favorite tune. The mismatched furniture and make shift accessories added charm, and a personal touch to each area of the "home." By taking note of the odds and ends in each persons bedroom, a mental picture of the occupant was quickly developed. The kitchen and dining room sparkled with sunlight and buzzed with activity. At least three old men were invariably sitting at a wooden table, supervising the cooks and telling stories of days gone by. Several of the elderly women moved about the dining room clearing tables, washing dishes and talking about how they used to take care of their families before moving to the "old folks home." Occasionally, a stray dog or cat found it's way onto the back porch to beg for scraps and a pat on the head. The strays were never disappointed, for someone was always nearby to give them some food and attention.

Happiness, contentment, and love prevailed for those people who were fortunate to have lived on the edge of progressive care of the aged. No two people living in the "old folks home" were alike. Newcomers and employees learned names by detailed descriptions of unmistakable personalities, unique mannerisms, or unusual style of dress. Individuality was encouraged, understood and accepted by the folks themselves, and the persons engaged in their care.

With the advent of extensive state and federal government intervention into the lives of those persons living and operating Nursing Homes, the wheels of progress swiftly turned, and the "Old Folks Homes" were labeled obsolete. Endless regulations and standards were established by countless governmental agencies in an attempt to change conditions and appearances. The regulations were followed and soon new nursing homes and retirement centers were constructed to provide modern housing for the elderly.

The new homes are shining, well-designed, sanitary, and impersonal monuments to the conformity imposed upon nursing homes over the past decade. There are no towering trees, or obscure images guarding the new homes. The foundations are merely cold concrete slabs which support brick, ranch style structures, complete with brightly painted signs warning of do's and don'ts. The dayrooms, bedrooms, kitchens and dining areas appear as full color illustrations in furniture supply pamphlets. Modern stainless steel appliances and gleaming chrome fixtures clearly reflect uniformed robots programed to sanitize, immunize, and desensitize themselves, as well as the residents and areas for which they are responsible.

Love and freedom of choice, a decade ago, were considered necessities. By the continuation of the most destructive kind of progress, in which regulations take priority over people, those necessities are no longer affordable. The effects of restrictions and regimented routines, which render little time for personal preference or expression, are apparent in the appearance of residents and staff. Similar models in a mail order catalogue, each person blends neatly and tastefully with the decor. Personalities are controlled, individual characteristics are denied, while personal contacts and inter-actions are limited to specific places and time.

Fear of recrimination has been a successful tool used by the state and federal government, to strip the nursing home residents, employees, and operators of their rights. Following regular insections by the controlling governmental agencies, impressive certificates; citing compliance with regulations, are issued and ceremoniously hung on the walls of our modern nursing homes. Failure to receive and display these certificates can result in the discontinuation of federal funding for the resident and financial disaster for the nursing home business.

Today, there are no citations awarded to the nursing home industry for compliance with the human requirements of love, compassion, dignity, and respect for our fellow man. Federal restrictions are silently taking care of those requirements, however. Tomorrow our nations nursing homes may be forced to replace basic human needs and receive a new certificate, suitable for framing. A certificate, which no doubt, will be titled The Standards of Indifference. Will the challenge be ignored, and the trend toward indifference continue, or will the nursing home industry face up to the realities, define their position, stand firm against further intervention, and then get on with the business of caring for people?

THE 10TH CONGRESSIONAL DISTRICT OFFICE FUND

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. MIKVA. Mr. Speaker, the following is a report of the receipts and expenditures of the 10th District office fund, a fund used exclusively to cover nonpolitical expenses in connection with my congressional office:

The Congressional District Office Fund—Report: January 1, 1976–June 30, 1976:

Balance: January 1, 1976	$657.02
Receipts:	
Mr. and Mrs. Jack Bloom, Evanston	10.00
Mr. and Mrs. Stephen D. Keen, Evanston	10.00
Mr. and Mrs. Allen Levis, Glencoe	100.00
Contribution from Citizens for Mikva	1,350.00
Total receipts	1,470.00
Expenditures:	
Petty cash	200.00
Subscriptions	279.57
Membership	561.50
Office supplies	123.44
Town meetings	237.30
Miscellaneous	646.47
Total expenditures	2,048.28
Balance June 30, 1976	78.74

PERSONAL ANNOUNCEMENT

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mrs. KEYS. Mr. Speaker, on July 30, 1976, I was unavoidably absent for three rollcall votes. During consideration of H.R. 8401, the Nuclear Fuel Assurance Act of 1976, I missed roll No. 576, the vote on the Bingham amendment which sought to strike those sections which provide for ERDA-private industry uranium enrichment contracts. Had I been present, I would have voted "yea."

The second vote I missed was roll No. 577, the vote on House Resolution 1267, the rule under which the bill H.R. 2525, Indian Health Care Improvement, was considered. Had I been present, I would have voted "yea."

The third vote I missed was roll No. 578, the vote on the final passage of H.R. 2525. Had I been present, I would have voted "yea."

SENATE—*Tuesday, August 3, 1976*

The Senate met at 8:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

Eternal Spirit, above us yet deep within us, we ask no sudden rending of the skies, no prophet ecstasies, no mystic journey to the unseen, but take the dimness of our souls away, that we may begin this day aware of Thy presence in all that we think and say and do. Give us ears to hear above all resolutions, debates, and rollcalls the still small voice heard only in the inner chamber of our being. For our soul's sake lead us to quiet places, the still waters, and the green pastures. Give us clear minds, sound judgment, and physical stamina. And with these gifts grant to each of us a serene soul, a peaceful heart, and an enduring faith.

We pray in the name of that One who says: "Come unto me, all ye that labor and are heavy laden, and I will give you rest." Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, August 2, 1976, be dispensed with.

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

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to meet on August 5, 9, and 10 for the purpose of considering S. 3298, the Central Arizona Indian Private Water Rights Settlement Act of 1976.

Mr. GRIFFIN. Mr. President, at the request of another Senator, I respectfully object.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tem-

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pore. Does the Senator from Michigan desire recognition?

Mr. GRIFFIN. I yield back the time, Mr. President.

CLEAN AIR AMENDMENTS OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 3219, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 3219) to amend the Clean Air Act, as amended.

The Senate resumed consideration of the bill.

UP AMENDMENT NO. 290

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the amendments by the Senator from Utah (Mr. Moss) which will be considered en bloc, and which the clerk will report.

Mr. GRIFFIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOSS. I yield.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that Miss Meredith Mack and Miss Susan Meyers of my staff may have the privilege of the floor during the consideration of S. 3219.

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

The Senator from Utah.

Mr. MOSS. Mr. President, as the Chair announced, the order is that my amendments 1598, 1599, and 1600 be considered en bloc. They have been written together now in a single document, and I send that forward as an unprinted amendment and for which I ask immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. Moss) proposes an unprinted amendment numbered 290.

The amendment is as follows:

The Clean Air Act is hereby amended by deleting section 6 and renumbering succeeding sections accordingly.

Section 37 is amended as follows:

On page 85, line 2, strike all through and including line 2 on page 88 and in lieu thereof insert the following:

SEC. 315. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

(1) the effects of the implementation of any proposed or existing requirement on the States or the Federal Government under this Act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current national primary and secondary standards;

(2) the economic, technological, and environmental consequences of achieving or not achieving the purposes of this Act and programs authorized by it;

(3) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population, and to achieve the other purposes of the Act;

(4) the technological capability of achieving and the economic, energy, and environmental impacts of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen (including the research objective of 0.4 gram per vehicle mile) in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

(5) air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

(6) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality; and

(7) the ability of (including financial resources, manpower, and statutory authority) Federal, State, and local institutions to implement the purposes of the Act.

