued policies promoting self-sufficiency in food production. These are expected to continue to be effective.

Developments in Canada would somewhat parallel those in the United States. For her size, Canada's role in world food is already extraordinary, and steadily growing. However, Canada's production is only one-sixth that of the United States, and heavily focused on wheat.

The prospective import level of the U.S.S.R. is one of the major uncertainties which will affect the world market, and especially the

price and availability of food to the developing world. In the intermediate and long-run future, the Soviets' capacity to import large amounts of agricultural products will be determined largely by their abilility to obtain credit from and sell goods to the West. To a large extent, this may involve the Soviet Union's natural resources, such as petroleum.

In the poor countries, statistical increases in food production will likely keep up with population and perhaps gain on it. Some areas, such as Brazil, will be able to expand the area devoted to crops; others will develop their cropping capacity through irrigation, and one hopes most will have improved technology. However, nutritional improvement efforts and income growth—above all, the use of cereals to produce livestock products—are expected to push demand ahead of local production increases; hence the prospect that the poor countries will increase their dependence on imports of food, specially cereals and especially from the United States.

It is important to remember that these prospective import levels of the developing countries are in the context of only modest improvement of nutrition for the masses of people in these countries. Under any conceivable combination of increases in farm production, slowing of population growth, and increases of income, an overwhelming number of poor people in these countries will still be inadequately fed for decades to come. The closing of the food gap between the rich and the poor is a long way off.

In overall terms, the forecast for the decade would be a recovery of world food production: per capita supplies of food would resume an upward trend. The crisis conditions of recent months would not be expected to continue on and on, although farm product prices would not be likely to fall to the relatively low levels of early 1972.

IV

But what of the assumptions of normal weather and of adequate and historically priced energy components? Both, especially the latter, are open to serious question.

Unfortunately, man has not thus far been particularly successful in forecasting weather developments, or in modifying them. Various modern developments, to be sure, mitigate the effects of bad weather. Expansion of irrigation, improved drainage, soil and water conserving techniques such as ponds and terraces, shorter-growing, fertilizer-responsive plants, and mechanization—all soften the impact of weather.

Still, any farmer in India, Russia or America knows that if you don't get rain, you don't get grain. But somtimes professional economists forget; there is a great tendency even for experts to assume that recent weather will continue or will change to fit their image of the future. Such thinking generated much of the famine talk in the mid-1960's, and subsequently the abundance talk when the Green Revolution took hold. If the weather in 1970 had been poor instead of good, as it actually was, observers would not have been so confident about India's ability to feed her people, and forecasters of self-sufficiency would have been more cautious.

The cyclical assessments of Indian food needs are a special lesson for those of us attempting to guess at the prospective import requirements of the Soviet Union. Perhaps even more than in India, variations in Soviet cereal production are cut largely from the weather pattern. As former Soviet Agriculture Minister Matskevich has pointed out, only one-third of Soviet agricultural land lies south of the 49th parallel and only 1.1 percent of it lies in areas with an annual rainfall of as much as 28 inches. In contrast, almost all of the United States lies below the 48th parallel, and 60 percent of U.S. arable land receives at least 28 inches of rainfall annually. Little wonder, then, that there are frequent and wide changes in Soviet cereal production—such as the drop of 14 million tons in 1972, and then an increase of 40 million tons in 1973. A graph of the record since 1960 shows a marked upward trend, but it is like the teeth of a sharp saw, with the jags almost annual.

Adversity in different regions of the world has differing implications for the rest of the world. For example, the tragedy of recent years and months in the African Sahelian Zone is a catastrophe for those people, but other parts of the world are not seriously affected. In contrast, in 1972 and 1973 much smaller proportionate changes in Russia set off worldwide reverberations. With the great dependence of the world on the cereal supplies of the United States, any substantial production changes in the United States can now have equally sharp effects on other countries.

And now, of course, we have the energy crisis. Fuel supplies are limited in many countries, and prices have increased severalfold. Fertilizer supplies (largely petroleum-based) are also limited, and the prices are sharply up, partly because productive capacity was already lagging behind increases in fertilizer consumption, and partly because of supply difficulties and higher prices associated with the crisis. Whatever the long-term course of the energy problem, in the near term farmers throughout the world—developed and developing—will be paying higher, possibly drastically higher, prices for both fuels and fertilizer. Further, in many cases these items will simply not be avaliable in the amounts desired.

In the United States, the domestic supply situation for nitrogen fertilizers was eased considerably when price controls on domestic sales of fertilizers were removed in October 1973. Export prices had not been controlled, and U.S. manufacturers had found exporting more profitable than selling domestically. But, with the removal of domestic price controls, prices of domestic supplies moved up rapidly and much of the incentive for fertilizer exports was eliminated. Further, efforts have been directed toward giving higher priority for natural gas allocations to producers of ammonia, a basic ingredient of nitrogenous fertilizers. Electricity, diesel fuel, and gasoline used directly in farm production account for only about three percent of total U.S. fuel consumption, and steps have been taken to minimize difficulties for U.S. farmers in obtaining fertilizers and fuel. While shortages thus may not be severe, costs of these farm inputs will be sharply higher, probably more than 25 percent above those of last year.

In Japan and Western Europe, production costs may be at least as much affected. However, the effects of the energy crisis in these areas may be far more pronounced on the demand side. The rapid economic growth of Japan, for example, has been the fundamental factor leading to a richer diet, increased food consumption and ever-increasing imports of food from international markets. With the slowing of economic growth, this expansion of food consumption is likely also to slow down. Similar developments could easily occur in Western Europe. Thus, the prospective changes in food supply and demand among the developed countries are extremely uncertain, and may tend to balance out.

By contrast, the potential effect of the fertilizer and oil crises on the food balance of countries such as India and China is clearly negative, even ominous. Together these two nations import over one-third of the nitrogen in international trade. They and other low-income countries dependent on imports of fuels and fertilizers could be drastically hurt.

How severe will the impact be? A limited perspective can be gained from relevant numbers for India, which for the year 1974 has been planning to use 3.9 million tons of fertilizer—incidentally a very sharp increase reflecting improvement in agricultural practices and the use of fertilizer-intensive strains as part of the Green Revolution. Almost all of this supply is heavily dependent on imported petroleum and to a lesser extent on imported finished fertilizer. In the face of the present price increase for these products (nearly three-fold in the case of urea), it seems entirely possible that India's capacity to pay for and produce what she needs will fall short by as much as one million tons. Such a shortfall would translate into the loss of at least seven million tons of grain, which is equivalent to seven percent of India's current cereal consumption.

As for China, she is the third largest user of nitrogen fertilizer in the world and the largest importer. Japan has been a primary source of her supplies, and she has been a primary outlet for Japanese exports, taking over 80 percent. If Japan is forced to continue curtailing fertilizer production, the effect on China could be serious—and in any event the cost and the strain on China's limited foreign exchange capacity are bound to go up sharply. Similar effects will apply to virtually every developing country, hitting hardest those which have participated most actively in the Green Revolution.

In this potentially critical situation there is room for speculation about another set of government decisions. To what extent will the oil-rich countries take steps to ameliorate the impact of fuel and fertilizer availabilities and prices on the developing countries? Could the Arab nations become, in effect, an international Robin Hood, favoring the poor over the rich? Over a period of years, the resulting impacts could drastically alter traditional production and trading patterns. For the short term, however, the energy crisis hangs over any prediction of both levels of supply and price.

NITROGEN FERTILIZER CONSUMPTION AND TRADE, 1971/72

[Thousand nutrient tons]

	Consumption	Trade
United States	7,372	+946
U.S.S.R.	5,182	+873
China	3,346	−1,506
India	1,761	−761
France	1,525	−108
Germany	1,131	+190

+ Net exports.
− Net imports.

In sum, if one takes a measured view of all factors—and if the worst does not happen on weather and energy supplies—it is still possible to visualize an uneasy overall balance between supply and demand for food over the next decade. Yet both will fluctuate substantially from year to year and from area to area. Supply levels are bound to be affected both by weather variation and by the uncertain availability and price of fuel and fertilizer. The level of demand, especially for imports, is highly uncertain: the effect of the fuel crisis on the capacity of nations to pay, and especially the unpredictable decisions of countries such as Russia and China, are involved. Thus, one can now with confidence anticipate that under the circumstances that have now developed there will be wide fluctuations in prices in coming years.

V

Earlier we set out two major issues having significant international dimensions. What will be the linkages between our domestic food markets and international markets? Will the United States share food with the lower-income countries and on what terms? The first has special relevance to the rich countries, especially the United States. The second relates to poor nations. But the two

issues are closely related, just as the futures of the poor and the rich nations are intertwined. The approach to either issue will set substantial restraints on the approaches that might be taken to the other.

By maintaining large stockpiles of grain, the United States has in past years been able to moderate price swings—nationally and internationally. As international "shortages" have developed—through increased demand, reduced supplies, or both together—the availability of U.S. stocks has dampened price changes in the international market while discouraging increases in domestic prices. In times of general surplus, the United States has in the past chosen to stockpile large portions of its domestic production, and it has also withheld land from production, rather than accept lower domestic prices or larger export subsidies in order to avoid a buildup of stocks.

In the past year—in a revolution experienced but perhaps not fully understood by Americans—this general situation of the past decade or two has completely changed. With bad weather in the U.S.S.R. and other countries, and continued expansion of domestic demand for livestock products in Europe and countries such as Japan and the Soviet Union, the jump in U.S. agricultural exports has virtually eliminated agricultural stocks held by the government. Aside from an export limitation on soybeans/oilseeds and their products during the July–September 1973 period, importers—traders and countries—have continued to be free to buy any amounts of food commodities from private traders for export from the United States, and the usual shock absorbers of government stocks and export subsidies were not there to cushion the impact on U.S. domestic prices.

This direct contact between U.S. and international markets permits U.S. farm prices to be influenced by international markets and vice versa. For example, January 1974 Rotterdam import prices for U.S. hard winter wheat were over $6 per bushel—$3.30 above the levels of a year earlier. U.S. farm prices were up almost $3 per bushel. Comparable corn import prices were up $1.40 per bushel, and U.S. farm prices were up $1.20.

Not only have government stocks been depleted, but because of the expansion of foreign demand the United States has brought land once held out of production back into production. For 1974, there are no government programs designed to hold agricultural land from production. Thus, two of the important food reserves of the United States—government-held stocks of food and land held out of production by government programs—have been wiped out.

And in large part this is now a matter of law, not executive discretion. For the new farm legislation of 1973 means that, with economic forces as they are, government stocks of food will not be accumulated. In effect, the law allows U.S. market prices to reflect international and domestic market forces, without the high price support levels that formerly operated for key commodities.

True, there is in the legislation a mechanism—price support loans—similar to that utilized in the past for the accumulation of government stocks of agricultural products. But as a matter of legislative policy the "loan rate"—in effect, the price level at which it would be advantageous for a farmer to put his commodity into stocks rather than sell it on the market—was deliberately set low. Now, with world price changes, the loan price of $1.37 for a bushel of wheat compares to the early 1974 price to farmers of $5.00! It was the policy aim of the new law to avoid the accumulation of large government stocks and their substantial budgetary costs; now events have not only eliminated previous stocks but produced a situation where any buildup of government stocks is unlikely.

In the absence of American stocks, and with the domestic American market and the international market moving together, it is a virtual certainty that food prices will be unstable—not necessarily fluctuating as sharply as they did in 1973 under the impact of a combination of extraordinary developments, but surely far more than in recent history prior to 1973. As surely as night follows day, local weather conditions around the world will change from year to year, producing changes in import needs and export supplies. And the energy crisis will affect all, but some more than others.

Another major variable, particularly affecting grain markets, will be the behavior of the Soviet Union and other monopoly traders. When the United States had export payments and substantial stocks of wheat, international prices and shares of export markets among suppliers such as the United States, Canada and Australia reflected an awareness of both political and economic influences on the respective governments and on quasi-government organizations such as the Canadian and Australian Wheat Boards. In contrast, information about Soviet crop conditions, government budgets, political directions, consumer prices, and other relevant factors is extremely limited. The recent agricultural agreement between the U.S.S.R. and the United States call for exchange of information on crop conditions. This is a step in the right direction, but much will still not be known.

Moreover, much the same factors apply to the People's Republic of China. In the current 1973–74 crop year, it has become a much larger buyer of grain in the world market, with purchases totaling probably more than nine million tons, a 50 percent increase over recent import levels. Moreover, China has switched heavily to the U.S. market, taking seven million tons of the total here and becoming the No. 1 U.S. wheat customer for this period. And this after a year when weather in China was generally good, with no signs of the catastrophes and internal conditions that produced the Chinese food crisis of the early 1960s. We simply do not know either the present guidelines for Chinese purchases (whether they too, for example, are now stressing protein enrichment) or the true state of Chinese stocks.

Inevitably, the question arises as to the rules by which the U.S.S.R. and other state-controlled economies should be expected to play. Basically, this is a worldwide question, for the impact reaches all. But it is particularly acute for the United States, in view of the increasing dominance of American supplies and the new vulnerability of the American price structure. Is it reasonable for the U.S. government to permit the U.S.S.R. and China to make purchases in the U.S. grain markets in any amount they decide? To do so subjects the U.S. market to possible wide fluctuations in purchases—amounting to possible manipulation—by political leaders of these countries, acting with full access to information on our crops and prices, as well as on their own crop conditions.

This matter is broader than just trade with the Soviet Union or the People's Republic of China. The Japanese government and Japanese importing interests work closely together. Just this last year Japanese concerns purchased relatively large amounts of cotton and shrimp, causing in both markets sharply higher prices as private U.S. traders attempted to buy their needs from remaining supplies.

Under such conditions there is an urgent need to develop understandings with large countries—especially those dealing as monopolies—as to the "rules of the game." At a minimum, the U.S. government and public must have information on developments within these countries. Weather, agricultural production, stock, and price information would appear to be essential if these countries are to have access to our markets.

Perhaps bilateral deals and understandings are not the long-term answer to this problem, but for the time being they are essential. In the Soviet case, for example, are we not entitled—in return for allowing free Soviet purchases in the future—to press for reasonable understandings on such matters as the access of other American commodities to the Soviet market, guaranteed minimum purchases year in and year out, and similar related matters?

VI

Important as it is—and dramatic to Americans—the issue of the state-controlled economies is only a part of the wider problem that all nations face, of adapting to the prospective variability of international food prices. In dealing with the problem, it is again the developed countries that have the mechanisms and the resources to insulate themselves from the adverse effects of quick changes. The European Community, for example, uses a system of variable levies on imports and through this and other mechanisms has managed to keep the level of internal agricultural prices remarkably stable even through the confusion of the past year. Even so, the prospective situation will force a rethinking of food and trade strategies by many countries. It seems likely that countries like Germany, Britain, Japan and Russia will press within the constraints of energy costs and supplies for increased agricultural production. Also, these countries, and even countries like India and Turkey, will seriously consider carrying larger stocks than they have in the past.

Such stocks would presumably reduce the vulnerability of a few countries to international price and supply changes. On the other hand, steps in this direction will likely be intermittent. Neither the governments nor the private traders of these countries have had substantial experience dealing in food markets characterized by widely varying prices.

In addition, the state-trading nations, and some other developed countries, have ready mechanisms for controlling exports and insulating their domestic price structure from shock price increases. Canada, for example, controls her exports of wheat by decisions of the Wheat Board whether to offer wheat for sale and at what price. Unlike the outcry caused by the U.S. soybean controls of last summer—where contracts actually underway were in effect abrogated—the Canadian approach has caused no protest; contracts are not made unless supplies are estimated to be clearly available, although of course the effect on the world market of withholding supplies can be equally great.

In the case of the United States, any search in this direction would lead us to examine similar export controls as well as export taxes and subsidies—and finally the renewed accumulation of stockpiles. All of these could operate to mitigate price instability in the domestic market; some would help the world market as well, though others would have the opposite effect. Each has its difficulties, and these must be faced.

For example, although export taxes have been commonly employed by other countries to insulate domestic prices by reserving supplies for domestic consumption, Article I, Section IX of the U.S. Constitution on its face seems to forbid such taxes. On the other hand, for a brief period during the 1960s, techniques were devised whereby wheat exporters on occasion paid the U.S. government specified amounts, under a balancing arrangement whereby on other occasions when U.S. prices were higher than international prices they received a payment.

More practicable than either export taxes or subsidies might be an arrangement to ex-

tend to commercial exports the controls—in effect, a form of export licensing—that have applied for some years to shipments of food under PL 480. Under this procedure, the country desiring commodities approaches the U.S. government indicating the amount it would like to obtain. The government, considering U.S. market conditions and the appraised needs of the applying country, decides on the amount to be financed by PL 480 funds. This agreement is made public, and the recipient government proceeds to deal with the private trade in making the purchase up to the agreed-upon amounts. For sales to the state-trading countries, since government financing would not be involved, the review process in the U.S. government could be focused primarily on supply availability.

Finally, there is the question of establishing food reserve stocks, on a national or conceivably an international basis. Since Biblical times when Joseph was called on to advise the leaders of Egypt, the deliberate building of stocks of food has been attractive to man as a means of stabilizing prices and assuring availability of supplies. What is obvious to leaders today has been obvious to leaders throughout history. Stocks of food can be used to supplement available supplies when production falls short of needs, and thereby mitigate price increases. Equally obvious is that the accumulation of stocks means less consumption and higher prices during the period of their accumulation.

Most agree that because of variability of events, there is today a need for accumulating and utilizing stocks of food, in order that consumption is not forced to vary directly with changes in production. The mechanics and policy framework for establishing stocks of food and for managing these stocks are much less obvious, due to the multiple and sometimes conflicting objectives that stock programs can support. In practice such programs can operate in a host of ways: they can stabilize prices or, by withdrawing supplies, actually increase them; they can be used to stimulate production; they can be used primarily as a set-aside to meet acute shortages, which however means that their usefulness in stabilizing prices is reduced; their impact on private trade through commercial channels can be encouraging or discouraging; there is a question whether they can or should be earmarked especially for lower-income countries.

The choice among these objectives is by no means agreed upon among those who urge the creation of food stocks. There is, however, seeming agreement that such stocks need to be distributed throughout the world, and that there should not be overdependence on a small number of countries in times of shortage. Reconstitution of U.S. stocks alone is thus not an adequate answer—and moreover would surely operate as it has done in the past, to lull others into believing that there was no need for them to act.

Costs of stocks also argue that all countries should be involved. Food stocks are expensive initially to purchase, and they are costly to store. Rough estimates of costs of storing grain stocks per month in the United States are $.60 per ton, exclusive of interest costs of money invested in the commodities or any allowance for deterioration of quality or physical losses. If one adds only the interest costs—at eight percent of a value based on grain prices 25 percent less than current U.S. market prices—one arrives at a figure of $21 for the annual carrying cost of one ton of wheat, or $14 for one ton of corn.

This, of course, leads to the question of how much needs to be carried. Any number of criteria or approaches might be developed. If price stabilization is the objective, the world might carry enough stocks to offset prospective declines of production in one, two, or more successive poor crop years. The prospective shortfall might be measured in terms of declines from previous years' production, from previous high production, or from trend; and the "required stocks" to meet shortfalls might be determined in terms of individual countries or the world, and in terms of individual commodities or in groups of commodities such as all cereals. For example, suppose it was decided that, internationally, cereal stocks should be equal to the largest amount in any one year of the past ten years by which world cereal production declined from the previous year. This would mean stocks of 38 million tons—involving an investment of $5 billion and annual carrying costs of over $600 million for years in which the whole amount was carried throughout the year. The U.S. share might be 20 percent (its proportion of world cereal production) or, it might be argued, 50 percent (its proportion of cereal exports)—meaning a capital commitment of $1–2.5 billion, and possible annual charges of $120–300 million. (There would also be an impact on the U.S. balance of payments through the loss of export sales for the amount contributed to the stocks.) Alternatively, if the U.S. share of world stocks was based on the largest amount in any one year of the past ten by which U.S. cereal production declined from the previous year, 18 million tons would be involved.

These calculations leave open, of course, what has become probably the most crucial question for the United States. Should the United States depend on private trade to carry the stocks or should they be held by the government? Evidence of the 1960s suggests strongly that the private trade will limit the stocks they carry if large stocks are carried by the U.S. government. How much they will accumulate and carry if the government does not have any stocks is not known. Serious consideration needs to be given to ways to enhance the carrying of stocks by private trade under both situations—with and without government stocks.

There are many other issues related to food stock programs. Questions as to timing and methods of building stocks are involved. For example, with food stocks low this past winter, prices high, and the prospective crop uncertain as discussed earlier, should stocks have been accumulated or should accumulation await lower prices? Similar questions arise with respect to disposal.

Another difficulty is the lack of public information on food stocks and on production, marketing and price developments. As already noted, the size of cereal stocks in Russia is not known; this type of secrecy would frustrate the effective planning and coordination of any international food reserve program. Statistics on production and marketing in many relatively advanced countries, much less the lower-income countries, are notoriously late, incomplete and inaccurate.

In sum, the cost and responsibility for any stockpiling plan present difficult problems. Any initial American act of leadership would involve short-term costs from withholding supplies in a ready market; and the creation of international stocks would require a new degree of constructive international action and one that would have to be made acceptable not only to the American Congress and public but to the complicated and different political constituencies of other countries.

For the United States, the issue comes down to the balance, or trade-off, among various factors. As long as the U.S. balance of payments is in doubt, the benefit from high export sales of agricultural products is bound to weigh heavily; on the other hand, it is possible that export averages would be enhanced if supplies to foreign customers could be assured from year to year at relatively stable prices. For dependability, an exporter of farm commodities may come to require not only supplies for which importers can bid but available supplies at relatively stable prices. Instability of food prices is already of priority concern to consumer organizations and labor unions. Farm interests, too, may become frustrated with the effects of instability. For the time being, the American farmer benefits from high prices; yet the day could come when U.S. farm producers would prefer, for example, cattle prices that stabilize at, say, $40, rather than $55 cattle one year and $30 cattle another.

Perhaps it is too early to say whether such a major international effort will be possible, and will commend itself to the nations that would have to take primary responsibility. Eventually, U.S. interests may dovetail with an international food stocking program. But an active search for ways to stabilize prices, such as stocking programs, is not likely until the degree of instability is known and the effects of instability felt.

VII

We return to the special problem of the developing countries. They would benefit enormously from measures to limit the fluctuation in world food prices. But if such measures take some time in coming, and if they serve—as is likely—only to mitigate a general upward price trend, there remains the crucial question whether other nations, and specifically the United States, should take other steps to help developing countries obtain at least minimum essential levels of food.

In the past, the United States has clearly led the world in sharing its food with the poor. Since passage of the PL 480 food aid law in 1954, over $22 billion worth of U.S. farm commodities have been made available to other countries on concessional terms. In recent years, the cost of this program has been remarkably stable at a little more than $1 billion.

Under this program, food, and in some cases non-food products, have been made available to lower-income countries. The bulk of the commodities have moved under programs providing long-term dollar credit and, in earlier years, exchange for local currencies. Under recent dollar credit programs, recipient countries sold the commodities within their countries, invested the major portion of the proceeds in development projects, and assumed the obligation to repay the United States the dollar value on a long-term basis. Thus, PL 480 has been an important means for several countries to finance their economic development and to protect and in some cases enhance the food intake of their populations.

In addition, one-fourth to one-third of the commodities have moved under Title II donation programs, whereby the products were donated to the country and often to the individual recipients. School lunch programs and other food distribution programs have been involved. Voluntary U.S. agencies have played an important part in distributing the food in many of the recipient countries.

Against this record, what is the present outlook? While the United States is likely to continue to provide reduced but significant quantities of food under donation and emergency relief programs, the current prospect for long-term credit programs (Title I) is for sharp cutbacks. Admittedly these programs were extended by the 1973 Farm Bill, but quantities in the fiscal 1974 program will be only half of earlier levels—valued close to recent levels of $1 billion, but at prices that in some cases are more than double earlier prices. Moreover, partially at least in response to scarcer supplies and the related higher commodity prices, the United

States during 1973 suspended procurement of commodities for even the Title II donation program for several weeks. Several individual country programs were terminated, and others sharply reduced. The smaller quantities of food available for long-term dollar credit programs were rationed among requesting countries, with priority given to countries such as Vietnam, Cambodia, Korea, and Pakistan which have been important for security reasons.

The reduction of international food sharing contrasts sharply with domestic food sharing. The FY-1975 Department of Agriculture food programs—child nutrition, special milk, and food stamp programs—were proposed in the January 1974 Budget Message of the President to be over $5 billion. This is a record level and represents almost two-thirds of the Department's budget. In contrast to domestic food programs, political support for PL 480 has been insufficient to offset higher commodity prices. Congress has paid scant attention to the decline of international food sharing.

In a larger sense, it can be reasoned that PL 480 has been a program for U.S. agriculture. At its start in 1954 and for several years, PL 480 programs were consistent with commercial objectives for agricultural exports. They permitted us to charge lower prices to poor countries without undercutting our prices to the richer countries. Through adjusting terms—use of the local currency and proceeds from sale of the commodities in the recipient countries, years of credit, interest rates, and commercial sales—effective prices were tailored to the customer's financial and security status.

With strong demand, negligible stocks, and high prices, it is not now advantageous to U.S. agriculture to move significant amounts of food under PL 480. The stark reality is that under present circumstances, it makes no more sense to U.S. economic interests to have a PL 480 food program than to have a PL 480 fertilizer or a PL 480 steel program. All of these commodities are needed desperately by the poor nations, but neither fertilizer nor steel has been in chronic oversupply with large stocks overhanging the market. We have not had concessional steel or fertilizer programs because supply situations were not conducive and because political power was not sufficient to generate them.

And so, as we do not have food surpluses and the related political pressure to move the surpluses, PL 480, as we have known it, may be passing away. I do not say that the United States should not or will not provide some and even significant amounts of food under the donation programs. But it is totally unrealistic to expect the quantity of food provided under long-term credits to be near the levels of recent years. The incentive for farm interests to push PL 480 has dropped sharply, and no major political force in the United States is embracing the food needs of most of the lower-income countries for whatever reason—charity, security, or economic self-interest.

To put it differently, neither we nor other rich countries are willing to forgo substantial foreign exchange earnings in the interest of feeding the poor, even though the developing countries have only limited resources to do it themselves. The experience of the International Wheat Agreement is instructive on how developed countries adjust to the economic realities of international markets. Provisions of the agreement specified obligations of member countries, but these obligations were changed successively in order to align them with the shifting commercial self-interests of the major members.

Thus, it is highly probable that commodity availability to the lower-income countries under PL 480 will be considerably less than it has been over the past five to ten years, leaving a significant gap to be filled by some other means.

One step in filling it is for the poor countries to give renewed emphasis to agricultural development. The cutback on PL 480 availabilities and high international prices should demonstrate conclusively the importance of giving priority to agricultural research and development. Surely finance ministers who have found it necessary to pay $200 per ton for wheat imports this year (instead of negotiating a PL 480 credit program) will be more sympathetic in the future to proposals for expenditures for agricultural programs, construction of fertilizer plants, and policies designed to increase domestic production. In these efforts they should give top priority to greater investment in agricultural research. The lower-income countries contain close to one-half of the world's agricultural lands (excluding China), yet have only 17 percent of the world's agricultural scientists and spend only 11 percent of the money devoted to agricultural research. Technology of the United States and other developed countries can help through technical assistance and training. Through effective linkages of national and international research centers, technology of the developed countries can be utilized in supporting the efforts of the lower-income countries to develop technology appropriate to their agriculture and societies. The challenge to the developed countries to support both academic and nonacademic training of lower-income-country scientists and agricultural program managers is of utmost importance. Trained human resources are an indispensable ingredient in an aggressive agricultural research and development program, and in improving the management and administration of programs aimed at assisting farmers in their production and marketing efforts.

But it is important that the input of the developed countries not be a substitute for investments by the developing countries themselves. We do service to ourselves and the lower-income countries when we recognize that, in the final analysis, improvement in the nutritional well-being of their people depends on how they organize and use their resources.

Finally, the world and the United States will need to evaluate trade-offs between food aid and other economic assistance. Most developed countries and international assistance agencies have limited but significant resources for assisting lower-income countries. Hitherto, they have never had to closely evaluate trade-offs between these programs and food aid programs, except occasionally on a recipient country basis. On a U.S. national level, such consideration could be avoided since the appropriations flowed from different congressional committees to different executive departments. PL 480 as a U.S. agricultural agency like the U.S. Agency for International Development and the International Bank for Reconstruction and Development. The international assistance agencies did not pick up food aid simply because it was in the U.S. self-interest to finance and implement a program of food assistance as a major adjunct to U.S. agricultural programs. It was mutually advantageous to have this division of labor. Resources for international assistance could be used for items other than food, and the Department of Agriculture could carry the cost of food aid.

Now, with the prospects dim for the Agriculture Department programs financing substantial food aid programs, assistance agencies and the lower-income countries themselves need to ask how the priorities for food aid and support of agricultural programs stack up with other development priorities. To a very significant extent, these agencies have increased the emphasis on improved agricultural production, but such emphasis should now be examined again. It is time for international agencies such as the World Bank to ask: "Shouldn't food aid be made an integral part of economic assistance programs?" And, more specifically, are the lower-income countries better off in times of food shortages using international aid availabilities to buy turbines, etc., or using the aid to buy grain to supplement their food supplies, with the proceeds from the domestic sale of this grain being invested in priority development activities in either the agricultural of nonagricultural sectors?

Indeed, poor countries face comparable questions with respect to use of their foreign exchange. The answers will vary. It is highly probable that the amount of food that seems wise under such programs will be much less than it has been under PL 480, but probably greater than it would be if the assistance agencies avoided the hard choice between food and non-food aid.

Admittedly, food programs under such an approach could not ignore U.S. agricultural interests in the case of our bilateral programs, nor agricultural interests of the developed countries in the case of international agencies such as the World Bank. However, these problems for food assistance should be no greater than they are for other items such as steel and fertilizer. Requiring purchases to be made in donor countries is a technique applied to other international assistance and would presumably be applicable to food assistance. The primary considerations would be the development and welfare of the lower-income countries, and food needs would be considered in the context of other needs.

As such choices are made, it is worth stressing that food assistance is not simply dissipated, but can be a form of investment. As with PL 480, the proceeds from the sale of food provided on a concessional basis can be used for investment in irrigation facilities, locally made machines, and production facilities—much as hard-currency loans can be used to provide foreign-made machines and perhaps with greater employment and productivity effects. Indeed the net effect of international assistance agencies embracing responsibility for food aid may lead to a very important synergistic relationship among priorities given to agricultural development, investments for agricultural production in lower-income countries, investments for nonagricultural production, and economic assistance. Integration of these concerns has not been addressed simply because, through PL 480, food was "priced" low, and the money once appropriated for food aid couldn't be switched to other assistance activities. Now the higher prices will make for more difficult and complex choices.

VIII

To sum up, the world food situation has changed drastically in the past two years and now promises to be seriously unstable for some years at least. To adjust to the new price situation is in itself a major challenge for the United States and other developed countries. Every aspect of our habits and policies must now be reexamined. Americans must recognize that they have perhaps given themselves too much credit in the past for a generosity that in fact accorded with the market situation of American farm interests; so now they may appear to the world more to blame for hardships than a fair assessment would warrant.

But it is for the world as a whole to examine new approaches. The United States can play a major part, but better solutions to the food problem call for concerted action by many countries and by international organizations. Above all, the impact on the developing countries should be at the very top of our common concerns.

HOW MUCH FEDERAL INCOME TAXES DO WE PAY?

Mr. CURTIS. Mr. President, we hear a great deal of talk about a tax cut at this

time. There are many reasons why we should not cut taxes.

In my opinion Federal deficits are one of the big causes of inflation. I do not favor borrowing money to reduce taxes.

I favor tax reduction but I want it to come about after we have cut expenditures enough to balance the budget and permit a tax reduction to be made from surplus.

Mr. President, it might be of interest to the Senators to realize that the Congress has over the past years reduced the Federal income tax.

The Treasury Department has provided me with the figures showing the Federal income taxes for a family of four for the year 1963 and the year 1973 for various levels of earned income. For instance, in 1963 such a family earning $4,000 a year was paying $200 Federal income tax. In 1973 they were not required to pay any Federal income tax.

The family of four who had earned income in 1963 of $5,000 paid $370 and in 1973 they paid $98.

Mr. President, I wish to include the entire table which is based upon the Treasury Department's figures.

INDIVIDUAL INCOME TAX LIABILITY OF A MARRIED COUPLE WITH 2 DEPENDENTS, COMPARISON OF 1963 AND 1973 LAW

Earned income	1963 tax	1973 tax
$3,000	$30	0
$4,000	200	0
$5,000	370	$98
$6,000	540	245
$7,000	710	402
$8,000	888	569
$9,000	1,075	744
$10,000	1,262	905
$15,000	2,291	1,765
$20,000	3,500	2,760
$25,000	4,889	3,890
$50,000	14,576	11,915
$100,000	41,274	33,060

Mr. President, expenses are high for all individuals these days. There are many deductions that come out of the average paycheck. It is important that all of us keep in mind what the deductions are for, so that we know just where our money goes. The foregoing table shows that Federal income taxes for individuals have been reduced substantially for the decade from 1963 to 1973.

THE SPIRIT OF '76

Mr. ERVIN. Mr. President, the Committee on Government Operations is about to publish its annual chart, "Organization of Federal Departments and Agencies," with data including the total employees of all Federal departments and agencies paid by the Government in this country and abroad during calendar 1973.

The data show that vast numbers of citizens in this country worked for the Federal Government without compensation—WOC.

Those that worked gratis for our country in 1973 total 121,756 spread throughout many departments and agencies.

I mention two such agencies that reported large numbers of volunteers. First, the Veterans' Administration with 74,382 who gave invaluable service to the agency and the veteran in the agency's hospitals and domiciliaries, and second, the Selective Service Board with 46,273, who manned the draft boards and provided consultative and other services to the draftee.

Mr. President, I would like to list those departments and agencies that reported WOC's for last year:

Department of Agriculture: 1,035.
Department of Air Force: 18.
Department of the Army: 2.
Department of Transportation: 3.
Arms Control and Disarmament Agency: 4.
General Services Administration: 37.
Interstate Commerce Commission: 1.
Selective Service Board: 46,273.
U.S. Information Agency: 1.
Veterans' Administration: 74,382.

Many could have been paid for their work but refused compensation. Some of these citizens actually traveled on Government business at their own expense.

Mr. President, I think it is time the Senate recognizes and makes the public aware of the work of these fine Americans and the great services they provide.

I salute them and thank them for a job well done.

JOHN F. GRINER

Mr. McGEE. Mr. President, the Committee on Post Office and Civil Service, meeting in executive session on Wednesday, April 24, 1974, adopted the following resolution in memory of John F. Griner, late president of the American Federation of Government Employees:

RESOLUTION

Whereas, the Committee on Post Office and Civil Service of the United States Senate is deeply appreciative of the contributions of John F. Griner to the formulation of legislation affecting the compensation, working conditions and benefits of Federal employees, and;

Whereas, the Committee hase held John F. Griner in high esteem and respect as the result of his dedicated advocacy of Federal employees and his effective leadership of the American Federation of Government Employees (AFL–CIO) as its President from 1962 to 1972, and;

Whereas, the Committee shares the sense of personal loss which the untimely death of John F. Griner has occasioned for his widow, his family, friends, and associates in the American Federation of Government Employees and the American labor movement at large, therefore, be it

Resolved, That the Committee on Post Office and Civil Service of the United States Senate does hereby express its condolences to the widow and family of John F. Griner, along with its unending appreciation for the contributions made by John F. Griner to the welfare of Government Employees.

Approved Unanimously April 24, 1974.

Gale McGee, Chairman; Jennings Randolph, Quentin N. Burdick, Ernest F. Hollings, Frank, E. Moss, Hiram L. Fong, Ted Stevens, Henry Bellmon, and Robert J. Dole.

REGULATION OF TOBACCO OR TOBACCO PRODUCTS

Mr. COOK. Mr. President, I ask unanimous consent that a statement of the Senator from North Carolina (Mr. ERVIN), and an insertion be printed in the RECORD in full at this time.

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

The statement and insertion follow:

REMARKS OF SENATOR SAM J. ERVIN, JR., CONCERNING THE HOLDING BY THE COMPTROLLER GENERAL OF THE UNITED STATES THAT THE CONSUMER PRODUCT SAFETY COMMISSION HAS NO AUTHORITY TO REGULATE TOBACCO PRODUCTS

Some time ago, I learned that the Consumer Product Safety Commission was considering the promulgation of a regulation, pursuant to the Federal Hazardous Substance Act, to ban the sale in interstate commerce of cigarettes containing more than 21 milligrams of tar, following receipt of a Petition requesting such action.

The Consumer Product Safety Act (P.L. 92–573) which established the Commission, and set forth its authority and functions, specifically exempted from regulation by the Commission tobacco and tobacco products, and, it is clear to me that Congress never intended the FHSA to include tobacco products.

Because it appeared that the Consumer Product Safety Commission was preparing to assume jurisdiction over an area which the Congress had specifically denied it, I asked the Comptroller General of the United States for an opinion as to whether the Commission has jurisdiction over this area and whether the expenditure of public funds by the Commission in connection with an attempt to regulate tobacco or tobacco products would be legal in light of its specific lack of authority to act.

Following a careful analysis of the authority and functions of the Consumer Product Safety Commission and the laws which it is authorized to administer, the Comptroller General concluded that the Commission was not given authority to administer the various cigarette acts, and that the Congress has indicated its desire to reserve the making of major policymaking decisions on what it regards as a very sensitive issue to itself.

The Comptroller General found that "An outright ban on high tar cigarettes involves a major policy decision which the Congress has not delegated to any regulatory agency."

In conclusion, he stated:

"We therefore believe that the Commission does not have the authority to act on the petition to ban the sale of high tar cigarettes—or to act on any other matters relating to the regulation of tobacco products unless or until the Congress sees fit to confer such jurisdiction on the Commission."

I append the letter from the Comptroller General of the United States, containing his analysis of the issues and his opinion.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., April 8, 1974.

Hon. SAM J. ERVIN, Jr.,
Chairman, Committee on Government Operations, U.S. Senate.

DEAR MR. CHAIRMAN: This is in further response to your request of December 11, 1973, for an opinion as to whether the Consumer Product Safety Commission (the Commission) may properly expend public funds to regulate the sale of cigarettes, which activity, you have stated, is outside its jurisdiction.

We have received a letter from the Chairman of the Commission, which confirms your belief that the Commission is considering such regulation. The Commission is presently studying a petition received from the American Public Health Association and Senator Frank L. Moss, jointly, asking that it promulgate a regulation under the Federal Hazardous Substances Act, as amended, (FHSA), 15 U.S.C. 1261 *et seq.*, to ban the sale in interstate commerce of cigarettes containing more than 21 milligrams of tar.

We emphasize the fact that the Commission is merely considering the merits of the petition. The Chairman's letter indicates that

the Commission has not yet determined whether it has jurisdiction over such matters and if it does, whether the action requested would be justified.

Since there was no indication in the Chairman's letter to this Office as to which these questions would be resolved, we examined the basis for Commission authority propounded in the petition in order to give you an advisory opinion, subject to further consideration if and when we have received the Commission's final position on this matter.

There is some merit in petitioner's contention that high tar cigarettes could, medically speaking, be termed "banned hazardous substances" under section 2(q)(1) of the FHSA. Even though tobacco products are explicitly excluded from the jurisdiction of the Commission over "consumer products" under the Consumer Products Safety Act of 1972 (the CPSA), Pub. L 92-573, approved October 27, 1972, 15 U.S.C. 2051, section 30(a) of that act transfers, without pertinent qualification, responsibility for the administration of the FHSA from the Department of Health, Education, and Welfare (DHEW) to the Commission. On balance, however, we must agree with you that the Congress did not intend and did not in fact confer jurisdiction over cigarettes on the agency administering the FHSA.

Petitioners rely on the "plain meaning" of the terms "hazardous substance" and "toxic," set forth in subsections (f) and (g), respectively, of section 2 of the FHSA. The definition of "hazardous substance" reads, in pertinent part:

"1 (A) An substance or mixture of substances which (i) is toxic, (ii) is corrosive, (iii) is an irritant, (iv) is a strong sensitizer, (v) is flammable or combustible, or (vi) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

* * * * *

"The term 'toxic' shall apply to any substance (other than a radioactive substance) which has the capacity to produce a personal injury or illness to man through ingestion, inhalation, or absorption through any body surface." (Emphasis added.)

A "banned hazardous substance" is one which meets the definition of "hazardous substance" for which the cautionary labeling required by the Act would not be sufficient to protect the health and safety of the public. This can only be achieved by keeping it out of the channels of interstate commerce completely. (See 2(q)(1) of the FHSA.)

Petitioners argue that the weight of medical evidence leaves no doubt that high concentrations of "tar" in cigarettes is "toxic" and has the capacity to produce illness in man through inhalation. Since it fits all the specifications of the statutory definitions so unambiguously, they say, there is no reason to consider the legislative history of the FHSA. They cite a number of judicial decisions which state, as did the court in *Diamond A. Cattle Co.* v. *Commissioner of Internal Revenue*, 233 F (2d) 739, 742, 10th Cir. 1956, "When Congress passes an act in language that is clear and unambiguous, and construed and read in itself can mean but one thing, the act must be judged by what Congress did and not by what it intended to do."

While it may be a rule of statutory construction that one does not resort to rules of construction, including examination of legislative history, when there is no ambiguity at all, it is necessary to determine what is meant by "ambiguity." Under another rule of statutory construction, it has been stated:

"An ambiguity justifying the interpretation of a statute is not simply that arising from the meaning of particular words. * * * The courts regard an ambiguity to exist where the legislature has enacted two or more provisions or statutes which appear to be inconsistent." 50 Am. Jur. 226; *Clayton* v. *Colorado and S.R. Co.*, 51 F (2d) 977, 82 A.R. 417.

In the instant case, the Congress enacted the WHSA on June 14, 1960, to deal with the general subject of hazardous substances. (In its original form, it was called "the Federal Hazardous Substances Labeling Act" (FHSLA). The word "Labeling" was dropped when the act was amended by the Child Protection Act of 1966, Pub. L. 89-756, approved November 3, 1966, 80 Stat. 1303.) There is no enumeration of the substances covered; certain substances, which are subject to the provisions of other acts, are listed as being excluded. As a general rule, the fact that some substances were specifically excluded but not the substance in question might give rise to the presumption that the Congress intended to keep that substance within the purview of the act. However, it must be pointed out that in this case, the hazard to public health of tobacco products was not made generally known to the Congress and to the public until January 11, 1964, (four years after enactment of the FHSLA), when the Surgeon General's Advisory Committee on Smoking and Health reported that "cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action."

The Congress then moved to take some "remedial action," resulting in the enactment of the Federal Cigarette Labeling and Advertising Act (FCLAA) on July 27, 1965, Pub. L. 89-92, 79 Stat. 282, and two subsequent amendments, the Public Health Cigarette Smoking Act of 1969 (PHCSA), Pub. L. 91-222, approved April 1, 1970, 79 Stat. 282, and the Little Cigar Act of 1973, 87 Stat. 352. The policy statement of the original cigarette act (sec. 2 of Pub. L. 89-92, *supra*) retained in the subsequent amendments, declares:

"It is the policy of the Congress, and the purpose of this Act, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby

"(1) the public may be adequately informed that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes; and

"(2) Commerce and the national economy may be (A) *protected to the maximum extent consistent with this declared policy* and (B) not impeded by diverse, non-uniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health."

Thus we have a general statute (the FHSA) with language broad enough to include cigarette smoking by interpretation and a specific statute (the FCLAA and its amendments) which deals exclusively with protection of the public against the hazards of cigarette smoking. It is immaterial that the general statute could provide much more extensive protection than the specific statute. As the underlined words of the policy statement, quoted above, indicate, the statute was providing the maximum protection thought necessary by the Congress as a matter of policy at that time. This Office has stated repeatedly—

"The established rule of statutory construction is that where one statute deals with a subject in general terms, and another deals with a part of the same subject in a more detailed way, the more specific will prevail unless it appears that the legislature intended to make the general act controlling." 37 Comp. Gen. 475, 477 (1958). See also 19 *id.* 293 (1939); B-163375, September 2, 1971; B-175946, November 9, 1972; B-177119, March 2, 1973.

We have examined the legislative history of the FHSA and of the various cigarette statutory enactments, as well as the memoranda you provided to us.

The Senate and House reports on the original bill (S. 1283) which eventually became the FHLSA, make it clear that regardless of how well the definition of "hazardous substances" may apply to tobacco products today, such an application was not even remotely considered at the time of enactment. The Senate Report states:

"The primary purpose of this bill is to establish standards for the labeling of hazardous substances which are used in and about the household but which are not regulated by existing law."

It then goes on to note the fact that the Federal Caustic Poison Act of 1927 covers only 12 chemical substances. Since that time the number of products sold on the market for household use has increased tremendously.

"The need for this legislation was highlighted, your Committee believes, by the testimony of Dr. Charles J. Saverese, Jr., Director of the Suburban Hospital Poison Control Center, Bethesda, Maryland, giving his experiences with young child poisonings." S. Rept. No. 1158, February 8, 1960, pp. 2-3.

Similarly, the House background statement on the need for the legislation says:

"Modern developments have increased the possibilities of physical injury from the careless handling of *household chemical compounds*." (Italics added.)

It gives several examples of such products—silver polish, drycleaning products, etc., and then states:

"The bill is intended to require cautionary labeling of such hazardous articles to provide householders and their families with adequate instructions for safe use of the materials, and to provide, when necessary, adequate first aid instructions for treatment of such injuries as occur." (Emphasis added.) H. Rept. No. 1861, June 14, 1960, pp. 2,4.

In this context, the wording of the FHSLA definitions which on the surface seem so applicable to cigarette smoking, take on another cast. For example, there are references throughout the hearings to the illness that results from the inhalation of carbon tetrachloride fumes in a poorly ventilated room. (See exchange between Congressman Kenneth A. Roberts and Food and Drug Deputy Commissioner John L. Harvey, Hearings on Bills Relative to the Labeling and Advertising of Cigarettes Before the House Committee on Interstate and Foreign Commerce, June 23, 1964, pp. 44-45.)

In 1966, the FHSLA was amended to permit the Secretary of Health, Education, and Welfare to ban substances so hazardous that they must be kept out of interstate commerce completely. (Child Protection Act of 1966, *supra*.) These amendments added the present definition of "banned hazardous substance," found in section 2(q)(1), discussed *supra*. The hearings and floor debates indicate congressional concern about toys and other articles primarily designed for children which are customarily sold unpackaged—e.g., toy ducklings impregnated with pesticides, poisonous beads used as dolls' eyes, fireworks known as "crackerballs" which look like candy or sugar-coated cereals, etc. (See e.g., Statement of Senator Magnuson when introducing S. 3298 on Senate floor. Cong. Rec. vol. 112, pt. 16, p. 21533.)

Subsequent amendments to the FHSA were equally specialized. The Child Protection and Toy Safety Act of 1969, Pub. L.

91–113, approved November 6, 1969, 83 Stat. 187–189, added coverage of "any toy or other article intended for use by children which the Secretary by regulation determines, in accordance with section 3(e) of this Act, presents an electrical, mechanical, or thermal hazard." It appears to deal solely with articles intended for use by children—not articles, like cigarettes, which may or may not fall into their hands. The Poison Prevention Packaging Act of 1970, Pub. L. 91–601, approved December 30, 1970, 84 Stat. 1670, requires special packaging devices to prevent young children from gaining easy access to hazardous substances. The final amendment to date, the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92–516, approved October 21, 1972, 86 Stat. 998, is solely concerned with the labeling and registration of dangerous pesticides.

At no time during the consideration of the original Hazardous Substances Act or any of its amendments was the inclusion of tobacco products suggested or discussed. It was, however, suggested several times in connection with the Federal Cigarette Labeling and Advertising Act and its subsequent amendments by the DHEW and by Senator Moss. In reporting on the pending cigarette labeling bills, DHEW wrote to the House Committee on April 6, 1965:

"Further, without in any way questioning the Federal Trade Commission's regulatory authority in this field, we have concluded, as indicated to your Committee last year, that remedial action in this field should, with respect to labeling at least, include new and specific legislation and that in our view, the most effective approach to labeling regulation is to bring the labeling of cigarettes by appropriate amendment under the Federal Hazardous Substances Act, where it could be readily fitted into the regulatory scheme of that Act and its enforcement."