(b) Studies and investigations conducted pursuant to paragraphs (1) and (2) of subsection (a) shall include—

(1) the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including State and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects;

(2) the effects of any existing or proposed policy of prohibiting deterioration of air quality in areas identified as having air quality better than that required under existing or proposed national ambient standards on employment, energy, the economy (including State and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense, and its other social and environmental effects.

(c) The Commission shall, as part of any study conducted under subsection (a)(1) of this section specifically identify any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural, and water resources, as well as land surface use resources.

(d) Such Commission shall be composed of fifteen members, including the chairman and the ranking minority Member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce, who shall serve on such Commission ex officio and without vote, and eleven members of the public appointed by the President. The Chairman of such Commission shall be elected from among its members.

(e) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

(f) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning section (a)(4) of this section no later than March 1, 1977, and the results of the investigation and study concerning section (a)(1) of this section no later than one year after the date of enactment of the Clean Air Act Amendments of 1976.

(g) A report shall be submitted with regard to all other Commission studies and investigations, together with any appropriate recommendations, not later than three years after the date of enactment of this section.

(h) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime, and while 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 law (5 U.S.C. 72b-2) for persons in the Government service employed intermittently.

(i) There is authorized to be appropriated, for use in carrying out this section, not to exceed $17,000,000.

(j) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation.

Mr. MOSS. Mr. President, this matter has been discussed at considerable length in this body and, therefore, I will try to be as brief as I can and, hopefully, we can restate just in outline form what the amendments accomplish, and make the point that it is in the interest of this country, in the interest of the environment, in the interest of all of our citizens that we know where we are going before we write into law some additional regulations which may have very unforeseen and detrimental effects.

As I pointed out before, the nondeterioration issue is not only environmental but it also is economic, having to do with our employment, our ability to continue growth in areas of small growth, our ability to maintain the type of society that we now have and, therefore, we ought to consider all of those factors when we consider the Clean Air Act Amendments.

Section 6, which would be eliminated by my amendment until a study is completed, would set at once in law certain nondeterioration standards that are unrealistic in many instances. There are many existing unknowns in this nondeterioration policy. For example:

First. Where are the "clear air areas?"

Second. What are the "baseline" concentrations of pollutants in such areas?

Third. How many facilities can be sited in a particular given area taking into account other sources not requiring permits which will be attracted by the major industrial emitting facilities?

Fourth. What are the "air quality related values" mentioned in Section 6 which the Federal land manager has an "affirmative responsibility to protect?"

Fifth. Where are the areas most likely to be designated as national parks and national wilderness areas in the future?

Sixth. What natural resources are located in areas which would be severely restricted from development because of their locations in, or proximity to, class I areas?

Seventh. What will be the cost in terms of lost tax revenues, payroll, and jobs as a result of implementation of this policy for each State?

Eighth. If development under this policy is virtually unlimited, as EPA suggests, why do we need to implement it at all?

Ninth. What are the current population trends in the country; are more people moving toward the areas which would be most severely impacted?

Tenth. If we are protecting more than esthetic values by implementation of this policy, and in fact, we are protecting health and welfare, why have not the national ambient standards been adjusted?

Eleventh. If nondeterioration cannot be related to the protection of health and welfare, does Congress have jurisdiction to implement this policy at all?

Then there is the question, Mr. President, of the State and Federal problem regarding clean air legislation.

The supporters of nondeterioration give as one of the primary reasons for their support, the provision in S. 3219 for a greater degree of discretionary decisionmaking by the States. They argue that the bill's rendering of the State's administrative role is more flexible than current EPA regulations, which incidentally would remain in effect if my amendments are adopted. I believe that these current regulations, imperfect though they may be, do provide for significantly greater industrial growth the new provisions called for by S. 3219.

Mr. President, there are competing national goals.

It is time we stopped trying to fool each other about issues involving the catch words "clean" and "environment." I am not prepared to tell you that the existing national ambient standards are adequate to protect every living person or thing in the United States. It is obvious that breathing anything short of air "pure as the driven snow" will not, under normal circumstances, enhance human health. We all recognize that any air pollutants could have adverse health effects over some period of time, on some individuals. This is no startling revelation.

Having recognized this fact, our job in setting national policy is to determine at what level, under existing technology and economic circumstances, we will accept less than pure air in order to balance this important objective against the equally important objectives of fostering a healthy economy, a healthy domestic energy industry, and a healthy job market.

Air, after all, is a natural resource and must be conserved as such. On the other hand, it must also be utilized for man's ultimate benefit. This includes the use of air to produce energy necessary for our domestic well-being.

Now, I am not philosophically opposed to the idea of nondeterioration. Neither am I prepared to say that what is good for industry is good for America. However, anti-industry measures are not necessarily proenvironment either.

Until we know the facts, precipitate action is foolish and unwarranted.

Let us insure that in our enthusiasm to make our environment as acceptable as possible that we do not start a chain reaction of two steps forward for air, and three steps backward for our total environment. We must remember that it has been man's ability to alter this environment through industrial development that enables this planet to support upward of 4 billion people. For too many of these people, change in the environment which expedites the exploitation of Earth's resources, including air, could not come soon enough. I think we have learned the hard lessons of the past that we cannot act irresponsibly in using our environment. But we cannot stop using our environment, either.

MAKING POLICY FOR 1976 AND THE FUTURE

Proponents of nondeterioration continually cite language contained in previous enactments of the Congress as the original basis for the concept of nondeterioration. Even if we accept this "history" as accurate, let us not forget that our responsibility is to examine, define, and where appropriate, enact public policy for the benefit of our citizens in 1976 and hereafter; not to let ancient history, whether legislative or otherwise, dictate our course. I doubt that there is a Member of this body in office in 1970, who realized that the policy of nondeterioration was embodied in the Clean Air Act that we then voted on.

We must recognize that air is a renewable resource. It does cleanse itself when pollution levels decrease. Pollution levels have been decreasing in many areas in recent years largely because of the existing act. Contrary to the impression advanced by proponents of nondeterioration, the skies over the national parks and wilderness areas are not going to turn black, with helpless animals choking from pollution, if we implement a comprehensive and necessary 1-year study by deleting nondeterioration from this bill. We should consider it again with facts in hand.

Mr. President, in order that my colleagues might better understand the policy of nondeterioration, I have prepared a map which points out rather startlingly the full impact of section 6 on the country.

Mr. President, this map was prepared from data obtained directly from the regional offices of EPA, whenever such information was available, and from various State air pollution control agencies when it was not. It represents the most currently available information in existence. Undoubtedly, some of this information will change as future monitoring is done and as new monitoring techniques are developed. Nevertheless, this data forms the basis for present decisionmaking by EPA and by the States, under existing Clean Air Act provisions. It is the best data we have at the present time.

I would also like to stress, Mr. President, that what we are talking about here in the nondeterioration section is whether or not we can continue to have balanced and controlled growth in this country. Growth is a thing that we need very much as our population continues to increase and especially do we notice that in the western part of our country.

I also point out to the chairman that those who are concerned with this matter have announced their support of the Moss amendment.

The National Construction Industry Council, formed in 1974, speaks with a single voice for 30 associations in the construction industry representing contractors, suppliers, design professionals, and others associated with industry.

The National Construction Industry Council collectively, and its member associations individually, have reviewed the subject of this legislation at great length and with sincere recognition of the need for clean, healthy environment, to which all their members subscribe.

For this reason, the National Construction Industry Council is in complete agreement with the amendment offered by this Senator, which would prohibit the adoption of nondeterioration as a policy until a thorough investigation of the impact and consequences of the proposal has been conducted.

Mr. President, I ask unanimous consent that this statement, together with the names of the members of the industries concerned, be printed at this point in the RECORD.

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

STATEMENT ON BEHALF OF THE NATIONAL CONSTRUCTION INDUSTRY COUNCIL

The National Construction Industry Council, formed in 1974, speaks with a single voice for 30 (thirty) associations in the construction industry representing contractors, suppliers, design professionals and others associated with our industry.

The following members join in this submission:

American Concrete Paving Association.
American Consulting Engineers Council.
American Institute of Architects.
American Institute of Steel Construction, Inc.
American Road Builders Association.
American Society of Civil Engineers.
American Society of Landscape Architects.
American Subcontractors Association.
Associated Builders and Contractors, Inc.
Associated Equipment Distributors.
Associated General Contractors of America, Inc.
Associated Landscape Contractors of America, Inc.
Ceilings and Interior Systems Contractors Association.
Concrete Reinforcing Steel Institute.
Council of Construction Employers, Inc.
Mechanical Contractors Association of America, Inc.
National Asphalt Pavement Association.
National Association of Plumbing-Heating-Cooling Contractors.
National Constructors Association.
National Council of Erectors, Fabricators, and Riggers.
National Crushed Stone Association.
National Electrical Contractors Association.
National Society of Professional Engineers.
National Utility Contractors Association, Inc.
Portland Cement Association.
Power and Communications Contractors Association.
Prestressed Concrete Institute.
Producer's Council, Inc.
Sheet Metal and Air Conditioning Contractors National Association.
Society of American Registered Architects.

NCIC collectively, and its member associations individually, have reviewed the subject legislation at great length and with a sincere recognition of the need for a clean, healthy environment to which all our members subscribe. NCIC believes that legislation such as this must reconcile the need for protecting our environment with the need to accommodate population growth and maintain a viable economy. Unfortunately, the nondeterioration provisions included in the Clean Air Act Amendments, currently being considered in Congress, and which are the subject of this statement, do not have the

effect of achieving such a balance. These provisions superimpose a radically stringent set of standards over existing standards before the effect of meeting either have been determined. Further, this is being done at a time when this country is engaged in a precarious recovery from a severe recession. Congress has not had time to ascertain the effects such a policy would have on economic recovery, employment, energy conservation and other national goals. The uncertainty surrounding the concept of non-deterioration could easily be dispelled if Congress would endeavor to study the ramifications of such legislation.

For this reason, the National Construction Industry Council is in complete agreement with the amendments offered by Senator Moss which would prohibit the adoption of non-deterioration as a policy until a thorough investigation of the impact and consequences of the proposal has been conducted.

Mr. MOSS. Mr. President, I ask unanimous consent that a letter which has been sent to me by President Ford in which he states strongly that he supports the Moss amendment on the nondeterioration section be printed at this point in the RECORD.

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

THE WHITE HOUSE,
Washington, D.C., May 28, 1976.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be cosponsored by Congressman John Dingell and Congressman James Broyhill, which reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

GERALD R. FORD.

Mr. MOSS. Mr. President, I also submit for the RECORD a resolution that was adopted by the National Association of Homebuilders urging the Senate to adopt the Moss amendment to S. 3219.

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

SPECIAL COMMITTEE ON FEDERAL GOVERNMENTAL AFFAIRS, NATIONAL COMMISSION ON AIR QUALITY STUDY

Whereas, the Senate is considering legislation (S. 3219) which would, among other things, enact provisions designed to prevent the significant deterioration of air quality in those areas of the country whose air quality is cleaner than any existing ambient air standard, and

Whereas, no reliable information exists on the impact the proposed significant deterioration provisions will have on the economic growth of the nation;

Whereas, Senator Moss has proposed amendments to S. 3219 which will strike the section dealing with significant deterioration and will direct the National Commission on Air Quality to conduct a one-year study on the economic, technological and environmental effects of preventing significant deterioration of air quality; Now, therefore, be it

Resolved, that the National Association of Home Builders urges the Senate to adopt the Moss amendments to S. 3219.

Mr. MOSS. Mr. President, I would like to explain what the map represents, which is now on the easel in the rear of the Senate Chamber.

GENERAL BACKGROUND

The policy of nondeterioration called for by section 6 of the Public Works Committee bill requires that those areas which have air quality better than existing primary or secondary standards, must maintain that air quality within very narrow incremental increases of further deterioration. Only specified increments of sulfur dioxide and particulate matter are to be allowed in each of the two classes established by the section.

We start with a plain white map of the country. The proponents of the nondeterioration policy often suggest that this policy will affect only the air quality over our national parks and wilderness areas. Certainly it is those areas which to date have received the lion's share of the discussion. If this proposed policy did in fact only impact those areas, the amendments I have proposed would not have received the wide support they have received. All of us want to protect these important national treasures. As a major participant in the creation of three national parks in Utah, and others across this country over a period of 14 years, I think I stand at the forefront of those advocating their future protection and preservation.

FIRST OVERLAY

However, since the language of section 6 clearly states that the policy of nondeterioration would apply to any area of the country where the air quality for SO_2 or particulate matter is better than the national standards, areas which do not meet the national standards for both pollutants are necessarily excluded from any substantial development. These excluded areas are shown in yellow on the first overlay. To be more specific, the areas which are marked in yellow are presently in violation of existing national ambient air quality standards, NAAQS, for both SO_2 and particulates. As a result, existing law already prohibits further expansion or development of industrial facilities which emit these pollutants.

I quickly add that any monitoring station which indicates a violation of a national air quality standard twice in a year, anywhere in the region, identifies that entire air quality control region in which the monitor is located, as being in violation. If the air quality control region is large, such as is the case in Nevada, the map indicates that the whole region is in violation. Unfortunately, with existing EPA data, this is the closest we can get to approximating the reality of the situation. Obviously, more study is needed and more specific State-by-State information should be gathered. My amendments would facilitate this need. The only present alternative is to use the data, in spite of itself, to arrive at whatever conclusions are desired. This is hardly a satisfactory procedure.

Returning to the map, one can conclude that major industrial facilities can be located in the remaining white areas, as long as these facilities do not exceed the appropriate nondeterioration increments provided for by the committee bill. Right? Well, not quite. The proponents of nondeterioration overlook the fact that "full increments" do not exist in many areas of the country. As I have said, the committee bill allows only small incremental increases in the level of SO_2 and particulates beyond an established background level. This background level has not been determined for many regional areas. I am sure Senators will agree that until they are established any further policy decisions are premature. These background levels can vary

considerably from region to region and even within the same region. Particular regional areas that have been examined show that the already very small incremental allowances are thereby further diminished by these background levels. This occurs because the background level of a given region can approach or even exceed the national ambient air quality standard itself. A full increment of developable air is thereby precluded.

SECOND OVERLAY

Let me show how this problem of high background levels affects the country. As will be noted, these background levels for either one or the other of the two pollutants involved, often approach or exceed the NAAQS. This overlay shows areas in green which already come up to, or violate, the national standard for SO_2 but not particulates. In other words, there can be no further development of industry or business which emit any SO_2 in these areas. I can think of no industry that uses a fossil fuel in any of its operations, which does not emit quantities of SO_2—even with the most stringent pollution control devices intact.

There are many examples of areas which exceed the SO_2 standards apparently as a result of background pollution. Some of these areas have been clearly identified. As our monitoring capabilities improve, and as more data is gathered, additional areas will undoubtedly be identified. Meanwhile, at least all of these areas marked in green are added to the list of nondevelopable areas.

THIRD OVERLAY

An even more startling circumstance is revealed by the next overlay, showing in red those areas which already meet or violate the national standards for particulates but not for SO_2. My colleagues know that little if any industry exists in much of the West and Midwest. And yet this phenomenon occurs in rather large areas—take Alaska for example. Why? It is primarily due to natural causes. In Alaska and the Pacific Northwest, for example, much of this natural pollution results from salt spray in the air, which is picked up by the monitors as particulate matter. In other areas, the national particulate standard is violated by windblown dust from unpaved roads, fields, and desert areas. Now EPA realizes this problem. It is my understanding that they even approached members of the committee after the bill was reported. They wanted to permit development in these areas, even though the NAAQS for one of the pollutants was being violated.