DHEW witnesses were questioned closely in connection with this bill report to determine whether the Department thought it already had jurisdiction over cigarettes under the FHSLA. Representative Oren Harris, then Chairman of the House Committee on Interstate and Foreign Commerce, stated during hearings on the FCLAA:

"Only four years ago the Hazardous Substances Act was developed and there was no thought and I believe it was not even mentioned in the hearings or in the legislative history, yet here four years later arguments are made that the Act covers cigarettes. That is the sort of thing that does cause me some concern with the regulatory agencies of Government interpreting language so that it extends their broad general authority." Hearings before the House Committee on Interstate and Foreign Commerce, June 23, 1964, p. 50.

DHEW witnesses (Surgeon General Luther Terry, Deputy Commissioner of Food and Drugs, John L. Harvey, and Theodore E. Ellenbogen, Deputy Chief, Legislative Division, Office of General Counsel) all assured the Committee that they did not feel that the FHSLA presently covered cigarettes or tobacco. House hearings, *supra*, at pp. 44–45.

Mr. Ellenbogen made essentially the same statement at Senate hearings on the cigarette bills. He said that while the definitions of the FHSLA might be medically applicable to cigarettes, "I am also confident in the light of the history of this Act, in which I was deeply involved, no one ever dreamed that it would extend to this product." Hearings on S. 559 and S. 547 before the Senate Committee on Commerce, March 22, 1964, p. 51. We have quoted these statements at length because we have long held that the interpretation of the scope of stationary authority by the agency with responsibility for the administration of the statute is entitled to great difference and weight. 48 Comp. Gen. 5 (1968); 49 *id.* 510 (1970); B–177579, August 21, 1973.

Senator Moss was one of the few Congressmen to support DHEW's recommendation that cigarettes should be controlled under the FHSA. He stated on the floor of the Senate:

"I feel it is both reasonable and highly desirable to treat tobacco as a hazardous substance." Cong. Rec., June 16, 1965, p. 13414.

Earlier, he had protested the fact that DHEW had no right to write regulations in this field. S. Rept. No. 195, May 19, 1965, p. 21.

The Congress as a whole apparently did not share this view about the appropriate jurisdiction of the controls to be imposed on cigarettes. Although the Senate Committee noted the DHEW position (S. Rept. No. 195, *supra*, p. 23), jurisdiction over cigarette labeling and advertising, within severe congressional constraints, was explicitly assigned to the Federal Trade Commission (FTC). No jurisdictional decisions about the authority to ban tobacco products altogether were made apparently because, from reading the extensive debates about cigarettes in connection with the original bill and each subsequent amendment proposed or enacted, the majority of Congress was not ready to impose that stringent a control on the sale of tobacco products.

We believe that the Congress has resolved the question of jurisdiction by retaining the authority itself to initiate further action to control (or decontrol) tobacco products in the future. During the floor debate on the House-reported bill, H.R. 3014, Representative Harris discussed the various agency bids for authority to control cigarettes, and then added:

"So, Mr. Chairman, we had various Federal agencies that were interested in different proposals to meet the problem. I believe, as the gentleman from Texas [Mr. Rogers] has said a moment ago, the better approach to the problem is the one which we have taken here; that is, by legislation, instead of by rule or by regulation." Cong. Rec., June 22, 1965, p. 13903.

Again, during consideration of the first amendment to the original cigarette act (the PHCSA), Representative Harley Staggers, Chairman of the House Interstate and Foreign Commerce Committee, said:

"Mr. Speaker, since enactment of the legislation in 1965, it has been my strong feeling that matters such as these involve broad public policies not within the authority of any non-elective body. They are matters which the Congress must decide." Cong. Rec., March 10, 1970, p. 3372.

The House Report on H.R. 6543, the bill which became the PHCSA, is quite explicit on this point. It states:

"* * * The regulations [proposed by the FTC and the Federal Communications Commission re cigarette advertising] raise basic constitutional questions and would affect the growing, sale, and manufacturing of tobacco for cigarettes and the persons involved in or affected by those activities. These activities cut across the whole spectrum of commercial and social life in the United States. *It is therefore an area where the Congress, if anyone, must make policy.*

* * * * *

"Aside from the questions of constitutional and statutory law which the two agencies' proposed rules raise, *they are an assumption by these agencies of policymaking with respect to a subject matter on which the Congress has made policy* (see sec. 5(b) of the act), *has stated its intention to be the exclusive policymaker on the subject matter, at least until July 1, 1969* (see sec. 10 of the act) *and has given strong indication of its intention to continue to do so.*

"Therefore, the Committee feels that it is incumbent on the Congress to act on the reported legislation in order to prevent intrusion by the Federal Communications Commission and the Federal Trade Commission *into basic areas of policymaking which it has reserved to itself.*" (Italics added.) H. Rept. 91–289, June 5, 1969, at pp. 4–5.

The report goes on to explain that the bill would postpone the termination of the preemption of regulation of special smoking and health requirements in cigarette advertising until July 1, 1975, with the expectation that the subject matter will be reexamined by the Congress before that date.

Although Senator Moss is cosigner of the petition presented to the Commission which alleges that the Commission has jurisdiction to ban high tar cigarettes under the FHSA, he sponsored a bill (S. 1454) on April 1, 1971, to accomplish this same purpose but assigned the regulatory authority to the FTC and not to DHEW, which at that time still had jurisdiction over the FHSA. Senator Moss, however, in the course of hearings on his bill, queried DHEW witnesses as to whether they felt they could assume jurisdiction over cigarettes under the FHSA. Dr. Charles Edwards, then Commissioner of the Food and Drug Administration, denied any such jurisdiction. He cited various specialized cigarette acts, which he said, "clearly demonstrate that the Congress had not intended to subject cigarettes to the Federal Hazardous Substances Act." Senator Moss then pressed Peter Hutt, Assistant General Counsel for the Food, Drugs, and Product Safety Division, DHEW, who accompanied Dr. Edwards, to institute a court case to test its jurisdiction. Mr. Hutt replied, "* * * My own personal belief is that we would be on no ground whatever for doing that."

The most recent amendment to the cigarette Act which was enacted into law was the Little Cigar Act of 1973, Pub. L. 93–109, approved September 21, 1973, which did little more than subject "little cigars" to the same restrictions as cigarettes.

Consistent with the view that regulation of cigarette smoking was the subject of specialized legislation, the Congress specifically excluded tobacco and tobacco products from the definition of the term "consumer product," subject to the controls of the Commission under the Consumer Product Safety Act, *supra*. The Senate Commerce Committee report states:

"There is one category of products which the bill expressly excludes from the definition of 'consumer product.' That product is tobacco. *Because the safety regulation of tobacco is the subject of separate legislation before the Committee* and because hearings are being held on that legislation, the Committee has decided not to include tobacco under the general safety law." (Italics added.) S. Rept. No. 92–749, September 13, 1973, p. 12.

From this exhaustive review of legislative history, we conclude as follows:

1. At the time enactment of the Federal Hazardous Substances Labeling Act, the Congress did not intend to include tobacco or tobacco products within its purview. It was not even aware at that time of the possible hazards of smoking. Nothing in the subsequent history of that Act shows an intent to broaden its jurisdiction to include tobacco products.

2. An agency cannot transfer more authority than it actually has to another agency. Since DHEW was never given jurisdiction over tobacco products under the FHSA, the Commission could not acquire such authority as a result of the transfer of responsibility for administration of the FHSA pursuant to section 30(a) of the CPSA.

3. Although the general definition of "hazardous substance" in the FHSA might literally include tobacco products, the Congress enacted special legislation (the FCLAA and its amendments) which preempt the

field of cigarette smoking and its relation to health.

4. While the Commission has jurisdiction over the FHSA as well as the regulation of "consumer products" under the CPSA, it was not given authority to administer the various cigarette acts. The Congress has indicated its desire to reserve the making of major policymaking decisions on what it regards as a very sensitive issue to itself. An outright ban on high tar cigarettes involves a major policy decision which the Congress has not delegated to any regulatory agency.

5. We therefore believe that the Commission does not have the authority to act on the petition to ban the sale of high tar cigarettes—or to act on any other matter relating to the regulation of tobacco products unless or until the Congress sees fit to confere such jurisdiction on the Commission.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

AMBASSADOR EBERLE'S VISITS IN LATIN AMERICA

Mr. BENTSEN. Mr. President, I wish to take this opportunity to bring to the attention of my colleagues in the Senate the visit of Ambassador William Eberle, the President's Special Representative for Trade Negotiations, to a number of Latin American countries. I commend Ambassador Eberle as well as Secretary Kissinger for following up on the Mexico City meeting of Latin American Foreign Ministers by dispatching a high-level delegation of American economic experts to lend an ear to our southern neighbor's concerns over the increasingly serious economic issues developing in our hemisphere. I have said many times in the past that one of the greatest needs in hemisphere relations is for greater listening on the part of the United States. I had urged Secretary Kissinger before his Mexico City trip last February to eschew banner headlines and dramatic diplomacy in favor of a substantive dialog on concrete issues, Ambassador Eberle's trip portends just that kind of much-needed colloquy. His visit to nine Latin American nations and four multilateral regional organizations, the Latin American Free Trade ASsol, the Central American Common Market, the Andean Pact, and the Caribbean Common Market, imply a serious desire on the part of the United States to listen to the latest thinking of some of our most important trading partners and regional groups on a broad range of trade-related developments and issues.

In addition, Ambassador Eberle will attempt to encourage Latin American participation in the forthcoming Tokyo round of multilateral trade negotiations. The participation of these nations can help assure that the best interests of all nations in an improved, more open and equitable international trading system will be served as well. I hope Ambassador Eberle will take advantage of this opportunity to discuss with the Latins the increasingly critical issue of access to supplies as well as to markets. Certainly new international rules of trade must be developed and this is an excellent opportunity for working toward that goal with our Latin neighbors.

Again, Mr. President, I commend Ambassador Eberle and Secretary Kissinger for their apparent willingness and interest in placing a higher priority on our relations with Latin America than we have seen in the past. Only through such meaningful dialog will we see any real progress toward resolving the problems plaguing hemisphere relations.

KANSAS CITY: TODAY AND TOMORROW

Mr. EAGLETON. Mr. President, for the past several years a general attitude of despair has gripped the Nation in regard to the future of our major cities. Cities, we have been told, were either dead or dying. Nothing short of massive infusions of Federal funds could bring them back to life.

I would like to tell you about Kansas City, Mo.—a surprising city with a surprising record of urban accomplishment.

In Kansas City a unique coalition of business and government leaders have produced a remarkable $3.4 billion "do-it-yourself" urban renaissance that is serving as a model for cities elsewhere.

Even more important to the central issue, however, is the fact that 75 percent of this renaissance has been paid for by the city's business community. Kansas City's commitment to rebirth amounts to $2,600 for each of the 1.3 million people living in the six-county metropolitan area—the largest per capita building program in the United States.

The program, known as Prime Time, has proven without a doubt that businessmen and local government officials can affect the future of their communities—if they devote their time, energies and dollars to the cause. Leadership is the key ingredient in the Kansas City renaissance.

The vitality of the leadership in Kansas City is well illustrated by a unique conference that took place there March 26. On that date 700 of the city's top leaders gathered at a luncheon to examine "Kansas City: Today and Tomorrow."

At the speakers table, and in the audience, were the caliber of men and women who can make—or break—a city. Presentations were made by Donald J. Hall, president of Hallmark Cards, Inc.; Dr. Charles N. Kimball, president of Midwest Research Institute; Ilus W. Davis, two-time former KC mayor, Judge Charles Curry, vice president of the Chamber of Commerce of Greater Kansas City and Dolph Simons, president and publisher of the Lawrence, Kans., Journal-World.

The true spirit of Kansas City was obvious from the meeting itself.

While some cities have trouble bringing together even a handful of their leadership to discuss their cities and their future, Kansas City produced 700 of their best and brightest citizens.

Those who attended the meeting heard a truly remarkable story about the physical and spiritual renaissance of a great American city.

Mr. President, I believe that story should be shared for the lessons it offers. For that reason, I ask unanimous consent that the text of this most unusual examination of urban planning and progress be printed in the RECORD.

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

PRIME TIME: TODAY AND TOMORROW

(By Dr. Charles N. Kimball)

Our purpose is simple. We're going to talk about Prime Time. We plan to review briefly what it is, how it got started, what are the results to date and most important, where do we go from here?

We have a big story to tell today. But I promise you it will move fast.

You already have seen some Prime Time today. Samples of its finished products are scattered around the room. You saw some of it on slides. You heard the radio spots and you saw the television commercials. Why? Primarily because Prime Time is better known in Detroit and Dallas than in Kansas City. It's better known on the West and East Coasts than in the Midwest. This should not be too surprising because the early emphasis was just that . . . to tell the story to the rest of the country and yes, even to the rest of the world—to tell what was happening to Kansas City.

Today we're bringing Prime Time back to Kansas City. Here's where it started on January 4, 1972. Many of you in this audience were there. Some of you were not. That's another reason for our meeting today. We want to give you a progress report But more importantly, we want everyone here to know just exactly what Prime Time is all about, and why it's so important to the future of this metropolitan area.

Now let's take a brief look at Prime Time yesterday. The proper man to tell that story was the first chairman of the Prime Time Steering Committee. This is an unusual committee and probably the most effective in the history of the Chamber of Commerce of Greater Kansas City. They met for breakfast once a month every month for two years. You needed special dispensation to miss a meeting. To tell about that beginning—some of their frustrations, hopes and progress. It's my pleasure to call on Don Hall, president of Hallmark.

(By Donald J. Hall)

What we call Prime Time today started in the Fall of 1971 as Kansas City's Year of Years. Even before the formation of the first Prime Time Committee, many hours of careful planning and conceptual thinking had been initiated by Jim Stephens of Missouri Public Service, who was our 1971 Chamber president and Mayor Wheeler.

Very early in this program the best minds in this city carefully analyzed our situation and our problems and our prospects. We started with the major premise that Kansas City did not have a particularly bad image, but rather an un-image. The president of one of America's leading site location counseling firms told us—"Let's face it, Kansas City doesn't have much allure."

Two years ago if you were to ask a writer on The New York Times what he thought of Kansas City, he might very well have responded, "Sir, I just don't think about Kansas City."

We determined, early on, that we were missing new business, new jobs and new payrolls because we were not being considered. It was not a case of our being scrutinized and found wanting. It was not a case of our assets falling short of requirements. It was not a case of other cities offering more than we would or could. It was very simply a case of not being allowed to compete—of not being considered for that all important first list of possibilities. Charlie Kimball reminded us constantly that Kansas City was not under developed, but merely under recognized and under utilized.

Our initial assignment was to bring the attractions of Kansas City to the attention of national site location people, to the attention of the heads of the world's great corporations, and to the attention of decision makers and management groups everywhere.

With limited funds, based on a 1971 Chamber of Commerce income not larger than it was in 1927, we had to vote against expensive full-page ads in national magazines—and we had to forego the temptation to use much of our funding locally. We reasoned, quite rightly I believe, that those who live here and work here were already reasonably sold on our city, reasonably informed, and reasonably enthusiastic.

The commanding alternative was a national public relations program based on factual journalism, to tell the Kansas City story to newspapers and wire services, to business magazines and special trade journals, and on network radio and television if possible. We also voted to do all in our power to bring the uninformed and doubting Thomases here on location, here amidst our city and our activity, to see and experience the community for themselves.

We have been both lucky and energetic in the number and quality of national writers and newsmen who have visited Kansas City in recent months. The Associated Press Managing Editors held their annual meeting here in 1973 at the Muehlebach, and these influential executives of America's leading newspapers liked our city and were quick to assign stories to their columnists and urban affairs writers after they returned home. The All-Star Baseball Game brought a huge number of sports writers here, and after reporting on a dull baseball game, they devoted their next column to an exciting city. The Pro Bowl also brought writers here. Any many others have come individually—mostly through our public relations urgings and initiative, but some unsolicited, just curious about all the Kansas City stories they saw in national publications.

And not only have we hosted visitors in order to tell our story, we have gone afield to Seattle, to Sedalia, to Lincoln and Little Rock, to Omaha and Ottawa, Kansas, to Salt Lake City and to New York. Your president Don Smith, Charlie Kimball, Dutton Brookfield and Ike Davis are our most polished podium performers. Dynamic public speaking is a rare talent, but when practiced effectively—as Charlie did when he told the Kansas City story to the Seattle Rotary Club—does our city a lot of good.

We have been in the enviable position of being able to write and tell the truth without the usual tricks needed by other cities. We have not needed glossy tourists posters of something we wish we had, but can use journalistic photography of what we have and we are committed to.

We first earned attention with our brick and mortar projects—the airport, the stadiums, Crown Center, the interstate loop, hospital hill, junior colleges, River Quay, and other elements of our seven-county construction boom. These projects dramatized concrete results, not empty rhetoric.

Since that initial flurry in 1972, we have been able to zero in on specialized stories—Clarence Kelley, Joe McNamara and the Kansas City Police Department, Martin Luther King Hospital, the Foreign Trade Zone and events north of the River, the movement downtown with both the Convention Center and the Mercantile Bank building, our people and our enviable quality of life.

Today, as we view the gasoline lines in Baltimore, Washington and Connecticut—the unemployment within certain great industrial cities—we can appreciate once again and more than ever, the virtues of our community.

The more I learn and read about other cities, and the more I travel, the more I appreciate this area and the way we live.

We are not changing the image that outside people have had of Kansas City—we have changed this image, or should I say we have corrected the misconceptions. And in so doing we are helping to change Kansas City and its surroundings.

Prime Time has worked, more effectively perhaps than anyone thought possible. It has succeeded, and it is succeeding, because people have devoted themselves to its success.

The original committee included Miller Nichols, Ike Davis, Charles Kimball, Vic Swyden, former City Manager John Taylor, Robert Kelley, and such specialists as Chamber president Don Armacost, Dick Degenhardt, and Herb Valentine. Today, under Charlie Kimball's leadership, Swyden, Davis, and Kelley continue to serve, along with new members: Henry Bloch, Ron Ferguson, Jerry Duggan, Bob Gayner and Dick Dodderidge.

Concerned people make things happen. Prime Time owes its success to the city, of course. But the people involved—and each of you—created the ideas and resources needed

The day-to-day work for a national recognized Kansas City is handled by Cary Byoir & Associates. Here from New York is John Budd, Vice President of Carl Byoir.

(By John F. Budd)

You've heard and you've read some of the comments others have made about Kansas City. I'd like to put in perspective what all this means and why, in my opinion, it is uniquely significant.

It is important to appreciate that our objective was not solely to try to build a new image for Kansas City out of the steel girders and concrete forms. The real story, we believed, was at the root of these projects—the attitudes and the initiative of the leaders of this community. These are the elements that really set it apart. (After all, Dallas has a new airport, and so does Paris.)

Therefore, we not only wanted to improve public opinion about Kansas City—but we wanted also to communicate the essence of the civic attitude that thrives here.

This entails a problem immensely more sophisticated than simply trying to editorially brow-beat people into our point of view by inundating them with publicity.

Opinion change of this caliber is the most delicate and difficult of all communications assignments. Go too far, oversell, and chances are that people will dig in their heels, psychologically, and resist even the most irresistible arguments.

We also recognized at the outset that it was unrealistic to think we were going to make a major impression on some 200 million people.

But it was feasible to try to reach the opinion leaders. Their influence is significant . . . so we saw this as a two-step process: from print, radio and TV to opinion leaders (those local leaders of business, civic and community life), and from them to the public at large.

We studied how other cities were selling themselves—and it was largely through the leverage of the pocketbook. Dallas had a promotional budget of $1½ million a year for three years; Louisville was spending $2 million a year; Atlanta, $950,000 a year; Memphis, $4 million, and New York City, then $2½ million a year.

It was emphasis on money and material—not on minds. . . .

This was not Kansas City's way—nor its style.

We also decided that the problem was unique enough and complex enough to take it beyond the reach of advertising (and I say that with full regard for the power and respectability of advertising).

We decided to let others tell our story their way—the others being principally the journalists, broadcast media and magazine writers. They were to be our bridge to the nation's thought leaders. Their opinions have greater believability than our own views of ourselves.

The role of our committee was to bring the people and the facts and the writers and the talkers together, to marshall our strongest resources and let the journalists see, hear and sense what's going on—we would ride with the results.

We encouraged them to dig beneath the surface to get a handle on the intangibles—the attitudes, the collective initiative of the leadership of the city—so they could appreciate (and communicate) not only what was changing, but why it was changing.

The people who have written about Kansas City are professionals who report the news and the facts, as they see it and judge it. They have a healthy skepticism born of years of winnowing through non-facts and self-serving facts presented as the Gospel.

It is in this perspective that their critical reports should be seen. In almost 30 years in the communications business. I have never before experienced anything of this magnitude. Kansas City has captured not only their professional interest, but their personal respect as well.

Once you've got this in focus you can better appreciate what your leadership has accomplished.

Now, to add dimension to the stories you've read—and will read later on—let's take a very quick trip around the nation . . .

We asked our people in 6 cities to talk to people at random and hear what they say about Kansas City.

An Atlanta businessman said: "We've noticed in the media that some very exciting things are going on in Kansas City. Kansas City has joined the ranks of a handful of major American cities where you really have a creative downtown environment, you have creative, innovative and energetic business executives who, it's obvious are going to make things happen in Kansas City, they're making it happen."

Wade Franklin, travel editor of the Chicago's Sun-Times: " . . . Kansas City is a surprising city. It's so amazingly modern that the old song about everything being up to date in Kansas City is so true there. I was surprised by the magnificence of the new Crown Center area. The baseball stadium of course, is I think without a doubt the finest in the world. Kansas City certainly has outstripped Chicago, New York and every other city I can think of as far as sports facilities are concerned . . ."

Next, Philip M. Klotznick, chairman of the executive committee of the Urban Investment and Development Company in Chicago: ". . . Kansas City is finally winning its battle with the rest of its competitors to become one of the great regional markets. It still has its downtown to cure but it's on its way and some of us hope it succeeds quickly. The fact that I believe this is relatively unimportant. But when people like the leaders of Hallmark, the Chamber of Commerce, some of my good friends like By Schutz and Charlie Kimball and the mayor get their story through as they're getting it through, more and more people will begin to appreciate the revolution that is taking place in the physical appearance and in the hope of making Kansas City the kind of city that it has always itself tried to be. I believe the country is beginning to understand that there are certain cities of distinction and I'm inclined to believe that Kansas City will be one of them in the years ahead . . ."

Businessman John P. Hinckley, vice president of Grow, Keller and Fried insurance, said: ". . . For ten years I visited Kansas City regularly to service clients particularly the Yellow Freight Corporation. What has made these visits more appealing in the last couple of years is the amazing physical change that's taken place. The airport, Truman complex and new skyscrapers have con-

tributed significantly to the over-all picture of the economic growth and progress. Kansas Citians are to be congratulated for their civic responsibility in revitalizing the metropolitan area . . ."

John H. Ford, vice president, public relations for Chrysler Motors and a member of the Detroit counterpart of our Prime Time committee, said: ". . . In the summer of 1973, we introduced our new 1974 Chrysler Corporation cars and trucks to the nation's press. Automotive press had a big event in the Crown Center. I think all of us who were there, both Chrysler Corporation executives, representatives of the press, were struck by what had been accomplished in Kansas City in a relatively few short years and in the plans that we saw for what lay ahead. The Crown Center Hotel and Arrowhead Stadium, both of which we used in our events, and other striking examples of construction and development to my mind show what can be done by business people and civic organizations working together in a spirit of cooperation, in a spirit of leadership to do a big job and I think it forms a great example to the rest of urban America as to what this kind of cooperation can achieve . . ."

Roger Allen, a staff writer for Automotive News: ". . . A dozen years ago I spent one week a month there covering financial news. The contrasts I saw this time around were astounding. The sports complex should be the envy of many cities including my own. Let me simply say I was very favorably impressed with Kansas City this time around . . ."

In San Francisco, business writer Chris Barnett of California Business said: ". . . I thought it was the type of town that people flew over but rarely stopped in to see. I envisioned in my own mind a very old stodgy cowtown as somebody once called it and that was pretty much stuck in my mind. I was more than really surprised. I was a little bit astounded to realize how much development had gone on in Kansas City . . ."

Louis J. Weber, Jr. a vice president with Wells Fargo and Company said: ". . . It's a very progressive city, the new sports complex comes to mind, Arrowhead Stadium . . ."

Washington, D.C. is a critical audience. Here some of our most influential media set the agenda for nationwide public discussion simply by their choice of what is today's news.

Listen to what Ellis Howler, executive editor of U.S. News & World Report, thinks about Kansas City: ". . . My impressions of Kansas City have been mostly from reading what has been going on there. The city is a wide awake community that is interested in attracting industry and has a great many advantages for companies that want to have a headquarters or make plans in that part of the Middle West . . ."

Next, Sam Jackson, a partner in the law firm of Strook & Strook & Levand: ". . . I have really been impressed with the dynamism that's at work in the construction activity that's going on there. The Crown Center development area, the new buildings planned for the downtown area, the rehabilitation that's underway and the new cooperation that's found between the black business leadership and the white business community suggests that this is a healthy community that's demonstrating the kind of cooperation, people working together, to assure that the city really becomes a garden spot . . ."

George Washnes, director of Municipal Studies at the Center for Governmental Studies: "I recently did a study on Kansas City, Missouri, looking at the general government and other aspects and I was quite impressed with the changes that have been made in the community over the last fifteen to twenty years. Kansas City is certainly an upcoming community. It's a city—it leaves an impression and an attitude entirely different from its poor past record and image. The downtown is quite revived with new development, new hotels and tourist attractions and restaurants and the image of the police department and the reduction of crime is also impressive. The sound government with a good city government management form and responsive city council as a whole, my impressions were very excellent of the community."

Earl Risdon, sales manager for United Airlines: "I think because there they've taken a very big step in providing Kansas City with a true jet age airport, a facility that we've had very, very favorable comments on from passengers regarding the convenience and ease of getting in and out of the terminal. Another thing that I think has been very good for Kansas City's image has been the new Crown Center Complex, one which we're very close to being linked up with Western International Hotels, our partners in travel. I think Kansas City is moving in the right direction and certainly should keep on with their programs of modernization . . ."

At this point I was supposed to share with you the comments of one of Kansas City's most distinguished native sons . . . Dr. Franklin D. Murphy, chairman of the Los Angeles Times-Mirror Corporation.

Unfortunately, we seem to be afflicted with the prevelent communications malady—missing tapes. Dr. Murphy's comments are somewhere between Los Angeles and New York.

But, having read the papers, I know what to do—I'll leak his remarks.

According to "unimpreachable sources" . . . seriously, Dr. Murphy wanted to convey to you his admiration for the job you've done. He said he was highly impressed by this example of how concerned and intelligent people are capable and willing to look years ahead to get this city revitalized. As a native son he said he can best appreciate the magnitude of the job being done.

At the same time he wanted to warn us of complacency. Because of the magnificant start, Dr. Murphy said it would be very easy and very human to sit back and expect the momentum generated to carry the program along.

Dr. Murphy said it will take another 5 years or more of active and continuing support of our program to protect the investment in time, money and energy already expended.

But better than these electronically-produced views would be the real-life opinion of a prominent newsman and businessman.

I'd like to present Dolph Simons, president, publisher of the Lawrence Journal-World and a member of the Associated Press' board of directors. As you know, the AP is the nation's single most important artery of news dissemination . . .

(By Dolph Simons)

You see around the room some of the evidence of what John Budd's talking about. Let met just cite a few of the better examples:

Across the state from an ambitious neighbor, the St. Louis Globe-Democrat commented editorially:

"A *New York Times* reporter found that everything was up to date in Kansas City, our friendly cross-state rival.

"His findings reinforce the nagging suspicions of many St. Louisians that K.C. may surge ahead of us in many areas—economic growth, cultural, intellectual . . . Kansas City is a city on the move, progressive and with a clearly defined vision of the future . . . a synergism of creative forces in St. Louis should be the first order of business in the new city administration, least we find ourselves a way station on the road to Kansas City."

Then, from the *Miami Herald:* "Not since the great push westward . . . has Kansas City experienced such a boom in tourism as now. The city's hotel and motel industry in doldrums for the past 40 years has suddenly blossomed to life with new construction producing the greatest "room boom" in Kansas City's history."

From *Business Week:* "Like the old song says, 'Everything's up to date in Kansas City' . . . or soon will be . . . Kansas City is in the midst of a huge building and rebuilding boom which should give the bi-state metropolitan area new life."

The New York Times in an in-depth article said: "Kansas City is puffing out its chest and bragging that it is a town whose time has finally come, that it is the Atlanta or Houston of the 1970s. There is impressive evidence to support the boast."

The *Cincinnati Enquirer* reported: "Cities can be beautiful—take Kansas City."

Editorially the *Baltimore News American* noted: "Kansas City could be a model for retarded Baltimore."

The *Chicago Sun-Times:* "Kansas City is showing the way."

The magazine *Travel,* the Bible of the travel business stated: "Kansas City's Prime Time campaign is a lot more than hot air."

Industry Week looked at Kansas City's business-government cooperation and concluded: "They're making it work in Kansas City."

The Kansas City Story has been broadcast to the homes of almost 200 million people by national TV and network radio.

As a close neighbor of Kansas City, I am tremendously interested in the progress and success of this area. The degree of excellence of Kansas City's growth and development has a direct bearing on the development of cities such as Lawrence, Topeka, Leavenworth and St. Joseph.

All of us in this region benefit from Midwest Research Institute, the Linda Hall Library, the Art Gallery, the new Convention Center to be built, the magnificent new hotels, the spectacular upcoming Kemper Sports Complex, the great International Airport, and many other great community accomplishments. *You* are leading the way.

As I travel around the country, people are no longer saying, "What is a Kansas City?" Instead they're asking: "What's going on in Kansas City. What is the next surprise for Kansas City? What are they up to now?"

I'm sure you have been as impressed as I have with the success of Prime Time. But if you're like me, most of this has already happened. That was yesterday. Where's the real payoff? What is Prime Time doing for me today? For the answers, here's Charles Curry, First Vice President of the Chamber of Commerce of Greater Kansas City.

(By Charles Curry)

During 1973 more than 100 national firms—four times more than 1972—expressed a bona-fide interest in Kansas City. Last year, in one month alone (August) 19 major inquiries were received by the Industrial Development department of the Chamber . . . more than in any previous month. That's more than many state development programs generate in a year.

It's astounding, too, when you consider that over 50 per cent of the firms inquiring about Kansas City actually visited here in 1973. Many are still in the various stages of determining their final location. There's no question that we expect to get more than our share.

We've already done exceedingly well. In 1973, there were 40 firms who selected the Kansas City metropolitan area as their new location.

It's an enviable list too. Included is the $35 million national distribution center of the J. C. Penney Company underway in Lenexa. That's tangible proof that Prime Time knows no city limits and stops at no artificial boundary lines.

The Hyatt Regency announced a $50 million downtown hotel.

Construction started in downtown alone totals $95 million. The Mercantile Bank building just topped out as did the Penn-Tower office building.

Residential, commercial and recreational projects are also being stimulated.

Over the long term, Executive Park is committed to investing $400 million. Metron announced plans to develop a $600 million Metropolitan Center. Champaigne Properties begins this year on a $100 million complex. And start-up on the $80 million Corporate Woods office park project is right around the corner.

Kaiser-Aetna's Artisan division has just completed its first project in a 3-year, $35 million housing effort.

Just around KCI, there's already $140 million in construction started. More is certain to come.

The Prime Time spirit helped carry the $30 million bond issue for the Convention Center. The additional dollars heading Kansas City's way are significant. More importantly heading our way is the 15,000 new jobs the Center will create for our citizens.

It's the same spirit that won the city the 1974 Democratic Mid-Term National Convention. Already 1974 promises to exceed the 354 conventions and meetings total we realized last year.

Many more local businesses are gearing up and expanding their operation. Sears Roebuck for example just announced a six-story 720,000 square foot addition to its regional distribution center.

We now have the United States largest Foreign Trade Zone area, it's contribution to the community is still in its infancy.

When you step back and take a look, Prime Time is producing. We've done a good job of answering the question: Why Kansas City? For today and tomorrow the question is "Why *not* Kansas City?"

We're on the site list for many firms. We'll be on it for even more. Prime Time got us there. The pay-off is still being realized. In some cases it may take another three to five years before we see positive action from some of the firms already contacted. But we'll see it.

We must continue our marketing efforts today to pave the way for the middle and late 70's, leading us into the 80's. And that's not the 80's somewhere out in never, never land. That's less than six years away. Considering it almost takes your breath away.

Prime Time is not a three-year program. Prime Time is a way of life. It has to be sustained and kept alive by direction and guidance from all segments of the community. A particularly important segment is government. Here's our former mayor Ike Davis to tell you why.

(By Ilus Davis)

More than 75 per cent of the Prime Time investment to date has come from the private sector—ample evidence indeed that private enterprise is alive and kicking in Kansas City.

But this in no way minimizes the importance of government and government at all levels—city, county, state and federal—to the importance of Prime Time.

To an outsider, Kansas City's governmental relations might appear insurmountable. You're talking about effective coordination between two state legislatures, six counties, two major cities and more than 30 other substantial, surrounding and self-determining communities.

The spirit of cooperation for the metropolitan area has been almost ecumenical. We've had problems and differences of opinion in the past. We will continue to have them in the future. But this area has built an enviable record thanks to the willingness of many different segments of government to work for a common goal.

If we are to treat the area as a whole, we must plan, zone and take advantage of all resources on both sides of the state line.

Prime Time's future success depends on this continued willingness to work together.

It depends on the input of such groups as the Brookings Alternative Futures program. As you may know, this program is designed to identify problems and opportunities and make suggestions for action to the City Council. It's an excellent example of how private citizens can work with government to keep this area on the right track.

Prime Time's future also depends on such bodies as the Mid-America Regional Council and the Area Transit Authority, just to mention two more.

But essentially and above all else, the future depends on a continuation of that tremendous spirit of accomplishment which has brought us this far.

I've often said that if you have talented people and the proper spirit, you can have anything else.

We have talented people. We have the proper spirit. And there's plenty all of us can do to keep it alive and well. To tell us more about the future of Prime Time and what we can do to keep it going, here is the Chairman of the Prime Time Steering Committee . . . Charles Kimball.

(By Dr. Charles N. Kimball)

You have heard about an impressive array of accomplishments. Now think ahead with me for a few minutes about this whole metropolitan area—and what could really happen here, if we really want it to happen.

This is not a community which has inspired great speeches in the past, nor stirred the creative juices of poets and song writers—with Rodgers and Hammerstein a notable exception.

Nevertheless, dream along with me for a few minutes. Let's envision together the Kansas City of the future and visualize a city unique among the world's greatest cities.

I see a Government Center every bit as important to a significant group of Midwestern states as Washington, D.C. now is to 50 states—a true Regional Capital of the U.S.A.

I see a Convention and Meeting Center with the glamour of San Francisco, the fun and entertainments of New Orleans or even Las Vegas.

I see an International Trade and Business Center where foreign tongues are heard as often as are American twangs and clipped Oxford accents.

I see one of the world's truly beautiful cities, as thoughtfully planned as Brasilia, yet as colorful as Paris, as wooded and lush as Berlin, as orderly as Oslo, neither polluted nor overcrowded, but a city of incredible grace and spaciousness.

I see a city of enormous intellectual vitality, a haven for writers, thinkers, composers, artists, poets, scientists, and philosophers.

I could go on and on. Dreams don't cost much, and they are fun. Kansas City could have the greatest symphony, the finest collection of legal minds, an unrivalled academic center, an internationally acclaimed health sciences community, treating famous patients all over the world, flown here for sophisticated healing.

Kansas City could even become the chess capital of the world, if it wished, or the computer capital, or the transportation or communications hub of this continent.

Our dreaming stops abruptly with Geography. We are not a resort center with a climate like the Virgin Islands. We have neither mountains or surging surf. Our weather is not the best or the worst but who can match Autumn and Spring here.

Be that as it may, God and Geography aside, we are very much masters of our own destiny.

It is not realistic to look ahead and dream big dreams for Kansas City of tomorrow? It is not important to review the lessons of history and apply them to give ourselves the finest possible city in which to live?

The giant cities of today—London, New York, Tokyo, Moscow, Mexico City and others—were fostered, nurtured, and tailored for a different era. We have nothing to gain by emulating them. To do so would be to look backward into history, not forward.

Many of the well-known cities of the world are on water, either seaports with deep harbors or key ports on the great rivers. The inner-cores of Amsterdam and Boston antedate the automobile. The main arteries of London and Tokyo today are hopelessly inadequate for anything except people on foot.

The international glamour once associated with these historical places is now tarnished by inconveniences and a degrading mass of humanity.

Of course, there are great cities still, including these troubled Londons and Dublins and Rome, but their seeds of greatness were planted during another age, even an ancient age.

Here in Kansas City something quite different is emerging, designed for today and tomorrow. We have really just begun. We are indeed one of the few urban areas of unlimited promise in the entire world, still able to mold our destiny.

But we must take action and not rely on external forces. Few great places are historical accidents—wherever they are located. Great cities develop because thinking men take strong action.

Who here is not aware, for example, that Kansas City won prominence by thinking faster and acting quicker than Leavenworth and St. Joseph in acquiring the vital bridge over the Missouri River a hundred years ago?

In the intervening years, we have prospered in many dimensions, but not with smoke belching heavy industry, so we don't have the decay and industrial blight that other cities had to tolerate.

Instead, we have a very livable city, one of the few left. We are a proven urban center—under control. We have become a home for industry, science, government and finance, education, medicine, manufacturing and distribution. We have all the building blocks—stable progressive governments, room in the form of uncluttered square miles, hills, woods, parks, water, superb roadways, good people and time to apply what we have learned from the mistakes of others, the inland capital of this great Republic, a center of communication, distribution, travel, and transport.

A very livable city, livable for people at all economic levels, a city which is complex and rich in its culture and amenities, again at all economic levels.

And a city which permits all of its people to enjoy individual freedom and personal growth, and we want this to continue its upward surge.

Moreover, as we began to move through Prime Time a revolution began, which can be the driving force underlying the fulfillment of our potential. That revolution has come about because it has become strikingly apparent that everyone in the world needs food, food from agriculture, and we, Kansas City, are the urban hub of the greatest agricultural breadbasket in the world. Believe me, agriculture and its associated industries can well become the glamour sector of the economy. Agriculture can be the same kind of economic phenomenon that aerospace and electronics were in the 1950's. The only difference may be that agriculture will endure, not lose its glitter after a high life of only 10–20 years.

Geography is finally working to our advantage. We could become the agricultural equivalent of Cape Kennedy, and I–435 could well be the equivalent of Route 128—the

famous beltline home of the electronics industry circling Boston.

We have here the industrial, commercial, financial, and service facilities necessary to support the agricultural boom. We have the leaders; Mort Sosland is already recognized as one of the most knowledgeable, authoritative and decisive men in this business. He could easily become the Jim Webb of the future; in fact, in not too many years, Jim Webb may be remembered as the Nort Sosland of Space!

But, we will never be a one-industry town. Already, we manufacture almost everything but ships and cigarettes. Per capita, we are first in the manufacture of automobiles, trucks, vending machines, and greeting cards. First in retail sales, in number of consulting engineers, and in printing and publishing. Under the changing locational rules being carved out by advancing transportation and communications technology—our central location is increasingly an enormous asset.

Our Country Club District is recognized as one of the world's finest residential areas, a way of life unparalled by any city.

Much of our city is committed to parks, which guarantees to future generations that these green areas, "the lungs of the city," will always be there. We have ample land within our city limits and nearby rural areas, to accommodate orderly growth, which will be controlled by the availability of good water. The Missouri River flows more water by us in a day than we could possibly use in a year or perhaps several.

The elements of greatness are here right now. It is these assets—stadiums, and airports, hospitals and Crown Center, superb retailing and verdant parks—that from the background of the present Prime Time effort.

We will be faced with tough decisions if we want to preserve our present virtues and bring our dreams to reality because the growing nationwide recognition of Kansas City has led to new investment from without and within.

We must carefully choose the directions for future growth. With the course of events moving our way, we may soon need to be very selective about how we grow, and about how many of the 50 million new U.S. inhabitants we will take in during the generation ahead.

I am compelled to urge that discussions on this matter must focus on controlled growth, managed growth, not bigness for its own sake, but growth based on the quality of life we worked so hard to get and want so much to retain. This is the distinguishing feature of this great town.

The time has come for a new set of national alternatives. The people and leadership in Kansas City are serving notice to the nation that we now offer an attractive new option for life quality in a metropolitan center, an option so favorable that as you have heard today it is now serving as a progressive model to cities like Baltimore, Cincinnati, Detroit and St. Louis, and will continue to do so through this century.

A responsibility has been thrust upon us to show clearly just how a city can continue to grow, can continue to make life more attractive for all of its people, and continue to be both manageable and governable.

An opportunity like we now have comes along once in a century. We must grasp this now. I hope that many of you here especially the younger men and women will pick up this ball and run with it. You will get a great feeling of accomplishment, as many of us have already had, that you are doing something very useful for all the people in this great city.

To close this out, there is a packet at each table which contains a sheet entitled, "Prime Time Action Report." Take it back to your office. Check some ways you want to participate in Prime Time, and mail it back to the Chamber right away.

The options on the sheet are concrete things you can do now, such as ask for copies of the remarks you have heard here today. You might use them yourselves in your own public addresses. But more that, we think this is a way for those on the Steering Committee to begin a dialogue with the community at large, to get your particular capabilities directed toward this city's future.

If a relative handful of people can push Kansas City this far, what would happen if several hundred joined forces and put their minds and muscles behind this worthwhile effort?

On the way out of this room, please pick up a copy of Edition II of the Prime Times. It is well worth reading. We have several thousands copies available for you to distribute to your friends here and around the country.

Thanks very much for coming to this meeting. It has been a splendid turnout and your presence has meant a lot to all of us involved.

PROTECTION FOR EMPLOYEES OF NONPROFIT HOSPITALS

Mr. TAFT. Mr. President, the Senate is expected to begin deliberations this week or next on legislation to extend the National Labor Relations Act to nonprofit hospitals, S. 3203. This proposal was reported favorably by the Senate Labor and Public Welfare Committee with the support of Senators WILLIAMS, TAFT, CRANSTON, JAVITS, STAFFORD, PELL, KENNEDY, EAGLETON, HUGHES, and SCHWEIKER and is precisely the same as the compromise measure I submitted earlier this year, S. 3088. Further, this legislation contains elements of a proposal I submitted last session on this issue, S. 2292.

S. 3203 has the support of the Department of Labor and has been approved by the Office of Management and Budget.

I realize there may be sentiment among certain health care institutions that no change in the law is necessary and the exclusion of coverage of hospitals from the act should continue under any circumstances. I reject this approach as labor-management relations have, and, without legislation, will continue to be channeled into self-help situations without any governing guidelines for resolution of such disputes. Such a development can only jeopardize patient care and cannot be considered in the public interest. I also reject the suggestion that mere repeal of the exemption is the only necessary step to take to settle the labor relations problems that have surfaced in the health care field. The National Labor Relations Act must reflect the principle that disputes that jeopardize patient care must be considered on a priority basis and that no labor-management dispute is above the public interest of continuity of health care to a community.

I urge Senators to review the legislation and support the committee's recommendations.

I ask unanimous consent that S. 3203 and the portion of the committee report explaining the legislation be printed in the RECORD.

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

S. 3203

A bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(2) of the National Labor Relations Act is amended by striking out "or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual,".

(b) Section 2 of such Act is amended by adding at the end thereof the following new subsection:

"(14) The term 'health care institution' shall include any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged person.".

(c) The last sentence of section 8(d) of such Act is amended by striking out the words "the sixty-day" and inserting in lieu thereof "any notice" and by inserting before the words "shall lose" a comma and the following: "or who engages in any strike within the appropriate period specified in subsection (g) of this section,".

(d)(1) The last paragraph of section 8(d) of such Act is amended by adding at the end thereof the following new sentence: "Whenever the collective bargaining involves employees of a health care institution, the provisions of this section 8(d) shall be modified as follows:

"(A) The notice period of section 8(d)(1) shall be ninety days; the notice period of section 8(d)(3) shall be sixty days; and the contract period of section 8(d)(4) shall be ninety days.

"(B) Where the bargaining is for an initial agreement following certification or recognition, at least thirty days' notice of the existence of a dispute shall be given by the labor organization to the agencies set forth in section 8(d)(3).

"(C) After notice is given to the Federal Mediation and Conciliation Service under either clause (A) or (B) of this sentence, the Service shall promptly communicate with the parties and use its best efforts, by mediation and conciliation, to bring them to agreement. The parties shall participate fully and promptly in such meetings as may be undertaken by the Service for the purpose of aiding in a settlement of the dispute."

(e) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(g) A labor organization before engaging in any picketing, striking, or other concerted refusal to work at any health care institution shall, not less than ten days prior to such action, notify the institution in writing and the Federal Mediation and Conciliation Service of that intention, except that in the case of bargaining for an initial agreement following certification or recognition the notice required by this sentence shall not be given until the expiration of the period specified in clause (B) of the last sentence of section 8(d) of this Act. The notice shall state the date and time that such action will commence. The notice, once given, may be extended by the written agreement of both parties."

COVERAGE OF NONPROFIT HOSPITALS UNDER THE NATIONAL LABOR RELATIONS ACT

The Committee on Labor and Public Welfare to which was referred the bill (S. 3203) to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

SUMMARY

The National Labor Relations Act governs the collective bargaining relationship of millions of workers including employees of proprietary hospitals, proprietary nursing homes and nonprofit nursing homes. It specifically exempts from coverage employees of private nonprofit hospitals. This bill repeals the present exemption, establishes certain new procedures governing labor relations in health care institutions, and creates a new definition of health care institution to include hospitals, nursing homes, health maintenance organizations, extended care facilities, health and medical clinics and other similar institutions caring for the sick, infirm or aged. The bill also contains several additional special provisions designed to facilitate collective bargaining settlements and to provide advance notice of any strike or picketing involving a health care institution, as follows:

1. The requirement for notice of termination or expiration of a contract will be 90 days;

2. The Federal Mediation and Conciliation Service [FMCS] must be given 60 days notice of such termination or expiration;

3. In initial contract negotiations a 30 day notice of a dispute to FMCS will be required;

4. The health care institution and labor organization will be required to participate in mediation at the direction of the FMCS;

5. The health care institution must be given a 10 day notice by a labor organization before any picketing or strike (whether or not related to bargaining) can take place.

On February 7, 1973, S. 794 was introduced by Senators Cranston and Javits and on July 31, 1973, S. 2292 was introduced by Senator Taft. The Subcommittee on Labor conducted hearings on these bills on July 31, August 1, 2 and October 4, 1973.

During the course of these hearings testimony was received from a number of interested groups, including the U.S. Department of Labor; AFL–CIO; the Service Employees International Union, AFL–CIO; American Hospital Association; Industrial Union Department, AFL–CIO; Local 1199, Drug and Hospital Workers Union; American Nurses Association; Communication Workers of America, AFL–CIO; General Conference of Seventh-day Adventists; American Federation of State, County, and Municipal Employees, AFL–CIO; New Jersey Hospital Association; Committee of Interns and Residents of New York City; Colorado Hospital Association; Federation of American Hospitals; Catholic Hospital Association Board of Trustees; Commission on Economic and General Welfare of the American Nurses' Association; Hospital Association of Pennsylvania; Texas Hospital Association; Iowa Hospital Association; International Union of Operating Engineers; Ohio Hospital Association; Minnesota Hospital Association; National Right to Work Committee; Mt. Sinai Hospital; National Federation of Licensed Practical Nurses; Physicians National Housestaff Association; United States Industrial Council; California Hospital Association; New York University Medical Center; and Mount Sinai Medical Center.