I might add that the fact that vast areas of the country are in violation of the standard for one pollutant—and often because of natural causes—is not satisfactorily explained by the proponents of the committee bill. They argue that a nondeterioration policy will allow development in most of the country. The fact, however, is that many regions will have little or no increment to use, since the background level will itself exceed the required standard. Permissible development alluded to by the committee bill and guaranteed by the committee staff is seen once again to be nonexistent for many large regions of the country.

In the past, EPA has "winked" at provisions in the present act which do not permit construction of new major facilities in such areas if these facilities would prevent the area from attaining and maintaining the national standard. Since EPA knows—Edward J. Lillis and Dexter Young, U.S. Environmental Protection Agency, "EPA Looks at Fugitive Emissions," Journal of Air Pollution Control Association, vol. 25, No. 10, October 1975—that much of this pollution arises from natural sources, its regional offices occasionally permit a new plant—with proper emission control equipment, to be located in such areas. This discretion taken by EPA sets up a situation fraught with uncertainty for long-term business planning needs. Nothing could be more detrimental to our national economic recovery than this inordinate amount of EPA power to influence capital expenditure by the private sector.

Now, it would be inaccurate to state that no development will occur in these areas marked red. However, if industrial development is to occur it must do so under two distinct and burdensome permit procedures. A would-be developer would have to obtain a variance from the State air quality authority to build a facility in any area which exceeds the NAAQS for particulates. However, since the same area is a nondeterioration region for purposes of the other pollutant covered by section 6, SO_2, a separate permit would have to show that the facility would not exceed the allowable increment for SO_2. This amounts to a dual permit procedure. Certainly would-be developers are thereby given a burden of proof which is nearly unattainable.

FOURTH OVERLAY

This fourth overlay is taken from EPA information which shows the mandatory class I areas required by this legislation. Though specific buffer zones are not per se established by the committee bill, it is clear that in and around class I areas no major industrial source will be allowed. Though many areas with hilly terrain and adverse atmospheric conditions will require much greater distances, the map shows the affect of citing restrictions of only 30 miles in radius.

Mr. RANDOLPH. Mr. President, will my able colleague yield? I wish to refer to some of the maps and statements which have been made about them.

Mr. MOSS. I will be glad to yield. I would like to finish my overlays and then I will be happy to yield to my colleague.

Mr. RANDOLPH. That is understandable. I thank the Senator.

Mr. MOSS. In Senator MUSKIE's statement in the June 4 RECORD, he cited the National Academy of Science to show impacts from some pollutants at distances of 300 miles downwind. So, under section 6, a 30-mile buffer area is not at all unreasonable for purposes of illustration. All can see the additional areas that are removed from developable possibility by these class I designations which are mandatory. Others could be imposed if the State and the Federal land manager feel that it is necessary. And, of course, the buffer areas required may have to be considerably enlarged.

ADDITIONAL CONSIDERATION

One further concern has received very little attention to date, in spite of its far-reaching implications. Under the committee bill, Federal land managers having responsiblity for administration of class I designated public lands have an affirmative responsibility to protect the air quality related values of that public land even when class I increments are not exceeded. This means that they are subject to discipline for failure to vigorously preserve nondeterioration in any such land that they administer, if such land has an air quality related value. Obviously, the bill reads as a mandate for erring in the direction of too much enforcement rather than too little. The potential for law suits is absolutely incredible. Presumably any one of a number of environmentally concerned groups could bring legal action requiring the Federal land manager to himself take legal action against any would-be-developer if there is the possibility of air-related deterioration. Of course, that possibility always exists.

The only areas which are still available for any type of growth in the foreseeable future are those still showing up as white on the map. Even in these areas very little growth can be projected since background pollution and/or less-than-full increments for growth restrict development. And even in those areas not affected by class I, background levels, or partial increments, total allowable class II increments are still small enough to cause considerable doubt about how much, how fast, and when growth will occur.

So, Mr. President, the point that I have tried to make by presenting this map is to show that we use EPA's own data on the monitors that are in place in those air quality areas, to show that we have taken out already more than half, as much as two-thirds, of the land area of our country. And unfortunately the total area of red, stretching down through the middle part of the country and into the western part, is the area where we would expect to have some growth. This is an area of many natural resources, particularly a coal area, and the extraction of coal and utilization of coal is bound to cause some degree of pollution.

I think what this map tells us and what we ought to devote ourselves to here is that we need, indeed, to have a full-scale study on the impact of the policy set forth in section 6; and until we know the outcome of that study and until we are prepared to accept the tradeoffs, the impact that it would have, the restriction on growth and population in those areas, we should not enact section 6 into law.

My amendment, Mr. President, simply provides that section 6 shall not be enacted into law, and a study will be made by the Commission which is already set up in the act to do the study work, until that Commission has completed its study and brought back its report, so that Congress will not then be acting in an area where it is not fully informed.

I think one of the problems that we often get into in legislating is to see a desirable objective—and I say as loudly

as anyone clean air is a desirable objective, pristine clean air, if it is obtainable—but we see a desirable objective and lock into law a requirement, without looking at the other considerations that are ours; and among the other considerations, of course, are to maintain a healthy economy, to preserve mobility and freedom for our people, and to make our lands and factories productive so that we can maintain an adequate standard of living for our people.

If we neglect those considerations, the people will not long keep us in Congress, I would think, because when the pinch begins to come, we, of course, would have to take the blame if we set in motion the condition that impinges on their livelihood and style of life.

The Senator from West Virginia had a question about the map. I will be glad to respond to it.

(At this point Mr. CLARK assumed the chair.)

Mr. RANDOLPH. I thank my able colleague from Utah. I have long known him in Congress as a Senator who is closely and intensely interested, not only in the subject which he has brought to our attention today, but also in other matters for which we share concern in this body.

The map shows large areas which currently violate primary and secondary standards, and would not be affected by the nondeterioration provision of the measure as reported from the Public Works Committee.

Mr. MOSS. If I may interject, it would affect the decisions, because in those areas no further deterioration would be permitted.

Mr. RANDOLPH. I respectfully suggest that perhaps the Senator's attention might better be directed toward the attainment of primary and secondary standards. What would be his response to that?

Mr. MOSS. As the situation is now, if the Moss amendments were adopted, of course, the standards that are already mandated in the law would remain in place, and this is something that I understand our colleague from Virginia is going to offer an amendment to; he would like to take away even the regulation standards that exist now. My amendment would permit those standards to remain in place, but it would say that section 6, which extends and even in some instances ameliorates slightly those present regulations, not be wired into law until we have completed this full 1-year study that is mandated in the amendment.

What I put the map up to illustrate is that, taking EPA data itself, admitting their monitors may cover very wide areas and there might be variations, yet these are the areas that are reported under these circumstances, and, taking EPA data, all of those colored areas, for one reason or another, either particulates or SO_2 or both, are presently up to or in violation of the permissible standards, and therefore, they cannot put any more increment in there.

The little dark areas are the ones that surround class I areas that are mandated.

There has been some discussion about the size of the buffer zone. I tried to address myself to that. That is simply illustrative and arbitrary, that a 30-mile buffer zone has been drawn around that. But it serves to illustrate that it stretches out over quite a few areas, since we have many national parks and monuments in the West, but it is noticeable even farther east and on the east coast——

Mr. RANDOLPH. There are no buffer zones provided for in the Senate bill.

Mr. MOSS. That is right, there is none mandated. It is simply that nothing may be sited and put into effect that is going to impinge on the class I areas. So the buffer zone, if the wind were always prevailing, might be a mile, and you could depend on all of the pollution going away. But it has to be far enough away that twice a year it does not come into zone 1 and cause the pollution.

Mr. RANDOLPH. Because of what the Senator has just said, I think it is important to point out that there are pollution effects that occur from natural backgrounds.

Mr. MOSS. That is correct.

Mr. RANDOLPH. As well as man-made sources of air pollution.

Mr. MOSS. That is right. That is that big red area on the map.

Mr. RANDOLPH. The mention by the Senator of areas already in violation of national standards causes me to ask this question. Where this occurs the regions are classified as dirty areas, nonattainment areas under extisting law. Is it true that such areas are not subject to the nondeterioration provisions of the bill?

Mr. MOSS. I think section 6 extends to all areas if it is enacted.

Mr. RANDOLPH. The provisions of section 6 are restricted to clean areas or regions now in compliance with the national standards.

Mr. MOSS. That there shall not be any additional pollutants, you mean, in those areas?

Mr. RANDOLPH. That is correct with respect to those areas not covered by section 6.

Mr. MOSS. In those areas. In this then, since these already exceed and exclude any additional and section 6 would pertain to other areas, then we are simply out of business entirely.

Mr. RANDOLPH. Other parts of the bill apply to those areas in which primary and secondary standards have not been achieved; do they not?

Mr. MOSS. Yes.

Mr. RANDOLPH. Yes.

Mr. MOSS. The thing that seems to me that this so strikingly illustrates is that there are natural background pollutants, mostly particulates that exist in areas. If we look at Alaska, most of Alaska is in red and we think of Alaska as being pristine, but if we measure it under the monitors they have there it falls in this category as being up to in excess of the permissible level.

Mr. RANDOLPH. I know that maps sometimes can portray the proposal of an advocate, and I can understand that is the Senator's purpose here. I am not saying that the maps are wholly inadequate and inaccurate. I will say however, that the committee bill requires States to submit lists of the portions of air quality control regions that are dirty and are, therefore, not eligible for the nondegradation policy. Since that process has not taken place, I wonder how maps can be made in an accurate way. In any case, the areas in such maps will be much reduced from the nonattainment maps that have been circulated. That is the reason I questioned the able Senator about nonattainment.

I am not certain that we can have agreement on this. These maps do not argue against nondegradation; or do they?

Mr. MOSS. I think they do.

Since I am limited on time, I am going to have to preserve some of my time. Although I shall gladly respond, I have already consumed a good part of my time.

Mr. RANDOLPH. I can understand, and I am sure that when questions are asked by the Senator, we who would oppose the amendment will be happy to comply with colloquy.

So I have simply this final observation: The maps, of course, only show the number of areas that are governed by policies more stringent than nondegradation. If an area is dirtier than the standards, then no new facilities may be allowed in the area unless assurance is gained that the new source will not cause or contribute to levels which exceed the standards. This would not be changed if the Senator's amendment passes, as I understand it. This is a question dealing with the attainment of those standards, as I first said, and not degradation.

I thank our colleague for yielding.

Mr. MOSS. I thank the chairman for his discussion and pointing out standards of the bill. It seems to me that this illustrates, in part, some of the uncertainties we have here and probably underlines the reasons for the study that my amendment calls for.

There is controlled time on this matter. Will the Chair inform me as to how that time is divided and what the situation is currently?

The PRESIDING OFFICER. There is no time limit on the proponents of the Moss amendment except the vote must occur no later than 1:30 p.m. There is 1 hour assigned to the Senator from Maine in opposition to the amendment and 2 hours limited to the Senator from Virginia (Mr. WILLIAM L. SCOTT) for an amendment to the Moss amendment.

Mr. MOSS. I understood that the Senator from Virginia (Mr. WILLIAM L. SCOTT) was to have an amendment and that that would be debated and probably disposed of before we came to a vote on the Moss amendment. That is the reason I wish to retain my time and permit the others to go forward at this point.

The PRESIDING OFFICER. There is neither a requirement that the Senator from Virginia offer his amendment nor any time set for that.

Mr. MOSS. I will yield to the floor

manager at this point, if he cares to go forward, and we will check with the Senator from Virginia to ascertain if he is going to come to offer an amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, while we try to unravel who goes next and on whose time, I ask unanimous consent that we have a quorum call without the time being charged to either side?

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. 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. BAKER. Mr. President, will the distinguished Senator from Utah yield to me so that I may ask some questions on this general subject?

Mr. MOSS. I will be glad to yield some time to the Senator from Tennessee.

As I understand the time situation, it is that some time was set aside for the Senator from Virginia to offer an amendment, and there is a time limitation on the proponents of the bill.

I am sort of heir to all residual time, just so that we get to a vote by 1:30. Under those circumstances, I guess I am the richest around here—at the moment, anyway—and I will be glad to yield some of my time, so that the Senator from Tennessee can discuss the bill generally or the amendment specifically.

I point out, in the first place, that I am concentrating on section 6. I think it should not be enacted until we have the full study.

As to the other parts of the bill, I am in favor of them. I believe we should have the emissions on automobiles dealt with, and other things that it does.

I have tried to make clear from the beginning that I do not oppose the bill as such. I have directed my attention only to section 6, which I want out until the study is complete.

I yield to the Senator from Tennessee to proceed as he wishes to at this time.

Mr. BAKER. I thank my colleagues for permitting us to do this. His appraisal of the time situation is exactly right.

I say, parenthetically, that in the 10 years I have been in the Senate, I do not think I have ever had a similar situation, in which the time on one side was controlled and was not controlled on the other. But the Senator from Utah is the richest one of us. At this time, he does have all the time available, except time allocated under the unanimous-consent agreement, which we could use up very promptly.

Mr. President, I really rose to ask a few further questions about the map on the easel behind Senator Moss. Before I do, however, I was looking at the map, and I noticed it purports to be an amendment to section 6 of the Clean Air Act. I ask the Senator from Utah if that is a typographical error. I think it probably is an amendment to the committee bill, S. 3219. In trying to thumb through it, I could not find a section 6 of the Clean Air Act.

Mr. MOSS. It does start off by saying "Clean Air Act, as Amended."

Mr. BAKER. That does not conform with the first paragraph, which I think is a typographical error.

Mr. MOSS. Yes. I will ask to modify that "the committee bill is hereby."

Mr. President, I ask that I be able to modify that language.

The PRESIDING OFFICER. Such a request requires unanimous consent.

Mr. MOSS. Mr. President, I ask unanimous consent that the amendment be modified to refer to the committee bill and simply begin "is hereby deleted."

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

The modified amendment is as follows:

On page 11, beginning on line 9, delete section 6 and renumbering succeeding sections accordingly.

Section 37 is amended as follows:

On page 85, line 2, strike all through and including line 2 on page 88 and in lieu thereof insert the following:

SEC. 315. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

(1) the effects of the implementation of any proposed or existing requirement on the States or the Federal Government under this Act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current national primary and secondary standards;

Mr. BAKER. Mr. President, I thank the Senator from Utah for conforming the amendment in that respect. I should like now to ask a few questions about the map.

I think part of this has been covered by colloquy between the Senator from West Virginia and the Senator from Utah; but, unfortunately, I was at a hearing of the Aviation Subcommittee of the Committee on Commerce which began at 8 o'clock this morning, and missed part of the colloquy. If this is repetitious, I apologize.

The first question relates to the title on the nondeterioration map. The red areas on the map, if they are in fact supposed to be nondeterioration areas affected by the incremental requirements of the committee bill, do not seem to conform to the maps that we had in our committee in that respect. I wonder if there is some possibility that those red areas are something other than nondeterioration areas, pristine, pure areas, or areas cleaner than standards. Might they, in fact, be nonattainment areas instead of nondeterioration areas?

Mr. MOSS. Yes, I suppose they could be nonattainment, as a designation. These are areas which presently show, from the monitors, that they are up to or exceed the acceptable standard, and the red happens to be particulates.

Mr. BAKER. A lot of that may be background dust levels; may it not?