On February 28, 1974, S. 3088 was introduced by Senator Taft and on March 13, 1974, the full Committee discharged the Subcommittee from further consideration of S. 794, S. 2292, and S. 3088. On March 20, 1974, S. 3203 was introduced by Senators Williams, Cranston, Javits, Taft, Stafford, Pell, Kennedy, Eagleton, Hughes, and Schweiker. The Committee considered the legislation in executive session on March 20, 1974, and ordered S. 3203 reported by voice vote.

During the executive session an amendment proposed by Senator Mondale was offered. It would have required the NLRB to cede jurisdiction to certain state agencies covering nonprofit hospitals where the state law was in existence prior to 1947. The amendment was defeated by voice vote.

BACKGROUND

Section 2(2) of the National Labor Relations Act defines the term "employer" as not to include "any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual."

The original Wagner Act of 1935 did not contain this exemption and in the only reported case relating to coverage of nonprofit hospitals, the NLRB and the Court of Appeals upheld the coverage.[1]

In 1947, the Wagner Act was amended by the Taft-Hartley Act. Included in these amendments was a provision, added as a floor amendment in the Senate, to exempt nonprofit hospitals. This amendment was retained in conference.

In 1972, the House passed H.R. 11357 which would have repealed the exemption. No action was taken by the Senate beyond hearings on the bill.

NEED FOR THE BILL

The bill removes the existing exemption in section 2(2) of the NLRA for employees of non-profit hospitals and extends the protections of the Act to such employees to the same extent as currently applicable to employees of nursing homes and proprietary hospitals.

The Committee could find no acceptable reason why 1,427,012 employees of these nonprofit, non-public hospitals, representing 56% of all hospital employees, should continue to be excluded from the coverage and protections of the Act. In the Committee's deliberations on this measure, it was recognized that the needs of patients in health care institutions required special consideration in the Act including a provision requiring hospitals to have sufficient notice of any strike or picketing to allow for appropriate arrangements to be made for the continuance of patient care in the event of a work stoppage. In this respect the Committee believed that the special notice requirements should be extended to all proprietary and nonprofit hospitals, convalescent hospitals, health maintenance organizations, health or medical clinics, nursing homes, extended care facilities or other institutions devoted to the care of sick, infirm or aged persons. Accordingly this bill will provide the same procedures for employees of all health care institutions.

The Committee was also impressed with the fact, emphasized by many witnesses, that the exemption of nonprofit hospitals from the Act had resulted in numerous instances of recognition strikes and picketing. Coverage under the Act should completely eliminate the need for any such activity, since the procedures of the Act will be available to resolve organizational and recognition disputes.

PROVISIONS OF THE BILL

Repeal of existing exemption

The present exemption in Section 2(2) of the National Labor Relations Act for "any corporation or association operating a hospital, if no part of the net earnings inures to the benefits of any private shareholder or individual" is removed from the Act by this bill.

Definition of health care institution

The bill adds to the Act a definition of health care institution which includes any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged persons.

By so defining a health care institution the Committee does not intend to affect the exemption for "the United States or any wholly owned Government corporation * * * or any State or political subdivision thereof" as set forth in Section 2(2) of the Act.

Ten day notice

It is in the public interest to insure the continuity of health care to the community and the care and well being of patients by providing for a statutory advance notice of any anticipated strike or picketing. For this reason, the Committee approved an amendment adding a new Section 8(g) which generally prohibits a labor organization from striking or picketing a health care institution without first giving 10 days' notice. Violation of this provision will constitute an unfair labor practice. The failure to give the statutory notice will be remedial under Section 10(j) of the Act. This notice period will also give the National Labor Relations Board the opportunity, when charges are filed, to make a determination as to the legality of any strike or picketing before it occurs.[2]

The 10-day notice is intended to give health care institutions sufficient advance notice of a strike or picketing to permit them to make arrangements for the continuity of patient care. It is not the intention of the Committee that a labor organization shall be required to commence a strike or picketing at the precise time specified in the notice; on the other hand, it would be inconsistent with the Committee's intent if a labor organization failed to act within a reasonable time after the time specified in the notice. Thus, it would be unreasonable, in the Committee's judgment, if a strike or picketing commenced more than 72 hours after the time specified in the notice. In addition, since the purpose of the notice is to give a health care institution advance notice of the actual commencement of a strike or picketing, if a labor organization does not strike at the time specified in the notice, at least 12 hours notice should be given of the actual time for commencement of the action.

Repeatedly serving such ten day notices upon the employer is to be construed as constituting evidence of a refusal to bargain in good faith by the labor organization.

Likewise, the public interest demands that employees of health care institutions be accorded the same type of treatment under the law as other employees in our society, and that the notice not be utilized to deprive employees of their statutory rights. It is clear, therefore, that a labor organization will not be required to serve a ten day notice or to wait until the expiration of the ten day notice when the employer has committed unfair labor practices as in *Mastro Plastics Corp.* v. *NLRB*, 350 U.S. 270, 37 L.R.R.M. 2587 (1956).

Moreover, it is the sense of the Committee that during the ten-day notice period the employer should remain free to take whatever action is necessary to maintain health care, but not to use the ten-day period to undermine the bargaining relationship that would otherwise exist. For example, the employer would not be free to bring in large numbers of supervisory help, nurses, staff and other personnel from other facilities for replacement purposes. It would clearly be free to receive supplies, but it would not be free to take extraordinary steps to stock up on ordinary supplies for an unduly extended period. While not necessarily a violation of the Act, violation of these principles would serve to release the labor organization from its obligation not to engage in economic ac-

[1] *Central Dispensary and Emergency Hospital*, 44 NLRB 533 (1942), 145 F.2d 852 (1944), cert. den. 655 U.S. 684.

[2] For example, the picketing may be a violation of Section 8(b)(4).

tion during the course of the ten-day notice period.

The Committee is aware that a work interruption at particular hospitals, such as those in rural areas, could pose special problems of continuation of patient care. It is the Committee's hope that parties to a dispute in such an institution would be cognizant of such special problems and take steps, either in advance of any dispute, or during its resolution, to mitigate the effects of a scarcity of alternative local resources.

Contract notice requirements

Under the existing provisions of the National Labor Relations Act, an employer or a labor organization is required, where a collective bargaining agreement is in effect, to provide written notice to the other party before termination or modification of the agreement. This notice of termination or modification must be given at least 60 days prior to the termination or modification date. In addition, present law requires the Federal Mediation and Conciliation Service to receive 30 days notice.

The bill extends the 60 day notice to 90 days and requires the FMCS to receive 60 days notice instead of 30 days, in the case of health care institutions.

Under existing law there is no obligation on either party to engage in mediation. The bill provides for mandatory mediation by the parties with the FMCS in the case of collective bargaining involving health care institutions.

Under present law there is no notification requirement to any party with regard to initial contract negotiations. The bill requires 30 days notice to the FMCS, in the case of collective bargaining involving health care institutions.

EFFECT ON EXISTING LAW

Bargaining units

Due consideration should be given by the Board to preventing proliferation of bargaining units in the health care industry. In this connection, the Committee notes with approval the recent Board decisions in *Four Seasons Nursing Center*, 208 NLRB No. 50, 85 LRRM 1093 (1974), and *Woodland Park Hospital*, 205 NLRB No. 144, 84 LRRM 1075 (1973), as well as the trend toward broader units enunciated in *Extendicare of West Virginia*, 203 NLRB No. 170 83 LRRM 1242 (1973).[3]

Ally doctrine

It has been held that where during the course of a labor dispute, a secondary employer performs work that, but for the existence of such labor dispute, would have been performed by the striking employees of the primary employer, the secondary employer loses his status as a neutral, and the labor organization is entitled to extend its economic activity to the secondary employer.

It is the sense of the Committee that where such secondary institutions accept the patients of a primary employer or otherwise provide life-sustaining services to the primary employer, by providing the primary employer with an employee or employees who possess critical skills, such as an EKG technician, such conduct shall not be sufficient to cause the secondary employer to lose its neutral status. It should be clear, however, that where a secondary employer enmeshes itself into the primary dispute by providing supervisors, nurses or staff other than those described, it loses its status of neutrality.

Supervisors

Various organizations representing health care professionals have urged an amendment to Section 2(11) of the Act so as to exclude such professionals from the definition of "supervisor". The Committee has studied this definition with particular reference to health care professionals, such as registered nurses, interns, residents, fellows, and salaried physicians and concludes that the proposed amendment is unnecessary because of existing Board decisions. The Committee notes that the Board has carefully avoided applying the definition of "supervisor" to a health care professional who gives direction to other employees in the exercise of professional judgment, which direction is incidental to the professional's treatment of patients and thus is not the exercise of supervisory authority in the interest of the employer.

The Committee expects the Board to continue evaluating the facts of each case in this manner when making its determinations.

Recognition picketing

In recognition picketing cases under Section 8(b)(7)(C), the National Labor Relations Board has ruled that a reasonable period of time is thirty days absent unusual circumstances such as violence or intimidation. It is the sense of the Committee that picketing of a health care institution would in itself constitute an unusual circumstance justifying the application of a period of time less than thirty days.

Priority case handling

Many of the witnesses before the Committee, including both employee and employer witnesses, stressed the uniqueness of health care institutions. There was a recognized concern for the need to avoid disruption of patient care wherever possible.

It was this sensitivity to the need for continuity of patient care that led the Committee to adopt amendments with regard to notice requirements and other procedures related to potential strikes and picketing.

The Board's priorities for handling various types of cases were carefully considered by the Committee and some observations and directions to the Board are reflected in the following commentary.

The Committee notes the present existence of priority case handling directives to the Board under Section 10(1) of the Act with respect to charges filed under Sections 8(b)(4), 8(b)(7) or 8(e) and other priority directives under 10(m).

Because of the need for continuity of patient care, the Committee expects the NLRB to give special attention and priority to all charges of employer, employee and labor organization unfair labor practices involving health care institutions consistent with the existing statutory priority requirements for particular classes of cases. The General Counsel and Chairman are directed to take such steps as necessary to provide appropriate investigatory and other resources needed to give this requisite priority to unfair labor practice cases involving health care institutions.

Cost Estimate

The estimated cost of this legislation is $1.2 million in each of the five years following enactment.

SECTION-BY-SECTION ANALYSIS

Subsection (a) repeals the existing exemption for non-profit hospitals in Section 2(2) of the Act.

Subsection (b) amends Section 2 of the Act by adding a definition "health care institution" to include any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged persons.

Subsection (c) amends Section 8(d) relating to loss of status when an employee strikes in violation of the section's notice requirements. The Amendment substitutes "any notice" in lieu of the "sixty-day notice" in existing law to allow for the additional notice requirements placed on representations of employees of health care institutions. The loss of status is also extended to violations of the newly created ten-day notice period of section 8(g).

Subsection (d) amends Section 8(d) by modifying the notice provisions of that Section as follows:

1. The requirement for notice of termination or expiration of a contract will be 90 days;
2. The Federal Mediation and Conciliation Service must be given a 60 day notice of such termination or expiration;
3. In initial conract negotiations a 30 day notice to FMCS will be required;
4. The health care institution and labor organization will be required to participate in mediation at the direction of the FMCS.

Subsection (e) amends Section 8 by adding a new Subsection (g) which provides that labor organizations give a 10 day written notice to the health care institution and the FMCS before engaging in any picketing, strike of other concerted refusal to work.

[3] By our reference to *Extendicare*, we do not necessarily approve all of the holdings of that decision.

DEATH PENALTY

Mr. McCLELLAN. Mr. President, on March 13 the Senate decisively passed S. 1401, a bill to establish rational criteria for the mandatory imposition of the sentence of death. Since that time I have received a large volume of mail on the subject, overwhelmingly in support of the Senate action.

I have received a copy of a letter addressed to the New York Times in reply to a column by Tom Wicker, entitled "Death and Demagoguery" which appeared in the New York Times on March 15, 1974, and on the same date in a Richmond, Va., newspaper under the heading "Politicians Selling Out on Death Penalty." I ask unanimous consent that the letter and article be printed in the RECORD following these remarks.

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

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, in essence the article implies that legislators across the United States—both State and Federal—support capital punishment legislation against their better judgment as a sell out to the "public's heightened fear of crime." This simply is not true. Before the Supreme Court's decision in *Furman* v. *Georgia*, 408 U.S. 238 (1972), some 40 States and the Federal Government carried laws on their books selectively making capital punishment available for certain serious crimes. In my judgment, Furman misapplied the Constitution in invalidating these statutes as administered. Be that as it may, the decision imposed an obligation on Federal and State legislators to at least make every effort to insure even-handed administration of capital punishment provisions already in existence. That is what S. 1401 does. It attempts to cure the defects in manner of administration pinpointed in Furman.

Mr. President, the article also takes legislators to task for responsiveness to public concerns. Perhaps the public's growing fear of violent crime did play a part in the Senate's decision to respond

to Furman. We do respond as legislators to the public's concern with the rising crime rate. The Congress enacted the Safe Streets and Crime Control Act of 1968, and has since appropriated millions of dollars to carry out its programs. The Congress enacted the Organized Crime Control Act of 1970, with provisions to provide increased sentences for dangerous special offenders, and other procedures for effective prosecution. These are just two of numerous examples of the response of Congress to public concern with serious crime. The capital punishment bill is also a response to public concern—a fact for which I find no cause for apology.

EXHIBIT 1

JACOBS, NACHMAN, MURCHISON & NACHMAN,
Newport, News, Va., April 12, 1974.

MR. TOM WICKER,
New York Times, New York City, N.Y.

DEAR SIR: I have read and re-read your column which was issued by the New York Times service and published in the Richmond, Virginia, newspaper the 15th of last month. I am going to say to you as I have to others, including a college class in Government recently.

Please tell me—if two men broke into your home, tied you, compelled you to lie on the floor while one of them held a gun on you, made you witness the rape of your wife and after each one had raped your wife, they then compelled her to commit the most vile, unnatural sexual act on them—would you then be in favor of the death penalty or not?

I state this because it has actually happened on several occasions recently in the small town where I have lived all of my life and has also happened in the surrounding area.

You may bellow as much as you desire. You may quote all the figures that you desire, particularly from the N.A.A.C.P. I have been practicing law for 46 years. I have always enjoyed a very extensive criminal practice and notwithstanding what you and the sociologists and do-gooders have to say about it, the fact remains from my experience, that the only thing the real criminal fears is the death penalty. There's one thing the decent, respectable people can be assured of: the same contemptable scoundrel will not commit the same crime again. Senator McClellan is correct.

Hanging should be in the public square and you can just bet your life that there would be a vast reduction in rapes, robbery-murders and kidnappings if justice acted swiftly and surely.

You speak about the Supreme Court of the United States. Name me one man in the Supreme Court who has ever had any dealings with criminals or has ever represented any criminals. You, of course, are compelled to agree with me that the Supreme Court of the United States is not a legislative body and it is not up to them to pass the laws, which they have been doing.

I desire an answer from you. Suppose it happened to your wife as I related above and you were the victim lying on the floor witnessing same. As far as I am concerned, the same thing applies to the Supreme Court of the United States.

You mislabeled your column when you stated, "Politicians selling out on Death Penalty". There never was any justice for eliminating same. Those who oppose the death penalty are catering to a group for their votes.

Sincerely,

BEN JACOBS.

[From the New York Times, Mar. 15, 1974]

DEATH AND DEMAGOGUERY

(By Tom Wicker)

The Senate of the United States has voted 54–33 to restore the death penalty for a wide variety of Federal crimes, and the House of Representatives undoubtedly will follow suit—both at the urging of Richard Nixon. This would be one of the most astonishing and tragic turnabouts in history, were it not for the likelihood that it is more nearly another example of supine politicians pandering to the basest passions of their constituencies.

In 1935, 199 persons were executed in America. In 1950, 82 were put to death. By 1963 the number had fallen to 21. Since 1967, no execution has been carried out in this country. In 1971, nine states had abolished the death penalty by legislation. Others, like New York, had limited it to certain rare crimes. Elsewhere in the world, since 1922, 41 nations had abolished the death penalty. And in 1972, the Supreme Court of the most populous state, in one of the most brilliantly argued decisions of our time, made California the first state or nation to abolish capital punishment by judicial decision.

In 1972, in a far more limited ruling, the Supreme Court of the United States held that the death penalty, as then administered, was unconstitutional—not in itself, but because, as Mr. Justice Stewart argued, it was "so wantonly and freakishly imposed." But that was the high-water mark of the American movement against the death penalty—and in fact seems to have turned that movement around.

Since then, 21 states have restored the death penalty by legislation that they believe satisfies the Supreme Court ruling. The voters of California overturned that state's Supreme Court decision and reinstated capital punishment. The highest courts of North Carolina and Delaware took judicial action to make death a mandatory sentence in certain cases. A handful of other states have sentenced people to death under old statutes that may or may not meet Supreme Court requirements.

All told, as shown by a study prepared by the N.A.A.C.P. Legal Defense and Educational Fund, 72 people now are on Death Row—31 in North Carolina, 17 in Florida, eight in Georgia, five in Massachusetts, three in Texas, two in Montana, and one each in New Mexico, Pennsylvania, South Carolina, Utah, Louisiana and Virginia.

What brought about the reversal? Crime rates are on the increase, including violent crimes, but not in a pattern that suggests the near-abolition of the death penalty had anything to do with the rise. Death-penalty states had rises as sharp as those without it, sometimes more so. Moreover, a chart in the Federal Government's new book, "Social Indicators 1973," shows that murder and negligent manslaughter occurred at a steady rate of about 10 per 100,000 of population in every year from 1933 through 1972, a period that included, first, a high number of executions, then zero executions for such crimes.

Yet, all the same tired and deceiving arguments are being made by death-penalty advocates like Senator McClellan of Arkansas—it deters murder, it protects society, it makes a rapist think twice. There is not a shred of statistical evidence to support any such claim, any more than there was five years ago, or ten. Capital punishment may be justified, by those who wish to do so, as sheer societal revenge; but those who maintain that it is a deterrent were shown up as the hypocrites they are by the "repulsive" amendment proposed by Senator Harold Hughes of Iowa.

Senator Hughes, a bold and humane man, would have required all executions ordered under the Senate bill to be carried out publicly, even televised. He argued that if there is any deterrence in death, surely that would emphasize it. But one of the arguments of the California Supreme Court in 1971 had been that the modern public, not accustomed to hangings in the town square, and however it might theoretically approve capital punishment, would rebel against having actually to watch the death sentence being carried out. Sure enough, the Senate rejected the Hughes amendment, 81 to 10, exposing the deterrence argument for the sham it is.

What, in fact, is happening is that politicians everywhere are selling out to the public's heightened fear of crime. Most of them are under no real illusion that capital punishment will actually prevent crime or protect the public. Given the absence of executions since 1967, and the likelihood of a new Supreme Court review of the matter, probably most of them do not really expect anyone to be killed by their legislation.

It can only be hoped that they are right, that this bloodthirsty posturing is only that, although white Americans need not worry too much in any case. When 631 persons on the old Death Row were reprieved in 1972, 57.7 per cent of them were nonwhite. Of the 72 persons already on the new Death Row, 41 are black and one is an Indian—58.3 per cent nonwhite. No change there, either.

RESTORATION OF THE DEATH PENALTY

Mr. McCLELLAN. Mr. President, I continue to feel strongly that the Senate acted wisely, when on March 13, 1974, by a vote of 54 to 33, it approved legislation establishing rational criteria for the imposition of capital punishment and restoring the death penalty for certain specified crimes.

As I commented at the time the bill was debated in the Senate, I think it is indeed a great tragedy that a Nation such as ours, which offers so much to so many, needs the death penalty to protect its citizens. But, although it is sad and lamentable, there is no other course that squares with justice under the law.

Mr. President, under the very restrictive provisions of the Senate bill, capital offenses are limited to treason, espionage, and offenses resulting in the death of another person. Only after guilt has been determined would the jury seek to determine whether or not the death penalty should be imposed. I believe we have correctly responded to the challenge of the Supreme Court in the case of *Furman* v. *Georgia* [408 U.S. 238 (1972)], in which the Court held that capital punishment itself is not unconstitutional, but rather its imposition in an arbitrary, unpredictable manner provides the constitutional defect. I am hopeful that the House will be quick to consider and pass this necessary legislation so as to provide a greater measure of protection for all of our citizens and help to insure a safer society.

Mr. President, my attention has been called to a very thought-provoking column by Jenkin Lloyd Jones, "No Death Penalty Cheapens Life," which appeared in the Arkansas Democrat on Sunday, April 14, 1974. Mr. Jones poses the question: "Is human life priceles?" He concludes otherwise. To quote his words:

A life saved in a manner that must result inevitably in the loss of other lives is overpriced. Historically, society has considered the life of the strangler less valuable than the life of the strangled.

Mr. Jones states that it is only in recent years that we have become so confused over our value judgments as to be unable to fix blame on anyone except society itself.

I ask unanimous consent that Mr. Jenkin Lloyd Jones' article be printed in the RECORD following my remarks.

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

NO DEATH PENALTY CHEAPENS LIFE

(By Jenkin Lloyd Jones)

How much is a human life worth?

The quick answer, of course, is that a human life is priceless, but we don't really mean it.

If the 55-mile-an-hour speed limit is continued for a full year the National Safety Council estimates that 8,000 lives would be saved. If we dropped the speed limit to 10 miles an hour we'd save 50,000. No one seriously suggests that. We are willing to spend many thousands of lives for the convenience of speed.

A military force is designed to inflict death at the risk of dying. If life were absolutely priceless, peace by quick surrender would be called for.

But man learned long ago that some degree of dying is preferable to rule by sadists, maniacs or bullies; that opening the city gates to Attila was riskier than defense, and that there was nothing very ennobling about a peaceful march to the gas chambers of Dachau.

What we must now begin to consider in America is what degree of respect for life can, paradoxically, result in cheapening life.

The death penalty was virtually outlawed by the U.S. Supreme Court on the grounds that it was applied unevenly. No doubt it was. It has been a long time since a millionaire was hanged. But the stubborn pretense by some college sociology departments that the threat of execution "deters no one" didn't do very well in the audit.

There is no better refutation of this pious delusion than the rapid increase in murders of police and peace officers since death rows emptied. It used to be conceded that if you killed a constable you got the chair. Now, instead of dead cop-killers, we just have dead cops.

Americans are now being murdered at the rate of more than 20,000 a year. The April 1 FBI report indicated that in the last quarter of 1973 rapes were up 10 per cent and murders 6 per cent over the year before, against a population increase of about 2 per cent.

How many bleeding hearts who urge governors to veto the rash of new capital punishment bills have ever attended the funeral of a murder victim?

Commenting on the current wave of kidnapings, Dr. Herbert Modlin, director of preventive psychiatry for the Menninger Foundation, says Americans value life so highly we will pay almost anything to buy back the victim of a snatch. This astonishes most of the world that understands that crime, like anything else, flourishes on rewards. To refuse to pay, says Modlin, would undoubtedly cause deaths before unprofitability killed the racket.

"American society," he concludes, "won't make such a decision. We are softies and are being taken advantage of."

So what else but execution for kidnapers who destroy their victims? Otherwise, how many more victims will die; for once the money is in hand, why leave a witness.

Some preachers are constantly coming up with that line from Deuteronomy where the Lord says, "To me belongeth vengeance." If that were to be taken literally man would have no right to pass a law, make an arrest or build a jail, for any degree of punishment is vengeance. Society couldn't long exist if no man could raise his hand against a human predator.

Tolerance is fine, but where tolerance becomes absolute the end is chaos. The shame of the San Francisco Bay area was not the kidnaping of Patricia Hearst, but the swarms of people, many of them far above poverty level, who snatched for the free steaks. A permissive society had obviously reached the point where participation in the fruits of crime had become a lark.

Any life is priceless? Not at all. A life saved in a manner that must result inevitably in the loss of other lives is overpriced. Historically, society has considered the life of the strangler less valuable than the life of the strangled.

It has only been in recent years, and particularly in this country, that we have become so confused over value judgments, so bemused by the theory that the criminal must be driven by forces beyond his control, that we haven't been able to think of anyone to blame except society itself.

And look what that has gotten us.

Let's come off it, lest life become cheaper than ever.

FISCAL YEAR 1975 AGRICULTURE APPROPRIATIONS

Mr. HUMPHREY. Mr. President, I was privileged today to present testimony before the Subcommittee on Agriculture, Environmental and Consumer Protection, of the Senate Committee on Appropriations, on important aspects of the fiscal 1975 budget for programs administered by the Department of Agriculture.

The agricultural appropriations are the life blood of a whole host of programs to feed needy people, to expand food production, and to increase the vitality of our rural communities. I have recommended several very modest increases in fiscal year 1975 appropriations for these programs which I feel are vital for our people.

Mr. President, I ask unanimous consent that the text of my prepared statement be printed in the RECORD.

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

STATEMENT OF SENATOR HUBERT H. HUMPHREY

Mr. Chairman, I want to thank you for this opportunity to appear before this Subcommittee today. I know it is not a new experience for you to hear from me concerning funds for agriculture, food programs and rural development. You and other members of this Subcommittee have demonstrated great understanding regarding the federal funding needs of these programs in the past and I know from my experience that you will continue to do so in the future.

President Lincoln once described the U.S. Department of Agriculture as the "people's Department". Given its many missions and programs, particularly those relating to food production, protection and distribution, such a description of this Department is most appropriate.

I appear here before you today in several capacities:

(1) As a Member of the Senate Committee on Agriculture and Forestry;

(2) As Chairman of the Consumer Affairs Subcommittee of the Joint Economic Committee;

(3) As a member of the Senate Committee on Foreign relations, and

As an individual American citizen who is gravely concerned about the needs, aspirations, and future of the American people.

Mr. Chairman, these past two years we, and the rest of the world have seen a dramatic change in the world food and agriculture situation. Food and agriculture policy today must deal with scarcities, rather than surpluses. Production planning is directed today toward expanding, not retiring acreage. Availability of raw materials essential to the production of food, such as fuels and energy, fertilizer, and petrochemicals, are becoming increasingly scarce and more expensive. The inflationary pressures in our economy continue to drive the cost of all production and consumer items to new heights, which means, among other things, that government too must pay more for what it buys or pays for, such as the cost of food programs for our nation's children and needy families.

And, along with today's inflation and economic downturn could come more eligible participants for many of these government assisted programs.

In my judgement, our nation's economy is completely out of control, and until such time as it is brought back under control, billions of tax dollars will be required to be spent to offset the economic disparities that persist in our society.

And, let me now turn my attention—and that of this Subcommittee—to some of these disparities and the funding needs of people and communities served by the U.S. Department of Agriculture in relation to the President's Fiscal 1975 budget request for such purposes.

FOOD AND NUTRITION PROGRAMS

Mr. Chairman, it is true that the Administration's FY 1975 budget includes increases for federal food assistance programs. It should be clearly understood, however, that nearly all of this increase is caused by the rapid inflation of food prices, and that hardly any of the increase results from any expansion of the programs to reach more poor and malnourished Americans.

Expenditures for the food stamp program, for example, are estimated at $3.985 billion. However, the budget predicts that average food stamp participation in FY 1975 will be at 15.0 million. Participation in the two family food assistance programs (food stamps plus commodity distribution) has remained stationary at this level for over two years. In December 1971, participation stood at 14.9 million. In December 1973 it was 14.7 million. The increase in the food stamp budget is entirely accounted for by:

(1) The increase in food stamp allotments to keep up with rising food costs.

(2) The termination of the needy family commodity program and its transfer to food stamps, with a corresponding savings in the funding for the commodity program.

In addition, the budget shows that the number of lunches served in the school lunch program has not changed from FY 1972 through FY 1974 and is expected to remain the same in FY 1975. Here, too, the rise in food costs accounts for nearly all of the increase in federal expense.

Thus, the increases in the food assistance budget result largely from the Administration's inability to hold the line on food prices, not from any overgenerosity on Congress' part.

Consequently, the Administration's overall FY 1975 food assistance budget, with its upward cost-of-food adjustments in some areas, masks the fact that it also includes cutbacks or freezes in any other areas that are vital to the health and well-being of low income Americans.

SCHOOL LUNCH

Several million school children, including up to 2.5 million poor children, still attend schools with no school lunch program.

A principal reason why so many schools remain outside the program is their lack of food service equipment. Lack of equipment

assistance may be the single most important roadblock to bringing these schools into the lunch program.

In addition, thousands of other schools suffer from outmoded, inadequate and inoperative equipment.

In 1972, Congress directed USDA to undertake a study of the equipment needs of the nation's schools. Last month, USDA Assistant Secretary Clayton Yeutter submitted to Congress the final results of this survey. It showed a need of $177 million.

Another survey, this one of state school lunch directors, was undertaken earlier this year by the Food Research and Action Center in New York City. The State Directors reported a need of $73.2 million for equipment in fiscal 1974 alone. USDA will spend only $28.1 million in FY 1974, however.

Now USDA is proposing a spending cutback of over $6 million—to $22 million for FY 1975. This flies in the face of USDA's own survey.

Congress has authorized expenditure of $40 million in FY 1975, and I wish to urge that the full $40 million be appropriated.

If only $22 million is spent, as USDA proposes, the federal government will be stuck with far larger bills for equipment aid in future years, by which time the price of this equipment will no doubt have risen substantially. The alternatives are to meet the need now, or to pay more later and to make children go without school lunches in the meantime.

SCHOOL BREAKFAST

In 1972 Congress authorized expansion of the school breakfast program to schools that request and can run the program. Congress recognized, as a growing body of medical evidence shows, that breakfast can be the most important meal of the day and that lack of breakfast can substantially impair performance and learning in school.

To date, only small expansion of this program has occurred. In FY 1974, USDA estimates the program will reach 1,537,000 children, or about 6 percent of those in the school lunch program, and only about 18 percent of those receiving a free or reduced price lunch.

In February 1974, only 10,818 of over 100,000 schools in the country had breakfast programs. Yet a survey of State directors by the Food Research and Action Center in New York City in 1972 showed 21,720 schools desiring the program.

Why then has more growth not occurred? The Committee on Domestic Hunger of the National Council of Churches, which is now assisting schools in initiating breakfast programs, reports that small appropriations for the program, and small apportionments to states, have effectively placed a lid on the program. State directors are reluctant to encourage breakfast programs, and schools fail to apply because of the belief that available funding does not exist. State authorities have failed to publicize the program, and parents often are not aware it exists.

The Administration's budget offers no relief—it exacerbates the problem by effectively imposing a spending freeze on the program. The budget shows that $70.1 million will be spent in FY 1974 and requests $77 million for FY 1975. This increase will do no more than cover the rise in breakfast reimbursements caused by inflation. Even if food prices in FY 1975 average only 10 percent above FY 1974—a dubious assumption—the entire $6.9 million increase will still be consumed by paying the higher reimbursement rates for exactly the same number of breakfasts as were served in FY 1974. To states and local school districts, the program will thus appear to be frozen.

This scenario, incidentally, does not appear in USDA's budget because its breakfast program projections are based on a rise in food prices of less than 2 percent from FY 1974 to FY 1975. (The budget shows the average breakfast reimbursement increasing from 27.5 cents to 28.0 cents.)

To insure compliance with Congress' mandate that this program be made available to schools requesting it, an additional $75 million would be necessary. However, I am requesting today an increase of only $23 million over the Administration request, to provide a total of $100 million for the program in FY 1975, to ensure that some small growth in the program does occur. This amount will merely (1) cover the 15 percent or more inflation rate that will be reflected in higher reimbursements, and (2) bring the number of children in the program close to 2 million, which would still be less than 22 percent of those receiving free and reduced price lunches.

SUPPLEMENTAL FEEDING

The Supplemental Food Program provides nutritious foods to pregnant and nursing women, infants, and young children, the segment of the population at greatest nutritional risk according to the White House Conference on Food, Nutrition, and Health.

Today 84 of these programs across the country are about to die because of USDA policies.

USDA is requiring all supplemental programs located in counties with commodity distribution programs to shut down when those counties transfer to food stamps. Yet 109 supplemental programs in counties already having a food stamp program are allowed to continue. Such logic defies explanation.

When the Congress enacted legislation last year replacing the family commodity program with food stamps, there was no intention of forcing 84 supplemental programs to close their doors or of depriving thousands of mothers, infants, and children of food.

USDA Assistant Secretary Clayton Yeutter testified last month before the Senate Agriculture Committee that his Department wishes to transfer the Supplemental Programs into the WIC program, or some other voucher program in FY 1976. But 84 of these programs would not agree to be transferred. They will die on or before June 30 unless Congress extends them.

What is particularly cruel is the fact that USDA refused to allow Supplemental programs (with one or two exceptions) to enter the new WIC program this year; USDA said that new areas should get the WIC program. Not being allowed to transfer to WIC, these 84 programs are now being forced to die.

Included in this list of doomed programs are 43 of the 46 supplemental programs in Missouri, all six in Oregon, all five in Georgia, 18 of 24 in North Carolina, four in California, three in Nevada, two in South Dakota, and one each in Alabama, Kentucky, and Massachusetts.

By next year, USDA should have ready its medical evaluation report on the WIC program. Surely these programs must be kept alive until Congress can consider this report and chart future directions for food assistance in this area.

The cost to do so would be small—$1.4 million. And over the long run, the savings would be significant in terms of benefits that the government would otherwise have had to furnish in later years if these children were to develop to their potential and not be retarded or stunted from malnutrition in their first years of life.

The Supplemental Program can be important in dealing with serious problems such as these. A recent report by the Children's Foundation in Washington, D.C. finds that in some areas of the country with Supplemental programs, infant and maternal mortality rates have declined significantly since the Supplemental program was instituted. The report also finds that in areas sampled by the Children's Foundation the overwhelming majority of participants in the supplemental program are not enrolled in the food stamp program, indicating that the Supplemental Food program is the only nutritional assistance these mothers, infants, and children are getting.

Administrative Funds—The Supplemental program also needs a small amount of administrative funding to keep alive during FY 1975 those programs based in agencies that have in the past been funded by the Office of Economic Opportunity, and that will be unable to maintain their program when OEO funding ends. Twelve programs in Iowa closed in FY 1973 for lack of administrative funds. Since the Congress has authorized administrative funds for WIC programs, and has not permitted supplemental programs to transfer to WIC at this time, it should at least allow a minimal amount of funds to those supplemental programs which would otherwise go out of existence so that they may continue to serve mothers, infants, and children until Congress decides the fate of both the WIC and Supplemental programs. There are 58 supplemental programs that are now in danger of termination because of USDA's failure to provide administrative funds. These 58 programs include a number of the largest supplemental programs in the country, which include nearly 30% of all eligible participants now in the program nationwide.

Only $1.4 million is required for this important task. This amount, combined with the other $1.4 million needed for program commodities would mean adding $2.8 million to the supplemental feeding program budget request for fiscal 1975, a small price to pay for maintaining these essential programs. I wish to urge that these additional appropriations be provided and that language be added in your report that any programs terminated as a result of USDA's interpretation of the Agriculture and Consumer Protection Act of 1973 regarding these programs, be reopened.

COMMODITY DISTRIBUTION TO INSTITUTIONS

According to USDA figures for 1972, over 1 million institutionalized persons in 8,582 institutions are eligible for USDA-donated commodities. Those benefitting are the elderly, children who are wards of the states, the chronically ill, and those in correctional facilities. People in chronic medical facilities and in custodial facilities account for 60% of the eligible population.

In 1973, $24.2 million was spent on commodities for these institutionalized people. In 1974 $18.86 million was appropriated; figures on what was actually spent are not yet available. In 1975, USDA has asked that the appropriation be cut to $16.03 million.

Such a cut could have a disastrous effect on the flow of supplemental foods to institutions. Recent figures show that the cost of food has risen twenty percent above costs a year ago. Government-operated and private, nonprofit institutions simply cannot increase their food budgets to compensate for that increase.

Therefore, I would like to urge that Congress appropriate $20.74 million, a ten percent increase in appropriations over the 1974 figure. This would guarantee a flow of supplemental foodstuffs to those who perhaps would not be fed adequately without them.

DAY CARE FEEDING

Here too, USDA's budget would impose a near freeze on the program. $30 million is available for day care centers not in the Headstart Program in FY 1974. This figure was insufficient in a large number of states. The FY 1974 budget would increase funding to only $34 million, an increase of only about 13 percent. Since USDA is proposing the first reimbursement increase since the program

was instituted in 1969 (during which period food prices have risen nearly 50 percent), the increase may be eaten up by inflation without bringing any new children into the program.

This is a program that is now failing to reach most poor children in day care centers. (According to HEW's own figures, over 300,000 children of welfare recipients were in day care in 1973; nearly 700,000 children in all were in day care programs provided under the Social Security Act. Yet only 195,000 children were served meals under the special feeding program in fiscal 1973, and many of them were receiving far less than they might have under the Act).

(1) *Waiting Lists*—Many states are forced to deny assistance to applicants because of insufficient funds.

Moreover, some states have discouraged applications because they have no funds for new centers.

(2) *Reimbursement Rates*—Although food prices have skyrocketed since the program was established in 1969, the maximum reimbursement rate has remained the same: 15¢ for breakfast, 30¢ for lunch or supper, 10¢ for a snack. USDA is now recommending the first increase in these rates—to 17¢, 34¢ and 11¢ respectively—an increase of little more than 13% during a period when food prices have risen by more than 50%.

Note: In a 1973 survey of 21 states, the Food Research and Action Center found that the average "adequate" reimbursement rate for three meals would be 23¢, 42¢, and 14¢.

Yet, most states do not pay even these inadequate rates, because they do not have sufficient funds to do so. In fact, the average reimbursement rate for meals served in FY 1973 was only 16.3 cents, and this represented a decline from the average payment of 16.4 cents in FY 1972 and 16.5 cents in FY 1971. The result has been a decline in the quality and quantity of food served in centers throughout the country.

(3) *Specially Needy Centers*—In addition to authority to reimburse programs for meals served up to the maximum rate, states may provide higher reimbursement rates, covering up to 80% of operating costs for food service, to specially needy centers that serve nearly all poor children and that lack other financial means to pay a larger portion of food costs.

However, states rarely provide 80% funding, because they do not have adequate funds to meet these special needs and still provide regular reimbursement to other approved programs.

In 1973, the Food Research and Action Center (FRAC) found that of 5,030 centers in the special feeding program, only 119 were receiving 80% funding. (For example, in South Carolina, 3 out of 110 centers were receiving 80% funding; in Missouri only 1 of 133; in Colorado, none of 46).

(4) *Non-Food Assistance*—States may use up to 25% of their funds to provide non-food assistance, that is, to pay for costs of kitchen equipment. Many centers serving low-income children need such help before they can feed children. However, this authority is seldom used, again, because it means taking limited funds away from the regular reimbursement program.

(5) *Ineligible Programs*—The statutory definition of eligible programs broadly includes day care homes as well as larger centers. However, USDA has narrowly limited eligibility to certain types of programs. Specifically, USDA has made all family and group day care homes, i.e., homes that provide care for up to 12 children, ineligible for this program. Yet the overwhelming proportion of children in day care are in these kinds of facilities. What is more, payment for such care is rarely adequate to cover costs of any sort of decent meals.

Not surprisingly, the result of this situation is that many state directors across the country have complained, often bitterly, about the inadequate levels of funding for the program. 27 of 44 state directors responding to a recent Food Research and Action Center survey said that even under current USDA regulations (with family and group day care centers ineligible) their FY 1974 funding was inadequate and could not meet current needs.

An earlier Food Research and Action Center survey of selected states, undertaken in January 1973, shows the dimensions of the increased funding needed. State directors responding to this survey reported the amount of annual funding needed to bring in centers waiting for the program as well as to fund equipment assistance requests. The amounts needed for these purposes just in 23 states total $11.4 million more than FY 1974 funding levels for these states. (See appendix A for survey results for the States of Minnesota, Missouri, Nebraska, Hawaii, and West Virginia). Furthermore, the funding estimates shown in the surevy are now, in April 1974, *low* for the following reaons:

(1) Since this survey was taken, wholesale food costs have risen more than 20 percent.

(2) State directors' respenses to the survey are based on reimbursement rates existing in January 1973. State officials' desires for substantially higher rates are not reflected in this survey, nor are USDA's own current proposals for moderately higher rates on July 1.

(3) This survey does not reflect a need for funding levels that will permit classification of more centers as specially needy and hence make it possible for centers in the poorest areas to apply for the first time.

Therefore, I wish to urge this Committee and the Congress to take the following actions:

(1) Increase total funding for Section 13 from the requested $109.6 million to $130 million, with the additional funding going to the day care program.

(2) Mandate that any unused funds from the summer component of Section 13 be used in the day care feeding program, and that any unspent funds not so transferred by the end of the fiscal year be carried over and spent. (In FY 1973, at the same time that applications from hundreds of day care centers were being turned down due to lack of funds, over $20 million in summer feeding funds went unused and were returned to the Treasury. In FY 1974, with the squeeze on the day care program continuing, it appears that $15 million in summer funds will be returned unspent.)

(3) Mandate that any unspent funds for the new Headstart component of Section 13 be used in the day care program and carried over if not so transferred and used before the end of the fiscal year. USDA officials freely acknowledge that the $25 million requested for Headstart centers is just a guess, since Headstart centers are now eligible for the first time and are just beginning to enter the program. If the $25 million proves more than is necessary, USDA should be required to use it in the day care program. If the $25 million proves insufficient USDA should not take funds away from the day care program, but should instead take them from unused summer feeding funds, if available, or from other sources.

PILOT UNIVERSAL LUNCH PROGRAM

This Committee is concerned as I am to insure adequate nutrition for children, particularly when they are away from home at school or in supervised activities. It seems likely that we are moving toward some form of universal food service, just as we now provide transportation and textbooks. But it is equally obvious that neither the Congress nor the States are prepared at this time, either with adequate knowledge of how to proceed or with the managerial and administrative capacity to do so efficiently and effectively. We should use this period of time to gain more information and to study how to avoid some of the more obvious mistakes we otherwise can expect to be made.

Therefore, I would urge this committee to invest a modest amount, not to exceed $10 million a year for the next three years in a pilot universal lunch program. This amount should adequately fund four or five school district programs in food service. Projects should be located in rural, urban and suburban areas, and should encompass districts which have both high as well as low levels of current participation. Activities to be emphasized in this pilot project should include nutrition education for the teacher and for both the students and their families. Emphasis should be placed on developing a food service system which does not rely on the public treasury to meet increasing costs, but which will develop better procurement methods and which will utilize competent professionals in food technology and nutrition. The pilot projects should also provide a means to develop professional competence in food service, both through in-service training to provide career ladders and through internships to attract young people starting out their service careers.

We should insist that the Food and Nutrition Service proceed with greater competence in this effort than they have displayed with the program for infants, children and women. States and school districts should participate fully in the development of this program, and in the design of the evaluation. The USDA should be told that the Congressional committees which are concerned with these programs should review the program during its development and prior to any implementation.

I would like to turn now to a number of items under the general heading of Rural Development in the budget which I wish to urge the Committee to consider.

RURAL DEVELOPMENT PROGRAMS

Having personally led a major effort in Congress in 1972 to help revitalize our nation's rural areas and communities, I am deeply concerned about the federal funding aspects underlying that effort today which as you know, is now embodied in the Rural Development Act of 1972.

The funding of programs under that Act during the current fiscal year has been very modest, mainly due to the limited requests for funds made by the President last year.

Mr. Chairman, the people of rural America have waited long enough for the President and the Congress to respond to their social and economic needs. It is time for Congress to consider providing *full funding* for *all* of the provisions under the 1972 Act, and the President should be required, if necessary, to administer and fund the programs covered under the Act, accordingly. As you know many provisions of the Rural Development Act have never been funded, such as Title IV dealing with Forest Fire Protection; the small farmer research and extension provisions of Title V; or, the rural development planning grant provisions. All of these programs deserve to be fully funded, and beginning with fiscal 1975.

Other provisions under this Act have been only partially funded which, in my judgment, deserve more funds in the future. With respect to many of these items, the President is again requesting insufficient funding levels for fiscal 1975 in my judgment. Let me review some of these items in detail:

Rural Community Facility Loan Program—Under this program, insured loans to public bodies and Indian tribes are authorized for the construction of essential commodity facilities. These are 40 year loans to be made at a maximum of 5 percent interest rate. The 1975 fiscal year budget request for this pro-

gram is $200 million, about one half the amount that I think it should be for next year. Therefore, I urge that at least $400 million be appropriated for this loan program for fiscal 1975. Rural communities desperately need loan funds for these purposes, both to improve the services and facilities in these communities and to attract jobs and industry.

Rural Industrial Loan and Rural Enterprise Programs—The industrial loan program under the 1972 Act authorizes both insured and guaranteed loans. The 1975 budget request calls for only $200 million covering both insured and guaranteed loans. I would like to urge that $400 million be appropriated in Fiscal 1975 for "insured" industrial loans and that no limit be placed on "guaranteed" loans made for such purposes. If the intent of Congress regarding rural revitalization and development is going to be carried out, business and industrial growth in such areas must receive greater encouragement through such loan programs.

The same applies to funding the rural enterprise program authorized in the 1972 Act. USDA has not loaned any funds under this program since the Act was signed into law in August of 1972. As you know, under this particular program, rural residents are eligible to borrow funds to purchase real estate or for operating purposes in connection with non-farm type enterprises. Implementation and funding of this program could help many farmers and low-income rural residents acquire and operate small businesses to help supplement their incomes.

Community Facility Grants—Under this grant program a $50 million expenditure level is authorized. Only $10 million has been resuested for fiscal year 1975 in the budget, a sum so small that it is probably insufficient to meet the grant needs of even a single state, let alone fifty.

I wish to urge that the full $50 million authorized for this purpose be appropriated for fiscal year 1975. I believe full funding of this particular provision is essential to even a minimum rural community development effort in this nation. Rural communities must be provided with such grants in order for them to financially undertake many community needs which are so essential to attracting jobs and industry.

FmHA Water and Sewer Grants—The 1975 budget proposes to use $20 million of the funds previously appropriated for water and sewer grants. I strongly urge that the Congress insist that the full amount previously appropriated, $120 million, be used in Fiscal 1975. I also suggest that an additional $180 million be appropriated. A total of $300 million is authorized by law.

The Administration says that grant funds are available from EPA. What they do not point out is that EPA grants are limited to sewage treatment plants and do not include collection systems or any part of a water system. Moreover it is my belief that efficient administration requires that rural community water and sewer system loans and grants be available from the same agency.

I realize that last year Congress passed a bill that mandated the Administration to use the grant funds appropriated and that bill was vetoed. I know the Congress is moving to enact legislation that would check the impoundment of appropriated funds. But I urge this Subcommittee to state in the strongest possible language the will of the Congress regarding the utilization of funds appropriated for these sorely needed community facilities.

FmHA Self-Help Housing Technical Assistance Grants—The 1975 budget provides no funds for the continuation of the self-help housing program. This is an extremely worthy activity in which people build their own homes by the sweat of their brows with the assistance of construction supervisors and group organizers paid for by FmHA technical assistance grants. This activity should be continued at the full level currently authorized by law: $5 million.

The Administrator of the FmHA when he appeared before this Subcommittee a few weeks ago said that self-help TA was being abolished because it was hard to find people who were willing to participate and construction supervisors who were competent. He indicated that this made the technical assistance costs too high.

It is my belief that this program has never received the support it deserves from the Administration. I realize that it must take time to find participants and competent construction supervisors but what evidence has the Administration provided that it has conducted training programs that would provide group organizers and construction supervisors with the necessary skills?

What evidence has the Administration offered to show that the program has been conducted on a scale large enough to cut down the TA cost per house? Not once since 1968 when FmHA was authorized to provide TA grants has the Administration asked for the full amount authorized by law: $5 million per year.

FmHA Grants for Home Repairs—The 1975 budget does not request any grant funds for the type of housing rehabilitation authorized by Section 504 of the Housing Act of 1949.

These are small grants that were once made by FmHA to elderly couples who need to patch their roofs, replace broken window panes, bring running water into their kitchens, install a bathroom. I suggest that at least $10 million be appropriated for this purpose.

This would require eliminating from the appropriation bill language which was inserted by the House back in the mid-sixties and which has been repeated in every Agriculture Department Appropriation Act since then. The language, in effect, says that no administrative funds of the FmHA can be used to administer Section 504 grants. I think it is time the merits of these grants were re-evaluated and the program re-established.