Mr. MOSS. Yes, a vast amount of it. I pointed out earlier that there is a great swath down through the mid part of the country and extending into the western part, and almost all of it is natural background particulates.

Mr. BAKER. So that the particulates probably already prevent, or so far have prevented, attainment of the primary and secondary standards, as distinguished from nondeterioration aspirations.

Mr. MOSS. Yes—on present standards.

Mr. BAKER. I ask the Senator from Utah what his understanding is, then, of the provisions of section 6 in those nonattainment areas. It was my impression, for example, that section 6 did not apply to nonattainment areas, only to nondeterioration areas.

Mr. MOSS. My understanding of it is that in these areas, we already are up to or exceed the standards. No additional increment would be allowed, no permit would be granted, or no more pollutants added in that area. Nonattainment is right, and it would cover vast areas of the country. Even some forest areas would come under this designation.

Mr. BAKER. I thank the Senator for that response.

As I understand it, then, it would amount to a contention—which may be right in many respects; I am not convinced that it is right in every respect—that nonattainment is the functional equivalent of nondeterioration in those cases, insofar as it affects future growth and development.

Mr. MOSS. Yes, I think that is essentially correct.

Mr. BAKER. With respect to the variations on that theme—and I will not move on to them now because they, too, no doubt, will be subject to controversy and attack—I ask the Senator if he has a map that shows the areas that are nonattainment areas and the others that are nondeterioration areas, so that we can make a distinction visually between the two classes of problems. Is there another overlay that goes with the map that might show that?

Mr. MOSS. No, I think the overlays are all down now, and we do not have any additional designations.

I might add that if I seem a little uncertain and this discussion is not as sharply drawn as it might be, it is probably a pretty good argument for having the study made that I want so much to have before we wire in section 6.

Mr. BAKER. Mr. President, if the Senator will yield further, that really sort of gets to the nub of the matter and the point on which we disagree, and disagree in good spirit. There is no doubt in my mind, either, that we need a further study and, as the Senator knows, I was the one who introduced the amendment in committee to provide for the National Air Quality Commission, which has a similar undertaking—to study the whole range of air quality imperatives that ought to be translated into useful legislative language. I think the distinction, though, ought to be clearly drawn. It is the provision of the Moss amendment that the provisions of the act would

be tolled or suspended pending the Senator's whole study.

Mr. MOSS. That is correct.

Mr. BAKER. It is the intent of the National Air Quality Commission, proposed in the bill, that the provisions of the act with respect to nondeterioration would go into effect on passage and not await a study.

Mr. MOSS. That is really the turning point, yes, whether or not it is suspended or tolled until the study is complete or whether it goes into effect and then the study is completed and may require some modification.

Mr. BAKER. There is an honest difference of opinion between us on that point.

Mr. MOSS. Yes.

Mr. BAKER. I contend, for instance, that the best interests of commerce and industry and the best interests of the country would be served by abrogating the EPA regulations, as the committee bill does, or proposes to do, and to free us of the interpretation of the 1970 clean air amendment, and the approval of the EPA regulations, as the committee bill does, while the National Air Quality Commission goes forward with this examination. Is it not true that the Moss amendment would leave the EPA regulations and the implementing or approving court decisions in effect while the Moss study is going forward?

Mr. MOSS. Yes, that is true. The status quo now would continue, which would mean the regulations would be in place and the court decisions that have been rendered would be half-way implemented.

Mr. BAKER. I notice that the Court of Appeals for the District of Columbia in the Sierra Club-Ruckelshaus case, I believe on yesterday, affirmed an opinion by Judge J. Skelley Wright, the opinion of the district court upholding the reasonableness of the EPA regulations.

The argument, as the Senator knows, has been heard in the subcommittee that some of the people felt that the EPA regulations need not be abrogated by the statutes because of limitations on progress in effect. People have said we would rather take our chances on litigation than on legislation. Now, with the court of appeals upholding the district court, I guess the only thing left is the Supreme Court. I rather suspect that, in the case at hand, the court of appeals opinion would be a persuasive argument for the Supreme Court on the validity of the EPA regulations.

Is this not true: That the EPA regulations formulated in response to the district court decision would be much stricter in terms of restrictions on development, of nondeterioration of clean air, those already cleaner than the ambient primary or secondary standards, that those EPA regulations remaining in effect after the Moss amendment is adopted are tougher than the committee bills on nondeterioration? Is that not so?

Mr. MOSS. I alluded to that earlier. I think that in some respects, yes, they are, but they are not as far reaching and do not finally wire in, as we say, the legal requirement until the study is completed. I think——

Mr. BAKER. But the EPA regulations would be in effect while the study is going on.

Mr. MOSS. That is true, they are. And they have class III designation for industrial growth in the EPA regulations now.

Mr. BAKER. Mr. President, I thank the Senator. That was a very helpful exchange with him and I am pleased to have had the opportunity.

I understand my colleague from New Mexico has questions and I would like at this time to yield to him.

Mr. MOSS. I am glad to yield to the Senator from New Mexico.

Mr. DOMENICI. I thank my good friend from Tennessee.

I was not here, Mr. President, when the Senator from Utah discussed this map. I have now had an opportunity to look at it. I wonder if the Senator from Utah would tell me again what the red area of this map is supposed to tell the Senators?

Mr. MOSS. The red area is the areas of the country where the monitors for these air designated zones have particulates that equal or exceed those permissible.

Mr. DOMENICI. Permissible under what, I ask?

Mr. MOSS. Permissible under present EPA regulation.

Mr. DOMENICI. Does the Senator mean that the red areas of this map are presently what we would call nonattainment areas?

Mr. MOSS. I think that is what we agreed with the Senator from Tennessee to say, yes, a nonattainment area.

Mr. DOMENICI. Then the Senator is not saying that the nonattainment problem and the red areas of this map that indicate nonattainment are areas that would be impacted by a nondegredation policy; is he?

Mr. MOSS. In effect. If section 6 goes into effect, yes.

Mr. DOMENICI. I wonder why that is.

Let me say first to the Senator that I understand these red areas from reading the map, basically, are as follows: They are areas of the United States, based upon present monitoring data, which exceed the primary and secondary standards of the country. That is for two reasons: First, because the manmade pollutants in the area have not been cleaned up or are excessive; second, where natural pollutants—that is, background particulates—when combined with industrial pollutants—violate the primary and secondary standards.

If that is what the red area does, then, the nondegradation policy, as articulated in this bill, has no application to those areas at this particular time, because they, in fact, are already in violation of the standards absent the nondegradation policy.

I say to my good friend from Utah, and I hope he agrees with this, that nobody should believe that nondegradation is going to prevent growth in those red areas—food growth, bad growth, whatever kind of growth we are talking about—because, as a matter of fact, if they are presently nonattainment areas, growth is prohibited by the existing law of this land, not by nondegradation.

I say to my good friend from Utah that one of the major problems confronting this Congress and our Nation has nothing whatsoever to do with nondegradation, but, rather, how are we going to solve the problem of needed new growth in these nonattainment areas. There, we need to address two things: How much more can we clean up manmade pollution and what is the final policy of this Nation going to be with reference to background particulates.

I repeat: I do not believe any Senator should construe the red parts of that geographic map of the United States to mean that those are areas where the nondegradation policy of this committee, as articulated in this statute, prohibit growth. If growth is prohibited in those areas, that growth is prohibited by definition of the basic clean air statutes of this land and the nonattainment possibilities under the present regulations from both mandate and background particulate.

So, if I am right, then, in speaking of nondegradation, we are talking about the white areas, which are presently pristine areas—that is, areas where the air quality is better than that required by our primary and secondary standards. As a matter of fact, under your map, they end up being the only areas where real growth can occur.

That is the very thing this particular bill and our policy articulated in it direct attention at, and it is saying, if you want growth in those white areas, which are the only ones we are going to address under this particular section, then manage that growth so that you maximize diversified growth rather than permit one of those white areas to become red, and thus become a nonmaintenance area. That is the basic issue, and I think the map serves a very useful purpose.