FmHA Farm Labor Housing Loans and Grants.—The 1975 budget provides no funds for farm labor housing loans and grants. The Budget states that "the Government's role can best be served by other programs". But what other programs are there? None, that I know of. Farm workers are the poorest housed of any of our people. I suggest that the maximum currently authorized by law, $18 million, be appropriated for grants and an equal amount be provided through insured loans.

The need is obvious. In 1973, a survey made by FmHA at the request of this Subcommittee showed a need for 130,000 farm labor housing units in 400 counties.

Rural Electric Programs—Due to the rapidly increasing energy requirements in the Nation's rural areas and to the excess inflation which has greatly increased the cost of generation facilities, the capital needed by rural electric systems will exceed $2 billion during fiscal year 1975. P.L. 93-32, passed overwhelmingly by Congress last May, authorized an expanded REA loan program which is capable of meeting the needs of the rural electrification program, which is vital to rural America—in fact, to all America. Congress saw fit to authorize a program of insured loans totaling not less than $618 million and up to $750 million. It authorized guaranteed private loans without specific limit, requiring only that the REA Administrator give 30 days notice of intent to guarantee loans. I recommend that we provide at least $750 million in insured loans this year and that we leave the guaranteed loan provision as it is now.

I commend this Committee for providing an REA program during the current year sufficient to construct the facilities required to avoid future energy shortages in our rural areas. These requirements are continuing to increase; Minnesota's co-ops alone will need over $600 million during the last half of this fiscal year and during the next.

Only through an adequately authorized REA insured and guaranteed loan program will rural areas have the energy they so badly need and deserve. I encourage this committee to continue to recognize the importance of an adequate program in making its recommendations for next year.

Rural Telephone Program—In regard to the Rural Telephone Program, I believe the level of funding by the Administration proposed for FY 1975 to be inadequate. The Administration did not avail itself of the opportunity provided by the 1974 Appropriations Act to loan up to $200 million in REA telephone insured loans but rather is conducting operations at the $140 million level. This is also the amount proposed for FY 1975. At the same time the backlog of unmet loan applications has skyrocketed to over $670 million, the highest ever. From my own State of Minnesota, alone, applications on file on December 31, 1973 totaled $35.7 million, including $8.5 million for systems which meet the standards established in the 1973 Act for receiving 2% special rate loans.

My own purpose in supporting the 1973 legislation was to insure Congressional control of REA and Rural Telephone Bank programs.

These funds now come almost entirely from nongovernmental sources. Except for those borrowers meeting Congressionally specified criteria, the loans are no longer made at a subsidized rate of interest.

Under these circumstances, I believe the Senate should recommend a funding level more in line with the needs; I believe that increasing the recommended lending level of both the REA-Telephone insured loan program and the Rural Telephone Bank to $200 million apiece for FY 1975 would be a realistic step. Of the REA insured loans, I believe at least $50 million should be made available to borrowers meeting the criteria for 2% funding.

Natural Resource Protection and Conservation Programs—The President's FY 1975 budget request for these programs is totally inadequate. The President is requesting only $118.8 million for all such programs authorized or amended by the Rural Development Act of 1972, and the Agriculture and Consumer Protection Act of 1973, which included the new forestry incentives program. I would like to urge that Congress appropriate something closer to $260 million for these programs which include water bank, Great Plains and emergency conservation and REAP programs.

Rural Transportation Studies—Although the final appropriations provided for fiscal 1974 last year did not include my request for $100,000, to be provided to the Economic Research Service to undertake a comprehensive study and analysis of the rural transportation situation in this nation, the Appropriations Conference Committee in its report did require ERS to undertake such a study within the general funds provided. As you know, ERS already has filed with both this Subcommittee and our Senate Committee on Agriculture and Forestry a copy of its interim report in compliance with last year's Appropriations Committee request. And I am very happy to note that $100,000 is included in the President's FY 1975 budget to continue ERS's work in this important area. While I am pleased with the inclusion of this item in the budget, I believe both the scope of such studies and the funds required to carry out such studies should be expanded.

I would like to urge that $200,000 be appropriated to ERS to continue and expand its rural transportation studies to include the rural development and rural resident needs for transportation.

Other General Concerns—The items that I have already commented on in this testimony are those I am most concerned about with respect to Congress providing adequate appropriations in fiscal year 1975. However, there are other items in this budget relating to programs and responsibilities of the U.S. Department of Agriculture that I hope this Subcommittee will review carefully for adequacy. They include funds for rural development staffing, agricultural research, farm safety, and improvement in crop and livestock reporting, forecasting, and monitoring.

Food and agriculture production is a matter of top national priority today, which is as it should be. While I believe programs relating to this end should continue to get high priority for funding etc., we must not forget the other priority needs of rural America, rural Americans and the children and needy families of this nation.

I wish to commend and thank the Chairman and members of this Subcommittee for their continued support regarding these matters. Their record in this regard has been excellent.

TECHNICAL ASSISTANCE

Mr. McGEE. Mr. President, I would like to draw the attention of my colleagues to an article appearing in Focus: Technical Cooperation, a quarterly published by the Society for International Development. The author of the article is Stuart H. Van Dyke, presently serving as Special Assistant for International Assistance to Daniel Parker, Administrator, Agency for International Development.

The article, entitled "Coordinating Technical Assistance: A New Opportunity," is an explanation of the United Nations development program's programing process for technical assistance. This process has fostered a more effective institutional framework for the coordination of technical assistance at the country level. As Mr. Van Dyke points out, the UNDP country programing process encourages the host government and the UNDP resident representatives to keep all donors and development agencies, operating within the host country, informed as to the progress of planning and to involve them wherever possible. The author notes that in historical terms, the idea governments and international institutions can play a major role in expediting the transfer of ideas and technology from one culture to another is new. He feels the UNDP country programing process has provided such an opportunity and it remains to be seen whether recipient nations and, indeed, the donor nations will seize it.

I want to commend Mr. Van Dyke for his excellent analysis; and at the same time, applaud the new Administrator of AID, Daniel Parker, for his attention to, and understanding of, the role of the United Nations in fostering international development cooperation.

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

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

COORDINATING TECHNICAL ASSISTANCE: A NEW OPPORTUNITY

(By Stuart H. Van Dyke)

(After two decades of scattered and sporadic coordination efforts, the country programming process of the UN Development Programme provides a framework through which it may be possible to establish effective coordination of technical assistance at the country level.)

In Ethiopia, there are fifteen separate donor governments administering development assistance programs, plus eighteen multilateral agencies and an assortment of private organizations, churches, foundations and individuals. In Pakistan, the number of separate donor governments is twenty-one, plus approximately the same range of multilateral agencies and private organizations.

Ethiopia and Pakistan are not unique examples. They are typical of the proliferation of development assistance programs that occurred during the 1950s and 1960s.

Technical assistance is a major component of these programs. It accounts for 25 percent of official development assistance, or $2 billion annually, is spread over 100 countries, and absorbs the energies of more than 100,000 people.

Despite this growth, technical assistance programs have been little more than an assortment of discrete projects, each estimable in itself but bearing little relationship to the others or to any systematic analysis of what was most needed. Technical assistance was considered by recipients as virtually a free good. All offers were accepted. More was better.

Recipient countries have learned, however, that, while the foreign experts themselves may be costless, their presence requires local financing and the diversion of resources from other purposes. They have found themselves acting as hosts for an increasing number of survey teams, high-level officials and experts, each with his own requirements for time, attention, support, and statistics.

On the giving end, particularly in the United States, technical assistance has been the target for charges of excessive scatteration, uncertain results, and the growth of a self-perpetuating bureaucracy. Donor governments have been embarrassed to find that one has agreed to finance a project which others have rejected, or that several were simultaneously considering the same project proposal without each other's knowledge.

Gradually, among both students and practitioners of the art, a recognition has grown that technical assistance has to be looked at as one small segment of a larger process; that what is needed is a careful assessment of the development needs of each recipient country, a judgment as to where and how technical assistance can best contribute to those needs, an explicit understanding as to goals, and a continuous dialogue between donors and recipients to ensure that projects are mounted expeditiously and that they effectively meet their goals. Various attempts to achieve these purposes have been made over the past twenty years, none of them very satisfactory. With the advent of country programming by the UN Development Programme, however, a framework has been established within which effective coordination at the country level may be a realistic possibility.

CONSORTIA AND CONSULTATIVE GROUPS

The earliest attempts to tie donors and receivers together in a common front occurred where the problems loomed largest and most urgent: India and Pakistan. In 1958, after informal consultations as to how best to tackle India's foreign exchange problem, the International Bank for Reconstruction and Development invited interested donor governments to sit down with India and work out a financial plan. The idea was that India would present its requirements for outside financial assistance to the group to be screened. Having arrived at an agreement as to how much assistance should reasonably be provided, each member would then adjust his share until the total was reached. A similar group was formed for Pakistan shortly thereafter. The process of country-by-country aid coordination was under way.

The Development Assistance Committee

Meantime, the donors had begun meeting as a group in order to compare and coordinate their general assistance policies. The first such meeting was held in Washington, D. C., in 1959. The group met again in Tokyo in 1960. Nine countries were represented; by this time they had formally constituted themselves as the Development Assistance Group. In 1961, the Group was added to the committee structure of the Paris-based Organization for European Economic Cooperation, which simultaneously changed its name to the Organization for Economic Cooperation and Development and admitted the United States and Canada to full membership. A permanent, full-time chairman was named and the Group (now consisting of twelve members and called DAC, the Development Assistance Committee) was provided with the services of a professional secretariat.

The trends that had begun in the late fifties continued into the sixties. More new developing countries emerged. More industrialized countries established international assistance programs. More donors joined the Development Assistance Committee, raising its membership to sixteen. The consortium concept, however, underwent a metamorphosis. Members found that the idea of reaching agreement on amounts of assistance to be provided during a short time frame and then "pledging" a specific amount was too restrictive. In order to provide greater flexibility (and encourage more countries to participate) the process of formal pledging was dropped in favor of informal consultations about requirements and potential resources. This procedure found wide acceptance, and eighteen developing countries requested that such "consultative groups" be established. The World Bank continued to play a central role in these groups, usually providing a chairman and the documentation on which the group's discussion was based.

Throughout this period, the problems of coordinating technical assistance received only sporadic attention. In computing the resource gap, technical assistance flows were usually so small as to fall well within the margin of error for any one recipient country. Individual technical assistance projects also were small. The busy executives who flew to Paris for one- or two-day meetings of the consultative groups did not have time to linger on to deal with the nitty-gritty of technical assistance. Scheduling the arrival and departure of half a dozen technicians, arranging for university admissions, and seeing to it that local budgets contain a few thousand dollars for space and equipment requirements are not the stuff of which international conferences are made. As a result, the consultative groups, never tackled technical assistance seriously. And even though the consultative groups encompassed most of the larger aid recipients, the great majority of developing countries were left out. Even today, only four countries out of twenty-five on the UN-approved list of the least developed are among the consultative group countries.

Coordination at the country level

The Development Assistance Committee in Paris has done no better. From time to time, it has addressed itself to technical assistance problems, but the nature of its representation, its remoteness from operational problems and the proclivities of some of its members precluded it from dealing in anything but general policy. In fact, it quickly recognized its own limitations, and as an experiment early in its history encouraged the establishment of a "little DAC" in Thailand to do some on-the-spot coordinating. A country-level committee at which embassies of the donors were represented, and which was to be chaired by a local ambassador, was established in 1963. For the past ten years, it has met with officials of the Thai Government and reviewed their development plans. Since there was also a consultative group for Thailand chaired by the World Bank, the local committee has made technical assistance the focus of most of its attention.

The Thai experiment was not repeated, although similar committees, unrelated to DAC, appeared in other developing countries. A few DAC members feared that the establishment of such committees under DAS auspices might give rise to expectations that the Committee was becoming an operational body. However, an awareness of the gap in technical assistance coordination continued to grow, and in 1966 DAC issued its first "Guidelines for Coordination of Technical Assistance." These guidelines asserted that "The coordination of external technical assistance must be carried out 'on-the-spot' and is ultimately a matter for the authorities of the beneficiary countries themselves." They urged the establishment by each recipient govrnment of a central office to do the job.

Five years later, DAC issued a second statement along similar lines, stating that "a fresh effort is desirable to improve the coordination of multilateral and bilateral aid at the local level." It distinguished between local meetings to "exchange views and information on specific requests for assistance of various kinds, on donors' intentions and current programs, and on practical problems of implementation," and meetings of Consortia and Consultative Groups, which deal with "broader issues." As in the previous guidelines, the recipient government was considered to be responsible for coordination in the first instance, but the new guidelines provided that "In countries where no effective coordination arrangements are currently functioning, the representatives of the major international donors, notably the UNDP or the IBRD or if they are not available in particular cases, the representatives of a bilateral or other multilateral donor, may take the initiative to get coordination arrangements organized."

Meantime, the IBRD had also recognized that its consultative groups were not equipped to cope with local technical assistance problems. Early in 1971, the World Bank issued a policy statement which noted the need to supplement consortia and consultative groups with coordinating groups at the country level which would "discuss individual technical assistance and preinvestment activities and requests with a view to avoiding duplication and ensuring that the assistance provided in these fields is well adapted to the recipient country's investment program and its overall development strategy."

The results of the various initiatives taken during the 1960s and early 1970s were spotty. No institutionalized pattern for coordination at the local level appeared. Whatever happened in individual countries appeared to depend more on the personalities involved than on any consensus as to what was needed or how to go about it.

In rare cases, recipient governments let it be known that they preferred to deal bilaterally with donors and looked with disfavor on any group effort which might affect their ability to negotiate on an individual basis. In other (also rare) cases, recipient governments set up special organizational units to coordinate technical assistance on a governmental-wide basis and met regularly with donors both individually and as a group. (In a few cases, this process went beyond project planning into joint evaluation sessions on ongoing projects.) In most recipient countries, however, the coordination process was unstructured, haphazard and barely adequate. Typically, the representative of one of the major donors would call for a luncheon meeting of the other donors, usually inviting a representative of the recipient government. This might then become a monthly affair, with the host changing each month. Or it might not again occur until one of the local representatives felt impelled by some potential or current problem to consult his colleagues.

In 1970, after polling its membership, DAC reported that some type of coordination was taking place at the local level in 31 developing countries. Of these, leadership for 19 groups was provided by bilateral donors; the UNDP led six groups, the recipient country five, and the IBRD one. Two recipient countries were reported to be negatively disposed to the establishment of such a mechanism. The absence of any generally recognized institutional device, despite the wide-spread acceptance of the need for such a device, had left the field to chance and the movement of personalities.

PROBLEMS OF COORDINATION

There are sound reasons why no clear pattern of donor organization has emerged at the country level. Foremost is the sensitivity of donors to fears of the developing countries that donors are "ganging up" on them.

The only formally organized donor group in existence—the Development Assistance Committee of the OECD—has assiduously avoided dealing with specific countries and projects. Some donors, the most vocal of which are the Dutch, object as a matter of principle to any discussion of the economic problems and prospects of a recipient in its absence. Thus, even if it were thought to be desirable, the practical prospect of getting the rich countries to agree to institutionalize donor groups at the country level is remote.

Their reluctance is hardly surprising. In dozens of international conferences, spokesmen for the developing countries have made it abundantly clear that they mean to be consulted when discussions affecting them take place. The enlargement of the IMF's Group of Ten into a Group of Twenty to include the developing countries was a recognition of this reality. Even a luncheon meeting among donors has produced objections in some countries which are especially sensitive on this subject.

Another factor which works against the establishment of such groups at the country level is the wide variation among donors in the administrative arrangements by which aid is delivered. The U.S. aid program has been administered by overseas staffs of some size. Other donors administer their programs from home offices, supplemented by official visits to the recipient country. Still others depend on local embassy personnel. It has not proved easy to maintain the interest of such a disparate group in regular local meetings, or to generate an effective dialogue when it does assemble.

Despite their inhibitions and the problem of maintaining interest, donors will undoubtedly wish from time to time to have some informal contact at the country level to compare notes and exchange ideas. This need can be satisfied without difficulty by personal meetings, telephone calls, and the exchange of documents. But the idea of institutionalizing the work of an exclusive donor group at the country level has proved to be unviable and probably is undesirable as well.

The casual and haphazard way in which technical assistance has been coordinated to date has provided only minimum assurance to donors that their resources are being focused on urgent priority problems. But the fact that technical assistance—despite its growth—is still only a thin veneer on the economies of the developing countries has served to prevent serious international bloopers. Where the veneer becomes thicker, as in family planning, the risk is greater. In one developing country, a team arriving to survey family planning needs was almost, but not quite, met at the airport by the departing members of a team that had just completed a similar survey, without either being aware of the work of the other. And in an African country where water is scarce, there are already several agencies at work on projects that depend on a single river, without anyone having bothered to find out how much irrigation and power the river can provide before it dries up. These obvious miscalculations, while regrettable, do not provide the main rationale for better coordination, however, since it would be possible to mount hundreds of projects with little duplication or conflict. What is needed is a system for ensuring, insofar as possible, that the limited resources that are available are targeted on priority problems.

A model arrangement would involve at least three basic elements. First, a long-term plan for outside assistance, extracted from the national development plan and converted into costed, time-phased, goal-oriented projects, shown in order of relative priority; second, a catalogue of past and present technical assistance activities of all donors, on which future activities could be based; and third, a regular schedule of meetings between the recipient country and donors, at which future activity could be planned and past difficulties identified and mitigated.

COORDINATION BY HOST GOVERNMENTS

If the case for institutionalizing technical assistance coordination at the country level is compelling, and if donor groups are ruled out, what is a feasible alternative? In the last analysis, only the host country can effectively perform this function; for it alone has access to the information required for decision-making and the authority to set priorities in the use of its own resources.

In view of the variety of aid available from more than twenty donor countries and assorted international institutions and private agencies, it is remarkable that only a handful of recipient governments has established effective machinery for assessing assistance needs, documenting them, and presenting them in an orderly fashion. Typically, donor agencies have learned of potential assistance projects from anyone of dozens of local institutions or ministries. They emanate as frequently from casual conversations as from formal analysis and presentation. They may or may not have to pass through some central clearing house. Some recipient governments do not even have a record of the assistance projects currently under way within their borders, to say nothing of having a clear idea of what foreign resources can do for them in the future, or a catalogue of project proposals ready to be presented.

Although the shortage of trained personnel in most developing countries is acute, it would seem eminently worthwhile to devote some of those scarce resources to the staffing of a unit whose function would be to identify the needs of the country for outside assistance and shape those needs into preliminary

project proposals. Such a staff could also keep a close watch on ongoing projects, and adjust or end projects which were falling short of their goals. A modest investment in monitoring existing projects and in maintaining a stream of new and attractive project proposals would likely pay dividends out of all proportion to its cost. Since the development of a staff capable of performing this function is essential to an effective dialogue, donors should not hesitate to provide technical assistance to get it operating. In order to be able to speak authoritatively, it should occupy a strategic spot in the recipient's administrative hierarchy—preferably in the Prime Minister's Office.

A number of developing countries have recognized the potential returns from a systematic approach to donors and have already developed this capability or are well on the way to doing so. In Lesotho, the Central Planning Office processes all requests for outside assistance, with the help of UNDP personnel. In Malaysia, all technical and capital assistance is coordinated though the Economic Planning Unit of the Prime Minister's Department. In Panama, all assistance requests are processed through the Department of International and Technical Assistance of the Ministry of Planning and Economic Policy. In Colombia, the National Department of Planning is a fully functioning and effective mechanism for aid coordination and control. Other countries are moving in this direction, while struggling against the usual problems of inadequate budgets and the lack of trained personnel. Not the least of the problems encountered is the tendency of donors and specialized agencies to want to deal directly with potential clients rather than through a central clearing house. One developing country felt it necessary to appeal to donors to respect the authority of its central coordinating authority rather than work around it.

Meeting with donors

An effective coordinating staff armed with a clear plan of action need not hesitate to meet with donors singly or in groups. Group sessions have distinct advantages. The host country has a captive and receptive audience, and is able at one time to lay out the whole range of its needs to both actual and potential donors. A meeting arranged by the host country will usually prompt donor countries and aid agencies to send special, high-level representatives. To dramatize its presentation, the recipient might arrange annual "donor sessions," with give and take freely invited. Such a meeting should have as documentation a) an up-dated version of the national plan, b) a list of ongoing projects supported by donors with comment on the progress of each, and c) a description of projects for which donor financing is being sought. If a national plan has not been prepared, a background paper dealing with the general economic situation and giving details on the most important sectors of the economy should be made available.

Such a session could well last two or three days, with the discussion broken down among sectors. It could be followed by bilateral talks between individual donors and the recipient on both on-going and proposed projects. It is unlikely that donors would welcome open discussion of the shortcomings of their current projects; these could follow the open session, with on-the-spot decisions to continue, modify, or close out particular projects. Since such a meeting would bring donors together, it is inevitable that informal consultation would occur among them at luncheons and in the corridors, but primary responsibility for seeing that donors were encouraged to meet the most urgent needs, and for avoiding overlap and conflict, would rest with the recipient.

There have already been examples of the use of this device by developing countries. One country uses the announcement of its three-year economic plan as the occasion to assemble such a group, and has repeated the process for three successive plans. Honduras and Guyana have sponsored meetings of donors very much along the lines described. In Africa, Rwanda and Lesotho, two of the "least developed" countries which have been largely overlooked by donors, have recently assembled such gatherings. Most of these countries have enlisted outside help, in the preparation of the plan itself, of background data, or of lists of projects for which financing is sought. In Lesotho and Rwanda, the UNDP offered its help in setting up the meetings.

THE UNDP PROGRAMMING PROCESS

After twenty years of scattered and sporadic attempts to achieve coordination at the local level, a system is now evolving which gives promise that better results may be on the way. This is the UNDP country programming process, now in its fourth year.

Country programming was a key element in the UNDP reforms proposed by Sir Robert Jackson in 1969. The country program was to be a comprehensive document, embracing all the elements of the UN development system and tied to the recipient's own development plan. Almost wistfully, the report of Sir Robert Jackson states that

"Ideally, from the viewpoint of the individual country, and providing always that the governments so desired, such a joint programming process should involve not only the various components of the UN system but also all significant sources of bilateral or regionally-based cooperation from outside the system. In this way, the country concerned would have a clear idea of the total external contribution likely to be available for the attainment of the objectives set out in its national plan. There would also be advantages for the UN system, since its own role would be clearly defined in relation to all the other linking efforts, internal and external, and there would be no problem of overlapping. Coordination, in other words, instead of taking place on an ad hoc and somewhat haphazard basis as at present, would also become a long-range operation and correspondingly more effective."

In practice, actual results give promise of at least partially fulfilling the hopes of the authors of the Jackson study. Although the process has been different in each country, depending partly on the personalities of local UN representatives and partly on the wishes and capabilities of the host governments, there appears to have been far more extensive consultation between donors and recipients during the past few years than ever before. It also appears that, at least in some countries, the UNDP country programming process may provide the opportunity to institutionalize the procedures by which technical assistance coordination takes place at the country level.

The UNDP is clearly not rushing into the vacuum, however. A strong note of caution characterizes the instructions issued by UNDP headquarters to the UNDP staff. "The coordination of other assistance inputs," reads the UNDP country programming guidelines, "whether from the United Nations or outside it, in the UNDP country programming process, will largely depend on the [recipient] government's position in each case. The Resident Representative will use his discretion in helping the Government to bring about or to improve coordination, especially in relation to specific inputs in specific areas."

This language is super-cautious, designed as it must be to avoid offense to any of the hundred-odd recipient countries with which the UNDP must deal. The content of the country program itself, however, requires that facts and figures on *total* aid activities taking place in the recipient country be compiled. Table I of the country program submission is a projection of technical assistance resources estimated to be available each year for five years from *a*) bilateral donors, *b*) multilateral programs other than UNDP and the UN Organizations, *c*) UN regular programs, and *d*) UNDP.

While UNDP Resident Representatives had previously been expected to report on other donor activity, their reports were spotty. Now for the first time, the country program provides a framework within which information about what all donors are doing becomes an essential element of the program itself. The aggregate figures required in the country program submission are presumably built up from separate entries. Some recipient governments may be adding up these separate entries for the first time and only thus become conscious of the variety and magnitude of the technical assistance available and utilized by it. In fact, some country program submissions have gone well beyond the requirements of the UNDP directive. They contain lists of technical assistance projects by title and donor, and show amounts and projected commitments.

Information as to what is actually in process or planned is, of course, the first prerequisite to coordination. In the past, this information has been provided mainly by word of mouth or by informal exchange of program documents. U.S. Agency for International Development Mission Directors, for example, have been encouraged to make their program documents available to UNDP Resident Representatives, who, in turn, are instructed to make their documents available to local bilateral representatives unless the recipient government objects. Only for the Colombo Plan countries has a systematic effort been made to catalogue ongoing projects. In a few instances, such catalogues have been produced by Resident Representatives or U.S. AID Missions, but since no one felt responsible for keeping them current, they became quickly out-dated.

A BASIS FOR BETTER COORDINATION

The UNDP programming process now provides a possible institutional framework for the coordination of technical assistance at the country level, although there is still some way to go. First, by requiring the recipient to focus its attention periodically on a broad range of development problems and come up with a long-term plan for the use of UNDP resources, it encourages the host government to develop centralized expertise on the subject of technical assistance, i.e., to create an organizational unit with at least some coordinating authority.

Second, it provides a basis for the regular compilation of technical assistance data by country and covering all doners.[1] Information of this sort is a minimum requirement for better coordination. Over a period of years, it would also provide a valuable reference as to what had been attempted in the past. In the technical asistance field, memories are short and turnover is heavy; as a result, many lessons have had to be learned over and over.

Third, it encourages the host government and UNDP Resident Representatives to keep all donors and agencies operating within the country informed as to the progress of planning and to involve them, if possible. Thus, local donor and agency representatives may be thrown together for discussion purposes. In the process of reviewing and commenting on the proposals for UNDP financing, other donors are encouraged to share information about their own plans.

[1] The UN has been slowly working its way toward a listing of UN projects by country over the past several years. An ambitious effort is being made to create an inter-agency management information system. As a first step, the framework for a Common Register of Projects (CORE) is being developed in Sri Lanka, Kenya and Peru.

Fourth, in addition to the five-year program cycle, it calls for periodic program reviews to evaluate the totality of the UNDP program, to make such adjustments as are necessary, and to lay plans for the next program cycle. Such reviews are a crucial feature of any active technical assistance program. With little additional effort, they could also be made the occasion for the kind of periodic donors meeting described above to which all current and potential donors are invited. Such an effort would be invaluable to small donors who do not maintain aid personnel abroad and whose intelligence about local needs and conditions is limited. It would serve the recipient by focusing donor attention on its aid requirements, at the same time prompting it to assess them carefully and present them persuasively. Essential to the success of such periodic sessions, of course, would be the existence of a staff unit within the administrative structure of the recipient government which was familiar with the government's plans, resources, and needs, could translate that information into specific projects which would be attractive to technical assistance donors, and had the time and the capacity to deal with donors and point them in the right direction. This is not an easy assignment, but it is essential to effective technical assistance programming.

In historical terms, the idea that governments and international institutions can play a major role in expediting the transfer of ideas and technologies from one culture to another is new. There is still much to learn about how the process works, and neither donors nor recipients can afford to let pass an opportunity to pool their knowledge and experience in an effort to make it work more effectively. The UNDP country programming process has provided such an opportunity. It remains to be seen whether recipients and donors will seize it.

SENATOR HUMPHREY COMMENDED BY CHARLESTON GAZETTE

Mr. RANDOLPH. Mr. President, it is gratifying to Members of the Senate to have with us, in active debate and a full schedule of productive work, the Senator from Minnesota (Mr. HUMPHREY).

Earlier today, in the Democratic conference, our able majority leader (Mr. MANSFIELD) expressed his pleasure that our colleague from Minnesota was vigorous and possessed of leadership qualities for which American citizens are grateful.

Mr. President, I have enjoyed a personal and official friendship with the Senator since 1946.

The Charleston, W. Va., Gazette in an editorial, on April 19, 1974, has declared that "HUMPHREY serves well" and that he is "one of the Congress hardest working, most innovating lawmakers."

I ask unanimous consent, Mr. President, that the editorial be printed in the RECORD.

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

[From the Charleston (W. Va.) Gazette, Apr. 19, 1974]

HUMPHREY SERVES WELL

The Happy Warrior—that's Sen. Hubert Horatio Humphrey—is back at work, feeling, he says with his usual effervescence, better than he has felt in years.

For the last four months Minnesota's senior senator has been undergoing radiation to treat a possible cancer of the bladder.

The U.S. Senate hasn't been quite the same during his absence.

Sen. Humphrey long has been one of Congress's hardest working, most innovative lawmakers. He arrived in Washington directly from the mayor's office in Minneapolis, where he established himself among the progressive, best mayors in the country.

As a brash young senator, anxious to make his mark, it took him a while to exert any pressure upon that hallowed, pickled-in-tradition legislative body, but eventually he became one of the nation's most powerful, influential legislators.

Then, he was bitten by the presidential bug so badly that he sought to be President Lyndon Johnson's vice president. Successful in this quest, it was his painful duty to support the most unpopular war in American history and to commit himself to policies many of his warmest supporters found totally unacceptable. Nevertheless, he persevered and did what vice president are required to do: serve their masters loyally.

But that's another story.

Sen. Humphrey is returned to the U.S. Senate after his recent illness. We wish him many more years of service to the nation.

AMENDMENT NO. 1208—ESTABLISHMENT OF COMMISSION ON VETERANS' RIGHTS

Mr. CRANSTON. Mr. President, yesterday I submitted legislation, amendment No. 1208, as an amendment to the pending House-passed GI bill legislation, H.R. 12628, to establish an independent Commission on Veterans' Rights outside the VA. Also pending in committee is S. 2874, in which I have joined with Senator HARTKE and other committee members, to increase GI bill rates by 23 percent, and for other purposes.

INTRODUCTION

Mr. President, I believe that an outside watchdog agency such as this Commission on Veterans' Rights is needed to correct the record of nonperformance, insensitivity, political manipulation, management by cronyism, and abdication of moral leadership that has taken place in the VA over the past 5 years, and to insure that this tragic record is not repeated.

Mr. President, President Nixon's announcement on March 31 that he was establishing a number of ad hoc groups to look into matters regarding veterans' rights and benefits is far too little, far too late, and far too inadequate. On March 31, the President directed the incumbent VA Administrator, Donald E. Johnson, to conduct a personal tour of VA hospitals and clinics and report his findings in 60 days to the White House. At a meeting this past Monday, April 22, with the White House Chief of Staff, Alexander E. Haig, on the problems confronting the Veterans' Administration, I was assured that this responsibility had been removed from Mr. Johnson and placed in the hands, where any such responsibility for VA medical programs belongs, of the VA's new Chief Medical Director, Dr. John D. Chase.

On March 31, the President also ordered the creation of a special management team to "take a hard look" at the services provided by the VA as well as the creation of a new Cabinet-level Committee on Veterans' Services within the White House Domestic Council.

This kind of investigation is just more of the same, the administration investigating itself. Only an independent investigation and a continuing monitoring and oversight of VA and other governmental activities affecting veterans—free from the influence of those being investigated and monitored—can restore public confidence and maintain public confidence in the VA and in other programs affecting veterans.

The VA has enormous responsibilities within the Federal Government and a far-reaching impact on millions of Americans. With 188,000 employees, the Veterans' Administration is second only to the Defense Department in size; it has a budget of $13.6 billion, the third largest of any Federal agency; and VA programs affect the lives and welfare of 97 million American veterans and members of their families.

Mr. President, as I indicated in my remarks on Vietnam Veterans Day, March 29, 1974, the American people have not done enough and have not cared enough about the problems of returning veterans. Although many good laws and substantial appropriations have been enacted over the last 5 years by Congress—over staunch VA and administration opposition—these programs have not been effectively implemented nor have they gone far enough to deal with the real problems confronting most Vietnam era veterans—education, jobs, housing, health care, and simple justice.

Much of the blame for this, in my judgment, lies with the fact that the governmental structure imposes almost czar-like control over VA affairs on one politically-appointed official. The monitoring activities and investigation which would be carried out by the Commission on Veterans' Rights would provide immediate public accountability of an insulated VA which is dominated by the Office of Management and Budget. If Congress is going to make proper decisions on behalf of sick and disabled veterans—and veterans requiring GI bill educational and training assistance and home loans—we need to know how much the experts at the VA say they need and why they feel they need it as well as how much budget-cutters at OMB say they should get and why.

CHANGE IN LEADERSHIP AT VA

Mr. President, at the White House meeting this past Monday with General Haig to which I made reference earlier in my remarks, those of us in attendance were given certain assurances, and certain general agreements occurred. The matters which were agreed upon in that meeting were generally summarized in a statement which I released to the press on Monday. Mr. President, I ask unanimous consent that appropriate excerpts from this statement be set forth in the RECORD at this point.

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

STATEMENT OF U.S. SENATOR ALAN CRANSTON

Senator Alan Cranston (D., Calif.) today issued the following statement:

This afternoon, in my capacity as chairman of the Subcommittee on Health and Hospitals of the Senate Veterans Affairs Committee, I met with White House Chief of Staff Alexander E. Haig on the problems confronting the Veterans Administration.

* * * * * *

On the basis of our discussions and agree-

ments reached this afternoon, I am postponing temporarily the oversight hearings, scheduled for this Tuesday and Thursday, on the administration of the VA's Department of Medicine and Surgery.

I believe that the deep problem of lack of leadership in the Veterans Administration will now be resolved.

The first and immediate step has been taken—relieving Donald Johnson, present VA Administrator, of responsibility for surveying conditions in Veterans Administration hospitals. I have been assured by General Haig that the next step, which is to be taken not later than Friday of next week, will be an announcement regarding the future of the Veterans Administration which will be of enormous importance to the well-being of the 29 million veterans and their 58 million family members in our nation.

General Haig, acting at the President's direction, requested this afternoon's meeting to initiate discussions with us in order to find a way to resolve the enormous difficulties facing the VA in its medical program as well as its benefits program.

At the meeting General Haig proposed and we agreed that further meetings would take place in the next two weeks between us, our staffs and representatives of the President to work out a plan for long- and short-term changes at the VA in order to give it the capacity to deal effectively and compassionately with these problems. The goal is to reinforce the professional integrity and control of the VA Department of Medicine and Surgery, to remove VA decision-making as far as possible from partisan political considerations and to make the VA an apolitical institution, and to increase the VA's independence within the federal government. We must ensure that, to the maximum extent humanly possible, the VA, in the performance of its mission of service to America's veterans and their dependents, will be characterized by the greatest degree of responsiveness to the individual and collective problems, concerns, and needs of all of America's veterans, especially those who have recently returned from service.

Although I remain extremely concerned about the most unfortunate circumstances which precipitated the untimely retirement as Chief Medical Director of Dr. Marc J. Musser only three months after his reappointment for a new four-year term in that position, we were assured by General Haig this afternoon that the new Chief Medical Director, Dr. John D. Chase—a qualified career VA professional—will maintain completely open lines of communication with us and the Congressional Committees on Veterans Affairs, and that the Department of Medicine and Surgery will be operated in a totally nonpartisan manner.

The forthcoming meetings, I believe, hold great promise of resolving the impasse which precipitated the oversight hearings originally scheduled for this week.

Our meeting today has been the first direct sign that the President has come to grips with the absolutely massive nature of the VA's problems and that he wishes to resolve these problems in the most rapid and effective manner and to do so jointly with Congressional leadership. I welcome this sign and this opportunity to participate in so vital a process.

Mr. CRANSTON. Mr. President, as should be obvious to all those who have followed the evolution of events regarding the VA since this past Monday, the announcement which I indicated in my April 22 statement would be forthcoming by May 3—which I characterized as one "regarding the future of the Veterans' Administration which will be of enormous importance to the well-being of the 29 million veterans and their 58 million family members in our Nation"—was the one that occurred that very evening. On that evening Veterans' Affairs Administrator, Donald E. Johnson, released a statement to the press indicating that he had told General Haig that he intended to submit his resignation to the President in the near future.

Mr. President, the task ahead now is obviously for the President to find a successor as Administrator of Veterans' Affairs as quickly as possible so that leadership and morale can be restored to that agency in the most effective and expeditious manner. It is my hope that such an individual will be found by the end of this week and that arrangements will be able to be worked out so that he will be able to serve as acting Administrator during the period pending his confirmation hearings before the Committee on Veterans' Affairs in the Senate, on which I serve.

Mr. President, the best possible thing that could happen in terms of a new Administrator of Veterans' Affairs would be for the President to nominate a man of unquestioned integrity, intellect, compassion, management skill and leadership potential who is not identified with any particular partisan political activity. I believe that the White House has in mind these qualities, and I hope that they will be successful in finding such a person.

This morning, Mr. President, the Washington Post carried an excellent editorial with respect to the need for renewed leadership at the Veterans' Administration, and I ask unanimous consent, Mr. President, that the full text of this editorial be set forth in the RECORD at this point.

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

A NEW OPPORTUNITY FOR THE VA

Donald E. Johnson's "great pride" in his record as head of the Veterans Administration appears to be almost, if not completely, unique. If anyone shares that pride it was not evident when Mr. Johnson made known his intention to resign "in the near future." Indeed, it has been apparent for months that the White House has been nervous about his continued occupancy of the office, and many members of Congress have been openly manifesting their hostility.

As in most cases of this sort, the reasons for the disillusionment with Mr. Johnson are complex but nonetheless definable. One complaint is that the agency set up to aid those who defend the nation in wartime has become politicized—that Mr. Johnson loaded his staff with politicians who had played a part of President Nixon's reelection campaign. That is an obvious bid for trouble in an agency supposed to operate scrupulously aloof from politics. Another complaint is that service in the VA's 450 hospitals, clinics and nursing units has deteriorated. Last fall the VA announced a major reorganization of its department of medicine and surgery, but that shake-up was assailed at the time as undercutting the officials within the organization who were working to make it more responsive to veterans' health problems. Chairman William Jennings Bryan Dorn of the House Veterans Affairs Committee recently accused the VA of deliberately breaking the law which requires the VA to maintain an average daily patient load of 85,500 in its 168 hospitals. The number of patients cared for had been cut substantially below that figure as an economy measure.

Mr. Johnson lost the confidence of many veterans and citizen groups, and apparently also that of at least some people in the White House, when he publicly accepted an Office Management and Budget cut of $160 million in benefits for disabled Vietnam veterans, including amputees. Some of these benefits designed to aid 200,000 disabled GIs were slashed by as much as 60 per cent, but Mr. Johnson defended the action as a matter of "equity." A furor was raised, and the President ordered the VA to withdraw the cuts. In calling for a wholesale revamping of veterans' pension programs last January, the President acknowledged that "some of the most needy are least provided for under the current structure."

As long ago as last summer the White House appeared ready to replace Mr. Johnson. At least it was reported at that time that the White House had asked Rep. Olin B. Teague, a long-time leader in veterans legislation on Capitol Hill, if he would accept the top post in the Veterans Administration. On March 31, however, the President named the wobbling VA chieftain as chairman of a committee on veterans services in the Domestic Council. Apparently the latest change of signals resulted from Senator Cranston's scheduling of hearings on the VA's medical program. In any event, Mr. Johnson's announcement of his retirement followed a visit of five members of the Senate and House Veterans Committees to the White House during which the President's chief of staff, Gen. Alexander M. Haig Jr., agreed to take the VA's proposed survey of conditions in its hospitals out of Mr. Johnson's hands and apparently also to provide the VA with new leadership.

The major task of finding the right man for this vital assignment presumably remains. The job calls for an administrator of the highest executive abilities and keenest human understanding—a man of the caliber, let us say, of Gen. Omar Bradley, who was named to the post by President Truman.

Mr. CRANSTON. Mr. President, I ask unanimous consent that there be printed in the RECORD at this point today's editorial from the Los Angeles Times making many of these same points.

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

[From the Los Angeles Times, April 24, 1974]

VA'S TROUBLES ARE FAR FROM OVER

The forthcoming resignation of the extraordinarily inept Donald E. Johnson, head of the Veterans Administration, is welcome news and gives credence to the prediction of Sen. Alan Cranston (D-Calif.) that "the deep problem of lack of leadership" in the agency "will now be resolved."

Johnson's departure, however, is not the sole answer to the surge of complaints against the agency, which administers a huge budget—$13.3 billion for the current fiscal year—in behalf of 29 million war veterans. A review of VA management should be conducted, with emphasis on the treatment accorded the 2½ million veterans of the war in Vietnam.

To begin with, they were not a cross-section of the nation's young men. They were largely drawn from the poorer segments of society, and they do not have the political influence of their predecessors.

They returned home at a time of fewer employment opportunities. World War II and Korean veterans came back to an expanding economy. Unemployment among Vietnam veterans has been higher than among other young men in their age group, many of whom, incidentally, remained in college during the war to develop their marketable skills.

Because so many Vietnam veterans were poor and with minimal education, they urgently needed the educational benefits under the Vietnam GI bill. But inflation cut heavily into their educational allowance. A study has revealed that only veterans who happen

to live near state-subsidized colleges can afford to continue their education.

These problems require urgent solution. The veterans or Vietnam are asking only for equitable treatment. That is what they deserve, and nothing less.

Mr. CRANSTON. Mr. President, a new Administrator, of course, is only a beginning, not an ending. What must follow immediately is a tangible display by the Administration that its goal, expressed at our April 22 meeting, of an apolitical VA will be realized. Then we must pass and enact into law—hopefully with the President's signature—a series of much needed laws: providing dramatic and equitable increases in GI bill benefits and compensation and DIC rates, improvements I have proposed in the special program to provide adequate vehicles for the most severely disabled service-connected veterans—all bills now pending in committee—further improvements in the VA medical program especially in recruitment of VA physicians, nurses, and other health personnel—legislation I will shortly introduce, and my bill, pending in the House for over a year, S. 284, to authorize a major new program to provide comprehensive treatment and rehabilitation for veterans suffering from drug and alcohol abuse.

Also, we must restore high morale, professional performance, and a strong sense of mission to the VA, the caliber of the new Administrator will be a major factor in accomplishing this.

That brings me to my proposal that we establish a Commission on Veterans' Rights.

GENERAL PURPOSE OF COMMISSION ON VETERANS' RIGHTS

The Commission on Veterans' Rights I am proposing would replace the watered down so-called "Vietnam Era Communications Center" proposed in the House-passed GI bill amendments, now pending in the Senate Veterans' Affairs Committee.

Although the Commission on Veterans' Rights would assume many of the same functions identified for this so-called Center in the House-passed bill, it would: first, have far broader oversight and monitoring responsibilities; second, be totally independent of the VA or OMB control; and third, act in the interests of all veterans, not just Vietnam-era veterans, although it would be charged with special emphasis upon the readjustment problems of returning veterans.

This Commission is intended to provide immediate public accountability for the presently insulated, OMB-dominated, activities of the VA, and to promote public awareness—as well as awareness on the part of the VA and Congress—as to what is being done, what is not being done, and what needs to be done to improve veterans laws, regulations, and programs, especially for Vietnam-era veterans.

The Commission's mandate would be far broader than just VA programs. It would include evaluating the effectiveness of the laws, regulations, and programs of other Federal agencies, such as the Defense Department, Labor Department, HEW, HUD, DOT, and the SBA, as well as State and local agencies and programs, as their activities affect veterans—especially where Federal funds are involved.

Its authorities and activities would be modeled on those of the Civil Rights Commission in terms of public hearings, various studies, public recommendations, and reports to the Congress and the President; and further modeled on the Product Safety Commission authorizing statute and legislation, S. 707, reported from a Government Operations Subcommittee, to establish an independent Consumer Protection Agency, in terms of freedom from OMB control and certain Commission functions and powers.

BUILDS ON VETERANS' ORGANIZATION EXPERTISE AND EXPERIENCE

The Commission is designed to build upon the enormous watchdog apparatus that already exists in the veterans' service organizations, but to give that structure a major and institutionalized way to be heard effectively. I would contemplate very substantial participation by these organizations in the formation of the new Commission and in assisting it in various activities, and the legislation itself would give these organizations a number of specific important roles to play.

COMPOSITION OF THE COMMITTEE

The Commission would be composed of 15 members; six would come from recommendations of the Committees on Veterans' Affairs of the House and Senate—three from each body—to be selected and appointed by the Speaker of the House and the majority leader in the Senate from a list of names—of which at least one must be from each party—submitted by each committee. Each committee could recommend Congressmen or Senators, or employees of the House or Senate, or members of the public to be appointed.

There would be nine "public" members appointed by the President, by and with the advice and consent of the Senate, from recommendations submitted to the President by congressionally chartered and other appropriate national veteran organizations, including those representing Vietnam-era veterans. At least three of these public members would be veterans of the Vietnam era. Those veterans presently comprise between one-fourth and one-fifth of all veterans but are very much underrepresented in all VA decisionmaking and, because of their comparative lack of seniority, in the hierarchy of existing major veterans organizations.

No more than five of the nine "public" members could be members of the same political party.

The Commission would appoint its own chairman, after a 1-year term served by an interim chairman, who would be selected by the President from the initial 15 members of the Commission.

Commission members would serve for fixed, staggered terms of 5 years, removable only by a vote of nine other members for malfeasance in office or for persistent neglect of, or inability to discharge, their duties, or for offenses involving moral turpitude and for no other cause.

FUNCTIONS OF THE COMMISSION

In order to enable it to fulfill its broad mandate, the Commission would need its own staff of about 50 in Washington. The legislation specifically provides for an Executive Director—at executive level IV salary—a Deputy Executive Director and General Counsel—both at executive level V salary—appointed by the Commissioners. It would have an authorization of appropriations of such sums as may be necessary for it to carry out the functions and responsibilities assigned to it under the new legislation. Those functions are:

First, to review the effectiveness and appropriateness of all laws providing rights and benefits for veterans, the regulations issued under such laws by the Federal agency—which for the purposes of this legislation includes any department, agency, or instrumentality of the United States—charged with the responsibility for administering such laws, and the method of implementing, and the operation of, the programs designed to provide such rights and benefits;

Second, to make special studies of the effectiveness and appropriateness of all laws, regulations, and programs provided for, or applicable to, veterans of the Vietnam era;

Third, to monitor and evaluate the effectiveness of veterans programs provided pursuant to State and local laws, particularly where Federal funds may be involved;

Fourth, to investigate patterns of allegations indicating that veterans are being denied rights or benefits authorized by law or regulation, or that the hospital care or medical services, nursing home care, or domiciliary care is inadequate, or that payments of benefits under any law are being delayed or otherwise being inefficiently administered;

Fifth, to appraise the adequacy and equitability of the laws, appropriations, and policies of the Federal Government with respect to meeting the needs of veterans to readjust to civilian life and compensating them for their losses attributable directly or indirectly to their service in the Armed Forces, and to make recommendations and draft proposed legislation to improve the adequacy and equitability of such laws and policies where indicated;

Sixth, to serve as a national clearinghouse and dissemination center for information relating to the needs and problems of veterans and the resources available and required to meet such needs and solve such problems;

Seventh, to advise the President and the Congress regarding the effectiveness and appropriateness of all proposed legislation and new programs affecting veterans' rights and benefits; and

Eighth, to serve as an advocate for the correction of problems, and the enactment and full implementation of adequate and equitable laws providing for veterans' rights and benefits, as may be revealed through the activities of the Commission.

COMMISSION FIELD REPRESENTATIVES

Mr. President, to provide meaningful input and direct feedback from the field, the Commission would have representatives in every VA hospital and outpatient clinic—about 200—across the country, except where the size of the workload at such a facility would not warrant such a placement. At a minimum, there would

be at least one such representative stationed in each State.

These Commission representatives would be able to relate directly back to the Washington-based Commission staff and carry out special investigative activities in the field, as directed by the Commission, using the available resources of volunteers and veterans service organizations. Also, each Commission representative, generally supported by one clerical employee, would act as an advocate for veterans hospital, nursing home, and domiciliary patients and other veterans seeking VA benefits, by dealing directly with appropriate VA officials to resolve informally grievances, misunderstandings, and complaints brought to the field representative's attention, especially problems of patient institutionalization and health care.

In appointing these Commission representatives, the legislation calls for special priority to be given to qualified professional veterans' service officers and to veterans of the Vietnam era meeting appropriate Civil Service job requirements.

An ongoing channel of communication will also be encouraged by provisions in the proposed legislation recognizing and seeking to make maximum use of the expert cooperation and consultation of veterans' organizations and advisory committees, and authorizing compensation for their services.

The Commission's effectiveness would be greatly enhanced by specific statutory authority to represent general veterans' interests before Federal agencies by participating and intervening in Federal agency rulemaking and regulation-making proceedings and hearings, and by instituting, or intervening in as of right, civil proceedings for judicial review of any Federal agency action of substantial importance to the interests of veterans. This is especially important as to all Veterans Administration rules and regulations which under 38 U.S.C. 210(a), may not be challenged, except on constitutional grounds, by individual veterans in court.

Moreover, Mr. President, the legislation, by stipulating concurrent submission to Congress of budget estimates and recommendations, comments, or testimony on legislation at the same time as submitted to the President or the Office of Management and Budget, would provide the Commission with clear independence from the domination of other agencies and officials. This is designed to give the Congress the information it requires to carry out its legislative, appropriations, and oversight responsibilities. Impetus for continuation of or increases in levels of funding to carry out all existing laws and programs affecting veterans' rights and benefits would be created by requiring the Commission to submit a report to the appropriate congressional committees each year, within 60 days of submission of the President's annual budget. In this special budget report, the commission would assess the adequacy of the President's annual budget request to Congress regarding all such laws and programs.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. BIDEN). All time for morning business has now expired.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2771) to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the Armed Forces, and for other purposes.

ORDER OF BUSINESS ON NO-FAULT INSURANCE BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment by the Senator from Tennessee (Mr. BAKER), No. 1137, to the no-fault bill, be laid before the Senate and made the pending business at the close of business today and that it be the pending question on tomorrow at the conclusion of routine morning business, with a time limitation thereon of 4 hours, to be equally divided and controlled in the usual form; and that a time limitation on any amendment to the amendment be 30 minutes, to be equally divided and controlled in accordance with the usual form.

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

EXECUTIVE SESSION

The PRESIDING OFFICER (Mr. BIDEN). Under the previous order, the hour of 1:05 a.m. having arrived, the Senate will now go into executive session to consider nominations on the Executive Calendar.

The clerk will state the nominations.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator from Indiana (Mr. BAYH) may speak for 1 more minute.

Mr. PROXMIRE and Mr. HUGHES objected.

The PRESIDING OFFICER. Objection is heard.

The clerk will state the nominations.

U.S. AIR FORCE

The legislative clerk read the nomination of Brig. Gen. Warner E. Newby to be a major general.

Mr. BAYH. Mr. President, are the executive nominations subject to discussion?

Mr. PROXMIRE. Mr. President, under the agreement am I not to be recognized for half an hour?

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) is now recognized for not to exceed 30 minutes.

Mr. PROXMIRE. Mr. President, I apologize to the distinguished Senators from Indiana and Alaska. I know that they would like to continue their interesting debate. I was very much interested in it, but we have made this agreement and I believe that we had better stick with it. I was originally supposed to start talking at a quarter to one today and we have already gone 20 minutes past that time, so I do not see how we can delay this matter further.

Mr. BAYH. Mr. President, if the Senator from Wisconsin will yield for one observation. The putting off of the time began before the Senator from Indiana got the floor. I want to say that I am sorry for any inconvenience I may have caused.

Mr. PROXMIRE. I am sure that is true. It has been no inconvenience to me. It is perfectly all right with me.

Mr. STENNIS. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. STENNIS. I should like to inquire what is the next order of business, if there is a next order of business?

Mr. PROXMIRE. I make that inquiry of the Chair as to what is the next order of business after these nominations have been acted on.

The PRESIDING OFFICER. After the nomination of these officers?

Mr. PROXMIRE. Let me clarify my request. I think that the order of business is to consider the nomination of the officers and, as I understand it, I am to be recognized first and then after we act on that, the Senator from Iowa has time and the Senator from Mississippi, as the chairman of the Armed Services Committee, I presume, has time in opposition, and then whatever time the Senator from Iowa (Mr. HUGHES) has.

The PRESIDING OFFICER. After the 30 minutes, we will be acting on all the nominations save the two. The Senator from Iowa and the Senator from Mississippi have time of half an hour each.

TOO MANY GENERALS AND ADMIRALS

Mr. PROXMIRE. Mr. President, on April 19, 1954, the Senate debated and finally passed H.R. 7103, a bill to establish limitations on the number of commissioned officers in the Armed Forces.

This Officer Grade Limitations Act was intended to supersede language then existing in appropriation bills. The justification for the bill before both the House and Senate was to allow more high-ranking officers to be appointed and promoted in the aftermath of the Korean war.

It is extremely important to note that the manager of the Senate bill, Mr. Saltonstall, stated that the principle involved in this Officer-Grade Act theoretically was not the best concept. For that time it was the most practical. But it was not the best concept.

The concept established was to vary

the number of general and flag-rank officers inversely with the total officer corps. As the officer population went up, the percentage of highest ranking officers went down. As the officers corps went down, the percentage of highest ranking officers went up.

Clearly, the effect of this legislation, as seen then and now, is to protect generals and admirals regardless of what happens in the rest of the Armed Forces.

Mr. President, it has worked superbly. The generals and admirals have been protected. They have not been subject to the scrutiny of Congress or the requirements for overall effectiveness. They have become a self-protecting caste system by present legislation.

How has this come about? The 1954 legislation states it plainly. The bill manager said at that time that theoretically the perfect way of handling the problem of generals and admirals was to base the number of high-ranking officers on the number of troops in the Armed Forces.

Yet even though this was recognized by the Senate as the best way of limiting generals and admirals, the sliding scale was legislated to increase promotions.

Mr. President, I ask unanimous consent that the CONGRESSIONAL RECORD pages from that debate on April 19, 1954, be printed in the RECORD.

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

LIMITATION OF OFFICERS IN ARMED SERVICES

The bill (H.R. 7103) to establish limitations on the number of officers who may serve in various commissioned grades in the Army, Navy, Air Force, and Marine Corps, and for other purposes, was announced as next in order.

Mr. SMATHERS. Mr. President, reserving the right to object, I wonder if we may have an explanation of this bill.

Mr. SALTONSTALL. Mr. President, I should be very glad to give an explanation of the bill.

First, the enactment of the bill will not result in any additional expenditure of funds.

Second, it will provide a better method of congressional control over the military structure which has long been needed.

Mr. President, under the present situation, the officers in any grade are limited by numbers. The Senate Armed Services Committee, through a subcommittee under the distinguished leadership of the Senator from Mississippi [Mr. STENNIS], went into the subject with a great deal of care and established certain numerical limitations on the numbers of officers in the various services. More recently, the House committee studied the question for 6 months to try to work out a percentage basis rather than a flat numerical basis. If the distinguished Senator from Florida will turn to the act, which is the last act in this book [indicating], he will see that the officer strength in the five top grades in the various services is fixed in comparison with the total officer strength. The bill does not propose to try to fix the officer strength in comparison with the enlisted men strength. That, perhaps, theoretically, would be the best way of doing it. But the bill fixes the officer strength in proportion to the various grades of officers and the number in those grades.

In addition to that, the armed services, at the first of each year, not later than January 31, will give to the Congress the numerical list of officers the armed services expect to have in that fiscal year. In that way the nominations for promotions which come before the Senate will be considered by a more orderly method than has been followed in the past, since we shall know the number of officers in the various grades.

The bill applies to the Regular forces as well as to the active Reserves. The purpose is to control temporary promotions. We now act on the basis of the number of generals, the number of colonels, and so forth. The bill would permit promotions on a percentage basis rather than on a flat scale. It would give specific and realistic numerical control over the promotions in all the services.

The bill would also repeal the so-called Van Zandt amendment to the act limiting voluntary retirement.

In the past few years we have had difficulty with the so-called Davis amendment which, instead of starting promotions at the top, prevented a great many of general officers from receiving legitimate promotions. We ran into a great deal of difficulty. The purpose of this bill is to eliminate those difficulties and place the promotions on a sliding scale, and notice will be given to the Congress as to what is intended during the year.

Mr. SMATHERS. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. SALTONSTALL. I yield.

Mr. SMATHERS. Does the bill, then, intend that, based on the number of men in any particular branch of the service, there shall be a certain percentage of officers in relation to the number of men?

Mr. SALTONSTALL. It does not do that. As I stated, that is theoretically the perfect method of handling it. The bill undertakes to make the basis the total number of officers. For instance, the number of generals is seventy-five one hundredths of 1 percent of the officers, and the bill attempts in that way to limit the number of officers and the number who can be in any 1 grade of the top 5 grades.

Mr. SMATHERS. There are certain percentages worked out for the grades of general, lieutenant general, colonel, and so on down. Is that correct.

Mr. SALTONSTALL. The bill provides a sliding scale of definite numbers based on percentage.

Mr. SMATHERS. Does it mean that there will be fewer generals and fewer high-ranking officers, and perhaps more officers with field rank than there have been?

Mr. SALTONSTALL. I do not think there will be any great change in the number of general officers and the number of colonels. The number will be down rather than up, I hope. It means the proportion of generals to the proportion of other officers will be on a sliding scale. If it is determined that the whole number shall be reduced, the number of generals and colonels will be reduced.

I believe, Mr. President, it is a good bill. It is not a perfect bill, but it is a step in the right direction. The senior minority member of the committee [Mr. RUSSELL] approved of the bill. My colleague, the Senator from Wyoming [Mr. HUNT], will agree with me that it is a good bill but not a perfect one. It is a step in the right direction, as I have said.

PROPORTION OF OFFICERS ON PROPORTIONAL BASIS

Mr. MALONE. Mr. President, will the Senator from Massachusetts yield?

Mr. SALTONSTALL. I yield.

Mr. MALONE. Might not the Senator's bill work in reverse? They might promote more generals in order to promote more officers of junior rank.

Mr. SALTONSTALL. If I correctly understand the Senator's question, the bill does not apply to Reserve officers unless they are in active service.

Mr. MALONE. But do we not have a National Guard built up with officers who are in the service on full time?

Mr. SALTONSTALL. The Reserve officers' promotions are separate.

Mr. MALONE. If it was desired to have more officers of a lower grade it would be necessary to make more generals in order to keep the proper proportion, according to the terms of the bill.

Mr. SALTONSTALL. On January 31, of each year, the Department of Defense will send to the Congress a list of what it believes will be the proportion of officers during the next year. That is on the basis of the proportion shown in the bill. So many officers will constitute a certain number of generals, a certain number of colonels, a certain number of lieutenant colonels, and a certain number of majors. For instance, with an officer strength of 50,000 in the Army, there would be 350 generals, 3,352 colonels, 6,940 lieutenant colonels, and 9,350 majors.

Mr. MALONE. I have no intention of objecting to the bill; I merely desired to understand it. My suspicion is confirmed that in order to have more officers of lesser rank, more generals would have to be appointed. In other words, the point is being reached where there will be more chiefs and less Indians.

Mr. SALTONSTALL. I would answer the Senator's statement by saying that that is not so.

Mr. MALONE. If the number of officers are not limited except in proportion to the generals—and the number of generals are not limited, just what does the bill accomplish?

The PRESIDING OFFICER. The Chair advises the Senator from Massachusetts that his 5 minutes under the rule have expired.

Mr. HENDRICKSON. Mr. President, I ask unanimous consent that the Senator from Massachusetts may be granted an additional 5 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Massachusetts is recognized for an additional 5 minutes.

Mr. SALTONSTALL. I appreciate the courtesy of the Senator from New Jersey.

Mr. MALONE. My question has not been answered. The question is, Cannot more junior officers be appointed through the simple procedure of recommending that more generals be appointed, which officers are not limited?

Mr. SALTONSTALL. I may say to the Senator from Nevada that the bill controls the top five grades; it does not control grades below the rank of major.

Mr. MALONE. What are the top grades and what are the lower grades in relation to such promotions?

Mr. SALTONSTALL. The lowest grade is that of major.

Mr. MALONE. A major's duties have always been somewhat of a mystery?

Mr. SALTONSTALL. Lieutenants and captains would not come within the quotas contained in the bill. In other words, as I understand—and I believe my understanding is correct—the bill in itself would not place a limitation upon the number of lieutenants and captains who could be promoted; it would place limitations on the number of majors and those of ranks higher than that of major.

Mr. MALONE. I may say to the distinguished Senator from Massachusetts that I have no objection even to a limited number of promotions of majors. But without doubt the approval of promotions of officers is one of the things that the Senate knows least about. This bill does not seem to add much to the information.

Mr. SALTONSTALL. I may say to the Senator from Nevada that I think the Committee on Armed Services does go into the question of proportions. What has been done in the past has been to bring the number of general officers within the so-called Senate formula. The Senate formula actually provides for fewer officers in the top grades than does the formula contained in the statute. All promotions in the past 2 or 3 years, to my knowledge, have been kept within the so-called Senate formula. The Senate formula is based upon numbers; the statutory formula is based upon proportions or percentages.

We believe the bill is fairer to the officers and fairer to Congress because it provides better opportunity for officers to advance.

Mr. MALONE. I may say to the Senator from Massachusetts that any additional information on this subject will be helpful to the Senate.

I do not object to the bill.

Mr. SMATHERS. Mr. President, will the Senator from Massachusetts yield?

Mr. SALTONSTALL. I yield to the Senator from Florida.

Mr. SMATHERS. As I understand the bill does not affect Reserve officers at all.

Mr. SALTONSTALL. It does not affect Reserve officers unless they are on active duty. If they are on active duty, and are above the rank of major, and up to the rank of general, it does affect them, because they are officers of the armed service.

Mr. SMATHERS. I take it the distinguished chairman of the Committee on Armed Services is aware of the fact that today most Reserve officers complain that they are being made subject to discrimination in the matter of promotions.

Mr. SALTONSTALL. There is no question about that. I have heard that statement. I only hope it is not so well-founded as some persons who have not been promoted would seem to indicate.

Mr. SMATHERS. I wonder if the able chairman of the committee can give assurance to Reserve officers that the Committee on Armed Services intends to investigate the matter, so as to make certain that Reserve officers can obtain a basis of promotion which is fair, equitable, and as generous to them as it is in the case of the promotion of Regular officers.

Mr. SALTONSTALL. The committee will begin hearings on such a bill on Thursday next. An attempt will be made to draft and submit as fair a bill as possible. I think the two big problems still remaining for the Committee on Armed Services this year are, first, to devise a program of Reserve training, with respect to which the committee is endeavoring to stimulate the Department of Defense into submitting recommendations; and second, to prepare a plan for the promotion of Reserve officers.

Mr. SMATHERS. I am certain the chairman of the committee recognizes that the Reserves are the basis of our defense. Actually, they are the foundation of our defense. If men are to be kept active in the Reserves, it is necessary to give them an equal opportunity for promotion with the members of the Regular Army.

Mr. SALTONSTALL. The Senator is absolutely correct.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill (H.R. 7103) was considered, ordered to a third reading, read the third time, and passed.

Mr. PROXMIRE. Now, Mr. President, 20 years after that landmark legislation was passed we still are struggling to understand what was created. How can we measure the number of generals and admirals in any meaningful way. By total numbers? That is only part of the story and, of course, gives a false impression of the responsibilities of these officers if the number of troops fluctuates widely.

By percentage of total Officer Corps? That only documents the ratio established in the 1954 act which admittedly was not the best method of determining a proper balance.

What then is a fair way to view the situation?

The best way of understanding the problem is represented on the chart at the back of the chamber which shows the ratios of troops to generals and admirals. Everyone would admit that a general has command responsibilities. That is the purpose of his rank. He commands men and women. By measuring the number of troops per general or admiral we get a good idea of how the total numbers have changed in terms of a constant ratio. In other words, we eliminate the effects of changing force levels.

The numbers are alarming, as anyone who cares to glance at the charts now in the back of the Chamber can see. It shows a remarkable drop in the ratio—which means, of course, a colossal increase in the proportion of admirals and generals to troops—and I mean colossal. They show that the number of troops per general or admiral has declined sharply.

The red line at the top of the chart indicates the number of Department of Defense personnel per four- and five-star general and admiral. Observe how the line declines abruptly. It indicates that when we fought and won World War II against two of the strongest adversaries ever faced in warfare, the United States had one four- or five-star general and admiral for every 600,000 troops. That ratio was good enough to see us through to victory. There were about 12 million personnel in the Armed Forces at that time and 20 four- or five-star officers.

We were not at peace long. By 1952 at the height of the Korean war the ratio had precipitately dropped to one four- and five-star general or admiral for every 145,000 troops. The total numbers of generals and admirals increased to 25 while the troop strength declined to 3.6 million.

By 1971, the ratio was one four- and five-star officer per 68,000 troops. Right now that ratio stands at one per every 56,000 troops.

Mr. President, let me point out this is not all generals and admirals—just the highest—the four- and five-star officers.

The logical implication of this decline, and it can be seen on the chart, is that we are fast approaching the point when we will have a one for one ratio—one 4- and 5-star officer for every man in uniform. At the present mathematical rate, it will happen in about 30 years.

The black line represents the number of three-star lieutenant generals and vice admirals. It, too, indicates a sharp dropoff in the ratio. During World War II, the number of troops per 3-star officers was 1 per 120,000. By 1952 it had fallen to 1 per 56,000. In 1971 it was 1 per 19,000, and now it stands at 1 per 17,000. Where will it stop?

The blue line at the bottom of the chart represents major generals, brigadier generals, and rear admirals lumped together to be statistically comparable with Defense Department data from World War II.

While this line shows a much more gentle falloff, the numbers indicate that a similar decline in the ratio has occurred. The ratio of one of these officers per 6,000 troops in 1945 falls to 1 per 3,500 troops in 1952; 1971 saw the figure slip to 1 per 2,400 troops and now, in 1974, it stands at 1 per 2,000 troops.

It should be noted at this point that all of these figures come directly from the Department of Defense. No outside source of information was used. I did not dream this up. It is not on the basis of any foundation study. It is what the Department of Defense admits is the case.

Why have I compared our force structrre over time? What about other countries? Are they as bad off?

Senator GOLDWATER has raised this issue when I have complained about the number of admirals and generals before.

My answer is simple. There is no adequate comparison with any other country in the world. What sense does it make to compare the U.S. Armed Forces with that of a military dictatorship somewhere else in the world or with the welfare state Scandinavian countries? We have a unique force structure that does not translate into statistics in other countries. I do not intend to argue, as many have, that the U.S.S.R. does a much better job in this area than the United States.

We must compare ourselves to ourselves, not with the Soviet Union—which, incidentally, does have a much better ratio, a lower number of general officers in relationship to their troops, than we have. I am not raising that argument, however. We must compare ourselves to ourselves, as the only measure of efficiency. That is the only measure of efficiency.

When we do that, it is more than evident that the present method of limiting the total numbers of generals and admirals just does not work. It is not adequate. It must be revised based on a new concept that applies to the military needs of the 1970's rather than to an obsolete promotion schedule of 1954.

Mr. President, I ask unanimous consent that appropriate charts indicating these statistics be printed in the RECORD.

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

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, JUNE 30, 1945

	Total, Department of Defense	Army and Air Force: Total, War Department	Army commands	Air Force commands	Navy (excluding Coast Guard)	Marine Corps
Total	12,123,455	8,267,958	5,985,099	2,282,259	3,380,817	474,680
Officers, total	1,260,109	891,663	510,209	381,454	331,379	37,067
General of the Army—Fleet admiral	7	4			3	
General—Admiral	31	13			17	1
Lieutenant general—Vice admiral	101	50	1,221	298	49	2
Major general / Brigadier general / Rear admiral [1]	1,929	392 / 1,060			[1] 401	28 / 48
Colonel—Captain	14,989	10,721	8,145	2,576	3,877	391
Lieutenant colonel—Commander	36,967	29,077	21,852	7,225	6,861	1,029
Major—Lieutenant commander	91,602	70,086	46,686	23,400	19,356	2,160
Captain—Lieutenant	300,610	197,591	125,885	71,706	96,784	6,235
1st lieutenant—Lieutenant (junior grade)	436,792	328,245	193,328	134,917	94,278	14,269
2d lieutenant—Ensign	294,121	198,164	96,229	101,935	86,316	9,641
Chief or comm. warrant / Warrant junior grade or warrant / Flight officers	82,960	56,260	16,863	39,397	23,437	3,263
Enlisted, total	10,795,775	7,374,710	5,743,905	1,990,805	2,988,207	432,858
E-7 [2]	248,520	112,307	70,845	41,462	124,310	11,903
E-6 [2]	533,084	215,396	110,073	105,323	300,315	17,383
E-5 [2]	1,039,117	611,859	363,468	248,391	449,426	27,832
E-4 [2]	1,734,787	1,051,275	693,410	357,865	633,799	49,713
E-3 [2]	2,388,387	1,541,699	1,090,107	451,682	757,809	88,879
E-2 [2]	2,910,031	2,255,620	1,832,586	423,034	500,225	154,186
E-1 [2]	1,891,849	1,586,554	1,313,506	273,048	222,323	82,972
Officer candidates, total	67,571	1,585	1,585		61,231	4,755
Cadets USMA	1,585	1,585	1,585			
Navy officer candidates	61,231				61,231	
Marine Corps officer candidates	4,755					4,755

[1] Includes 140 commodores.

[2] Grade designations established by "Career Compensation Act of 1949." Includes 16,764 aviation cadets.

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, JUNE 30, 1952

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Total	3,635,912	1,596,419	824,265	231,967	[1] 983,261
Officers, total	375,829	148,427	82,274	16,413	128,742
General of Army or fleet admiral	6	3	3		
General or admiral	19	8	5	1	5
Lieutenant general or vice admiral	65	22	25	4	14
Major general, brigadier general, or rear admiral	1,052	165 / 281	[2] 256	118 / 131	120 / 181
Colonel or captain	12,490	4,869	2,983	516	4,122
Lieutenant colonel or commander	28,927	12,830	6,632	1,011	8,454
Major or lieutenant commander	53,008	17,249	12,222	2,848	20,689
Captain or lieutenant	107,412	36,988	24,958	5,549	39,917
1st lieutenant or lieutenant (j.g.)	81,556	36,595	15,004	647	29,310
2d lieutenant or ensign	65,937	24,922	14,356	4,932	21,727
Chief or Comm Warrant W-4	447	281	15	20	131
Chief or Comm Warrant W-3	2,507	853	1,011	358	285
Chief or Comm Warrant W-2	6,706	2,243	2,974	459	1,030
Junior warrant or warrant	15,697	11,118	1,803	19	2,757
Enlisted, total	3,245,310	1,446,266	735,753	215,554	847,737
E-7	154,837	43,930	58,104	7,657	45,146
E-6	202,123	78,367	61,849	7,935	53,972
E-5	364,434	165,396	60,790	11,441	126,807
E-4	630,129	326,603	115,124	28,791	159,611
E-3	845,724	411,604	220,249	33,177	180,694
E-2	806,266	295,684	177,118	105,849	227,615
E-1	241,797	124,682	42,519	20,704	53,892
Officer candidates, total	14,773	1,726	6,265		6,782
Cadets USMA	1,726	1,726			
Navy Officer Candidates	6,265		6,265		
Aviation Cadets	6,782				6,782

[1] Includes 4 commodores.

[2] Includes 9,787 Army personnel in training for SCARWAF duty.

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, JUNE 30, 1971

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Total	2,714,727	1,123,810	623,248	212,369	755,300
Officers, total	371,416	148,950	74,782	21,765	125,919
General of Army or fleet admiral	1	1			
General or admiral	39	15	9	2	13
Lieutenant general or vice admiral	145	45	49	9	42
Major general, brigadier general, or rear admiral	1,145	197 / 255	256	28 / 38	157 / 214
Colonel or captain	17,388	6,008	4,286	747	6,347
Lieutenant colonel or commander	40,431	14,607	8,673	1,650	15,501
Major or lieutenant commander	65,724	22,302	15,015	3,350	25,057
Captain or lieutenant	122,351	49,130	18,829	5,643	48,749
1st lieutenant or lieutenant (junior grade)	59,686	24,010	13,738	6,084	15,851
2d lieutenant or ensign	39,288	13,691	9,488	2,522	13,587
Chief warrant officer W-4	2,345	1,621	243	83	398
Chief warrant officer W-3	3,637	3,219	104	314	
Chief warrant officer W-2	14,848	11,076	2,815	957	
Warrant officer W-1	4,388	2,773	1,277	338	
Enlisted, total	2,329,754	971,872	542,298	190,604	624,980
E-9	15,926	4,546	3,390	1,700	6,290
E-8	40,842	15,687	9,018	3,750	12,387
E-7	151,649	58,392	38,864	8,903	45,490
E-6	270,733	94,725	77,693	14,760	83,555
E-5	450,338	181,068	94,370	25,236	149,664
E-4	576,306	266,825	118,315	33,788	157,378
E-3	409,904	129,900	134,680	43,722	101,602
E-2	210,415	74,958	53,226	30,789	51,442
E-1	203,641	145,771	12,742	27,956	17,172
Officer candidates, total	13,557	2,988	6,168		4,401
Cadets USMA	2,988	2,988			
Midshipmen USNA	4,485		4,485		
Cadets USAFA	4,401				4,401
Naval enlisted officer candidates	1,683		1,683		

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, OCT. 31, 1972

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Total	2,371,574	865,463	593,824	199,168	713,119
Officers, total	331,233	120,576	71,570	19,609	119,478
General of the Army or fleet admiral	1	1			
General or admiral	38	13	9	2	14
Lieutenant general or vice admiral	142	48	47	8	39
Major general or rear admiral (U)	480	197	105	24	154
Brigadier general or rear admiral (L)	651	249	153	38	21
Colonel or captain	16,547	5,647	4,101	697	6,102
Lieutenant colonel or commander	36,832	12,411	8,443	1,544	14,434
Major or lieutenant commander	61,432	20,133	15,446	3,053	22,800
Captain or lieutenant	112,674	39,405	19,301	5,306	48,662
1st lieutenant or lieutenant (jg.)	43,114	15,535	9,270	4,717	13,592
2d lieutenant or ensign	37,620	11,402	10,253	2,681	13,284
Chief warrant officer W-4	1,923	1,464	109	164	186
Chief warrant officer W-3	4,548	3,279	639	630	
Chief warrant officer W-2	12,600	9,289	2,684	627	
Warrant officer W-1	2,631	1,503	1,010	118	

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Enlisted, total	2,026,542	740,931	516,391	179,559	589,661
E-9	15,230	4,082	3,747	1,495	5,906
E-8	37,922	13,644	9,057	3,288	11,933
E-7	140,541	50,644	37,722	8,664	43,511
E-6	250,660	82,903	74,894	12,912	79,951
E-5	366,088	123,291	83,191	25,310	134,296
E-4	473,310	189,972	107,592	22,800	152,946
E-3	305,381	85,125	99,464	28,434	92,358
E-2	195,745	74,068	50,503	34,367	36,807
E-1	241,665	117,202	50,221	42,289	31,953
Officer candidates, total	13,799	3,956	5,863		3,980
Cadets, U.S. Military Academy	3,956	3,956			
Midshipmen, U.S. Naval Academy	4,236		4,236		
Cadets, U.S. Air Force Academy	3,980				3,980
Naval enlisted officer candidates	1,627		1,627		

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, DEC. 31, 1973

	Total, Department of Defense	Army	Navy	Marine Corps	Air Force
Total	2,201,539	782,243	556,209	189,392	673,695
Officers—Total	308,805	108,336	68,189	18,794	113,486
General of the Army—Fleet admiral	1	1			
General—Admiral	38	12	10	2	14
Lieutenant general—Vice admiral	131	44	43	7	37
Major general—Rear admiral (U)	465	188	110	25	142
Brigadier general—Rear admiral (L)	631	237	142	37	215
Colonel—Captain	15,723	5,205	3,865	637	6,016
Lieutenant colonel—Commander	35,322	11,896	7,917	1,514	13,995
Major—Lieutenant commander	57,464	18,177	14,802	2,987	21,498
Captain—Lieutenant	96,495	31,193	15,851	5,041	44,410
1st lieutenant—Lieutenant (jg.)	41,390	13,436	11,066	3,737	13,151
2d lieutenant—Ensign	41,133	13,378	10,304	3,535	13,916
Chief warrant officer W-4	1,722	1,414	50	166	92
Chief warrant officer W-3	5,455	3,505	1,369	581	
Chief warrant officer W-2	10,061	7,524	2,189	348	
Warrant officer W-1	2,774	2,126	471	177	

	Total, Department of Defense	Army	Navy	Marine Corps	Air Force
Enlisted—Total	1,879,905	670,051	482,978	170,598	556,278
E-9	14,252	3,910	3,494	1,410	5,438
E-8	35,167	12,493	8,500	3,422	10,752
E-7	129,657	45,980	34,221	8,870	40,586
E-6	230,304	73,691	68,672	13,054	74,887
E-5	317,074	95,096	77,041	23,750	121,187
E-4	386,432	137,984	86,745	21,914	139,789
E-3	348,733	126,136	88,872	33,355	100,370
E-2	256,261	107,012	74,890	31,617	42,742
E-1	159,755	67,749	38,273	33,206	20,527
Grade not reported	2,270		2,270		
Officer candidates—Total	12,829	3,856	5,042		3,931
Cadets USMA	3,856	3,856			
Midshipmen USNA	4,246		4,246		
Cadets USAFA	3,931				3,931
Naval enlisted officer candidates	796		796		

Source: Department of Defense, OASD (Comptroller) Directorate for Information Operations.

DECLINING NUMBER OF TROOPS PER GENERAL OR ADMIRAL

[From the Office of Senator William Proxmire]

	World War II	Korea	1971	1974
4- and 5-star	1 per 606,172 troops	1 per 145,436	1 per 67,868	1 per 56,449.
3-star	1 per 120,034	1 per 55,937	1 per 18,722	1 per 16,805.
1- and 2-star	1 per 6,284	1 per 3,456	1 per 2,370	1 per 2,008.

JUNE 30, 1945

Category	Total	DOD ratio	Officer ratio
Generals of the Army/fleet admirals and generals/admirals	20	1/606,172	1/63,005
Lieutenant generals/vice admirals	101	1/120,034	1/12,476
Major generals/brigadier generals/rear admirals	1,929	1/6,284	1/653
Colonels/captains	14,989	1/808	1/84
All generals	2,050	1/5,913	1/614
All categories above	17,039	1/711	1/73
Total, DOD Armed Forces	12,123,455		
Total, Officer Corps	1,260,109		
Total, Officer Corps/total DOD ratio		1/9.6	

JUNE 30, 1952

Category	Total	DOD ratio	Officer ratio
Generals of the Army/Fleet Admirals and generals/admirals	25	1/145,436	1/15,033
Lieutenant generals/vice admirals	65	1/55,937	1/578
Major generals/brigadier generals/rear admirals	1,052	1/3,456	1/357
Colonels/captains	12,490	1/291	1/30
All generals	1,142	1/3,183	1/329
All categories above	13,632	1/266	1/27
Total, DOD Armed Forces	3,635,912		
Total, Officer Corps	375,829		
Total Officer Corps/total DOD ratio		1/9.6	

JUNE 30, 1971

Category	Total	DOD ratio	Officer ratio
Generals of the Army/fleet admirals and generals/admirals	40	1/67,868	1/9,285
Lieutenant generals/vice admirals	145	1/18,722	1/2,561
Major generals/brigadier generals/rear admirals	1,145	1/2,370	1/324
Colonels/captains	17,388	1/156	1/21
All generals	1,330	1/2,041	1/279
All categories above	18,718	1/145	1/20
Total, DOD Armed Forces	2,714,727		
Total, Officer Corps	371,416		
Total, Officer Corps/total DOD ratio		1/7.3	

OCTOBER 31, 1972

Category	Total	DOD ratio	Officer ratio
Generals of the Army/Fleet Admirals and generals/admirals	39	1/60,809	1/8,493
Lieutenant generals/vice admirals	142	1/16,701	1/2,332
Major generals/brigadier generals/rear admirals	1,131	1/2,096	1/292
Colonels/captains	16,547	1/143	1/20
All generals	1,312	1/1,807	1/252
All categories above	17,859	1/132	1/18
Total, Officer Corps/total DOD ratio		1/7.1	

ADMIRAL RICKOVER

Mr. PROXMIRE. How serious is the present situation? Perhaps I am overestimating the problem and we really need all of these generals and admirals.

Last year this body unanimously voted on a promotion for one of the Nation's most respected military spokesmen, Adm. Hyman G. Rickover. He is one of the few men in uniform that is outspoken and strong enough to stand up to conventional ideas. What has he said about the problem of too many generals and admirals?

He testified before Congress as follows:

There is a sickness in the Defense Department which has been going on for many years.

He attributed this sickness to the high-ranking officers with large staffs that add bureaucracy to complex problems but provide no experience. He stated:

From fiscal year 1964, the first pre-Vietnam year, to fiscal year 1973 there has been an 11 percent decrease in military personnel. Despite this reduction in total personnel, the number of flag officers in the military services, for example, has increased by 44.

It has not gone down. It has gone up.

He went on to document how these high-ranking officers were concentrated in the support roles—not in combat units but in support.

He concluded that—

Congress should refuse to appropriate any funds for the military until the Department of Defense has reduced by at least half the number of management echelons between the technical or operational level and the Secretary's staff.

He added:

I would also reduce over a period of 5 years the number of flag and senior officers by 50 percent from what they are now.

When asked why, he replied that "if you would do that we would have a far more efficient military organization."

AIR FORCE PROMOTIONS

Mr. President, the nominations before us include a list of 91 Air Force general officers. The Air Force is in a special situation with regard to its promotions.

Due to the inequitable situation existing in the 1950's when the Air Force was getting started, its promotions schedule has been modified to make up for the discrepancy created by the younger age and smaller force structure in early years. The Air Force has asked for this special legislation on five occasions in the past and probably will make it a sixth some time soon this year.

Beginning in 1959, Congress called for reform of the officer grade process. The Defense Department said it was working on the problem. It said that every year until 1966, when permanent legislation was passed by the House but rejected in the Senate when the distinguished Senator from Georgia, Mr. Russell, urged that the extension be temporary so that reforms could be made. At that time it was my understanding that the Pentagon again promised to have corrective legislation in a year or so. That was 15 years ago, and none came.

In October of 1972, when the Air Force last asked for an extension of the Office Grade Limitation Act (OGLA), the Senate agreed to extend them only for 2 years and, based on an amendment I sponsored, additionally agreed to submit a written report the next summer with recommendations for grade limits on all officers.

That report, submitted in May of 1973, concluded that no changes be considered in the existing statutory limitations of the number of generals and admirals. Fourteen years of study and the Pentagon provides the astonishing conclusion that they want no changes in the general officer limitations.

If it took the Pentagon that long to come to that conclusion, there need be no better justification for cutting back on the bureaucracy.

Although inadequate from a number of aspects, that May 1973 report did make a highly interesting point.

On page 20 it stated that the pre-World War II programs had no significant impact on promotion stagnation and the accumulation of many older officers in high ranks.

Let me quote from that report as to what happened next:

Consequently, during the early stages of World War II it was necessary to remove significant numbers of operational commanders due to lack of vigor and stamina. Meanwhile, many younger officers were rapidly promoted to senior grades without the opportunity to gain experience in the middle grades.

This report is a clear signal of the danger of allowing a topheavy command structure. It actually weakens our ability to carry out military missions. And in time of crisis, it causes us to be unprepared for battle.

Let me emphasize that these are not my conclusions. These are the conclusions of the Pentagon itself.

DOPMA

Finally, on January 25 of this year, the Pentagon completed its legislation for officer grade limitations and related issues. It is called the Defense Office Personnel Management Act, or DOPMA.

Unfortunately, there are a number of significant problems with DOPMA. First, it is so detailed, consisting of 160 pages of changes of United States Code and 102 pages of sectional analysis, that it probably will be impossible to complete understand what is being proposed. The Air Force, judging that Congress will not pass DOPMA this year, is preparing to ask for their traditional extension of the OGLA.

Therefore, the promotion list being considered today is directly related to legislation the Air Force will propose later. If changes are made in the Air Force OGLA request later this year, the current list of promotions may be affected. Looked at another way, to pass this nomination list now will put the Air Force in a position of arguing that they must have the OGLA passed or it will mean the release of tens of senior generals.

They will have us over the barrel again if this list is passed.

Even more serious, however, is the content of the DOPMA itself. Billed as the answer to all problems, on close scrutiny DOPMA is based on a computer model of an ideal officer structure that may not resemble real life in any way. The number of officers permitted in each grade will not be appreciably affected by DOPMA.

DOPMA provides no solution to the officer/enlisted men ratio problem I talked about earlier.

All in all, the DOPMA deserves the most critical review by Congress, and from my viewpoint it may be totally unacceptable. Congress may have to propose its own version of promotions and grade legislation.

One of the issues that needs to be examined is an alternative to the sliding scale embodied in the 1954 act. The sliding scale has not worked. It protects general officer grades, but it is totally unrelated to defense requirements or the changing complexion of the force structure.

In place of the sliding scale, we should consider a minimum constant ceiling of generals and admirals deliberately set at a very low level to be known as a minimum base line force. To that would be added an arithmetic number of generals and admirals based on a set proportion of these officers to the total force structure.

Therefore, in times of smaller forces, minimum promotion schedules would be adhered to but no supplementary promotions would be made and attrition would bring the ratio into line. In times of larger or expanding forces, the minimum would remain constant but would be supplemented by the new increases based on the set ratio.

Mr. President, this is a complex issue and I hope that the Armed Services Committee will go into the subject with thoroughness and the expertise it has shown in the past.

I intend to vote against the officer promotion lists today, not out of disrespect for any of the officers listed therein but in order to focus attention on the continuing problem of our topheavy command structure. Furthermore, I intend to object to any multiyear extension of the OGLA to come before the Senate later this year. The timing of any extension for the Air Force OGLA should be coordinated, I believe, with anticipated action by the Armed Services Committee on the new proposal, the so-called DOPMA.

Mr. President, as far as I am concerned, in the interest of an orderly way to proceed, depending on what the distinguished chairman of the Armed Services Committee would like to do, I am perfectly amenable to acting at any time by a voice vote on all the nominations except the two nominations which will be debated and discussed by the Senator from Mississippi (Mr. STENNIS) and the Senator from Iowa (Mr. HUGHES).

Mr. STENNIS. Mr. President, let me emphasize now that I fully appreciate the position—the great amount of work and the sincerity—of the Senator from Wisconsin on this very troublesome subject. He fully realizes that this problem cannot be met by any meat-ax method of just cutting out a number of officers like one would cut a number of cattle out on the range, or something like that. He fully recognizes the problem. He has been into it many times and has made some helpful remarks about it.

He said that he hopes the committee goes into this matter with its usual thoroughness, and we accept that compliment with gratitude; but, frankly, Mr. President, it is not going to be possible to go into this subject with the thoroughness that it deserves this calendar year. The increased amount of the authorizations that are now required to be passed on by the Armed Services Committee has entirely revolutionized the work of that committee from what it was 20 years ago, and it is a year's work to take care of these matters year after year—just the matters that are required to be authorized, and the other general legislation, leaving out a subject of this complexity. I just know we could not go into it with the thoroughness required during the rest of this calendar year, and it is just best to say so now.

As a matter of fact, we have this 156-page bill on the subject from the Department of Defense, and I have learned enough about it to know that I do not think it will be satisfactory to the committee. It certainly is not satisfactory to me to just take it without the most thorough analysis and, hopefully, some helpful changes.

We are already starting now on the process of getting the right kind of study of this problem made by the staff. We have a highly competent staff member who is unusually well qualified in the field, but he cannot do all the work, by any means. We are going to have to use some capable consultants to work on this matter with our staff member, Mr. Sullivan, and with such assistance as the chief of staff, Mr. Braswell, can give. There will be several months' work on it to examine the foundations of the whole matter. It has not been fully reviewed for the last 25 years. I refer to the matter of officers and grade limitations. I am not talking about just the general officers; I am talking about officers as a whole.

I am not going to try to go into it today. I do not think the Senator from Wisconsin expected me to. He did not show his full knowledge of the subject, by any means. He is raising a warning flag here because there is a large number of promotions before us.

He is very considerate. He knows these promotions have to move. He is not trying to hold them up indefinitely. He says he is opposed to them, but he is willing for them to go to a vote. He is not going to delay them. I commend him as well as thank him for that. He could cause delay that might be hurtful to our military organization as a whole, and he is not the type to do that at all.

I am not defending the number of military officers. I just have to know more about it. But I extracted some time ago a statement made by General Brown, now Chief of Staff of the Air Force—and it was not just a boasting statement—in which he made a very strong refutation of some of the downcast statements that have been made in some of the stories by our columnists—conclusions being drawn about our Air Force being the second in the world. He refuted all that. We have the finest Air Force in the world, he said. I think he is correct in that. He pointed to the experienced manpower we have in the Air Force, officers and members of the crews. I think it is one of the great assets we have in our entire military setup.

I am entirely willing to have—in fact, want—a review of this matter in depth, but, Senator, it will take more time to go into it in depth than can be accomplished in a few months. I think the Senator realizes that.

Coming to one other phase of this matter, we have neglected this matter of general officers, although the big problem is in the officer groups below that of general officers. Many years ago the committee undertook to write up and get up its own formula and put a committee ceiling upon the number of general officers that we would approve for promotion. In that way we held the numbers down somewhat. We would not go above that ceiling, which was not as high as the law allowed, but it was a committee ceiling, and we have adhered to it largely. We made some exceptions to it during the war in South Vietnam, but within a range of 25 or 30, give or take a few, we have held to a constant figure with reference to the total number of general officers as related to the manpower strength. As I said, we had to yield to some special facts that might exist from time to time. Now the numbers in the forces as a whole have swung back around to where the legal ceiling and the committee ceiling—sometimes called the Stennis ceiling because I was chairman of the subcommittee that got it up—are almost the same. I have not examined them lately.

My point is that we have kept a constancy on this matter. We have kept an eye on it, and it is a study that ought to be reviewed further, and doubtless some modern legislation passed on it.

The bill the Department of Defense sent up does not do anything like that. It just left it all out. The committee will certainly go into that subject and provide for it in any bill the committee brings to the floor. We will have some kind of contribution to make along that line.

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

Mr. STENNIS. Yes, I am glad to yield.

Mr. PROXMIRE. I want to thank the distinguished Senator from Mississippi very much. In the first place, I am delighted he has discussed the point General Brown has argued, that we have the best Air Force in the world. He is right. In fact, I have a speech to make tomorrow about what is right about the Armed Forces, and there are very many good things about it.

The fact is that the chart showing the problem of too many admirals and generals is irrefutable. It shows a steady, relentless, year-after-year trend of an increase in the number of generals and admirals in relation to the total number of troops that has gotten to the point where it is almost ridiculous.

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

Mr. PROXMIRE. I yield.

Mr. STENNIS. That is the very thing that has to be reviewed and the law perhaps rewritten on it. Certainly Congress ought to consider rewriting it.

Mr. PROXMIRE. As the Senator has pointed out, it was 20 years ago when the Congress passed a bill to establish a limitation on general officers. It was 15 years ago the Pentagon began to study this matter and said it was working on it and would give us an answer.

The PRESIDING OFFICER. The Senator from Wisconsin's 30 minutes have expired.

Mr. PROXMIRE. My time has expired?

The PRESIDING OFFICER. Yes.

Mr. PROXMIRE. I asked the Senator from Mississippi to yield to me.

Mr. STENNIS. Mr. President, I thought I was speaking on time allotted to me.

Mr. PROXMIRE. Mr. President, I yielded the floor, I sat down.

Mr. STENNIS. Yes. I thought I was recognized. However, if it is out of order and it is too late to go back——

Mr. PROXMIRE. I sat down 15 minutes ago.

The PRESIDING OFFICER. Until the nominations have been brought up, the time agreement does not go into effect regarding the time of the Senator from Mississippi and the Senator from Iowa.

Mr. STENNIS. Mr. President, I do not know that I have any time on this matter, but I ask unanimous consent that the Senator from Wisconsin be allowed 3 additional minutes to close his remarks.

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

Mr. PROXMIRE. Mr. President, I would simply like to ask the distinguished Senator from Mississippi this question. In view of the fact that the Pentagon has worked a long time on this matter and there has been a delay—I would agree wholeheartedly with the Senator from Mississippi that this is a very complicated subject, and probably there must be work done on it which could not be adequately done this year, in view of all the other problems we have in the Congress and the country—I would hope, however, it would be possible for the Senator to appoint a subcommittee which would work on this matter and to get a reasonably firm commitment so we will be in a position in 1975 to have legislation before us on which we could work the will of the Congress on the number of generals and admirals we have, as well as other commissioned officers.

Mr. STENNIS. Today I am prepared to go only this far: to say that we have a Department of Defense bill before us. I think it is going to have to be taken apart and then be built back together. I mentioned that we have a highly competent staff who have worked on it. We have located men who, we think, will be the proper consultants to work on it. We are going to do everything we can this year and then get ready for next year, but I cannot guarantee when we can get legislation or if we can get legislation. We will do the best we can.

Mr. PROXMIRE. I simply have asked the Senator whether it would be, in his judgment, possible for the Armed Services Committee to come forward earlier next year with a bill for which we can be responsible. Would that be possible?

Mr. STENNIS. It would seem that it should be possible, yes. But I think we will run into a lot of difficulties.

Mr. PROXMIRE. The Senator knows how much I respect him; but I am concerned about the delay. Year after year we are getting into a situation which is very expensive and wasteful. We have far too many generals and admirals in relation to the number of enlisted men that we have. If we delay, the situation will be aggravated.

Mr. STENNIS. I have already committed myself this far. Then we can decide what we should do later.

Mr. THURMOND. Mr. President, possibly some of my colleagues are of the opinion that Senate confirmation of the pending Air Force promotion nominations would result in an excessive number of general officers in the Air Force. Such is not the case. The Officer Grade Limitation Act of 1954 (OGLA), prescribed the total number of general officers authorized for each service as well as authorizing grade ceilings for major/lieutenant commander, lieutenant colonel/commander, and colonel/captain.

The pending nominations for promotion to temporary general officer rank are required to replace forecast losses throughout the year and in no case will a promotion occur until an actual vacancy occurs through death or retirement nor will the limitation imposed by the Officer Grade Limitation Act be exceeded.

The promotions to permanent grades are necessary to provide tenure for those general officers who demonstrate potential for increased responsibility, and such promotions would not increase the number of general officers on active duty. These permanent promotions should be considered as part of the Regular Air Force officer promotion structure and exemplify the "up or out" system.

Since the enactment of OGLA, the Air Force has remained at or below its authorized general officer strength. The Air Force reached a peak general officer strength of 443 in 1968. By the end of fiscal year 1973, the Air Force had already reduced that number by 32 and will further reduce it by another 13 by end fiscal year 1974. The fiscal year 1974 level (398) will be the lowest since fiscal year 1955 (395).

I understand it has been suggested that the number of flag and general officers be reviewed when the recently submitted Defense Officer Personnel Management Act is considered. This act is primarily pointed toward the officer grades below flag and general rank and would, among other things, establish new statutory grade limitations for those grades as now defined in OGLA and the Officer Personnel Act of 1947. I personally see no objection to reviewing the flag and general officer structure when the Defense Officer Personnel Management Act is considered, although at this particular time I am not sure there is any real need to change that part of OGLA.

I might point out, Mr. President, that the number of general officers in each of the services is a subject the Armed Services Committee has continually monitored. In fact, in reviewing data provided by the Department of Defense to the committee I note that at the end of fiscal year 1974:

The number of Army generals will equal that authorized by law.

The number of Navy admirals will be 20—7 percent—below that authorized by law.

The number of Marine generals will be 2—3 percent—below that authorized by law.

The number of Air Force generals will be 6—1 percent—below that authorized by law.

Overall DOD will have 28 flag/general officers fewer than authorized.

And, all of the services will be below the Senate Armed Services Committee ceiling on flag/general officers.

So it seems to me the matter is well under control.

Mr. President, the Defense Officer Personnel Management Act is probably the first comprehensive legislation ever submitted on this subject. Consequently, because of the piecemeal efforts in the past, it is necessarily a complex piece of legislation and, therefore, must be studied most carefully. It may be that this proposed legislation can best be reviewed by a special manpower subcommittee, while at the same time also reviewing the flag and general officer structure. Maybe that would be the best way to give the matter the consideration and study it deserves. That, of course, would be up to the chairman. However, I would stress to my colleagues that this matter will take time, and necessarily so.