So, contrary to the map serving the purpose of arousing some fear on this institution as to nondegradation, from this Senator's standpoint, it points up some completely different things, the most serious one of which is the question as to what is going to be the policy of this country with reference to nonattainment—nothing to do with nondegradation—when nonattainment is based upon background particulates combined with manmade pollution in the air.

I yield the floor at this time, Mr. President.

Mr. MOSS. Well, I thank the Senator from New Mexico for his comments. I think his discussion is very enlightening, and it tends to again point to the fact that we are dealing with a large unknown sort of factor.

We are presently under EPA regulations which are administrative regulations. But if section 6 becomes law it can only be revised through a legislative process and, therefore, the questions that the Senator from New Mexico raises seem to me to argue for nonlegislation on air

standards until the study has been completed.

There are so many unknowns, that is what we are fishing for, we are trying to get the answers to as to what it will mean, whether it is nondegradation or nonattainment, and we ought to know.

Now, trying to implement a law requiring clean air over this whole country is a large and complex undertaking, and we should not do it piecemeal, and we should not do it without the fullest study possible, with all the data that are possible for us to have before we make that judgment. That is the reason I feel very strongly on section 6.

Mr. President, I suggest the absence of a quorum, and that it be on my time.

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

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. 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. ALLEN. If the distinguished Senator from Utah will yield me some time, I would like to discuss his amendment and support his amendment.

Mr. MOSS. I yield the Senator from Alabama such time as he may need at this point.

Mr. ALLEN. I thank the distinguished Senator from Utah.

Mr. President, the heart of the debate regarding the proposed Clean Air Act amendments is joined today in consideration of the amendments to S. 3219 introduced by the distinguished Senator from Utah (Mr. Moss), amendments numbered 1598, 1599, and 1600, and they are to be voted on en bloc.

Mr. President, I would like to commend the distinguished Senator from West Virginia (Mr. RANDOLPH) who had had his amendment pending, and to this amendment I had offered an amendment, and he was agreeable that his amendment be set aside in order that this basic and fundamental amendment of the distinguished Senator from Utah (Mr. Moss) could be acted on first because the Moss amendment goes to the very heart of this issue, and this issue is: should section 6, the nondegradation provision of the Clean Air Act amendments be enacted into law prior to a study as to the necessity and advisability of the provisions set forth in section 6. It is the practical approach to this problem.

Now, the sponsors of the bill contend that the EPA already has the powers that are contained in section 6 and that, in fact, section 6 is a limitation on the powers that EPA now has.

Well, now, if that is true, Mr. President, there is no need whatsoever for the enactment of section 6 until such time as a study has been made to consider the procedure and the formulas provided by section 6, because EPA already has the basic power, according to the proponents of the bill, and that, in fact, section 6 is a limitation upon those powers.

So what is there to lose, Mr. President, by the adoption of the Moss amendment?

It would provide for the study by a Commission which would report back and the Congress would have the benefit of the recommendations of that commission as it studies the necessity of making a nondegradation provision.

The first amendment contained in the Moss amendment would strike the significant deterioration provisions of S. 3219; the second would require a report to Congress within 1 year regarding nondegradation policy; and the third amendment requires the National Air Quality Commission established by S. 3219 to study economic and energy effects of the present national ambient air quality standards and the policy of prohibiting deterioration of air quality. I shall address myself to the Moss amendments en bloc, because all of them will be voted on as one amendment.

It is rarely possible in the Senate to reach compromises without some exchange of harsh words during debate; perhaps what is said in the heat of a controversy reflects the true nature of the feelings and convictions of various Members about the issues at hand and thus, spirited debate is both to be desired and encouraged—it is the essence of our representative form of government.

The current debate has built to such a point so quickly because most of us know that important matters are to be considered. There is more at stake here than clean air versus dirty air—I suppose all of us would opt for clean air rather than dirty air—environmentalists versus industrialists, health versus economics; what is at stake is the contemplation of a vast reordering of the way in which we think about the future shape of our society. For, surely, if many of the concepts embodied in S. 3219 are enacted without substantial change, we will move the country in a direction that I am not at all sure the average citizen wishes to be moved. More important, we could so move the country in a direction which might not be supported by the population-at-large once the full impact and scope of legislation is made clear to the public by radical changes in living standards brought about by strict compliance by companies who now provide the bulk of the jobs our citizens have.

The Clean Air Act of 1970 requires that Federal standards for air quality be set to protect health and welfare—crops, property, wildlife, and so forth. The States were given the power to control industrial and commercial development within these health and welfare standards and also were given the option of choosing stricter controls for new or old facilities. In addition, new facility construction and modification of existing facilities are required to meet uniform Federal performance standards by use of the best available demonstrated control technology and can be prohibited entirely if it is determined that such construction or modification would interfere with meeting air quality standards.

Thus, the current act presents a balanced program: controls in areas where existing air quality could possibly be harming health and welfare; uniform Federal controls on new installations to assure that the best controls will be used; and provisions for the States to adopt stricter standards if desired.

THE "NONDETERIORATION" CONCEPT

The "nondeterioration" concept came about through court interpretation of the words "protect and enhance" contained in the 1970 act. The Supreme Court, in a four-to-four decision—hardly an overwhelming number, four to four, but they did uphold the lower court because it would have taken a majority, of course, to overrule the lower court—upheld a lower court ruling that the air could not be degraded even if the air quality remained within the health and welfare protective standards.

So even if the air was in the protective standards, the Supreme Court, in this four to four decision, upheld the lower court which had ruled that air could not be degraded to any extent, even if the air quality remained within the health and welfare protective standards.

The Environmental Protection Agency accordingly promulgated regulations for the "prevention of significant deterioration." These regulations now govern development—industrial, commercial, institutional—in clean air areas—those areas already meeting the health and welfare standards.

The nondeterioration section of the proposed Clean Air Act amendments now pending in S. 3219 is the result of the EPA's request to Congress for clarification of the intent of the words "protect and enhance." The administration and most industrial groups contend that Congress did not intend the Federal Government to play any role beyond the protection of health and welfare and that the States, not the Federal Government, should have the authority to choose stricter standards.

I should like to point out specifically that the opposition to the nondeterioration section of S. 3219 is not limited to "industrial groups" and the administration. Last week, when this debate began, I received a brief paper of quotes from the Washington Environmental Coordinating Committee which, on its front page, prominently quotes Mr. Robert A. Georgine, president of the Building and Construction Trades Department of the AFL-CIO, to wit:

> The issue and its consequences are far too important to be brushed aside in the haste to legislate.

Thus, Mr. President, supporting the concept of the Moss amendment which would study and then legislate, rather than legislate and then study.

The paper is a compilation of remarks by various individuals, in and out of the Government, on the serious potential impact of the passage of the "no significant deterioration" section of S. 3219.

Mr. President, I ask unanimous consent that the paper be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ALLEN. Mr. President, there has also been considerable comment that only the "big" companies and the "big" utilities are fighting section 6 of the bill. Nothing could be further from the truth if the mail I have received on this issue is any indication. I should like to quote the mailgram I received yesterday from the National Rural Electric Cooperative Association. I feel certain that all Members received a copy of the mailgram from Mr. Partridge, executive vice president of the group, but I believe it bears repeating here for it supports my thesis that opposition to section 6 cuts across all the usual coalitions and groupings we are used to hearing from involving very controversial legislation.

The National Rural Electric Cooperative Association is an association of some 1,000 rural electric cooperatives all over the country in every State, if not very nearly every State.

Mr. Partridge said:

> The National Rural Electric Cooperative Association strongly supports the Moss Amendments Nos. 1598, 1599, and 1600 to S. 3219, the Clean Air Amendments of 1976.