In closing, Mr. President, I would stress that the points made by the distinguished Senator from Wisconsin are well taken and I believe we share some of the same concerns. However, I urge that we avoid further delay on these particular general officer nominations that are within statutory limits and are required by the Air Force.

The PRESIDING OFFICER. The question is on agreeing to all the nominations en bloc with the exception of the nominations of Gen. Alton D. Slay and Gen. Charles A. Gabriel, on which the yeas and nays have been ordered (putting the question).

The nominations were confirmed.

Mr. MANSFIELD. Mr. President, I request that the President be notified.

The PRESIDING OFFICER. Without objection, the President will be notified.

Under the previous order, there will now be 30 minutes of debate on each of the nominations of Maj. Gen. Alton D. Slay and Brig. Gen. Charles A. Gabriel. The time is equally divided and controlled by the Senator from Iowa (Mr. HUGHES) and the Senator from Mississippi (Mr. STENNIS).

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

Mr. HUGHES. I yield.

Mr. MANSFIELD. It is my understanding that it is desired that the nomination of General Slay be considered first.

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

Mr. HUGHES. Mr. President, I yield 30 seconds to the distinguished junior Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the distinguished Senator from Iowa yielding to me.

I am in sympathy with what the distinguished Senator from Wisconsin has said. As a member of the Committee on Armed Services, I am concerned about the topheavyness of the ratio of officers to enlisted men. I think the proper procedure, however, is to go through the Committee on Armed Services. I have spoken, on occasion, with the distinguished chairman of the committee. I hope we can obtain a reduction.

I have just returned from 2 weeks in Europe on behalf of the Committee on Armed Services. We have a very fine group of officers and men, but I think a reduction should be made. I commend the Senator from Wisconsin for his efforts. I hope that the reduction can be made in an orderly manner.

Mr. HUGHES. Mr. President, I have asked for separate votes on the promotions of Generals Alton D. Slay and Charles A. Gabriel so that the Senate can consider carefully whether these two men merit the vote of confidence in their judgment and in their performance of duty which Senate confirmation would denote.

I recognize that this is an unusual procedure, but I believe that the circumstances are also highly unusual.

Mr. President, I ask unanimous consent that the text of my letter of April 5, 1974, be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, D.C. April 5, 1974.

DEAR COLLEAGUE: The Armed Services Committee has reported Air Force promotion list number 91. I want, through this letter, to explain why I believe that the Senate should decline to consent to the proposed nominations of Brigadier General Charles A. Gabriel for the temporary rank of Major General and Major General Alton D. Slay for the permanent rank of Major General.

In early 1972, General Slay was General John D. Lavelle's deputy for operations and General (then colonel) Gabriel commanded the 432d Tactical Reconnaissance Wing at Udorn Royal Thai Air Force Base. In those positions, these two men knowingly and unquestioningly received and carried out orders from General Lavelle to conduct strikes in North Vietnam in violation of the written rules of engagement and to conceal these violations by falsified reports.

The Committee conducted a lengthy in-

vestigation of this unauthorized bombing in 1972 and questioned, among others, Generals Slay and Gabriel. Let me cite a few quotations from those hearings which deal with the involvement of these officers in these events.

General Slay knew that preplanned strikes were contrary to the written rules of engagement, but he rationalized the procedure as follows: "I just assumed that he (General Lavelle) either had the authority to do it or something that I had not seen and was not in the written word or he was deliberately choosing to do it extraneous to authority." (p. 301)

While General Slay denied conveying the initial order to falsify reports, he did subsequently discuss the matter with then-Colonel Gabriel. "I did tell Colonel Gabriel at the time that General Lavelle refuses to accept a report that . . . does not have 'enemy reaction,' I did tell him that." (p. 307)

Senator HUGHES. Did you discuss the fact that it was outside the rules of engagement?

General SLAY. I don't believe so, sir, because we both knew it.

Senator HUGHES. Did you discuss falsifying reports?

General SLAY. No, sir.

Senator HUGHES. You just accepted it and went ahead——

General SLAY. Yes, sir. (p. 307)

It is interesting to note that, when General Abrams ordered a strike in early January 1972 which was thought to be possibly contrary to the rules of engagement and which the Joint Chiefs of Staff subsequently criticized as such a violation, General Slay felt that it was necessary to report the strike accurately. "General Marshall and I . . . believed the only way this could be reported was right according to the book . . ." (p. 292)

Thus, General Slay should have been consistent in opposing false reports and he should have known that "liberal interpretations of the rules" would be opposed by the Joint Chiefs in Washington.

In his testimony, General Slay admitted that, in retrospect, his duty was to question his orders or at least report them to the Inspector General, and subsequently to request written proof for deviations from written orders.

General Gabriel also said that, "knowing what I know now," he would have raised some questions about those orders. (p. 220) But—"I rationalized it at the time that we were giving . . . 7th Air Force . . . all the information we had on the strikes . . ." (p. 202)

When asked by Chairman Stennis, "Why were you filing a false report? What was the purpose of the false report? Who was it designed to mislead or fool or protect?" General Gabriel responded: "Sir, I don't know, and I did not know at the time." (p. 202)

General Gabriel also testified that "I probably did" fly on some of the missions which required him to make a false report, though this was never pinned down to a particular flight and false report. (p. 201)

Other witnesses testified that perhaps 300 people knew of these unauthorized strikes and that it sometimes took four hours for debriefers to falsify convincingly their reports.

Perhaps the seriousness of these actions goes without question. Admiral Moorer said that the raids were a "violation of the letter and intent of the rule." (p. 459) He also said: "With respect to falsifying the records, I do not think that is subject to interpretation." (p. 489)

General Ryan told the Committee that he relieved General Lavelle of command primarily because of the false reporting. He also said that General Slay "exercised poor judgment" (p. 259) and that General Lavelle's subordinates "should have apprised me of the situation when I was out there. I think they should have known . . ." (p. 271)

General Abrams was characteristically pithy in his comments. "If I or any other commander of similar rank picks and chooses among the rules, his subordinates are then going to pick and choose among the rules that he gives them. There is no way to stop it and as long as this is the way the mission must be performed, you must adhere to it or it will unravel in a way that you will never be able to control." (p. 108) General Abrams spoke directly to General Lavelle when the allegations of false reporting were made and said: "We just cannot have a military organization where you are requiring people to falsify reports." (p. 131)

I have gone into such detail because I want to make you aware of the extensive record available on these men. On the basis of this evidence, the Senate must now make a judgment as to whether these men are fit for additional promotions and added responsibilities.

When the Committee considered the adequacy of the Lavelle investigation last March, Department of Defense General Counsel Buzhardt said that he had concluded the General Lavelle "was clearly and solely responsible for instituting false reporting of Air Force missions, and that those who obeyed his command should not be penalized." Moreover, he doubted that it would be possible to sustain a criminal charge of falsifying records, which is a violation of article 107 of the Uniform Code of Military Justice. The key problem was apparently proving an "intent to deceive."

As I told the Committee at that time, to decide *not to punish* a man for his actions is one thing, but it is quite another thing to reward him with higher rank and our confidence. I could not rest easy if I thought that one of these men who knowingly participated in this false reporting might one day become Chairman of the Joint Chiefs of Staff.

The integrity of our command and control structure, both within the military and under civilian authority, depends upon men of the highest character, whose obedience to our laws and the Constitution is unquestioned.

Hindsight is no substitute for foresight, and honest admission of error cannot replace good judgment at the time. The otherwise distinguished military records of these men cannot quell my own doubts to how they might act in future circumstances.

It is my understanding that the denial of promotion would have these consequences: General Slay would have to retire next year, when he reaches thirty years of service and five years in his permanent grade, and he would receive retirement pay at the rate for major generals; General Gabriel could still serve an additional seven years, until he reaches thirty years of service, at which time he would retire at the pay rates for brigadier generals.

When this nomination list is called up for Senate action, I shall ask for separate consideration of Generals Slay and Gabriel. For the reasons I have outlined, I shall vote against their confirmation. I hope that, after weighing the evidence, you will join me in this action.

Sincerely,

HAROLD E. HUGHES.

Mr. HUGHES. Mr. President, I have not looked forward to this particular time nor to this particular discussion. I think it is unfortunate that I have been led to the conclusion that I must take this course of action. It is unfortunate, I believe, that the Pentagon has failed to take the action that it should have taken in this whole affair which would have precluded the necessity of the Armed Services Committee or the Senate even discussing this matter today.

The conclusion of this debate is known by every Senator before it even begins, including the Senator from Iowa. The nomination of these gentlemen will be confirmed regardless of what I say today.

Before proceeding to the specific evidence relating to Generals Slay and Gabriel, I would like to take a few minutes to set the background which applies to both men.

Two years ago, the Senate Armed Services Committee refused to report favorably the nomination of Air Force Gen. John D. Lavelle, who had ordered forces under his command to bomb North Vietnam contrary to the rules of engagement approved by the President and had concealed these actions by falsified reports.

Now, for the first time, the Senate has before it the names of two officers who were closely associated with General Lavelle in these unauthorized activities and who have testified as to their involvement.

I believe, Mr. President, that the compelling reasons which led to committee rejection of General Lavelle apply as well to Generals Slay and Gabriel.

These men should be subjected to a simple test: on the basis of their records, do they deserve promotion?

I am not seeking to impeach them, not seeking to recall them, not seeking to drum them out of the Air Force. Nor can the Senate act as a court martial to levy fines or imprisonment.

Both of these men can continue to serve in the Air Force for as long as the law allows even if these promotions are denied. And I expect that they will try very hard to give excellent service at their current ranks and level of responsibility.

The issue is not one of punishment, but of rewarding them with higher rank, added responsibilities, and our confidence.

I believe, and I know the members of the Armed Services Committee share this view, that we must demand the highest standards from our top-ranked officers. If we are to fulfill our responsibilities to the Senate, we cannot take nominations lightly or without close scrutiny.

As the members of the committee know well, I have raised questions about many nominees for promotions. This is the first time since General Lavelle's activities were exposed, however, that we have had clear evidence of specific nominees whose judgment and performance of duty fell below acceptable standards.

I am aware of the otherwise exemplary records of these officers. I have met them personally; I complimented them for their testimony in the Lavelle case. But somewhere our responsibilities require us to draw a line.

If we choose to reward these men with promotions, what will the consequences be?

Will the Air Force conclude that the Senate will rubber stamp all of its nominees without question?

Will the officers down the line conclude that loyalty and obedience within one's service are more important than adherence to the higher principles of law and civilian control of the military?

Although the Defense Department has concluded that General Lavelle was solely

responsible for the unauthorized bombing and falsified reports, Generals Slay and Gabriel have admitted knowing what was taking place and participating without question in these illegal acts. Should we reward such conduct?

I would not want the Senate to abdicate its own responsibility to demand the highest standards of general officers and to disqualify those who do not measure up.

In a sense, then, our action on these nominations is highly symbolic. For good and sufficient reasons, we can reject these promotions. But at the same time, we can also send a message to the Pentagon that it must keep its own house in order, that it cannot make John Lavelle a scapegoat for a system which rewards obedience and service loyalty regardless of higher orders.

I am particularly disappointed in what the Air Force has done to correct the abuses which the Lavelle investigation exposed. No formal investigation was held. Only minor reforms were made in the inspector general system.

But for the actions of the Armed Services Committee, this whole flagrant episode would have been swept under the rug.

Air Force officials originally claimed that the mere act of removal of General Lavelle from command was sufficient to deter any future abuses. The fact is, however, that only a very few people were told the truth about Lavelle's dismissal before members of the Armed Services Committee demanded and received an explanation. This attempted cover-up did not serve to make an example of General Lavelle.

Seven months after the event, the chief of staff, General Ryan, sent a policy letter to commanders which did not even mention General Lavelle, but merely referred in vague terms to the importance of accurate reporting in order to preserve the integrity of the service.

I ask unanimous consent that the statement be printed in the RECORD at this point.

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

AIR FORCE POLICY LETTER FOR COMMANDERS

(From Office of the Secretary of the Air Force)

WASHINGTON, D.C., *November 1, 1972.*

INTEGRITY

Integrity—which includes full and accurate disclosure—is the keystone of military service. Integrity in reporting, for example, is the link that connects each flight crew, each specialist and each administrator to the commander-in-chief. In any crisis, decisions and risks taken by the highest national authorities depend, in large part, on reported military capabilities and achievements. In the same way, every commander depends on accurate reporting from his forces. Unless he is positive of the integrity of his people, a commander cannot have confidence in his forces. Without integrity, the commander-in-chief cannot have confidence in us.

Therefore, we may not compromise our integrity—our truthfulness. To do so is not only unlawful but also degrading. False reporting is a clear example of a failure of integrity. Any order to compromise integrity is not a lawful order.

Integrity is the most important responsibility of command. Commanders are dependent on the integrity of those reporting to them in every decision they make. Integrity can be ordered but it can only be achieved by encouragement and example.

JOHN D. RYAN,
General USAF, Chief of Staff.

Mr. HUGHES. My point, Mr. President, is that the Air Force did not take timely and sufficient action to instill in its members the importance of obedience to lawful orders and of truthful reporting, as brought out in the Lavelle case.

Since I have already circulated a lengthy letter to all Senators outlining the basic evidence on Generals Slay and Gabriel, I shall only summarize the key points now.

Let me turn first to the evidence concerning General Slay.

In early 1972, General Slay was General Lavelle's deputy for operations. In this positon, General Slay received and carried out, without question, General Lavelle's orders to conduct strikes in North Vietnam in violation of the written rules of engagement and to conceal these violations by falsified reports.

General Slay testified to the Armed Services Committee that he knew that the preplanned strikes were contrary to the written rules of engagement, but he thought that General Lavelle might have secret, higher level authority. In retrospect, General Slay conceded that it was his duty to question the orders, or at least to report them to the inspector general.

General Slay also went along with the false reporting of the strikes, despite the fact that only a few weeks before, he had insisted on the accurate reporting of a strike which was questionable under the rules.

In that case, the Joint Chiefs of Staff noticed and criitcized the violation of the rules, and no further such violation occurred. Therefore, I believe that General Slay should have known that accurate reporting was necessary, if only to confirm JCS knowledge of and approval for General Lavelle's new interpretation of the rules.

Mr. President, the seriousness of these actions goes without question.

Admiral Moorer testified that the raids were a violation of the letter and intent of the rule.

General Abrams said simply:

We just cannot have a military organization where you are requiring people to falsify reports.

General Abrams also said that, when commanders can pick and choose among the rules, control mechanisms will unravel.

The Air Force Chief of Staff at the time, General Ryan, said specifically that he believed that General Slay "exercised poor judgment."

Mr. President, I agree with General Ryan, and I believe that that poor judgment should disqualify General Slay from further promotions.

The rules were clear; they could not be bent, only broken. Article 107 of the Uniform Code of Military Justice is also clear: No false reporting.

If we are to have civilian control of the military, and if the military is to control itself, there has to be obedience to the rules and the law.

Military operations depend upon obedience—but that obedience properly extends only to lawful orders, not to illegal ones.

Even if one excuses an initial lapse, because of the heat of battle, one cannot excuse the systematic, prolonged, unquestioning obedience to highly questionable and, in fact, illegal orders.

But at no time in the 6 weeks of heavy bombing in North Vietnam, in which over half the Air Force missions were unauthorized, did General Slay or General Gabriel raise the simple question: Is this right? Is this legal?

We do not demand perfection, but we should insist upon much better performance of duty. Hindsight is no substitute for foresight, and honest admission of error cannot replace good judgment at the time.

I might point out, Mr. President, that I have received several letters from former subordinates of General Slay, attesting to his fine qualities as a commander.

But his otherwise distinguished military record cannot quell my own doubt as to how he might act in future circumstances if he is given higher rank.

General Slay missed his chance to question his illegal orders, and he did not object to false reporting in these instances, though he had done so only a few weeks before.

On balance, therefore, I believe that the Senate should reject this nomination, particularly in the light of the keen moral questions being asked of us all at this particular time in our Nation's history.

Mr. STENNIS. Mr. President, I shall use only 1 minute of the time, and at the end of that minute I will ask unanimous consent that the Senator from Nevada (Mr. CANNON) be placed in control of the time.

Senator CANNON is unusually well qualified to go into any intricacies of these questions that might come up, and I have requested him and the Senator from South Carolina (Mr. THURMOND) to arrange to be present on the floor today when these matters were brought up.

My comment on the nomination, Mr. President, is that our committee went into these matters. The Senator from Iowa shows great consistency and great sincerity. He has been into the matter, too, as he was in the Lavelle hearings. But after consideration of all the facts here as to these two nominations, the committee voted unanimously, except for the Senator from Iowa, in favor of the nominations being approved. I was one of those who was there and voted, and am supporting each of the nominations here now.

I now ask unanimous consent that the remainder of the time that I would otherwise control under this unanimous-consent agreement be transferred to the Senator from Nevada (Mr. CANNON).

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

Mr. CANNON. Mr. President, I yield myself 5 minutes.

In certain respects the two nominations in issue revive some of the questions raised during the hearings of September 19, 1972, on the advancement of General Lavelle from major general to lieutenant general on the retired list. The committee at that time for reasons I shall not dwell upon recommended against the advancement of General Lavelle.

Both General Gabriel who was then a colonel and Slay testified at those hearings. I would emphasize that the committee has recommended favorably that the nominations of both Generals Slay and Gabriel be approved. The Senate therefore has a definite recommendation before it regarding these nominations.

I would like to make the following comments.

I think it is fair to say that the Vietnam war involved a greater number of pressures and a greater degree of confusion on orders than any other this country has ever engaged in.

The entire issue of the so-called "false reporting" began when General Lavelle verbally told his subordinates that they could not report "no reaction" after they had conducted raids against certain military installations in North Vietnam.

I would interject at this point that General Lavelle was of the belief and stated during the hearings that this order was within the scope of his authority.

The basic issue, Mr. President, is whether every subordinate commander in this or any other war is to be charged with the responsibility of second-guessing whether the commander has the authority to issue the order received by the subordinate. If this premise is correct, military operations in some instances would cease or at least be greatly slowed down. General Slay testified before the committee that as far as he knew, General Lavelle had authority to issue the order which was passed on. Basically, this is the only way which military operations can be conducted.

I would interject, Mr. President, that all of the targets flown against were military targets and were not villages or other similar acts against civilians. Also, there were enormous pressures on the air commander to step up his protective reaction strikes in North Vietnam; pressures from Washington and other high authorities.

We also know that throughout the Vietnam conflict, orders were frequently changed—at times, pursuant to Presidential authority, protective reaction strikes were ordered from Washington. How is a subordinate commander in a position to question these orders, especially when they are reasonable on their face?

Generals Slay and Gabriel were outstanding combat officers with fine records of military service. Discipline was and is a part of their lives. For us to say here today that these officers should have disregarded this training and this lifetime of experience in the military service to challenge the senior field commander as to the legality of his orders is completely unrealistic.

I will close, Mr. President, by saying that these officers are performing in an outstanding manner today. General Slay is Vice Commander, Air Training Command at Randolph AFB, Tex. and General Gabriel is Deputy Director for Tactical Operational Forces, Directorate of Operations, Headquarters, USAF, Washington, D.C.

Mr. President, I note that the distinguished Senator from Missouri (Mr. SYMINGTON) does not happen to be present in the Chamber, so I submit for the RECORD a letter addressed to Senator SYMINGTON from George S. Brown, General, USAF, Chief of Staff, in which he responds precisely on the points involved in this case and completely supports both of these officers for promotion as they have been nominated. I ask unanimous consent that the letter be printed in the RECORD.

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

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., March 25, 1974.

Hon. STUART SYMINGTON,
Committee on Armed Services,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMINGTON: This is in reply to your letter of 25 February 1974 regarding the fitness for promotion of Major General Alton D. Slay and Brigadier General Charles A. Gabriel. I have reviewed the testimony of both General Slay and General (then Colonel) Gabriel when they testified in regard to the retirement of General Lavelle. I have also personally talked with both men regarding the matters raised by Senator Hughes.

It is my view that actions within 7th Air Force which were outside the rules of engagement authorized by higher authority were not the responsibility of either Generals Slay or Gabriel. I am convinced that General Lavelle was completely aware of his actions and as he stated to the Air Force Inspector General was responsible for the missions in question and the reporting of them. General Lavelle appeared straightforward in his actions and he had the confidence of both General Slay and General Gabriel. Neither General Slay nor General Gabriel knew the extent of authority which had been delegated to General Lavelle. Each honestly assumed that General Lavelle was not acting on his own.

Both General Slay and General Gabriel testified, as you know, that they would have acted in a different manner had the targets which General Lavelle ordered struck had not been valid military targets such as MIG airfields and SAM equipment. I believe it was reasonable, based upon the circumstances which existed at the time and the unique rules of engagement, for Generals Slay and Gabriel to assume that General Lavelle had authority to issue orders for both the air strikes in question and the reporting of them.

I believe that policy decisions regarding these unauthorized preplanned protective reaction operations were made by General Lavelle, not by General Slay as Director of Operations. General Gabriel, as the Commander of the 432nd Tactical Reconnaissance Wing—removed from 7th Air Force by a considerable distance (about 550 miles)—was not in any way involved in policy making. His job was complying with orders from 7th Air Force. In my judgment he complied in a disciplined manner with what he believed to be completely authorized orders.

General Lavelle has accepted responsibility for the actions he took and explained his rationale for what he did. At no time did he indicate that General Slay or General Gabriel was responsible for any of these actions.

After re-reading much of the testimony and talking to Generals Lavelle, Slay and Gabriel, I find no reason to disagree with General Lavelle on this point.

I have examined General Gabriel's record very carefully. It is my opinion that his honesty, his dedication and his ample abilities clearly merit promotion to Major General. Apparently your Committee also thinks highly of him. On page 206 of the referenced report, the Chairman praised then Colonel Gabriel and stated that he was a credit to his profession and to the Air Force. I assure you, Sir, that is an excellent characterization of General Gabriel.

I have also examined General Slay's record and I believe his performance in a series of responsible, demanding jobs, fully warrants his promotion to the permanent rank of Major General. It would appear from your Committee report that the members who flew to Colorado to hear General Slay's testimony were impressed with his forthrightness, and the clarity and sincerity of his testimony.

I can understand the role that they played in this unfortunate circumstance and I recommend the promotions for which they have been nominated. I trust the Air Force has your support in this matter.

Respectfully,

GEORGE S. BROWN,
General, USAF, Chief of Staff.

Mr. CANNON. Mr. President, I yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Nevada.

My statement will refer to both officers, and is very brief.

The distinguished Senator from Iowa is today questioning the suitability for promotion of two Air Force officers who have been nominated for promotion in the general officer ranks; Major General Slay to permanent major general, and Brigadier General Gabriel to temporary major general. Both of these officers served under General Lavelle, who was reprimanded by the Air Force Chief of Staff for exceeding his authority in conducting bombing in North Vietnam. The Senator from Iowa feels these officers were also involved in General Lavelle's unauthorized actions to the degree they should not be promoted.

Mr. President, I would remind my colleagues that the question of involvement of other officers and men in the unauthorized bombings was thoroughly investigated by the Senate Armed Services Committee, beginning in July 1972, when the committee sent two staff investigators to Vietnam followed by hearings from September 11 through 22, 1972.

At that time, and to this date, no one accused our committee of participating in a whitewash. Both men, General Slay and General Gabriel were among the many witnesses we interviewed. We were satisfied that they were not involved.

I think I can fairly summarize the conclusions that both the committee and the members of the Senate—with the possible exceptions of Senator HUGHES and Senator PROXMIRE—arrived at then: that while we might have wished that both men had asked General Lavelle if his or-

ders were based on proper authority, they neither knew, nor could have known that the orders were illegal. Has anything changed since then? During the course of many nominations, we have received statements from officers involved. The matter was further brought before the Senate when General Abrams' nomination was debated and confirmed on October 11 and 12, 1972.

The committee, after considerable discussion, and after the extensive hearings I have already mentioned, determined that the sole responsibility for the unauthorized bombings must be borne by General Lavelle, and no others. This was also the determination of the Air Force Chief of Staff and the Secretary of Defense. As you know, Mr. President, General Lavelle was retired as a major general, two grades below his active-duty rank.

The matter has been thoroughly looked into and it is a matter of record that only one member of the Senate Armed Services Committee, the distinguished Senator from Iowa, opposed the favorable reporting to the full Senate of the names of these two officers.

One final point, Mr. President, and that is General Gabriel has previously been approved for promotion by the Senate Armed Services Committee and confirmed by the Senate subsequent to the Lavelle hearings. This was his promotion to permanent colonel, which came before the Senate on September 28, 1973. Therefore, it seems inappropriate to even raise the issue at this late date.

Mr. President, both of these officers have magnificant records. They are honorable, capable officers. It would be most unfair to them not to confirm them now to the grades to which they have been recommended by the Air Force. The Air Force recommended them. The Secretary of Defense recommended them. The President recommended them. The Senate Armed Services Committee unanimously—with the exception of the one vote of the distinguished Senator from Iowa (Mr. HUGHES)—approved them.

It is hoped that the Senate at this time will approve these two officers as it is felt they are fully deserving of these promotions.

Mr. CANNON. Mr. President, if no other Senator wishes to speak at this time, I am prepared to yield back my time.

Mr. HUGHES. Mr. President, before that, I should like to ask the Senator a couple of questions if I may. Before that, on my own time, I shall withhold it for the moment but would like to respond to the Senator from South Carolina (Mr. THURMOND) about General Gabriel being promoted subsequent to the hearings and confirmed by the Senate to brigadier general from the rank of colonel.

The promotion came to the committee prior to the time the investigation started. So far as consideration by the committee of that promotion, the Senator from Iowa was not even aware that the then Colonel Gabriel's name was on the list for promotion to brigadier general, nor was any consideration given by the committee or the Senate in relationship to any violation of the rules and regulations or the instructions of the Commander in Chief in relation to the incidents we are talking about now.

If I might ask the distinguished Senator from Nevada a couple of questions—

Mr. THURMOND. Mr. President, will the Senator from Iowa yield?

Mr. HUGHES. I yield.

Mr. THURMOND. I might remind the distinguished Senator that this was to a permanent colonel not to temporary brigadier general.

Mr. HUGHES. I stand corrected. I stand corrected and will ask that the RECORD be corrected in that particular instance.

Mr. President, we have been talking about the following of the orders of General Lavelle given to General Slay in relation to the bombing of North Vietnam that I consider to be illegal. We have not heard discussion about the falsification of the records and I would like to ask the distinguished Senator from Nevada if it is not true that General Slay cooperated in and gave the orders to falsify the records in relationship to the bombing incidents.

Mr. CANNON. No. I think that is not a correct statement. He passed on the instructions from his commander, General Lavelle, that the term "no reaction" could not be used and that they therefore would have to report their reaction to the mission. There is a lot of question as to just whether there was or was not reaction as well. But he passed on to his subordinates the order that he received from General Lavelle in each instance.

Mr. HUGHES. In other words, General Slay knew that even if there was no enemy action against the plane, he passed on the order that enemy actions must be reported, so he was passing on an order to falsify a report.

Mr. CANNON. He was passing on General Lavelle's order that the term "no reaction" could not be used in the report. That is correct. General Lavelle testified himself before the committee that he interpreted the fact that certain incidents occurred meant that there was enemy reaction. We on the committee did not find that. We determined that that was not enemy reaction. There was testimony before the committee that the bombing alert of the entire net—the air defense—did not constitute enemy reaction. We voted that way and on that basis. But General Lavelle testified before the committee that he considered that enemy reaction. He told his subordinates, the men who worked under him, that they could not use the term for reporting purposes of no reaction. That is what the record reflects.

Mr. HUGHES. I would ask the Senator from Nevada in relationship to this kind of reporting that both General Gabriel and General Slay should have been well aware of the Uniform Code of Military Justice.

Mr. CANNON. They certainly should.

Mr. HUGHES. The section relating to falsifying and reporting falsified records.

Mr. CANNON. They should have been aware and I assume they were so aware. The whole point is that the Senator proceeds on the assumption that everyone down the line knew the reports were falsified. That is not the case. That is not what the record discloses. They did not interpret that these were falsified reports. General Lavelle testified himself that he thought there was reaction. He interpreted the alert of the defense net to be reaction. We found that that was not correct. We did not agree with him. Some of the commanders did not agree with him. But he still interpreted them that way and he passed on to his subordinates the fact that they could not report a "no reaction" when they went into combat raids against military targets in North Vietnam.

Mr. HUGHES. I respectfully disagree with the Senator from Nevada since in fact the committee made no finding, as I recall, in relationship to either one of these men, and the committee made no report in relationship to this, so there was in fact no committee finding so far as the Senator from Iowa was concerned. But it was testified to by numerous witnesses before the committee—and the Senator from Iowa, if he missed any of the testimony in relationship to the hearing over the weeks, it must have been only minor minutes or at the most hours, because he heard all the testimony as it related to the hours of debriefing and the falsifying of the documents in relationship to it, and the orders coming down to it as given to the committee.

So the Senator from Iowa says if this was an undertaking of junior commanding officers rather than the result of direct orders given by General Lavelle and General Slay, then the Senator from Iowa could be taken as being corrected. But the orders were given. They were followed. The reports were falsified.

The PRESIDING OFFICER. All time on the first nomination has now expired.

Mr. HUGHES. Mr. President, I will not begin to use the 15 minutes on the second nomination because the discussion of both men is very similar, but I want to make a few statements in relationship to the nomination of General Gabriel.

I am not sure whether the Senate will want to act differently on this nomination than on that of General Slay, but I do want the record to be clear and complete.

In early 1972, General Gabriel was still a colonel, though his nomination for promotion to brigadier was approved before the information of General Lavelle's unauthorized bombing came to light.

Then Colonel Gabriel commanded the 432d Tactical Reconnaissance Wing at Udorn Royal Thai Air Force Base. That unit was responsible for reconnaissance over North Vietnam, and for the so-called protective reaction strikes which in fact were preplanned and unauthorized raids.

General Gabriel testified that he "probably did" fly on some of the missions which required him to make a false report, though this was never pinned down to a particular flight on a false report.

Sgt. Lonnie Franks has said that General Gabriel was well aware of the false reporting procedures, and that he sometimes was present while the debriefers spent up to 4 hours concocting their false reports.

General Gabriel later testified that,

"knowing what I know now," he would have raised some questions about his orders.

But he did not. And, during some 6 weeks of heavy bombing, more than half the Air Force strikes flown against North Vietnam were unauthorized.

General Gabriel said he did not know the purpose of the false reporting. He had his orders, and he followed them unquestioningly.

Regardless of what one thought about the war, regardless of what one thought the wisdom of the rules of engagement, the fact remains that General Gabriel, like General Slay, obeyed his immediate commander rather than the clear orders of the Commander in Chief and the clear provisions of the Uniform Code of Military Justice.

I do not believe, Mr. President, that an officer who acts in this way should be rewarded by the Senate with a promotion to higher rank and increased responsibilities.

Mr. CANNON. I yield myself 2 minutes.

Mr. President, the argument is the same with respect to both of these men.

As I said earlier, if the premise of the Senator from Iowa is correct, military operations could not be conducted in many instances, because it would be incumbent upon the lesser ranking officers to stop and ask, in each instance of an order given, if the order were lawfully given, and then to ascertain for themselves, in their own minds, whether it were or were not a lawful order, and make the decision as to whether or not they should follow it. Of course, if this type of procedure were to be adopted, military operations simply would have to fail.

Mr. President, I am prepared to yield back the remainder of my time, if no one else wishes to speak.

Mr. HUGHES. Mr. President, I want to say, by way of conclusion in this particular disagreement, that I agree that orders must be followed in the military. I agree that each of these men, in his own right, has had a distinguished military career, up until the point of these particular events and these unfortunate circumstances over North Vietnam, in a war that was not supported at that time by the majority of the people of this country, in a war in which these men risked their lives daily for their country in the performance of their duty. But their responsibilities were such in that set of circumstances that they could not afford the luxury of simply following orders.

We have been called upon in our lifetime to listen in many a military trial to the statement that "I simply followed the orders given by higher authority, and I had no alternative." Each of these men knew the option of reporting to the Inspector General. Each of these men knew the questions they should have asked. Each of these men, in the opinion of the Senator from Iowa, knew that official documents were being falsified and official reports were being issued, in violation of the Uniform Code of Military Justice and in violation of the President's orders regarding the conduct of the bombing raids over North Vietnam.

In my opinion, this is not punishment for these men, but it is a case of not rewarding these men with further promotions. They can continue their military careers, they can serve out their time in their present rank, and then they can enter into their full retirement, which in each case would be 30 years, were they to conclude that time. I do not look at this as punishment. It is simply a matter of not rewarding men who at that time in history unfortunately failed to meet their responsibilities and obligations in their capacity as officers in the United States Air Force.

That concludes my statement, and I am prepared to yield back the remainder of my time.

Mr. CANNON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The first vote will be on the nomination of Maj. Gen. Alton D. Slay.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Would not the first vote occur on the nomination appearing first on the calendar?

The PRESIDING OFFICER. Major General Slay.

Mr. ROBERT C. BYRD. Does his name come first?

The PRESIDING OFFICER. It is the Chair's understanding that unanimous consent was requested to reverse the order.

Mr. ROBERT C. BYRD. Very well. Then, will the vote on the other nomination come back-to-back?

The PRESIDING OFFICER. The vote on the nomination of Brig. Gen. Charles A. Gabriel will follow immediately thereafter.

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

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Maj. Gen. Alton D. Slay, 426-03-5604FR, (brigadier general, Regular Air Force), U.S. Air Force, to be a major general? On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. HUGHES. Mr. President, is a unanimous-consent request in order at this time?

The PRESIDING OFFICER. The Senator may state it.

Mr. HUGHES. I ask unanimous consent that on the second vote, on the nomination of Brigadier General Gabriel, the time for the vote be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. I have no objection. Is this agreeable to the other side—that the rollcall vote on the second nomination, which will occur back to back, be limited to 10 minutes?

Mr. JAVITS. One of the Senators on this side desires that an objection be interposed.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), and the Senator from Oregon (Mr. HATFIELD), are necessarily absent.

I also announce that the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), and the Senator from Pennsylvania (Mr. HUGH SCOTT), are absent on official business.

The result was announced—yeas 51, nays 36, as follows:

[No. 150 Ex.]

YEAS—51

Aiken	Eagleton	McClure
Allen	Eastland	McGee
Baker	Ervin	Montoya
Bartlett	Fannin	Nunn
Bellmon	Fong	Pastore
Bible	Griffin	Percy
Brock	Gurney	Randolph
Buckley	Hansen	Scott,
Burdick	Helms	William L.
Byrd,	Hollings	Sparkman
Harry F., Jr.	Hruska	Stafford
Byrd, Robert C.	Humphrey	Stennis
Cannon	Inouye	Stevens
Cotton	Jackson	Talmadge
Curtis	Johnston	Thurmond
Dole	Long	Tower
Domenici	Magnuson	Young
Dominick	McClellan	

NAYS—36

Abourezk	Hartke	Muskie
Bayh	Haskell	Nelson
Beall	Hathaway	Packwood
Bentsen	Huddleston	Pearson
Biden	Hughes	Pell
Case	Javits	Proxmire
Chiles	Mansfield	Ribicoff
Church	McGovern	Schweiker
Clark	McIntyre	Stevenson
Cook	Metcalf	Taft
Cranston	Mondale	Weicker
Hart	Moss	Williams

NOT VOTING—13

Bennett	Hatfield	Scott, Hugh
Brooke	Kennedy	Symington
Fulbright	Mathias	Tunney
Goldwater	Metzenbaum	
Gravel	Roth	

So the nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Brig. Gen. Charles D. Gabriel to be a major general? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is necessarily absent.

I also announce that the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), and the Senator from Pennsylvania (Mr. HUGH SCOTT), are absent on official business.

The result was announced—yeas 53, nays 35, as follows:

[No. 151 Ex.]

YEAS—53

Aiken	Dominick	McClure
Allen	Eagleton	McGee
Baker	Eastland	Montoya
Bartlett	Ervin	Nunn
Bellmon	Fannin	Pastore
Bible	Fong	Percy
Brock	Griffin	Randolph
Buckley	Gurney	Scott, William L.
Burdick	Hansen	Sparkman
Byrd, Harry F., Jr.	Helms	Stafford
Byrd, Robert C.	Hollings	Stennis
Cannon	Hruska	Stevens
Chiles	Humphrey	Talmadge
Cook	Inouye	Thurmond
Cotton	Jackson	Tower
Curtis	Johnston	Young
Dole	Long	
Domenici	Magnuson	
	McClellan	

NAYS—35

Abourezk	Hatfield	Nelson
Bayh	Hathaway	Packwood
Beall	Huddleston	Pearson
Bentsen	Hughes	Pell
Biden	Javits	Proxmire
Case	Mansfield	Ribicoff
Church	McGovern	Schweiker
Clark	McIntyre	Stevenson
Cranston	Metcalf	Taft
Hart	Mondale	Weicker
Hartke	Moss	Williams
Haskell	Muskie	

NOT VOTING—12

Bennett	Gravel	Roth
Brooke	Kennedy	Scott, Hugh
Fulbright	Mathias	Symington
Goldwater	Metzenbaum	Tunney

So the nomination was confirmed.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the preceding nomination, that of General Slay, was confirmed.

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

The motion to lay on the table was agreed to.

Mr. STENNIS. I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

By unanimous consent, the Senate resumed the consideration of legislative business.

ORDER TO VACATE VOTE ON S. 1486, THE OMNIBUS EXPORT EXPANSION ACT OF 1974

Mr. SPARKMAN. Mr. President, this matter pertains to the Committee on Commerce. I have discussed it with the Senator from Hawaii (Mr. INOUYE) and the Senator from Washington (Mr. MAGNUSON), and they are agreeable to this request.

I ask unanimous consent that the vote by which the Senate yesterday passed S. 1486, the Omnibus Export Expansion Act of 1974, be vacated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that S. 1486 and S. 1485, a companion bill, be referred to the Committee on Foreign Relations, with instructions that the committee report to the Senate no later than 30 days from this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO REQUEST RETURN FROM THE HOUSE OF REPRESENTATIVES OF PAPERS ON S. 1486

Mr. ROBERT C. BYRD subsequently said: Mr. President, earlier today the distinguished Senator from Alabama (Mr. SPARKMAN) obtained unanimous consent to rescind the previous action of the Senate on S. 1486. However, the papers have already gone to the other body. Therefore, I ask unanimous consent that the Secretary of the Senate be authorized to request the return of the papers on S. 1486 from the House of Representatives.

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

ORDER FOR RECOGNITION OF SENATOR STEVENS TOMORROW

Mr. GRIFFIN. Mr. President, I ask unanimous consent that, immediately following the recognition of the two leaders tomorrow, the Senator from Alaska (Mr. STEVENS) be recognized for 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I am just reminded that Senator PROXMIRE has a 15-minute order for tomorrow.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the recognition of Senator STEVENS for 15 minutes follow the recognition of Senator PROXMIRE.

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

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

FARM FENCES AND DISASTER ASSISTANCE

Mr. COOK. Mr. President, under the Agricultural Stabilization Conservation Service, within the Department of Agriculture, guidelines in effect since 1957 have provided emergency assistance to farmers for up to 80 percent of damage to farm fences in the event of a natural disaster. On March 12, the Department of Agriculture, for some inexplicable reason, rescinded this order. As we are all so sadly aware, on April 4, tornadoes ripped through 10 States leaving people, homes, and farmland stricken in their paths. Emergency assistance was rushed to these people by all agencies involved. Everyone has tried to be as helpful as possible. However, I now find that farmers in the State of Kentucky, as well as in the other affected States, cannot get Federal assistance from the Department of Agriculture for repair of their fences. Not only that, but they also cannot receive help in removing debris. They have been told that they should provide their own labor and farm equipment to remove the debris scattered on their fields, but once planting time arrives, Federal assistance from the compassionate Department of Agriculture will be available. I traveled to Kentucky after the tornadoes hit, and I saw houses and barns which had been scattered for miles. How can any farmer be expected to pick up all of that debris, as well as fallen trees, without some assistance? It is truly incomprehensible to me that the Department of Agriculture is allowing this to continue. The Federal Government is not treating the cities this way. Assistance in cleaning up debris in the urban areas has long since been made available.

Further, I am quite concerned that swift action by the Department of Agriculture be taken in assuring farmers that money will be available for the repair of their fences. Approximately 1,573 miles of fence was destroyed in Kentucky at a cost of under $3 million. These fences, unlike barns and farmhouses, cannot be insured. Anyone knows that if a farmer does not have fence to separate his cows from the corn and sheep from the meadow, his farm will be totally unproductive. After all, the corn must be protected from trampling by the cows, and the cows must eat the grass in the meadow in order to produce milk. If farm animals are allowed to roam without proper fencing, they will be lost and killed on the highway. Not only are we talking about the farmer's livelihood, but also the best interests of this Nation. Have we already forgotten the seriously high food prices of last summer? We must lend every aid to these farmers so that their land can be in operating condition by planting time which is here. We must assure that we will have enough food to feed our people.

This is a positive act that the Department of Agriculture can take to absolutely assure the highest food production this year. We always have enough other unpredictables to worry about such as pests, rainfall, transportation, labor, machinery, fuel and fertilizer, to mention just a few.

I know the Department of Agriculture has the money for repairing and restoring these fences and I urge them to act immediately to correct this glaring error. Twenty-seven counties in Kentucky have requested this type of disaster assistance, as well as removal of debris, and to this day, 3 weeks later, they are unsure as to what can and will be done for them. The county and State ASCS committees, in cooperation with their emergency disaster committees, have long since taken their surveys and reported

the extent of their needs. I find the Department of Agriculture's cold and deliberate lack of response inexcusable. I intend to work at the legislative end to turn these regulations around.

I would assume that we have educated people at the Department of Agriculture who are familiar with the nursery rhyme:

Little boy blue, come blow your horn
The sheep's in the meadow, the cow's in the corn.
But, where is the boy who looks after the sheep?
He's under the haystack, fast asleep.

Wake up, Department of Agriculture, and pitch in like everyone else.

Mr. TAFT. Mr. President, will the Senator from Kentucky yield?

Mr. COOK. I yield.

Mr. TAFT. I commend the Senator from Kentucky for his comments on this subject. In my own State, I have traveled over the tornado-stricken areas, and the amount of refuse scattered about over the farmland is absolutely tremendous. Until it is cleared up, farming will be an impossibility.

The farmers are already handicapped by the shortage of fertilizer and the tremendous increase in the cost of fertilizer, and they need all the help they can get. I concur with the Senator from Kentucky that the Department of Agriculture should move, and move quickly.

I also would urge that the House of Representatives move quickly to do something about at least a minor type of grant program or other means to do something about minor items which perhaps the Department of Agriculture cannot assist with. There are many types of losses in a casualty of this kind, and much help is needed.

Mr. COOK. I thank the Senator from Ohio. I must say, while the Senator from New Mexico (Mr. DOMENICI) is present, who did such a remarkable job in bringing the disaster relief bill to the Senate floor, together with the Senator from West Virginia and his colleague not too long ago, it is my understanding that there is presently, right now, appropriated and available in the Department of Agriculture a sum, and I hope I am correct in this, of approximately $8 million.

There was an additional $10 million that was allocated, but was impounded. But it is my understanding that the $8 million is available now. It is a program that ran from 1957 until March 12 of this year, and why and for what reasons, which are totally unknown to Members of Congress, this program had to be stopped because it was the only program that could go into effect in the event of a disaster. Why this has been done is beyond me. All the agencies have pitched in and done a remarkable job. Our hats are off to all of them—apparently with the exception of one and that is the Department of Agriculture in this situation.

Mr. DOMENICI. Mr. President, I commend the Senator from Kentucky for calling to the attention of the Senate and the Secretary of Agriculture the situation which he describes. I concur that the action of the Department of Agriculture is inexcusable.

I should also like to say to the Senator from Ohio (Mr. TAFT) that we are scheduled for a conference on Thursday on a House disaster relief bill which basically is a grant to the needy program. We are hopeful that by combining that with ours, we will come up with substantially more than that. We are already aware of the specific problems of fencing and the Agriculture Department's change in the regulations just slightly before this disaster.

I am sure the Senator is well aware that we will do what we can to report the entire bill and, if at all possible, to do something about the problem raised by the Senator from Kentucky and the Senator from Ohio.

Mr. TAFT. Mr. President, I want to join in commending the distinguished Senator from New Mexico who has shown so much leadership in this area. It is indeed reassuring to hear that there is some legislation on which we can go to conference with the House to attempt to expedite this matter. The longer we delay the more hardship is involved for so many people in planting. They are the more disrupted in their livelihoods and in their ability to produce the much-needed crops and product that we need.

Mr. COOK. Mr. President, I thank both my colleagues very much.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume the consideration of the unfinished legislative business (S. 354), which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment (No. 1204) of the Senator from South Dakota (Mr. ABOUREZK).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from South Dakota (Mr. ABOUREZK) be permitted to call up two other amendments, if he feels disposed to do so, immediately following the disposition of the pending amendment and prior to the consideration of the Magnuson amendment.

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

Mr. DOLE. Mr. President, will the Senator from South Dakota yield for a unanimous-consent request?

Mr. ABOUREZK. I yield.

Mr. DOLE. I ask unanimous consent that a member of my staff, Peter Robinson, be accorded the privilege of the floor during the debate on S. 354.

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

Mr. ABOUREZK. Mr. President. I ask unanimous consent that a member of my staff, Peter Rouse, be accorded the privilege of the floor during the consideration of my amendments and the votes thereon.

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

Mr. COOK. Mr. President, I ask unanimous consent that Mr. Yarmuth of my staff be given the privileges of the floor during debate and votes on the pending bill.

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

AMENDMENT NO. 1204

Mr. ABOUREZK. Mr. President, yesterday I offered an amendment and then withdrew it and had it printed. It is No. 1204.

I do not have anything to add at this time. The sponsor of the bill wants time to respond, and I will reserve the remainder of my time.

Mr. MOSS. Mr. President, this is the amendment that had not been printed yesterday. Since that time, we have had an opportunity to examine it and I have looked rather carefully at the amendment of the Senator from South Dakota cosponsored by the Senator from Maine (Mr. HATHAWAY) and I find that it is consistent with the objectives of S. 354. Therefore, it is acceptable.

The amendment makes three modifications in the provisions governing tort lawsuits.

First, it clarifies the language to make sure that any person who intentionally attempts to cause injury to himself who in fact injures another person unintentionally can be sued in tort by the victim.

Second, it adds language to insure that persons who are not operating motor vehicles can always be sued in tort if they negligently cause injury to occupants of a motor vehicle.

Both of these perfecting amendments improve the bill by explicitly and precisely expressing the intent of the sponsors.

Third, it eliminates the $2,500 figure in section 206(a)(5), which means that a person who is eligible to sue for non-economic detriment—pain and suffering—would not be required to have the first $2,500 of a verdict for noneconomic detriment subtracted from his total recovery. It permits all persons who can sue and recover a judgment for pain and suffering damages to recover all of the non-economic detriment loss. The effect of this amendment will be to slightly decrease the average premium cost savings projected in each State that meets the bill's national standards. For example, in Alabama, the average premium savings would be reduced from 22 to 19 percent; in North Dakota, the average premium savings would be reduced from 4 to 2.5 percent. Although the amount of the premium reduction would be reduced, the savings in each of the 50 States would not be dramatically affected.

I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota (Mr. ABOUREZK) No. 1204.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. 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. HRUSKA. Mr. President, one of the factors in considering the advisability of the pending amendment would, of course, be its impact on cost. There are various estimates as to what costs this would entail. The only precise way of determining it for consideration here would be on a State-by-State basis.

It would appear that if the $2,500 deduction would be removed, according to one computation, in the State of Alabama, which is the first on the list, the residual general damage cost, based on a $3,354 value, would amount to about 30.9 percent of the total cost of all tort recoveries under the present system.

The bill provides that from every claim which passes the threshold and results in a tort suit, a flat rate deduction of $2,500 must be made. The question is, how will the total system cost be affected if this deduction is eliminated? An estimate can be drawn from the Milliman & Robertson model of cost prediction, which will be just as reliable as the other cost predictions made by that formula. Of course, that formula is subject to the many caveats that are listed in the report and to which attention should constantly be paid and which should be constantly borne in mind.

A mathematical calculation can be made, using M. & R. assumptions, of the average residual general damage claim cost and the total general damage claim cost both with and without the deduction. A further calculation can be made to determine the percentage of system costs attributable to the postthreshold residual damage claims. The change in this percentage resulting from an elimination of the threshold can then be stated.

The average residual damage claim under S. 354 is about $2,300, after reduction by the $2,500 deductible. This figure is derived by taking the average of appendixes II–1 through II–51 for the 50 States and the District of Columbia. The assumption is that each State has passed a $15,000 benefit package on wage loss, to comply with the "low benefit" provision of S. 354, and each State has passed the tight threshold plan with a $2,500 deduction. The further M. & R. assumption is that claimants, claims adjusters, and juries will overvalue all claims by an average of $1,250 to try and beat the unfair deduction. This means that the true value of each claim can be found by adding only $1,250 to the average claim values of appendix II. That is, the final value published in appendix II is true value plus $1,250 minus $2,500—or true value minus $1,250. The published value, all-State average, of $2,330 means that in the opinion of M. & R. actuaries the average verdict and claim value in the United States for noneconomic loss in serious and permanent injury or disfigurement cases will be only $3,580—$2,330 plus $1,250.

The figure seems low, considering these cases are the most serious of all injuries sustained, and are necessarily disabling or disfiguring for life. The unstated assumption of M. & R. is that juries do not award much money for the intangible losses called "pain and suffering." It may be rational to conclude that any deduction from those modest awards, or any restriction upon them, is unjustified.

Based upon the assumption that the average claim with the deduction applied—at a net effective rate of 50 percent of $2,500—is $2,330, and based upon the parallel assumption that true value is $3,580 it is apparent that the after-reduction value is 65 percent of true value. Stated in reverse, if the $2,500 reduction is abolished, then the total value of residual damage claims will have to be increased by a factor of 54 percent to determine the increased cost of paying true value, $2,330 times 1.54 equals $3,588, rounded to $3,580.

The overall effect on costs which the increase in general damage costs will generate can be demonstrated by taking a sample State which is close to the national average in claim costs. Appendix II–18 for Kentucky shows 7.227 residual general damage claimants at an average of $2,326 each for a total of $16,809,000. If this is increased by a factor of 54 percent, the additional cost will be $9,077,000, making a new total of $25,886,000. The Milliman & Robertson formula calculates all loss adjustment expenses as a percentage of payout, and uses a 25-percent adjustment cost factor for general damages claims. The additional payout of $9,077,000 should be adjusted upward by $2,269,000 to reflect the adjustment cost factor of the Milliman & Robertson model.

Total additional cost in the no-fault system will be $11,346,000 for added claim cost and adjustment cost. The Milliman & Robertson appendix for Kentucky shows the total cost estimate for medical, wage, service benefits, death benefits, and general damages, and adjustment costs of $129,192,000. The addition of $11,346,000 will increase this to $140,538,000. The increase in total system cost is 9 percent.

The effect on average premium will be that the premium will be nearly 11 percent higher over S. 354's present premium after the deduction is eliminated. In the private insurance system at present cost levels the insurance industry retains or expends about 30 percent of the premium dollar for all sales and acquisition expense, general administrative expense, taxes, and underwriting profit. The remaining 70 percent goes for claim payment and loss adjustment expense. In order to pay out $129,192,000 in losses plus adjustment cost, it will take premium income of $184,560,000. In order to pay out $140,538,000 in losses plus adjustment cost, it will take premium income of $200,768,000. The 9-percent increase in loss costs will require a 10.8-percent increase in premiums to maintain the same level of commission expenses, general expenses, taxes, and profits.

This study is limited to cost increases due to the elimination of the $2,500 deductible alone. If the threshold is reduced, there will be a further cost increase. The reduction in threshold, however, will not produce as large a cost increase as the elimination of the deductible.

Mr. President, the effect on the average premium will be that the premium will be nearly 11 percent higher, over S. 354's present premium, after the deduction is eliminated, on a nationwide basis. That is a nationwide average that would have to be adjusted in the instance of each State. We must bear in mind that there will be an adjustment of the premium in each instance if the amendment is adopted.

Mr. MOSS. Mr. President, I agree with the Senator from Nebraska that there will be a readjustment of the premium levels if the amendment is adopted. However, I do take exception to the amount of that adjustment. I do not have the figures here for all the States, but the ones we have checked run from 1.5- to 3-percent difference, rather than the amount that was indicated. I do acknowledge that there would be a readjustment of premiums if the amendment were adopted. Nevertheless, the managers of the bill feel that the amendment does not detract from the general purpose of the bill, and therefore we are prepared to vote on the amendment.

Mr. HATHAWAY. Mr. President, I want to make the point that although premiums probably will go up, there is a deductible feature of $2,500 in there Many people in the rural areas of this country and the relatively poor States will be deprived of any noneconomic damages. For that reason, I am a cosponsor of the Senator from South Dakota's amendment. I think the amendment is very worthwhile, in that it would compensate the people in those States where jury verdicts are traditionally quite low.

Mr. BAKER. Mr. President, I am happy to support the amendment offered by the junior Senator from South Dakota (Mr. ABOUREZK) which would eliminate a provision from the bill, which I consider to be particularly objectionable.

This provision of the bill requires in effect that any injured victim who meets the stringent tort threshold specified in the bill's minimum standard and who is free from fault and thus entitled to recover noneconomic compensation must give up the first $2,500 of his recovery.

I think that this provision is clearly unjustified and unconscionable. My amendment No. 1137 would remove this provision from the bill, but I shall support the amendment of Senator ABOUREZK because I feel the issue deserves the attention which this action focuses upon it.

I am advised that the amendment may increase costs. However, in my opinion, whatever the costs, we cannot afford the inequity of this provision in S. 354.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1205

Mr. ABOUREZK. Mr. President, I call up amendment No. 1205.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 105, line 12, delete: "six continuous months" and substitute "sixty continuous days".

Mr. ABOUREZK. Mr. President, although I favor a concept of no-fault insurance that automatically compensates a victim for his wage loss and medical and rehabilitation expenses, I am opposed to a law which would completely foreclose a victim's right to sue for intangible damages, for example, pain and suffering. Thus, while most of the provisions of S. 354 conform to my view of a sound no-fault concept, I am somewhat concerned about its restrictions on tort liability. I personally believe that the tort threshold provision in S. 354 is unfair and unwise, and I fear that it would have the effect of depriving deserving accident victims of compensation which they should be entitled to receive. If an individual is injured in an accident, which was not his fault, he should be allowed the right to sue for intangible damages.

It is apparent that there is strong opposition to any attempt to abolish the tort threshold provision of S. 354 completely. I regret that this is the case. Nevertheless, the reluctance to removing all restrictions on lawsuits for noneconomic detriment does not diminish my belief in the desirability of lowering the tort threshold contained in this bill. I am thus offering the following amendment which I believe strikes a reasonable compromise between the supporters of tight restrictions on lawsuits for intangible damages and those arguing against any restrictions at all.

This amendment would amend the tort threshold provision (sec. 206(a)(5)(B)) of the Federal standards section (title II) of S. 354 to permit tort suits for noneconomic damage where an injured person has sustained more than 60 continuous days of total disability. As the provision now reads, there must be more than 6 continuous months of total disability to allow lawsuits for recovery of intangible damages.

In its report, the Senate Commerce Committee states that—

S. 354 would create a nationwide automobile insurance system which would, in the event of a motor vehicle accident, pay the cost of restoring to the maximum extent feasible, all occupants and pedestrians who are injured, and compensate, subject to reasonable limitation, the economic loss of all deceased victims (S. Rept. 93-382, p. 2).

I believe that in seeking maximum restoration of motor vehicle accident victims, it must be recognized that in certain cases the loss to be restored consists not only of economic loss, but also of noneconomic loss, that is, pain and suffering.

It is important to note that while the focus of S. 354 is on economic loss, for which basic no-fault benefits are provided, title II of the bill does acknowledge the desirability of compensating the accident victims for noneconomic loss in certain well-defined cases and thus permits tort suits for such loss. In keeping with the no-fault principle, such lawsuits are restricted to serious cases of noneconomic loss.

I have examined the arguments for this tightly defined tort restriction very closely, and I must say that they do have considerable appeal. The proponents of a tightly restricted tort liability provision contend that the present right to sue for intangible damages does not even insure the automobile accident victim with fault-based lawsuit coverage adequate compensation for major economic loss, much less anything for pain and suffering. They present figures which demonstrate, quite convincingly, that the present system for compensating automobile accident victims, whether those at fault or those not at fault, is inadequate, particularly when a person is seriously injured and sustains a significant amount of economic loss. S. 354 provides a much more substantial compensation system for all automobile accident victims and, to the extent insurance dollars are paid to auto accident victims for pain and suffering, the recipients will be those with serious injuries, not slight injuries.

I do not dispute the underlying rationale of this argument or the figures used to substantiate it. At the same time, I do not think that it detracts from the merits of the case for lowering the tort threshold provision of S. 354. I believe that our auto reparations system should and can provide just and equitable compensation for the economic losses of automobile accident victims without unduly restricting their right to sue for intangible damages. To the extent practical, my amendment will insure just that.

My amendment is consistent with the whole philosophy of the National No-Fault Motor Vehicle Insurance Act. Section 206(a) does allow the right to sue for intangible damages in serious cases. Under my amendment, tort suits are still reserved for serious cases of noneconomic loss. The amendment simply gives the concept of "serious case" a more realistic definition by recognizing that a person who has been totally disabled for 60 continuous days has been seriously injured.

Mr. President, I think that if the threshold were to be abolished altogether, this would be a much better piece of legislation. The reason is that I do not feel that the primary issue here should be that of cost. There will be some increase in premium costs, but I think one could also argue that if one made a $100,000 deductible provision, it would save a great deal in premiums. Not many people would be able to recover any loss whatsoever if they were involved in an accident, under these provisions.

We have to strike some kind of balance with respect to the desire of those of us who favor a good, sound no-fault concept for people to be compensated for their injuries, for medical expenses and wage loss and for the right to sue for pain and suffering.

If we maintain the threshold at 6 continuous months of disability, many people who suffer from injuries they have received as a result of somebody else's fault will not be able to sue, although they will undergo a great deal of pain and suffering.

Total abolition of this tort threshold provision would be much preferable. However, I do not see the support for it at this point. Therefore, I favor the amendment reducing the 6 continuous months to 60 continuous days.

Mr. MOSS. Mr. President, the amendment presented by the Senator from South Dakota would reduce the 6 continuous months to 60 continuous days. The Senator also has at the desk a printed amendment which would substitute 90 continuous days for the 6 continuous months.

The practical effect of the 90-day amendment, the second one—and I intend to make a motion to substitute—would be to reduce the average premium saving projected for each State under the national standards of S. 354.

But the 90-day amendment is consistent with the basic objective of the bill that under no circumstances can average premium costs be permitted to increase. In combination with the amendment which was just adopted, which eliminates the $2,5000 deduction, the average personal injury premium savings in Alabama would be 14 percent rather than 22 percent under the bill as reported. The corresponding impact in North Dakota is that there would be no change in the average cost of personal injury premiums rather than a saving of 4 percent under the bill as reported. While the 90-day amendment may not produce actual cost savings in every State, it will produce significant cost savings in most States and certainly no cost increases in any State.

Therefore, I would be willing to accept the 90-day provision.

By contrast, the practical effect of the 60-day amendment will, according to the actuarial projections of Milliman & Robertson, increase the average cost of premiums for personal injury coverage in 11 States.

Although the increases in each of these 11 States would be minimum, I cannot accept an amendment that would raise costs over present levels even though the consumer will be receiving an infinitely better product than he is getting today.

Mr. President, I therefore offer as a substitute for the amendment now pending the one that is printed and is designated as amendment No. 1206, which I will send to the desk, the only difference being that it provides 90 days in place of the 60 days.

The PRESIDING OFFICER. The clerk will state the amendment offered as a substitute.

The clerk read the amendment offered as a substitute (No. 1206) as follows:

On page 105, line 12, delete: "six continuous months" and substitute "ninety continuous days".

Mr. ABOUREZK. Mr. President, I would like to ask for the yeas and nays on the amendment, but not enough Senators are present.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I also ask for the yeas and nays on amendment No. 1205.

Mr. MOSS. Mr. President, if it is amended, there is no need for that.

Mr. MAGNUSON. Let us get over one rollcall first.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ABOUREZK. 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. FONG. Mr. President, I have carefully examined the arguments and supporting documentation provided by both the proponents and opponents of S. 354, the National No-Fault Motor Vehicle Insurance Act, which is now before the Senate.

I have come to the conclusion that this bill is greatly needed and should be enacted by the Congress.

In my view, the present fault-oriented system of automobile accident reparations is functioning very badly indeed. To cite only one factor, less than half of every premium dollar paid into the system for automobile personal injury liability insurance is returned to the Nation's motorists. In 1972, for example, they got back only $3.36 billion out of $8 billion in premiums paid in.

The $2 million study of automobile insurance and compensation commissioned by Congress and conducted by the Department of Transportation significantly concluded:

> In summary, the existing system ill serves the accident victim, the insuring public and society. It is inefficient, overly costly, incomplete and slow. It allocates benefits poorly, discourages rehabilitation and overburdens the courts and the legal system. Both on the record of its performance and on the logic of its operation, it does little if anything to minimize crash losses.

By substituting the right to recover for the right to sue, no-fault achieves what I believe should be the basic purpose of our automobile accident reparations system: the care, treatment, physical rehabilitation, and economic restoration of injured persons. Our present tort liability system cannot equitably, efficiently, or economically achieve these goals.

The States are moving all too slowly and erratically to enact their own no-fault automobile insurance systems. Even assuming that every State ultimately passes no-fault legislation of some description. I feel that 50 different State plans would prove a nightmare for consumers, insurers, and all others concerned.

I am satisfied that enactment of this legislation is constitutional and within the powers granted to the Congress by the commerce clause and the supremacy clause.

Objections to S. 354 which do have substance are relatively minor in nature, in my view, and can be dealt with by amendments on the Senate floor which will not kill or deflect the thrust of national no-fault legislation as a whole.

In arriving at these conclusions, I might note that I have had the advantage not only of reviewing and evaluating the abundance of information on this matter, pro and con, which I suspect has also been presented to my colleagues, but also of regularly attending the Judiciary Committee hearings on the constitutionality of S. 354.

Having stated my views for the record, however, I will vote "present" on rollcalls during Senate consideration of S. 354. I was similarly recorded when on March 20 the Judiciary Committee voted to report the bill out favorably.

I serve as chairman of the board of directors of Finance Factors, Ltd., a Hawaii corporation which has a division which writes automobile insurance. Because this business association raises the question of a conflict of interest were I to vote affirmatively or negatively on national no-fault motor vehicle insurance, I have concluded that the honorable thing to do, and the action which my constituents have a right to expect, is to abstain.

Mr. ABOUREZK. Mr. President, I am ready to vote.

Mr. MOSS. Mr. President, we are prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1206 as a substitute for amendment No. 1205. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from California (Mr. TUNNEY), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is necessarily absent.

I also announce that the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are absent on official business.

The Senator from Hawaii (Mr. FONG) voted "present."

The result was announced—yeas 53, nays 34, as follows:

[No. 152 Leg.]

YEAS—53

Bayh	Haskell	Nelson
Beall	Hatfield	Nunn
Bellmon	Hollings	Pastore
Bentsen	Huddleston	Pearson
Bible	Hughes	Pell
Biden	Humphrey	Percy
Brock	Inouye	Proxmire
Buckley	Jackson	Randolph
Burdick	Javits	Ribicoff
Byrd, Robert C.	Magnuson	Schweiker
Cannon	Mansfield	Sparkman
Case	McGee	Stennis
Church	McGovern	Stevens
Clark	McIntyre	Stevenson
Cranston	Metcalf	Taft
Dole	Montoya	Talmadge
Dominick	Moss	Weicker
Hart	Muskie	

NAYS—34

Abourezk	Eagleton	Long
Aiken	Eastland	McClellan
Allen	Ervin	McClure
Baker	Fannin	Mondale
Bartlett	Griffin	Packwood
Byrd, Harry F., Jr.	Gurney	Scott, William L.
Chiles	Hansen	Stafford
Cook	Hartke	Thurmond
Cotton	Hathaway	Tower
Curtis	Helms	Williams
Domenici	Hruska	Young
	Johnston	

ANSWERED "PRESENT"—1

Fong

NOT VOTING—12

Bennett	Gravel	Roth
Brooke	Kennedy	Scott, Hugh
Fulbright	Mathias	Symington
Goldwater	Metzenbaum	Tunney

So Mr. Moss' amendment (No. 1206), offered as a substitute for Mr. ABOUREZK's amendment (No. 1205), was agreed to.

Mr. ABOUREZK. Mr. President, while many Senators are in the Chamber, I should like to explain briefly the amendment to my amendment. Several Senators came to me and said they did not understand the amendment.

I had offered an amendment to reduce the threshold to 60 days of continuous disability. The amendment, offered by the Senator from Utah (Mr. Moss), to my amendment would raise the threshold to 90 days. Based upon what appears to be considerable misunderstanding, I should like to move for a reconsideration of the vote, and I ask for the yeas and nays.

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

Mr. ABOUREZK. On that question, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. BAKER. Mr. President, what are we to vote on?

The PRESIDING OFFICER. The Senator from South Dakota (Mr. ABOUREZK) has moved to reconsider the vote by which the amendment of the Senator from Utah (Mr. Moss) was agreed to. The Senator from Utah has moved to lay the motion to reconsider on the table. The question is on agreeing to the motion to lay on the table.

Mr. MOSS. Mr. President, a motion to reconsider was made by the Senator from South Dakota. I believe he did not vote on the prevailing side; therefore, I make the point of order that he may not make his motion to reconsider. I should be glad to make such a motion, provided I have sufficient time to debate it.

Mr. MANSFIELD. Mr. President, in view of the fact that a mistake evidently was made, and I do not like to deny the Senator from South Dakota his right to move to have the vote reconsidered, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOSS. Mr. President, I move to lay that motion on the table and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now is on agreeing to the motion of the Senator from Utah to lay on the table the motion of the Senator from Montana (Mr. MANSFIELD) to reconsider the vote by which the Moss amendment was agreed to. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is necessarily absent.

I also announce that the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are absent on official business.

The Senator from Hawaii (Mr. FONG) voted "present."

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

[No. 153 Leg.]

YEAS—43

Bayh	Haskell	Pastore
Beall	Hatfield	Pearson
Bellmon	Hollings	Pell
Bentsen	Inouye	Percy
Bible	Jackson	Ribicoff
Buckley	Javits	Schweiker
Burdick	Long	Scott,
Byrd, Robert C.	Magnuson	William L.
Cannon	Mansfield	Sparkman
Case	McGee	Stennis
Church	McIntyre	Stevens
Cranston	Montoya	Stevenson
Dole	Moss	Talmadge
Dominick	Muskie	Weicker
Hart	Nelson	

NAYS—43

Abourezk	Eagleton	McClure
Aiken	Ervin	McGovern
Allen	Fannin	Metcalf
Baker	Griffin	Mondale
Bartlett	Gurney	Nunn
Biden	Hansen	Packwood
Brock	Hartke	Proxmire
Byrd,	Hathaway	Randolph
Harry F., Jr.	Helms	Stafford
Chiles	Hruska	Taft
Clark	Huddleston	Thurmond
Cook	Hughes	Tower
Cotton	Humphrey	Williams
Curtis	Johnston	Young
Domenici	McClellan	

ANSWERED "PRESENT"—1

Fong

NOT VOTING—13

Bennett	Gravel	Scott, Hugh
Brooke	Kennedy	Symington
Eastland	Mathias	Tunney
Fulbright	Metzenbaum	
Goldwater	Roth	

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the motion to reconsider the vote on the adoption of the Moss amendment No. 1206.

Mr. MOSS. Mr. President, I ask for the yeas and nays on the motion to reconsider.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote on amendment No. 1206.

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

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is necessarily absent.

I also announce that the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), and the Senator from Pennsylvania (Mr. HUGH SCOTT) are absent on official business.

The Senator from Hawaii (M. FONG) voted "present."

The result was announced—yeas 40, nays 46, as follows:

[No. 154 Leg.]

YEAS—40

Abourezk	Domenici	McClure
Aiken	Eagleton	McGovern
Allen	Ervin	Mondale
Baker	Fannin	Nunn
Bartlett	Griffin	Packwood
Biden	Gurney	Proxmire
Brock	Hansen	Randolph
Byrd,	Hartke	Stafford
Harry F., Jr.	Hathaway	Talmadge
Chiles	Helms	Thurmond
Clark	Hruska	Tower
Cook	Humphrey	Williams
Cotton	Johnston	Young
Curtis	McClellan	

NAYS—46

Bayh	Haskell	Nelson
Beall	Hatfield	Pastore
Bellmon	Hollings	Pearson
Bentsen	Hughes	Pell
Bible	Inouye	Percy
Buckley	Jackson	Ribicoff
Burdick	Javits	Schweiker
Byrd, Robert C.	Long	Scott,
Cannon	Magnuson	William L.
Case	Mansfield	Sparkman
Church	McGee	Stennis
Cranston	McIntyre	Stevens
Dole	Metcalf	Stevenson
Dominick	Montoya	Taft
Eastland	Moss	Weicker
Hart	Muskie	

ANSWERED "PRESENT"—1

Fong

NOT VOTING—13

Bennett	Fulbright	Gravel
Brooke	Goldwater	Huddleston
Kennedy	Roth	Tunney
Mathias	Scott, Hugh	
Metzenbaum	Symington	

So the motion to reconsider was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from South Dakota (Mr. ABOUREZK) No. 1205, as amended by amendment No. 1206, the substitute amendment by the Senator from Utah.

The amendment, as amended, was agreed to.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I want to make a correction of a statement which I made in a letter sent to each Senator's office which indicated that State Farm Mutual Insurance Co. is a member of the American Insurance Association. While the State Farm has been closely associated with the AIA in support of S. 354, they are not a member of the association, but are independent.

I hope that I have caused neither the AIA nor State Farm any embarrassment.

S. 354—AN IMPORTANT BENEFIT OF NO-FAULT INSURANCE—QUALITY EMERGENCY MEDICAL TREATMENT AND REHABILITATION

Mr. CRANSTON. Mr. President, I am glad that S. 354, the National No-Fault Motor Vehicle Insurance Act, is now before the Senate, having been favorably reported from both the Commerce and the Judiciary Committees. Today I want to speak only to one aspect of this legislation—what S. 354 will mean in terms of covering the medical expenses and rehabilitation of automobile accident victims.

The bill provides for unlimited coverage for specified allowable expenses for medical treatment and rehabilitation and defines these allowable expenses as reasonably needed professional medical treatment and care, emergency health services, and medical and vocational rehabilitation services.

As the author in the Senate of the Emergency Medical Service System Act of 1973, now Public Law 93–154, and as the principal Senate author with Senator RANDOLPH of the Rehabilitation Act of 1973, now Public Law 93–112, I am intensely aware of the critical effect of a serious injury requiring long-term rehabilitation on the life of the victim as well as on the life of his or her family. Of the greatest importance to avoiding permanent long-term disablement is early and adequate medical treatment at the time of the injury.

The slaughter on America's highways each day, week, month, and year is a deplorable and tragic fact.

I am most impressed with the work of the Committees on Commerce and the Judiciary and with the understanding those committees have displayed of the needs of accident victims, first, for better hospital emergency rooms, ambulances, and equipment and more and better trained emergency doctors and paramedics, and, second, for rehabilitation

to make possible a return to a sound and healthy personal, family, community, and employment life.

I have worked closely with Senator MAGNUSON, Senator HART, and Senator WILLIAMS in assuring that these concerns were adequately reflected in the legislation as reported from the Commerce Committee in the 92d Congress and again as it was introduced and reported in this Congress.

Projections from studies indicate that mortality from accidents alone could be reduced by from 10 to 20 percent by proper medical care at the scene of the accident or en route to an emergency facility.

The Ambulance Association of America has estimated that 25,000 individuals are permanently injured or disabled every year as a result of inappropriate measures taken by untrained ambulance attendants and rescue workers.

The problem is especially acute in rural and inaccessible communities. The National Academy of Sciences reports that 7 out of 10 motor vehicle deaths occur in rural areas and communities with populations of under 2,500. In California, where one-fourth of the land area is 30 minutes or more away from any kind of ambulance service, a 1967 study showed the death rate in auto accidents to be 17 per 100,000 in urban areas, 46.8 per 100,000 in rural areas, and as high as 85.5 per 100,000 in the mountains. That is why in Public Law 93–154 we put such a high priority on emergency medical services systems for rural areas.

Mr. President, S. 354 as reported aims to do something about the fact that a substantial percentage of those who die as a result of automobile accidents die of survivable injuries, and the fact that a substantial percentage of those who are injured and seriously injured remain disabled—both in terms of their capacity for independent living and to obtain gainful employment—throughout life because they either fail to start a disciplined program of rehabilitation or start too late, or because no rehabilitation facilities are available in their communities. If the woeful inadequacies of America's emergency medical services nonsystems and the underutilization and undercapitalization of America's rehabilitation services system were remedied, we would, in a relatively short period of time, see a dramatic reduction in the total annual losses due to automobile accidents—a development which would mean higher profit margins for commercial insurance underwriters which could be passed on to consumers in the form of lower premiums.

The bill as reported will encourage the development of emergency medical services systems capable of providing the comprehensive care needed to treat the severe trauma frequently incurred by an accident victim through defining emergency medical services for which reasonable reimbursement is required as follows:

Services necessary to mitigate injury to any victim during the period immediately and proximately following an accident, including, but not limited to, communications, transportation, and treatment by medical and paramedical personnel, and which are supplied or provided by a person accredited or certified by an emergency health services system.

I have suggested to Senator MAGNUSON and he has agreed to amend this language to read: "services necessary to mitigate injury to any victim during the period immediately and proximately following an accident, (including, but not limited to, communications, transportation, and treatment by medical and paramedical personnel through an emergency medical services system) which are supplied or provided in accordance with applicable State law."

S. 354 then goes on to define an emergency health services system in language almost identical to that we used in the Emergency Medical Services Systems Act, Public Law 93–154.

I am pleased that the distinguished Senator from Washington (Mr. MAGNUSON) has agreed to accept amendments to S.354 which would bring this definition into total conformity with the purposes of Public Law 93–154.

That definition was carefully constructed by the conferees on Public Law 93–154 to reflect our concern that an emergency medical services system have sufficient personnel, equipment, and facilities to insure quick accessibility to the most comprehensive emergency medical services.

In addition, S. 354, as reported, adopts a definition of medical and vocational rehabilitation services which conforms closely to the purposes of Public Law 93–112, the Rehabilitation Act of 1973, and, in addition, as a safeguard against misuse of the unlimited funds available for rehabilitation benefits, there is no obligation to pay for medical and vocational rehabilitation services unless they are provided in or through a facility which has been accredited by the appropriate State vocational rehabilitation agency as meeting applicable requirements and regulations. Each State has established a State vocational rehabilitation agency during the 50-year history of the Vocational Rehabilitation Act.

The State official responsible for supervision or regulation of the insurance industry in the State is given the responsibility under the reported bill to establish a program for the periodic evaluation of medical and vocational rehabilitation services for which reimbursement is sought under the State's no-fault system, in order to assure: first, the services meet the definition of S. 354; second, the services provided the accident victim are assisting him in making progress toward a greater level of independent functioning and are essential to such progress; and third, that the charges are fair and reasonable.

One provision of S. 354 as reported which could have an important impact on building up the capacity of individual communities to provide comprehensive emergency medical care and rehabilitation services is that which states the State official responsible for the supervision or regulation of the insurance industry is authorized to coordinate with other government agencies in the creation and maintenance of an emergency medical services system to assure that emergency medical services are available to meet the needs of the State's residents and visitors. S. 354 further provides that, in carrying out this authority, State official could provide loan guarantees or similar incentives for the development of emergency medical as well as rehabilitation services, and support for training programs for personnel in programs and facilities offering such services.

Mr. President, I believe S. 354 effectively addresses the problem of assuring that the accident victim will better be able to survive the accident and will be restored as fully as possible and as quickly as possible as a fully functioning, productive member of society. I urge that the provisions relating to reimbursement for medical and rehabilitation services must be retained without imposing arbitrary limits on this type of coverage. Such limitations would unfairly and most uneconomically relegate to a life of total dependence that small proportion of accident victims who require expensive medical treatment and rehabilitation services and for whom such medical and rehabilitation services can, in fact, mean the difference, in many cases, between a life of total personal and economic dependency and a life of self-sufficiency and financial productivity.

I urge my colleagues to support these vital provisions of S. 354 as reported.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that a member of my staff, Mr. Bert Rosen, be allowed the privilege of the floor during the consideration of this bill.

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, April 24, 1974, he presented to the President of the United States the enrolled bill (S. 2770) to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services.

LEAVE OF ABSENCE

Mr. MONTOYA. Mr. President, I ask unanimous consent that I may be excused from attendance on the Senate for the remainder of business today and for tomorrow on official business.

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

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

Mr. MOSS. Mr. President, it is my understanding that the bill is now open to further amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. MOSS. I think the Senator from Florida wishes to offer an amendment.

Mr. ROBERT C. BYRD. Mr. President, under the unanimous-consent agreement, the Senator from South Dakota had the consent of the Senate to call up another amendment, if he so chose. Following that, would it not be correct that the Senate would then resume consideration of the amendment by Mr. MAGNUSON, which was pending?

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, that is correct, but it is still subject to amendment.

Mr. MOSS. Mr. President, as I understand the situation, the Senator from South Dakota called up the first amendment, which was agreed to. Then he called up his second amendment; and the third amendment, which was printed and was at the desk, was substituted for the second amendment. That has now been agreed to. Therefore, it seems to me that unless he has a further amendment, we have disposed of his situation.

Mr. ABOUREZK. I have no further amendments at this time, Mr. President.

The PRESIDING OFFICER. Under the agreement, the Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, many Senators are wondering, of course, whether we will have any more rollcall votes tonight on any amendments. The Senator from Utah and I and other Senators would like to dispose of as many amendments as we can. There is a unanimous-consent agreement that at the end of business today, one or two amendments would be called up by the Senator from Tennessee (Mr. BAKER). I am sure that the Senator from Nebraska will agree with me that these are the really two important amendments to the bill.

Mr. HRUSKA. They are among the important ones.

Mr. MAGNUSON. They are the most important, I think. Anyway, they are important. There would then be a 4-hour time limitation tomorrow—that shows how important they are—and on any amendments to the Baker amendments there would be a half-hour on each side.

How long we continue tonight is up to the leadership. I do not know whether the Senator from Florida desires a rollcall vote on his amendment. In fact, I do not know what his amendment is.

Mr. GURNEY. I have no intention of asking for a rollcall vote. However, there may be others. Senator COOK has some words to say.

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

Mr. MAGNUSON. I yield.

Mr. COOK. Has there been a unanimous-consent agreement with respect to the amendment of the Senator from Washington?

Mr. ROBERT C. BYRD. The amendment that is presently pending. That is by virtue of the fact that it was up yesterday, and we substituted the Abourzek amendment by unanimous consent.

Mr. MAGNUSON. I want to confer with the Senator from Kentucky before I present the amendment I have. It tries to take care of his individual report.

Mr. COOK. Will that amendment be brought up today?

Mr. MOSS. We hope so.

Mr. MAGNUSON. We can bring it up if we can agree to it.

Mr. MANSFIELD. Does the Senator from Washington yield to the Senator from Florida and does he withdraw his amendment for the time being?

Mr. MAGNUSON. I will set it aside and yield to the Senator from Florida.

Mr. GURNEY. Mr. President, I ask unanimous consent that a member of my staff, Mr. Hinish, be permitted the privilege of the floor during the consideration of this amendment.

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

Mr. GURNEY. Mr. President, I call up my amendment.

The PRESIDING OFFICER. Without objection, the Senator may call up his amendment now.

Mr. GURNEY. Mr. President, I call up my amendment No. 1039.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment offered by Mr. GURNEY for himself and Mr. DOLE.

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

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

Amendment No. 1039 is as follows:

On page 64, line 25, after the word "located", insert: "except that a vehicle having less than four wheels may be specifically excluded, at the option of a State establishing a no-fault plan for motor vehicle insurance in accordance with title II of this Act, from the requirements and benefits of such plan".

On page 101, line 23, delete the word "or".

Between lines 23 and 24 add the following:

"(2) a deductible not to exceed an amount deemed reasonable by the insurance commissioner of such State for each individual if he sustains injury while he is operating a motor vehicle having less than four wheels, is a passenger on such a vehicle, or both; or".

On line 24 change "(2)" to "(3)".

Mr. GURNEY. Mr. President, I also ask unanimous consent that the following Senators be added as cosponsors of the amendment: Senators HUGH SCOTT of Pennsylvania, HELMS of North Carolina, TUNNEY of California, STEVENSON of Illinois, BARTLETT of Oklahoma, and JAVITS of New York.

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

Mr. GURNEY. Mr. President, this amendment is very clear and easy to understand. What it does is permit the States to exclude motorcycles from the no-fault coverage of the bill.

Mr. COTTON. Mr. President, may we have order? We cannot hear the Senator.

The PRESIDING OFFICER. The Senator will suspend. Let us have order in the Senate.

The Senator will continue.

Mr. GURNEY. As I was saying, Mr. President, what this amendment does is permit the States to exclude motorcycles from the coverage of this no-fault insurance bill. As the bill is presently drafted, motorcycles would be included along with other vehicles, cars, trucks, and all the other vehicles covered by the no-fault bill.

The main reason for seeking for the States the privilege to exclude motorcycles when they take up their no-fault bills, after the passage of this one, is that motorcycles are in an entirely different class than cars and trucks are. As a matter of fact, if we go ahead and treat motorcycles the same as cars and trucks, we are going to cause the insurance rates on motorcycles to go up three or four times present rates, and perhaps even higher. As a matter of fact, in the State of Florida they will go from somewhere around $100 under their insurance coverage up to $765. That is a six-times increase.

Delaware has already had an experience with a no-fault bill that did not exclude motorcycles, or gave them the same coverage that automobiles had, and their rates went up so high that the sales of motorcycles stopped in the State of Delaware and they did not revive until the legislature met again and revised the law to give motorcycles special treatment.

That very same thing will happen throughout the United States unless this amendment is adopted and unless the States have a right to exclude motorcycles or give them coverage different from cars and trucks.

The reason for the amendment is to permit motocyclists to continue to operate their vehicles, if they desire, and also to save the motorcycle industry, because without this amendment, motorcycles will not be sold in the United States.

On March 20, I introduced for myself and for the Senator from Kansas (Mr. DOLE) an amendment to S. 354 which would permit the States to exclude motorcycles from coverage under no-fault plans which they adopt under title II of the bill, should S. 354 be enacted into law. Since then, I am pleased to report that the distinguished Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from North Carolina (Mr. HELMS), the Senator from California (Mr. TUNNEY) and the Senator from Illinois (Mr. STEVENSON) have joined us as cosponsors of this amendment.

I have introduced this amendment in order to deal with the peculiar problem presented by motorcycles in relation to no-fault legislation and to avoid the potentially disastrous economic and social effects which may flow from including motorcyclists in any no-fault requirement for first-party benefits.

From the definition of "motor vehicles" as written in section 101 (17) of this bill, it is evident that motorcycles are to be included within the scope of no-fault coverage since motorcycles must be registered under the motor vehicle registration laws of every State. The purpose of

my amendment is to make it clear to the State legislatures that they may take corrective action to exclude vehicles with less than four wheels from coverage under their plans. For instance, they could specifically write motorcycles out of such plans, or amend their vehicle registration statutes, or enact separate and distinct motorcycle laws covering registration, licensing, and the like.

This amendment would also enable the State, under section 204, to provide that any contract of insurance for no-fault benefits, allows an insurer to offer a deductible not to exceed an amount which the State insurance commissioner may deem reasonable for each motorcyclist or motorcycle passenger who is injured in an accident.

It is noteworthy that all but 2 of the 21 State legislatures which have thus far enacted some form of no-fault legislation have seen fit to except motorcycles from first-party benefit coverage or have made such coverage optional with the motorcycle owner.

If S. 354 becomes law, all existing State plans, with one possible exception (Michigan), will be automatically terminated since none of them can qualify under the uniform standards set forth in title II. Thus, it seems probable that, in enacting qualifying no-fault plans, the States will exclude motorcycles as they have done already. This amendment will thus alert each State to the possibility and permissibility of such a course of action.

I also considered the possibility of language automatically excluding motorcycles without leaving the choice to the States. I rejected that idea for practical considerations. For one thing, if we automatically remove one group from no-fault, we may be asked to remove another. In addition, as the proponents of S. 354 continually remind us, the implementation and administration of the Federal no-fault system is to be left to the States. Therefore, my amendment is more consistent with the thrust of this bill.

Under the McCarran-Ferguson Act of 1945, States should have the primary responsibility for the supervision of insurance. It follows, therefore, that the State legislatures rather than Congress should decide the wisdom of excluding motorcycles. The State insurance commissioner, who must negotiate premiums, is in a far better position to determine a reasonable deductible in insurance policies for motorcyclists than is the Congress.

For the reasons which follow, this amendment should be adopted and the States should be given the opportunity to exclude motorcycles from their no-fault plans.

The principal impetus behind S. 354 and other no-fault legislative proposals current among the States, is the desire to reform the automobile accident reparations system. Tremendous economic losses have been suffered by thousands of Americans as a result of their ownership and operation of private passenger automobiles.

The Department of Transportation study cited as a basis for this bill was concerned solely with problems created by the automobile and did not consider motorcycles at all. It is logical that no-fault plans should cover automobiles because of their great number and the high average daily accident rate involving cars, and the lengthy, costly tort litigation and crowded court calendars that ensue.

Whatever the virtues of a no-fault system over the prevalent system of liability insurance, plus tort recovery, the private passenger automobile constitutes the largest and most significant portion of the auto reparations problem.

To treat motorcycles and automobiles alike under a no-fault scheme, as S. 354 would presently do, is to completely disregard the distinctive characteristics and the uses of the motorcycle, as compared to the automobile.

The reasons for inclusion of motorcycles under no-fault are not compelling, particularly in view of the economic consequences. Inclusion may bring far reaching adverse effects upon a significant portion of the motoring public and upon a growing segment of our Nation's economy which depends upon the motorcycle industry.

Most importantly, I believe that motorcycles represent a minor part of the problem sought to be relieved by the proposed legislation. Therefore, to include motorcycles is to treat thousands of motorcyclists unfairly by forcing them to pay exorbitant rates for what has been for them a cheap, convenient, often essential means of transportation and sport.

To the average American, the private passenger automobile is as indispensable as the refrigerator. He depends, perhaps too heavily, upon his car to get him to and from home and work, to conduct his daily business and to perform a myriad of other economic and social services throughout the year.

By contrast, the motorcyclist uses his wheels strictly for pleasure or for sport on and off the public ways. The motorcycle is for its owner a cheap form of transportation which he can readily afford without the high costs of maintenance and use associated with automobiles.

Car owners have been able to find various automobile liability insurance policies to meet their needs and have generally availed themselves of the convenient and inexpensive protection offered by many insurers. By contrast, motorcyclists have traditionally declined to purchase insurance for themselves and their passengers.

In the case of the motorcycle, medical benefits insurance has not been generally available, either full coverage or with deductible, because it has been uneconomic from the point of view of both cyclist and insurer. Premiums have not been within the ability or willingness of the motorcyclist to pay.

Motorcyclists, of course, do recognize the hazards involved in riding their machines, but they are willing to assume that risk themselves, just as other sports participants do. Moreover, the passenger hazard has not been as much a factor for as for cars, so there is much less incentive for a motorcyclist to purchase medical payments to protect riders other than himself as there is for an automobile driver for the protection of his passengers.

The mechanical design and basic operational and physical characteristics of motorcycles are such that they represent a far greater risk of bodily injury to their own operators than to any other person. Motorcycle accidents involving pedestrians are rare, and the severity of injury upon impact is minor compared with what an automobile can inflict. Whenever there is a collision between an automobile and a motorcyclist, it is the cyclist, not the driver of the car or his passenger, who comes out second best.

A no-fault system which does not permit the exclusion of motorcycles would impose upon the average motorcyclist a responsibility to purchase insurance which has been largely unavailable to him. Such insurance is provided to protect society from the ills largely attributable to automobiles alone.

The kind of no-fault plan mandated by S. 354 totally disregards the accommodations made under the present tort system to establish an insurance market for motorcycles. Reasonable premium rates have encouraged motorcyclists to purchase protection for themselves and their passengers, as well as the general public.

No-fault is largely premised on the use of conventional automobile insurance policies and anticipates reformation of those policies so as to provide the benefits contemplated by the plan. Companies which insure motorcycles issue limited policies containing restrictions not found in conventional auto policies, such as exclusion whenever the cycle is used in riding contests. This is done so that there will be a motorcycle insurance market and the premiums will be reasonable for the average motorcyclist. Medical payments coverage is offered by insurers in some instances, though, for the reasons I stated earlier, not purchased by the motorcyclist.

Since the frequency and severity of injury to motorcyclists involved in accidents are greater than to auto drivers, no-fault coverage for motorcyclists would have a broader base of exposure than applies to automobilists and could not be written on the same basis as for automobiles. While there is much available data for predicting the costs of no-fault insurance for private passenger automobiles, there is no such information for motorcycles, and only approximations can be made. It is obvious, however, that premiums for motorcyclists under the S. 354 no-fault system will skyrocket overnight.

The reason that State plans have not included motorcycles is that the cost of first-party coverage for motorcycles is high in comparison to liability coverage for the same vehicle. Liability coverage is low because the motorcycle's potential for causing harm to occupants of another type of vehicle is small. Since motorcycle riders are exposed to a great potential for personal harm in the event of an accident, insurance which provides first-party benefits to motorcyclists will become very expensive. This is especially

true where the benefit level is high as it would be under S. 354.

Let us consider what those costs might be for the motorcyclist under the bill. As you may know, Florida was the second State in the Nation to adopt its own no-fault insurance program, but under existing Florida law, motorcycles are excluded. Normally, the cyclist in Florida purchases liability coverage of $1,000 per party—$2,000 per occurrence plus $5,000 property damage. This coverage costs him from $75 to $100 per year on the average. He may also obtain additional coverage if he likes, that is, fire, theft, collision, and comprehensive, at premiums generally ranging from $230 to $300 per year. The Florida no-fault plan includes a $5,000 first-party threshold, that is, a limit of $5,000 per injured person for medical expenses, wage loss, replacement services and funeral expenses. If the motorcyclist were not excluded from coverage under the Florida law, it is estimated that his cost would increase by 300 percent, to $225 to $300 per year for basic liability coverage. If S. 354, with its even greater first-party threshold, were to become law, without the motorcycle exclusion I am proposing by this amendment, the cost of the same Florida cyclist without deductible provisions would range from $365 for the smallest displacement vehicle to $675 for the largest displacement vehicle, over and above the base cost he now incurs.

In other words, for lowest coverage on the smallest machine, he would have to pay premiums totaling over $440 per year. For extended coverage on a large machine (900 to 1,200 cc.) he would incur costs estimated at about $975 per year.

I have no doubt that under such costly conditions, the Florida motorcyclist would refuse to buy any insurance whatsoever or would simply abandon motorcycle riding or his motorcycle altogether.

Fortunately, however, the Florida plan excludes motorcyclists who are still able to buy adequate insurance coverage and, of course, can still sue the negligent party for damages. It should be also pointed out, if the cyclist is at fault, under the Florida law, the other party or his insurance carrier can proceed against him, and the cyclist can purchase an ordinary liability policy to protect himself against such suit.

To see what can happen when States cannot and do not exclude motorcycles from their no-fault systems, we can look at the situation encountered in the State of Delaware.

Delaware was the first State to include motorcycles in its program, and it did so apparently without considering the special problem of motorcycles. What resulted was a situation wherein insurance companies were forced to discontinue writing motorcycle insurance and the purchase of motorcycle insurance and of motorcycles came to a virtual standstill. In fact, premiums offered motorcyclists became so prohibitive that not a single motorcycle was registered in the State until the law was amended. The Delaware plan was revised finally to provide a high range of deductibles so that the owner could tailor the amount of coverage to his own needs and thus better control the premium cost.

The results of automatic inclusion of motorcycles under Federal no-fault becomes dreadfully apparent. The impact of S. 354 on both owners and sellers of motorcycles will be comparable to what happened in Delaware before its own no-fault law was changed. The high cost to these persons could produce two results: It may cause some motorcyclists to violate the law and operate without insurance; and it may deny others who choose to obey the law the means to afford personal transportation. This is certainly unfair to the motorcyclist, particularly when one considers that he is not the problem or the source of the difficulties which S. 354 purports to correct.

Some proponents of Federal no-fault legislation may wish to discourage ownership of potentially dangerous vehicles such as motorcycles. However, it must be recognized that motorcycles provide a means of transportation to a substantial segment of our population, especially to young people, that involves for them modest operating expenses and low initial investment. According to the U.S. Department of Transportation, there was in 1973 an estimated 4,222,000 motorcycles registered in the United States, of which 146,000 were in Florida. By encouraging the disappearance of the motorcycle we would be taking away from these Americans a cheap, convenient form of transportation and fun. And this is what we surely would be doing if we pass S. 354 without adopting this amendment.

In the process, we would also be contributing to the energy crisis. Based on fuel consumption data developed for the Environmental Protection Agency, the average motorcycle saves a full gallon of gasoline for every 20 miles traveled when compared with the average passenger automobile. Based on national averages, the automobile gets about 13.5 miles per gallon, the motorcycle 43.7. Assuming a 25-mile round trip to work, the use of a motorcycle for commuting could save over 300 gallons of gasoline per year.

The effects upon segments of our economy dependent upon the motorcycle could also be disastrous. A major recession affecting all of those businesses and industries which manufacture, sell, and service motorcycles is not unforeseeable, and unemployment would predictably rise with the decline in motorcycle purchase and use.

Motorcycles are becoming a much more valuable part of our economy. With fuel shortages and higher prices already facing the motorcyclist, he should at least be protected against the no-fault possibility of putting him off the road. We need the motorcyclists and we must assure them that they can remain a part of the American scene. I urge you now to vote in favor of this amendment, for if we do not now pass this amendment to S. 354, no-fault will be the motorcyclist's undoing—and that tragedy will be our fault.

Mr. MOSS. Mr. President, the amendment of the Senator from Florida and the other cosponsors of the amendment permits the States to determine whether or not they want to exclude motorcycles and those injured in connection with motorcycle accidents from the scope of the bill. The managers of the bill have no objection to that. We think that is a perfectly viable option for the States to have, and motorcyclists constitute a considerably different class, I think, of those who use the highways.

Although the bill is broad enough now to include all vehicles on the highway, we think it will not do violence to the main thrust of the bill if the States are given the option as to how they want to treat them.

It must be recognized that ultimately the States have control of their own traffic and their own insurance laws. The States will administer this act, and they have an area of discretion. This is one we believe proper to leave to the States. Therefore, we do not oppose the amendment. I personally will vote for it.

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

Mr. MOSS. I yield.

Mr. CHURCH. Mr. President, I am very pleased to hear the manager of the bill state he is in favor of the amendment Many motorcyclists have written to me to express their great concern that unless the States are permitted the right to exempt motorcyclists, they may be faced with a four- or five-fold increase in their insurance premiums.

I would appreciate it very much, in view of the interest expressed by many motorcyclists in my State, if the Senator from Florida would be kind enough to allow my name to be added as a cosponsor of the amendment.

Mr. GURNEY. Mr. President, I ask unanimous consent to add the name of the Senator from Idaho as a cosponsor of the amendment.

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

Mr. MOSS. Mr. President, motorcycles, being two-wheeled vehicles, are used extensively off the highways. Under those circumstances States may deal with them differently. In the mountainous West where I live, I suppose the percentage of motorcycles operated on the highways may be as little as 10 percent or 5 percent. Most of the motorcycles are used to go up and down hills and run up and down our mountains doing exploratory work, and the same problem that confronts other vehicles does not surround the operation of motorcycles.

I personally will join in support of the amendment of the Senator from Florida.

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

Mr. MOSS. I yield.

Mr. DOLE. Mr President, as a principal cosponsor of the amendment, I share the views of the Senator from Utah and the Senator from Florida.

I wish to point out that of the 20 States having some form of no-fault legislation, all of them recognized the need for a specific provision with regard to motorcycle insurance. I think the only purpose of this amendment is to acknowledge that need in S. 354.

I know the Senator from Kentucky has some opposition to the amendment, and I realize that there may be some other debate on it.

Before yielding, I wish to make a more complete statement on the amendment.

I have been concerned in the past few months about the predicted effects of S. 354 on motorcycle insurance rates. It is said, and I believe with some justification, as the Senator from Florida has indicated, that without amending language S. 354 will cause motorcycle insurance rates to rise so dramatically that most motorcyclists will be forced to abandon their motorcycles as insurance rates more than triple. In Kansas alone with a population of 2¼ million people, there are more than 100,000 motorcycles. So the problem is one which has extremely widespread significance.

The purpose of the amendment is clear: to clarify the particular relationship of motorcycle insurance within the context of no-fault and to specify that this particular area may be dealt with, simply and directly, by each State within its own no-fault plan. Of the more than 20 States that have already enacted forms of no-fault legislation, all of these have recognized the need for specific provisions with regard to motorcycle insurance. The purpose of this amendment is to acknowledge this same need within S. 354.

The problem facing motorcyclists in a no-fault insurance system is not difficult to understand. In an accident involving a motorcycle and a larger vehicle, it is clearly the motorcyclist who will, in almost every case, sustain by far the greater personal injury and, therefore, the greater economic burden. At the same time, definitive studies have shown that it is not the motorcyclist but the driver of the other vehicle who, in a majority of such accidents, is at fault. Under the current liability system, then, it is the driver of the other vehicle, being the negligent party, who must absorb the majority of the costs involved.

With no-fault, however, the situation changes dramatically: under such a plan, motorcyclists—and through them, their insurance companies—are forced to bear a greatly increased economic burden. The result: skyrocketing motorcycle insurance rates. For S. 354, these rate increases are estimated conservatively at a minimum of 300 percent—in some cases, the increase could be much higher.

That is why this amendment to S. 354 is necessary. Without this amendment, we would discriminate against those whose only "fault" is that they have chosen motorcycles as their form of transportation.

Mr. President, the senior Senator from Pennsylvania (Mr. HUGH SCOTT) is necessarily absent today on official business. At his request, I ask unanimous consent to include his statement at this point in the RECORD.

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

STATEMENT BY SENATOR HUGH SCOTT

As an original cosponsor, I welcome today's Senate action on this amendment.

Pennsylvania leads the nation in the U.S. production of motorcycles, with the heaviest concentration being at facilities in York, Pennsylvania, which employ more than 1,100 persons for this purpose. Finished domestic motorcycles and motorcycle parts are shipped from Pennsylvania to all parts of the country.

The latest available figures from the Department of Transportation show that there are more than 215,000 registered owners of motorcycles in Pennsylvania, a figure which is more than double that recorded in 1957. At the same time, 450 retail establishments in Pennsylvania deal directly in the sale of motorcycles or motorcycle parts, and contribute more than $100 million to the State's economy each year.

I am convinced that both the motorcycle industry and related pleasure and business uses of motorcycles would be threatened if S. 354 were passed without this amendment. Therefore, I am pleased that I could be of help in averting this situation.

Mr. TUNNEY. Mr. President, as S. 354 now reads, a State may eliminate motorcycles from a no-fault plan by enacting a State motorcycle law separate and distinct from the State motor vehicle law with respect to registration, licensing, and so forth. This is a step I believe most States are unprepared to take. While no-fault insurance would generally decrease insurance costs, the motorcyclist who now enjoys low liability rates because he is seldom at fault in an accident would have to pay more for no-fault benefits to compensate himself and his passenger when injuries occured. A no-fault approach to motorcycles would thus raise insurance costs substantially so as to make cycling economically impractical.

By making it easier for States to exempt motorcycles from no-fault coverage and by permitting States to increase deductibles for motorcycles—if a State chooses to include motorcycles in its no-fault plan—the Gurney-Dole amendment, of which I am a cosponsor, is a necessary addendum to a much-needed reform.

Mr. COOK. Mr. President, I rise to oppose this amendment. I find it very strange that these are such distinct and different vehicles that are going to be on the highways and that as a result of their being known as motorcycles, their no-fault insurance premiums are going to be so prohibitive that nobody will be able to ride on the highway on a motorcycle. Well, if the premiums are so prohibitive, that means they are that much more dangerous.

Mr. President, we started in no-fault several years ago in the Commerce Committee, and one of the remarkable things we listened to all the time was that we had to have this Federal bill because we had to have uniformity; it was essential that we have uniformity. Now we are saying it is all right to have uniformity as far as automobiles and trucks are concerned, but we are going to have 50 distinct and separate determinations by 50 distinct and separate States as to how they will handle motorcycles.

It is amazing to me that we are going to have a uniform system throughout the United States and that we are going to eliminate from that uniform system somewhere in the vicinity of 7.5 million to 8 million vehicles on the roads today, namely, that many motorcycles. It is amazing, really, that, with all the debates we have had in both the Commerce Committee and the Judiciary Committee, we are now saying that we have no objection to allowing the States to make a separate distinction for each State to go its own way, to establish its own rates, to establish its own procedures, in relation to motorcycles.

There is one thing I think we have got to say is absolutely true and unquestionably a fact, and that is that if the insurance premiums are going to go up so high for motorcycles, they have to be the most dangerous vehicles on the road and they have to cause individuals the most injuries.

Why do we have this no-fault bill? We have this no-fault bill to see to it that the individual who is injured as a result of an accident has immediate first-party coverage, so that he can immediately have his hospital bills paid, he can immediately see that he is compensated, he can immediately see that he at least has compensation for his loss during the time he is injured and cannot work. All of a sudden we are going to take 7.5 to 8 million operators and say to those people, "You do not have first-party coverage. You are going to have to sue. You are going to have to bring a tort action."

By the way, for those on the floor who do not like the idea that we are taking away from the rest of the drivers of this country the uniformity, that the courthouse no longer is burdened with, we have got to say to these 7.5 or 8 million, "The courthouse is the only place, unless you can settle with the insurance carrier, because it is not available."

The other question was raised at one time during the course of the discussions in the Judiciary Committee that the insurance rates would be so high that they would be confiscatory; that they would be in excess of the value of the vehicle. There are many cars in this Nation whose insurance coverage is in excess of the value of the vehicle. Many people in the rural areas of my State who do not have high incomes have cars that are 6, 8, or 10 years old, and have three or four boys in the family driving that vehicle. Their insurance premiums are in excess of the value of that vehicle. That is no argument. The argument is, Are you going to have a uniform no-fault, first-party coverage insurance program throughout the United States, or are you not? because if we are not, then we ought to buy this amendment. We ought to include this amendment in the bill because this amendment not only eliminates that many operators and their passengers, but it also provides that we really believe in a uniform system throughout the United States for the operator of an automobile and for the operator of a truck, but not for the operators of 7, 7.5, or 8 million motorcycles.

We are also saying to the respective 50 States, Mr. President, that we are throwing this ball into their courts, and we are sending all of the motorcycle lobbyists to their State capitals so that we do not have to fool with them here.

We would be saying to them that we are sending all of those lobbyists to their State capitals so that they could contend with them and see whether they could convince them whether they ought to be excluded.

There is a remark in the report that,

in essence, says that they are eliminated anyway. There is no way in the world for that to be, because very few States in the Union would change the law to make a motor vehicle a two-wheel motor vehicle on the road—that is the vehicle as we understand it to be today.

I can only say to the Senators in all fairness that if any Senator wants to vote against the no-fault insurance bill, this would give him the opportunity to do so, so that we would eliminate that many operators and say to that many operators that there is no immediate coverage for them at all because if they are injured and there is a question of fault, they have to get a lawyer and they have to file lawsuits.

We are talking about the matter that we have to overcome, the statement that lawyers were making so much money and just raking it in by representing so many people and by filing so many lawsuits.

We are saying that we are reserving 7.5 million operators to the State. What we are saying to the 7.5 million operators is that they do not have first party coverage. So, they can argue with their insurance company or with the other fellow's insurance company to see if they are covered and can be compensated. In effect, that is what we are saying by giving the States the options.

Why do we not say to the States that they have the option to eliminate every automobile that is 10 years old or every automobile that is brand new? However, we do not do that.

We are saying that the motorcycle industry is really riding high. Why are their premiums going to increase? It is because they are the most dangerous vehicles on the road. Otherwise, why should the premiums increase three, four, and five times?

I think that we ought to think about this and we ought to think about what we are about to do, because we are saying that we are throwing 50 balls into 50 State backyards and saying to them that they should put up with this argument and see whether they will or will not eliminate it. This business about saying that they ride up the mountainside may be true. However, they ride on the highways to get there in the first place.

So I can only say that if we really want a system that is going to eliminate 7.5 or 8 million motorcycles in the United States——

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

Mr. COOK. I yield.

Mr. HRUSKA. Mr. President, may I ask the Senator what his understanding of the problem is with reference to title III on motorcycles? Are motorcycles included in title III under section 301 or are they excluded? The situation that I have in mind is whether motorcycles would be included if a State did not enact a plan under title II and title III became operative in that State. Would motorcycles be included or excluded?

I refer for quick reference to page 113 of the bill, section 301, going over to page 114.

Mr. COOK. I am studying it.

Mr HRUSKA. Mr. President, my interpretation of it is that under the no-fault plan under title III, motorcyclists would be included.

Mr. COOK. That has been the opinion of this Senator all along.

Mr. HRUSKA. Mr. President, my question is: Why should motorcycles be included under title III and, at the same time, under title II there would be an option for the State either to have or not have them included? Is the only reason for inclusion under title III the intent not to allow for a certain amount of additional leverage in coercing the States to act under title II?

Mr. COOK. Mr. President, I do not think there is any question about the fact that the two sections would be in conflict.

Mr. HRUSKA. Additionally, what becomes of the principle and the strong argument for uniformity? It is removed.

Mr. COOK. Uniformity is disected by 50.

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

Mr. COOK. I yield.

Mr. MOSS. Mr. President, on that point, I would inform the Senator that in the definition of motor vehicle on page 64 of the bill, it states that:

> Motor vehicle means vehicle of the kind required to be registered under the laws relating to motor vehicles of the State in which such vehicle is located.

Mr. HRUSKA. But it does require affirmative action to exclude motorcycles from coverage under title III.

Mr. MOSS. The State does have separate registration for motorcycles. It could very well exclude them under that section by definition.

Mr. COOK. Mr. President, I cannot conceive of any idea under which any State of the Union would set up a different type of registration for motorcycles and by some stretch of the imagination deny them the right to the highways, and, by denying them the right to the highways, they would not be in inter- or intra-state commerce.

Mr. MOSS. Mr. President, as a matter of fact, they are excluded in some degree now.

I was going to ask the Senator whether Kentucky's law excludes motorcycles and whether it allows them to exclude them now?

Mr. COOK. Mr. President, first of all, any motorist in the State of Kentucky could exclude himself from the system, which would include a motorcycle operator, but it would also include the operator of an automobile or of a truck.

Mr. MOSS. It does not exclude anyone?

Mr. COOK. The Senator is correct.

Mr. MOSS. A motorist may be included if he wants to be?

Mr. COOK. The Senator is correct. The Senator is not wanting me to pass judgment on that bill, I hope?

Mr. MOSS. By implication, yes.

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

Mr. COOK. I yield.

Mr. BROCK. Mr. President, maybe I just do not understand. However, it seems to me that the Senator was saying that if the premium rate was going to increase for motorcycle operators, it would be because they were the most dangerous vehicles on the highways. It is my understanding that the insurance rates are now predicated on an actuarial basis.

If that is the case, why are they not higher now? Is not the Senator proposing legislation that would put an increase on the rates? That is what I do not understand.

Mr. COOK. No.

Mr. BROCK. Mr. President, that is what I do not understand. And I do not mind being educated publicly.

Mr. GURNEY. Mr. President, if the Senator would yield, I think that I could answer the question.

Mr. COOK. I will yield the floor.

Mr. GURNEY. Mr. President, I had intended to get to that point when the Senator from Kentucky had finished. As I understand the arguments made by the Senator from Kentucky, they are two-fold. One is that there would not be uniformity. The second is that they have the most expensive insurance rates on the roads because they are so dangerous.

As far as uniformity is concerned, we could, of course, make the bill uniform by excluding motorcycles altogether. That might be one way of doing it.

If we leave the bill as it is now, they say the price would be prohibitive. However, we do not want to do that, obviously, because we want the State plans to go into effect. That would include motorcycles in the insurance coverage, even though there might not be total uniformity in the 50 States. And if we do not do anything about it, the bill has a provision that would force them to, as pointed out by the Senator.

On the matter of expense and the Senator from Kentucky saying that the rates increased because they are the most dangerous vehicles on the road, the Senator from Kentucky overlooked the fact that the rates are high on automobile insurance today because when they have an accident there are a lot of people often involved and not just the driver of the automobile. Perhaps passengers riding with the driver or in the other vehicle are also injured.

The same thing is true if a truck is in an accident. However, when there is a motorcycle involved in an accident, usually there is only the person riding the motorcycle who is injured. If he rams into a truck, I do not think it takes a lot of explanation from me to explain what might happen.

If we put motorcycles in with cars and trucks—as we are doing in the bill—then we are raising the insurance rates to equal that of cars and trucks.

The insurance rates are lower than those for trucks because they are different kinds of vehicles. When there is an accident involving different vehicles and there are drivers or passengers involved, the amount of injury and damages involved are considerably different.

That is the reason for the different rates.

However, if we include motorcycles in with cars and trucks, as we do in this bill, then we are raising their insurance to equal that of cars and trucks.

I remember an early discussion with the Senator from Tennessee when he

made a very apropos remark, which I repeat with his license. The Senator from Tennessee said that we would be making motorcycles pay the premiums of Cadillacs. That is true if we leave the bill as it is.

That is why the Senator from Florida wants to give the States the right to put their own legislation on the books and not drive motorcycles off the road and not drive the motorcycle industry out of business.

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

Mr. GURNEY. I yield.

Mr. STEVENS. The Senator from Florida has made that statement and the Senator from Kentucky used the same phrase, that the amendment would permit the States to do what they want with motorcycles. As a matter of fact, the Senator's amendment would permit a State only to exclude motorcycles.

It would not permit a State to deal with motorcycles as the State Legislature would like to do. I would like to suggest that instead of specifically excluding vehicles having less than four wheels, we permit the States to specially treat, at the option of the State, these motorcycles with respect to any no fault plan, because they might well want to exclude all off-the-road functions; another State might want to exclude them all, period. Some States might want them to carry liability as well as some very high deductible for their own coverage. But this is only one option, to exclude them entirely, as I understand.

I would urge the Senator from Florida to recognize that the States do in fact want to do what the Senator has just said, and that is deal with them specially with regard to each plan.

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

Mr. STEVENS. Well, may I get an answer to that question? I happen to believe that the reason the cost of no-fault insurance would be higher for motorcylists is because they insure themselves, and not that they are carrying liability for someone else. While they could do very little damage to someone else, they could do great damage to themselves. I am not saying they would necessarily, but they could, and the risk is their own risk; therefore, the cost would be higher.

I would suggest to the Senator from Florida that he change his amendment to read, starting on line 2, "except that a vehicle having less than four wheels may be specially treated at the option of the State establishing a no-fault class of motor vehicle insurance in accordance with title II with respect to the requirements and benefits of such a plan," so that there truly is an option in each State to deal with motorcycles as they may wish.

Mr. GURNEY. Mr. President, if I may say so to the Senator from Alaska, I think his suggestion is a good one. The amendment was really intended to do that, and I think that the present language does it. However, I do think the Senator's language treats it a little better.

Mr. STEVENS. I will send to the Senator from Florida his amendment as I have it marked up. I appreciate his comments. As a matter of fact, I think it takes this suggestion of mine to take care of some of the complaints raised by my good friend from Kentucky, although he may not agree with me.

Mr. COOK. Mr. President, while the Senator from Florida has an opportunity to look that over, may I say to the Senator form Alaska that some of his remarks are correct, and also the Senator from Tennessee.

So that we can put this thing in perspective, the reason the increase in costs is attributed to the driver of the motorcycle is that he would be required to carry first party coverage for himself, not liability.

I think we can all agree here on the fact that a motorcycle itself, in an accident with a four-wheel vehicle, would not cause a great deal of harm to the operator of that vehicle, but could cause a great deal of harm to the operator of the motorcycle. In all fairness, that is the reason for the increase. It is the result, not of the liability, but of the first party coverage, because of the nature of the vehicle itself.

I think we ought to develop this and get it into the RECORD, because what we are really saying is that we are trying to find a system that is more equitable and fair to operators, so that they can recover their out-of-pocket expenses and their medical expenses, and we are toying with the idea of eliminating the first-party coverage for this particular group of operators. We are eliminating an immediate right of first-party coverage, an immediate right to be compensated for medical bills, for hospital bills, for loss of wages, and all of the facilities under this bill, when in fact the motorcycle operator, if he is involved in an accident, is much more susceptible to serious injury than the operator of a motor vehicle.

Mr. BROCK. Mr. President, if the Senator will yield here, I appreciate very much the explanation. While I would agree with the basic premise of the Senator, I do not think I would take the next step and agree that the amendment is bad, because I think that, first of all, I am not so sure that any individual's vehicle first-party insurance should be absolutely mandatory. This amendment does not do that, anyway. The amendment as modified, simply gives the State an opportunity to change the trade, and I think that makes a lot of sense, because I do think they deserve special treatment in that they do not carry passengers, by and large, because they are one-person vehicles and they are slightly susceptible to personal injuries. But to mandatorily require provisions which would almost preclude them from operation, I think, would be unfortunate.

Mr. GURNEY. Mr. President, if I may have a colloquy with my colleague from Alaska, as I understand it now, he would suggest that the words "specially treated" be substituted for the words "specifically excluded," and then, on line 5, the word "from" is taken out and the words "with respect to" put in.

As I understand the suggestion of the Senator from Alaska, it is his wish, and with these words he believes it will be accomplished, that the States be able to enact whatever plan they want to with regard to their insurance coverage of motorcycles. Is that his understanding?

Mr. STEVENS. That is my suggestion. I have no pride in the authorship of that language. I think it will accomplish the purpose.

My thought is that if a State wishes to exclude motorcycles from a plan when they are not on a public highway, they may do so. They could include motorcycles with a very high deductible if they wanted to. They could simply exclude motorcycles if they want to, or include them with special rates. It is simply an opportunity for the States to exercise flexibility, and I believe this language would achieve that.

Mr. GURNEY. I thank the Senator from Alaska, because that is precisely what this amendment is intended to do, to permit the States to do that, so that they will have flexibility to put the plan in effect if they want to.

Mr. DOLE. Mr. President, if the Senator from Florida will yield, I might ask the Senator from Alaska a question. He is not trying to limit the scope of the amendment; he is, in effect trying to broaden the scope of the original amendment, is that correct?

Mr. STEVENS. The original amendment, as I interpret the first section, gave the State only two options: To totally include motor vehicles, or totally exclude them. What I am saying is that the State ought to have an option to treat motorcycles in whatever way they fit into its plan, with all the variations between total exclusion and total inclusion.

Mr. DOLE. It just gives the Senate a broader option, including the options offered by the Senator from Florida and the Senator from Kansas, or any other option that might occur to the State legislature?

Mr. STEVENS. That is correct. They could achieve the goal of total exclusion if the legislature desired to do so.

Mr. GURNEY. Mr. President, with that understanding, I thank the Senator from Alaska for his suggestion, and I send to the desk my amendment as modified by the language the Senator has suggested.

The PRESIDING OFFICER. The amendment is so modified.

Mr. GURNEY's amendment, as modified, is as follows:

On page 64, line 25, after the word "located", insert: "except that a vehicle having less than four wheels may be specially treated at the option of a State establishing a no-fault plan for motor vehicle insurance in accordance with title II of this Act, with respect to the requirements and benefits of such plan".

On page 101, line 23, delete the word "or".

Between lines 23 and 24 add the following:

"(2) a deductible not to exceed an amount deemed reasonable by the insurance commissioner of such State for each individual if he sustains injury while he is operating a motor vehicle having less than four wheels,

is a passenger on such a vehicle, or both; or".

On line 24 change "(2)" to "(3)".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida (Mr. GURNEY), as modified.

Mr. MOSS. Mr. President, the amendment as modified is satisfactory. I think the Senator from Alaska made a good suggestion. I am happy to concur in it, and I am ready to vote.

Mr. GURNEY. I thank the Senator.

Mr. COOK. Mr. President, I might say to the Senator from Alaska and the Senator from Florida that by way of that language we are now in a position where some States might conceivably treat motorcycle operators more severely than anyone else under no-fault. It is conceivable that they might have an attitude within the framework of the legislative body that is worse even than mine.

I might say, Mr. President, what I think we are overlooking in this whole matter, and I only speak to the manager of the bill, is that may be taken care of anyway. I read from the language of the report, on page 55, at the bottom of the page, in the last paragraph:

The words "based on a determination of fault" by negative implication would allow reallocation on some other reasonable basis, such as the propensity of a vehicle to cause damage because of its weight or its design.

Now, I think if we wish to expand this kind of committee language and the language of the report, and we have established that as the basic concept here in the RECORD, we have already established, by reason of this language, that we can in fact reallocate premium dollars on such a basis, as, says the report, "Propensity of a vehicle to cause damage because of its weight or because of its design," and that, based on that, we find ourselves in a position where our problem may be resolved anyway.

I only put that forward purely and simply, because I have a feeling now that I would like to know more definitely that the operators of motorcycles would be treated like the operators of any other vehicle, but the language suggested by the Senator from Florida and the Senator from Alaska may allow States to treat operators of motorcycles more harshly. I offer that as a suggestion, and put it into the legislative record.

Mr. President, in all fairness, considering the way I feel about this and the way I felt in committee for quite some time, I feel that this Senator should ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, would it be possible to arrive at a time limitation now that the yeas and nays have been ordered?

Mr. GURNEY. Mr. President, I would say to the distinguished majority leader that we are finished now.

Mr. MANSFIELD. All right.

The PRESIDING OFFICER (Mr. JOHNSTON). The question is on agreeing to the amendment of the Senator from Florida (Mr. GURNEY) as modified.

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

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from New Mexico (Mr. MONTOYA) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from North Carolina (Mr. HELMS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Texas (Mr. TOWER) are absent on official business.

The Senator from Hawaii (Mr. FONG) voted "present."

The result was announced—yeas 72, nays 11, as follows:

[No. 155 Leg.]

YEAS—72

Abourezk	Domenici	McIntyre
Aiken	Dominick	Metcalf
Allen	Eagleton	Mondale
Bartlett	Eastland	Moss
Bayh	Ervin	Nunn
Beall	Fannin	Packwood
Bellmon	Griffin	Pastore
Bentsen	Gurney	Pearson
Bible	Hansen	Pell
Biden	Hart	Percy
Brock	Hartke	Proxmire
Buckley	Haskell	Ribicoff
Burdick	Hatfield	Schweiker
Byrd, Harry F., Jr.	Hathaway	Scott, William L.
Byrd, Robert C.	Hollings	Sparkman
Cannon	Hruska	Stafford
Case	Humphrey	Stennis
Chiles	Inouye	Stevens
Church	Jackson	Stevenson
Clark	Javits	Taft
Cotton	Johnston	Talmadge
Cranston	Long	Thurmond
Curtis	Magnuson	Williams
Dole	McClellan	
	McGovern	

NAYS—11

Baker	Mansfield	Nelson
Cook	McClure	Randolph
Huddleston	McGee	Weicker
Hughes	Muskie	

ANSWERED "PRESENT"—1

Fong

NOT VOTING—16

Bennett	Kennedy	Symington
Brooke	Mathias	Tower
Fulbright	Metzenbaum	Tunney
Goldwater	Montoya	Young
Gravel	Roth	
Helms	Scott, Hugh	

So Mr. GURNEY's amendment as modified was agreed to.

Mr. MOSS. Mr. President, I might say for the benefit of Senators that we do not expect any more rollcall votes today, although at least two more amendments will be considered.

I ask unanimous consent that the amendment of the Senator from Washington (Mr. MAGNUSON) be set aside temporarily to permit the Senator from Idaho and the Senator from California to offer their amendments. The Senator from Washington is agreeable that his amendment be set aside until tomorrow and that it be brought up for consideration then.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of Senators previously entered, there be a period on tomorrow for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

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

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, the amendment by Mr. BAKER, No. 1137, will be the pending question before the Senate at the conclusion of the transaction of routine morning business on tomorrow. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. MAGNUSON, which has now been temporarily put aside by request of the distinguished manager of the bill, Mr. Moss, be called up again on tomorrow, upon the disposition of the amendment by Mr. BAKER.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CHURCH. Mr. President, because of the technical nature of the amendment, I ask unanimous consent that further reading of the amendment be dispensed with, and I will explain its purposes.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without

objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 110, line 18, delete "and".

On page 110, line 21, delete the period at the end thereof and insert in lieu thereof "; and".

On page 110, between lines 21 and 22, insert the following new subparagraph:

"(D) for basic restoration benefits, if a State determines that a vehicle having less than four wheels is not a motor vehicle."

Mr. CHURCH. Mr. President, in light of the action just taken by the Senate in permitting the States to either include or exclude motorcycles from coverage under a no-fault plan, this amendment simply completes the picture by permitting those motorcyclists who desire no-fault insurance to obtain it, though the State may not require motorcyclists to be covered. There are motorcyclists who might want the opportunity to come within a no-fault plan, even though the State might choose not to make that mandatory. So my amendment is really in the nature of a perfecting amendment.

It would require insurance companies selling no-fault insurance to offer no-fault insurance to motorcyclists in those States that exercise the option to exempt motorcycles from the mandatory coverage of the act. If the State makes the determination that motorcyclists are not required to carry no-fault insurance, this should not preclude a motorcyclist who wants insurance from obtaining coverage. The amendment would require every insurer to sell such insurance to motorcyclists who desire it.

I understand that the distinguished manager of the bill has no objection to this amendment. Therefore, I hope that the Senate will approve it speedily.

Mr. MOSS. Mr. President, we are willing to accept the amendment. We think it adds an option that is acceptable. The insured's coverage, whatever it is, has to be set by the insurer and under the direction of the State's insurance commission; so, obviously, it has to be actuarially sound. For that reason we think the amendment is acceptable. We are glad to accept the amendment, and we are ready to vote.

Mr. CHURCH. I thank the Senator.

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

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I send to the desk an unprinted amendment, on behalf of myself and the Senator from New Jersey (Mr. WILLIAMS).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 59, line 16, on page 60, line 23, on page 61, line 5, and on page 88, line 23 and line 24, delete "health" and insert in lieu thereof "medical".

On page 60, delete all from "including" on line 25 through "system" on line 4, page 61, and insert in lieu thereof "(including, but not limited to, communications, transportation, and treatment by medical and paramedical personnel through an emergency medical services system), which are supplied or provided in accordance with applicable State law".

On page 61, lines 9 and 10, delete "arising out of the maintenance or use of a motor vehicle".

On page 61, line 12, delete all from "is" through "regulations" on line 14, and insert in lieu thereof "meets the requirements of section 1206(b)(4) of the Public Health Service Act".

Mr. CRANSTON. Mr. President, this amendment is of a technical nature and merely brings the language in S. 354 relating to emergency medical services and emergency medical services systems into conformity with the provisions of Public Law 93-154, the Emergency Medical Services Systems Act of 1973, which I authored in the Senate. When S. 354 was originally reported from the Committee on Commerce, Senator WILLIAMS and I had worked with Senator MAGNUSON and Senator HART to insure that the provisions were compatible with the provisions of the Rehabilitation Act of 1973 which had previously been enacted into law and with the provisions of the Emergency Medical Services Systems Act which at that time was still under consideration. The amendments I offer today with Senator WILLIAMS bring S. 354 into conformity with subsequent changes that were made in the Emergency Medical Services Systems Act of 1973, and would make no substantive change in S. 354.

I have discussed the amendment with the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished Senator from Utah (Mr. Moss), and I trust and understand that they can accept the amendment.

Mr. MOSS. Mr. President, we have discussed this amendment with the Senator from California and have determined that it is a good amendment, one we can accept. We are not inclined to oppose it. We do accept the amendment and are ready to vote.

Mr. MAGNUSON. Mr. President, I am happy to accept the technical amendments of the Senator from California. The sponsors of the bill have appreciated the work he has done to assist us in making sure that S. 354 maximizes the lifesaving and life-restoring potential of no-fault automobile insurance.

A distinguished doctor in my own State, Dr. Justus Lehmann, who is chairman of the Department of Rehabilitation Medicine at the University of Washington, has written to me on behalf of his colleagues in rehabilitation medicine as follows:

We are strongly in favor of this bill (S. 354) . . . because we see the terrible aftermath of automobile accidents which may ruin not only the life of an individual but also the future goal of staying in a nursing home. In many instances whole families are forced on the welfare payroll.

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

The amendment was agreed to.

Mr. MOSS. Mr. President, under the order which was entered earlier, the Baker amendment, No. 1137, is to be taken up as the first order of business tomorrow. I now call up amendment No. 1137, by Mr. BAKER, and ask that it be made the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, as modified, is as follows:

On page 100, strike everything beginning with line 10 through and including line 13 on page 101 and insert in lieu thereof the following (and renumber subsequent subsections):

"(a) must provide medical expense benefits sufficient to fully compensate at least 98 per centum of all eligible motor vehicle accident victims for such expenses: *Provided*, That if the Secretary determines that statistical data is not reasonably available to accurately determine the level of benefits required to meet the foregoing standard in a State, benefits for medical expense shall be provided in the amount of $5,000 multiplied by a fraction, the numerator of which is the average daily hospital cost in that State and the denominator of which is the average daily hospital cost nationally;

"(b) must provide benefits for work loss which shall not be less than the average statewide wage and for a period of one year or longer: *Provided*, That no periodic payment during the first year for which work loss benefits are payable shall be less than the average statewide wage for such period.

"(c) must provide benefits for expenses directly related to the funeral, burial, cremation, or other form of disposition of the remains of a deceased victim of not less than $1,000.00."

On page 104 in line 8 delete the word "is" and insert in lieu thereof the words "must be".

On page 105 strike everything beginning with the word "section" in line 3 through the word "Act" in line 6, and insert in lieu thereof "section 204 (a), (b), (c), (d), or (e) of this Act.".

On page 105 in line 8 strike everything beginning with the phrase "in excess of" through the word "activities" in line 18 and insert in lieu thereof the following and renumber the remaining subsection: "if the accident results in:

"(A) death, or

"(B) serious or permanent injury.

"(b) For the purposes of this section the State may define 'serious or permanent injury' upon the basis of any one or more of the following:

"(1) dismemberment, or

"(2) serious and permanent disfigurement, or

"(3) the permanent loss of a bodily function, or

"(4) the permanent, partial, or total loss of sight or hearing, or

"(5) medical expenses of $500 or more, or

"(6) two weeks or more of hospitalization, or

"(7) three weeks or more of disability which prevents a victim from working at his normal occupation, or

"(8) six weeks or more of disability which prevents a victim from engaging in a substantial part of his normal daily activities;

"(9) permanent disability which at a minimum prevents a person from engaging in a significant portion of his normal daily activities;

Provided, That an approved State plan which elects to define 'serious injury' upon the basis of the dollar cost of medical expenses must provide that the value of any product, service, or accommodation which is included or includable as a portion of medical expenses for the purpose of meeting such limitation shall be equal to the reasonable average cost of the same or similar product, service, or accommodation in that State as determined and specified by the Commissioner."

On page 60, after line 5, insert the following:

"(4) 'Average statewide wage' shall be determined by dividing the total annual wages of covered workers under the State unemployment insurance program and the total annual wages of Federal and military personnel within a State covered under unemployment compensation for Federal employees and unemployment compensation for veterans by the average monthly employment for such categories of employees during the most recent year for which such data is available. The State in the determination of the average statewide wage may supplement the foregoing with wage and employment data covering State and local employees not covered under the State unemployment insurance program.".

On page 105, after line 25, insert the following and renumber the subsequent sections:

"SEC. 207. MEDICAL EXPENSES.—As used in this title the term 'medical expenses'—

"(a) means reasonable charges incurred for, or the reasonable value of (where no charges are incurred), the reasonably needed and used products, services, and accommodations for professional medical treatment and care, emergency health services, hospital accommodations and services, and medical and vocational rehabilitation services;

"(b) shall not include that portion of a charge for a room in a hospital, clinic, convalescent, or nursing home, or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations, unless more intensive care is medically required;

"(c) may be subject to such specific exclusions as a State may deem appropriate and reasonable in the definition of serious injury for the purpose of section 206."

On page 107 strike the phrase "at five-year intervals" in line 8 and insert in lieu thereof the phrase "at three-year intervals".

On page 107 strike everything from and including line 10 through the word "Labor" in line 16 and insert in lieu thereof the following: "the State shall recalculate the average statewide wage based upon the most current year for which statistics are then available and, if necessary, revise the work loss benefits provisions of the State plan to conform to any change in average statewide wage.".

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR VOTE ON PENDING BILL

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the managers of the bill on this side of the aisle, the distinguished Senator from Utah (Mr. Moss) and the distinguished Senator from Washington (Mr. MAGNUSON), and after having consulted with the distinguished assistant Republican leader, Mr. GRIFFIN, and the manager of the bill on the other side of the aisle, the distinguished Senator from Nebraska (Mr. HRUSKA), and the distinguished Senator from New Hampshire (Mr. COTTON), who is the ranking minority member of the Committee on Commerce, and after conferring with other Senators on both sides of the aisle, to propound the following unanimous-consent request:

I ask unanimous consent that a vote on final passage of S. 354 occur at the hour of 3 o'clock p.m. on Wednesday next, with a waiver of paragraph 3 of rule XII of the Standing Rules of the Senate; provided, however, that a motion to recommit or a motion to table the bill still be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, let me see if I understand my own request.

The request as worded would allow a motion to table the bill at any time. It would also allow a motion to recommit the bill at any time, once the amendments which have been cranked in by unanimous consent for tomorrow have been disposed of. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. The motion to recommit could be with or without instructions?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Nebraska (Mr. HRUSKA) has reminded me that it might be advisable to announce that further agreements with respect to amendments to the bill or with respect to the control of time, on next Wednesday, if the bill is not disposed of prior to Wednesday, will be developed and announced from time to time and on a case-by-case basis.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 11 a.m.

After the two leaders or their designees have been recognized under the standing order, Mr. PROXMIRE will be recognized for not to exceed 15 minutes, followed by Mr. STEVENSON for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the Senate will resume consideration of the unfinished business, S. 354, the no-fault insurance bill.

The pending question at that time will be on adoption of amendment No. 1137 by Mr. BAKER. Undoubtedly there will be a yea-and-nay vote thereon, and possibly yea-and-nay votes on amendments thereto. Other yea-and-nay votes are expected tomorrow on amendments to the bill.

May I add that conference reports and other matters which have been cleared for action may be called up at any time. So all Senators may be aware of the fact that there will be at least one yea-and-nay vote, and probably more yea-and-nay votes, tomorrow.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and, at 5:44 p.m., the Senate adjourned until tomorrow, Thursday, April 25, 1974, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate April 24, 1974:

NATIONAL RAILROAD PASSENGER CORPORATION

The following-named persons to be Members of the Board of Directors of the National Railroad Passenger Corporation for the terms indicated:

For a term of 2 years:
Roger Lewis, of the District of Columbia.
Charles Luna, of Texas.
Joseph V. MacDonald, of New York.
For a term of 3 years:
Frank S. Besson, Jr., of Virginia.
Mary J. Head, of Oklahoma.
For a term of 4 years:
Edward L. Ullman, of Washington.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. John Daniel McLaughlin, [redacted], Army of the United States (major general, U.S. Army).

CONFIRMATIONS

Executive nominations confirmed by the Senate April 24, 1974:

IN THE AIR FORCE

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be major general

Brig. Gen. Warner E. Newby, [redacted] FR, Regular Air Force.
Brig. Gen. Paul F. Patch, [redacted] FR, Regular Air Force.
Brig. Gen. Louis O. Alder, [redacted] FR, Regular Air Force.
Brig. Gen. John R. Hinton, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. Robert T. Marsh, [redacted] FR, Regular Air Force.
Brig. Gen. Abner B. Martin, [redacted] FR, Regular Air Force.
Brig. Gen. George E. Schafer, [redacted] FR, Regular Air Force, medical.
Brig. Gen. John P. Flynn, [redacted] FR, Regular Air Force.
Brig. Gen. Edgar S. Harris, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. Robert L. Edge, [redacted] FR, Regular Air Force.
Brig. Gen. Ralph S. Saunders, [redacted] FR, Regular Air Force.

Brig. Gen. Thomas A. Aldrich, [redacted] FR, Regular Air Force.
Brig. Gen. Howard M. Lane, [redacted] FR, Regular Air Force.
Brig. Gen. Edwin W. Robertson II, [redacted] FR, Regular Air Force.
Brig Gen. Abbott C. Greenleaf, [redacted] FR, Regular Air Force.
Brig. Gen. Larry M. Killpack, [redacted] FR, Regular Air Force.
Brig. Gen. Henry L. Warren, [redacted] FR, Regular Air Force.
Brig. Gen. Donald L. Werbeck, [redacted] FR, Regular Air Force.
Brig. Gen. Robert C. Mathis, [redacted] FR, Regular Air Force.
Brig. Gen. Charles E. Buckingham, [redacted] FR, Regular Air Force.
Brig. Gen. Jesse M. Allen, [redacted] FR, Regular Air Force.
Brig. Gen. Earl J. Archer, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. Lincoln D. Faurer, [redacted] FR, Regular Air Force.
Brig. Gen. James G. Randolph [redacted] FR, Regular Air Force.
Brig. Gen. Howard E. McCormick, [redacted] FR, Regular Air Force.
Brig. Gen. Hilding L. Jacobson, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. John R. Kelly, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. William B. Yancey, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. Timothy I. Ahern, [redacted] FR, Regular Air Force.
Brig. Gen. William A. Temple, [redacted] FR, Regular Air Force.
Brig. Gen. David D. Bradburn, [redacted] FR, Regular Air Force.
Brig. Gen. Ranald T. Adams, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. John W. Burkhart, [redacted] FR, Regular Air Force.
Brig. Gen. Richard C. Henry, [redacted] FR, Regular Air Force.
Brig. Gen. Guy E. Hairston, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. Lloyd R. Leavitt, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. Ralph J. Maglione, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. Eugene B. Sterling, [redacted] FR, Regular Air Force.
Brig. Gen. James S. Murphy, [redacted] FR, Regular Air Force.
Brig. Gen. William H. Ginn, Jr., [redacted] FR, Regular Air Force.
Brig. Gen. Bennie L. Davis, [redacted] FR, Regular Air Force.
Brig. Gen. James A. Young, [redacted] FR, Regular Air Force.
Brig. Gen. Charles G. Cleveland, [redacted] FR, Regular Air Force.
Brig. Gen. Charles A. Gabriel, [redacted] FR, Regular Air Force.
Brig. Gen. Freddie L. Poston, [redacted] FR, Regular Air Force.
Brig. Gen. Richard L. Lawson, [redacted] FR, Regular Air Force.
Brig. Gen. Henry J. Meade, [redacted] FR, Regular Air Force, Chaplain.

The following officers for appointment in the Regular Air Force to the grades indicated, under the provisions of chapter 835, title 10 of the United States Code:

To be major general

Maj. Gen. Robert N. Ginsburgh, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Alton D. Slay, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Billie J. McGarvey, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Harold E. Collins, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Marion L. Boswell, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Benjamin N. Bellis, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Kenneth L. Tallman, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Martin G. Colladay, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Kenneth R. Chapman, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. John F. Gonge, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Howard M. Fish, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. George G. Loving, Jr., [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Brig. Gen. Ralph S. Saunders, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Ray B. Sitton, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. William A. Dietrich, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. James A. Knight, Jr., [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Jack B. Robbins, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Harry M. Darmstandler, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Charles C. Pattillo, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Cuthbert A. Pattillo, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.
Maj. Gen. Lee M. Paschall, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.
Lt. Gen. Robert A. Patterson, [redacted] FR (brigadier general, Regular Air Force, Medical), U.S. Air Force.
Maj. Gen. Walter R. Tkach, [redacted] FR (brigadier general, Regular Air Force, Medical), U.S. Air Force.

To be brigadier general

Brig. Gen. John P. Flynn, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Thomas A. Aldrich, [redacted] (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. John R. Kelly, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
Brig. Gen. Robert C. Thompson, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Howard E. McCormick, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Donald L. Werbeck, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. William A. Temple, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. David D. Bradburn, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Ranald T. Adams, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Lawrence N. Gordon, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. William B. Yancey, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Edgar S. Harris, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Robert E. Sadler, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Robert L. Edge, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Daniel L. Burkett, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. James S. Murphy, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Gerald J. Post, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Don D. Pittman, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Erskine Wigley, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. James A. Young, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. William C. Burrows, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Maj. Gen. Evan W. Rosencrans, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Michael J. Tashjian, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. John H. Murphy, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. John C. Toomay, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Walter F. Daniel, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.
Maj. Gen. William M. Schonina, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Abbott C. Greenleaf, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Richard C. Henry, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. George H. Sylvester, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
Maj. Gen. James V. Hartinger, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Robert T. Marsh, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Abner B. Martin, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Charles G. Cleveland, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Larry M. Killpack, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Earl J. Archer, Jr., [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Maj. Gen. Raymond B. Furlong, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.
Maj. Gen. Wilbur L. Creech, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. William H. Ginn, Jr., [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Walter P. Paluch, Jr., [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Thomas M. Sadler, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Charles L. Wilson, [redacted] FR (colonel, Regular Air Force), U.S. Air Force.
Brig. Gen. Paul W. Myers, [redacted] FR (colonel, Regular Air Force, Medical), U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. Willard W. Millikan, [redacted] FG, Air National Guard.

Brig. Gen. Valentine A. Siefermann, [redacted] FG, Air National Guard.

To be brigadier general

Col. Doyle C. Beers, [redacted] FG, Air National Guard.

Col. Robert G. Etter, [redacted] FG, Air National Guird.

Col. Eugene G. Gallant, [redacted] FG, Air National Guard.

Col. Joseph H. Johnson, [redacted] FG, Air National Guard.

Col. Lloyd W. Lamb, [redacted] FG, Air National Guard.

Col. Robert B. Maguire, [redacted] FG, Air National Guard.

Col. Donald E. Morris, [redacted] FG, Air National Guard.

Col. Stanley F. H. Newman, [redacted] FG, Air National Guard.

Col. Richard F. Petercheff, [redacted] FG, Air National Guard.

Col. Darrol G. Schroeder, [redacted] FG, Air National Guard.

Col. Harding R. Zumwalt, [redacted] FG, Air National Guard.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35 and 837, title 10, United States Code:

To be major general

Brig. Gen. Arthur W. Clark, [redacted] FV, Air Force Reserve.

Brig. Gen. William Lyon, [redacted] FV, Air Force Reserve.

Brig. Gen. Oscar D. Olson, [redacted] FV, Air Force Reserve.

Brig. Gen. Alfred Verhulst, [redacted] FV, Air Force Reserve.

Brig. Gen. John S. Warner, [redacted] FV, Air Force Reserve.

To be brigadier general

Col. Bruce M. Davidson, [redacted] FV, Air Force Reserve.

Col. Edward Dillon, [redacted] FV, Air Force Reserve.

Col. George M. Douglas, [redacted] FV, Air Force Reserve.

Col. Arthur A. Gentry, [redacted] FV, Air Force Reserve.

Col. Irving B. Holley, Jr., [redacted] FV, Air Force Reserve.
Force Reserve.

Col. Harry J. Huff II, [redacted] FV, Air Force Reserve.

Col. Willard G. Hull, [redacted] FV, Air Force Reserve.

Col. James D. Isaacks, Jr., [redacted] FV, Air Force Reserve.

Col. Orrin W. Matthews, [redacted] FV, Air Force Reserve.

Col. Alvin J. Moser, Jr., [redacted] FV, Air Force Reserve.

Col. Dalton S. Oliver, [redacted] FV, Air Force Reserve.

Col. Frank J. Parrish, [redacted] FV, Air Force Reserve.

Col. Barnett Zumoff, [redacted] FV, Air Force Reserve.

IN THE ARMY

The Army National Guard of the United States officers named herein for promotion as Reserve Commissioned officers of the Army, under the provisions of title 10, United States Code, section 593(a) and 3392:

To be major general

Brig. Gen. Alfred Frederick Ahner, [redacted]

Brig. Gen. Joseph Roland Chappell, Jr., [redacted]

To be brigadier general

Col. Bruce Ingle Staser, [redacted]

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3284 and 3307:

To be major general

Lt. Gen. Elvy Benton Roberts, [redacted] Army of the United States (brigadier general, U.S. Army).

Lt. Gen. James George Kalergis, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Vincent Henry Ellis, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Theodore Antonelli, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. William Eugene McLeod, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Joseph Warren Pezdirtz, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Darrie Hewitt Richards, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Stewart Canfield Meyer, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Ralph Julian Richards, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. John Carpenter Raaen, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Maurice Wesley Kendall, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Harold Robert Parfitt, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. George Gordon Cantlay, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Robert Charles Hixon, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Verne Lyle Bowers, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. John Kirk Singlaub, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Harold Robert Aaron, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Jeffrey Greenwood Smith, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Harold Arthur Kissinger, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Richard Hulbert Groves, 042–32–1884, Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Thomas Edward Fitzpatrick, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Harold Gregory Moore, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Peter George Olenchuk, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Dennis Philip McAuliffe, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Robert Carter McAlister, [redacted] Army of the United States (brigadier general, U.S. Army).

IN THE NAVY

Vice Admiral Frederick J. Harlfinger II, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

The following-named officers of the Naval Reserve for temporary promotion to the grade of rear admiral subject to qualification therefor as provided by law:

LINE

Robert N. Colwell
Earl Forgy, Jr.
Arthur M. Wilcox
Norman A. Coleman
Raymond B. Ackerman
Stephen T. Quigley

MEDICAL CORPS

Victor P. Bond

SUPPLY CORPS

Robert G. James

CIVIL ENGINEER CORPS

Robert C. Esterbrooks

DENTAL CORPS

Albert G. Paulsen

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of major general:

Kenneth J. Houghton
Robert C. Lang
Robert D. Bohn
Edward J. Miller
James P. Jones
Charles D. Mize
Norman W. Gourley

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general:

Albert C. Pommerenk
Herbert L. Wilkerson
Manning T. Jannell
Ernest R. Reid, Jr.
Clarence H. Schmid
Edward A. Wilcox
William L. Smith
Arthur J. Poillon
Kenneth McLennan
Joseph Koler, Jr.
George R. Brier

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of brigadier general:

Robert E. Friedrich
Paul E. Godfrey
Allan T. Wood

The following-named officers of the Marine Corps for temporary appointment to the grade of major general:

Victor A. Armstrong
Wilbur F. Simlik
William G. Joslyn
William R. Quinn
Francis W. Vaught
Robert L. Nichols

HOUSE OF REPRESENTATIVES—*Wednesday, April 24, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

O give thanks unto the Lord, for He is good; for His mercy endureth forever.—Psalms 107: 1.

Eternal God, our Father, we thank Thee for the grandeur of another spring day, for the beauty about us, the glory above us, the green mantle beneath us, and for the love which from our birth over and around us lies. Lord of all, to Thee we raise this our prayer of grateful praise.

As we set out upon the tasks of this day, help us to seek first Thy will for us and for our Nation. To this end, illumine our minds, strengthen our spirits, and give us the courage of creative convictions that our thoughts, our words, and our actions may merit Thine approval.

Bless all who work under the dome of this glorious Capitol and all who work through our land. Help us—everyone—to continue to labor earnestly for the welfare of our country and the well-being of all mankind.

In Thy holy name we pray. Amen.