Actualy, there is no need to refer to these as three amendments because they are embraced in one amendment on which there will be one vote:

> NRECA believes that the impact of S. 3219 on the national economy and the formation of growth capital has not been adequately evaluated. The Environmental Protection Agency recently analyzed current macroeconomic studies and concluded "hence, one cannot put much faith in the internal consistency or the findings of any of these studies." In view of this uncertainty NRECA urges that you support the Moss Amendments when they are brought to the floor.

The Alabama Power Co. provided me with a fact sheet on that firm's reaction to the proposed additions to the Clean Air Act of 1970 which we are considering today and I should like to share those views with all Members of the Senate. I wish to excerpt from that statement one small portion because it deals with a map—which cannot be reproduced in the RECORD—showing the potential impact of pending legislation on the service area of the firm, which is some five-sixths of the State of Alabama, the remaining portion of the State being served by the VA.

At the conclusion of my remarks I will ask unanimous consent to have printed in the RECORD the entire statement of the president and chairman of the board of the Alabama Power Co.

That portion of his statement reads:

> Attached is a map of the State of Alabama which indicates that the only part of the State where nondeterioration provisions would not apply are small areas in the Tennessee Valley. All of Alabama Power Company's service area would be affected by the provisions. Even if it is assumed that all of the State's area is classified as Class II, the allowable increments of SO_2 and particulate concentration are so small as to produce severe restriction on power plant siting in hilly terrain and, in any event, to act to restrict the size of power plants or other particulate or SO_2 emitting industries sited in a particular area.

Mr. President, I ask unanimous consent that the letter dated March 29 to me from Mr. John H. Hawkins, assistant to the senior vice president of APC, and its attachment, "Senate Clean Air Act amendments" be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered. (See exhibit 2.)

Mr. ALLEN. I have one further Alabama citation which I wish to bring to the attention of the Members of the Senate and I am sure that most Senators can point—and with pride—to companies in their own States who have compiled environmental records such as the following. One of Alabama's significant industries, which employs 5,000 people across the State, reported to me that in 1975, the company spent more for pollution control equipment than to sustain the existing manufacturing equipment; that, as of August 1975, the company spent, in Alabama alone, $16,800,000 for air pollution only; and as of that same date, the company spent a total of $22,114,000 for air quality compliance and an additional $5,851,000 for water quality for all the installations of the company across the United States. This, to me, represents an enlightened and progressive firm, but they do object to the provisions of S. 3219 calling for heavier and heavier monetary commitments to cleaning up air in the areas of their operations until "the full impact on our society can be ascertained by a full study by the National Air Quality Commission." That firm already knows what the impact of the current law is—they ask, and rightly so—that further economic impact be based on sound data. I submit that that firm is not asking too much of the U.S. Senate.

S. 3219, THE STATES, AND LAND USE

The legislation would require that State plans submitted to the Environmental Protection Agency contain a section providing for "prevention of significant deterioration" in conformity with strict Federal guidelines. These guidelines would dictate that the State designate areas where air is already cleaner than the health and welfare standards as either class I—"pristine" areas such as national parks, where only very small pollutant increases may be permitted—or class II—areas suitable for limited, tightly controlled growth. For each class, the committee's proposal sets forth the amounts, or increments, of pollutant concentration increases that can be allowed and requires that the State environmental agency assure that these increments over baseline concentrations—the levels of each pollutant as of July 1, 1976—are not exceeded. Unfortunately, these increments have been arbitrarily set as fractions of the present air quality standards and, as a consequence, bear no reasoned relationship to the aesthetic qualities above and beyond the health and welfare standards.

In order to obtain a permit to construct an industrial source or to expand an existing source in an area where nondeterioration language would apply, an applicant would first have to meet all preconstruction review requirements under existing law, including the complete statements of all environmental impacts under the Federal Water Pollution Control Act and any State or local environmental regulations.

Under the provisions of section 6 of S. 3219, the nondeterioration section, the applicant would also have to monitor ambient air quality for a period of a year and perform mathematical modeling to predict increases in pollutant concentrations to determine the effect on air quality the source would have. After this extensive review has been completed, the applicant would present his data to the State agency implementing the nondeterioration regulations. He would have to prove that his source could be constructed causing any threat of violation of allowable increases in pollutant concentration—the increments. If he proposes to locate close to a class I area, he would not only be required to show that he could meet the increments where he planned to site but also that the source's emissions would not pose a potential threat of adverse effect on the pristine area through intrusion.

Even if the applicant were able to prove all these things—assuming of course that the applicant could afford to conduct such testing, and so forth—the national nondeterioration proposal would grant the State agency the discretion to make a political land use decision to grant or deny the permit. With a very limited increment to mete out, the agency would choose how, or if, the increment should be spent. It would decide what could be built, and when, even when the applicant could show that the new source would comply with the strict requirements of the act. This, Mr. President, is the backdoor approach to Federal land use planning, and it is especially obnoxious since the Congress has rejected land use planning at the Federal level in each of the last 4 years. Land use planning should never be mandated on the basis of one single factor such as "air quality," and premised on incremental increases which bear no relationship to the values they are designed to protect. Such severe limitations on the economic growth of the our country should not be imposed on so narrow and arbitrary a basis.

WHY I OPPOSE THE NONDETERIORATION SECTION OF THE BILL, S. 3219

Proponents of nondeterioration feel that it is necessary to protect air that is cleaner than health and welfare standards where large, unique Federal lands are located. However, after a year of study by the subcommittee and the full committee, and after many noncongressional inputs have been received, it is dawning on many of us that the legislation has far graver impacts on industrial growth than previously contemplated. So far, the information generated in support of the nondeterioration standards have raised more questions than have answers been provided.

There is also a very significant fact that has been generally overlooked by

the proponents: the nondeterioration concept results in part from the fact that only one major industry—the electric utility industry—has been studied in any depth as to the potential impacts of the "no significant deterioration" proposal. Where is the supporting data regarding the steel industry, shipbuilding, foundries, petrochemicals, refineries, the whole agricultural sector, and so forth? In fact, no thorough technical analysis has been performed to study the effects of the committee proposal on any of these industries.

Additionally, the increments which define "no significant deterioration" were arbitrarily picked by the Environmental Protection Agency and bear no identifiable relationship to the qualities they are supposed to protect in the unique land areas. It would be ill-advised to trigger the enormous planning processes to be required of States, not to mention the tremendous expense of economic and technical modeling and duplicative emission control technologies that would be required of industrial sources, to establish and enforce these increments without first undertaking research to determine what levels make an esthetic difference in the various areas.

Furthermore, few States have examined the impact of a national nondeterioration policy on their ability to determine their economic future, and no State has been asked to testify either in support of or in opposition to the concepts in the proposal although there have been statements, for and against, from various State officials. The authority of the States to plan industrial development within the boundaries of public health and welfare or to opt for development within stricter standards of emission reduction is reaffirmed in section 116 of the existing Clean Air Act. This authority would clearly be reduced to a significant degree if the bill, S. 3219, were enacted.

To implement the goal of limiting construction in areas cleaner than health and welfare standards, the nondeterioration proposal would grant the State environmental agency the discretion to make land use decisions to grant or deny a permit to construct an industrial source or to expand an existing source based on compliance with Federal air increments. The States' authority, however, would be greatly reduced no matter how much flexibility is reserved for them.

Mr. President, I feel that the land use policy decision inherent in the nondegradation concept should be made by the local governing body in the area directly affected by such a decision. It is the States, counties or municipalities which are best able to evaluate the needs of the community and determine whether they care to forgeo new industrial development for the sake of preserving air far beyond any health-related standard. The Clean Air Act provides the States with ample authority to prevent the construction of any installation which would violate stricter standards they might wish to maintain.

Once again, it is my contention Mr. President, that land use planning should never be mandated on the basis of one single factor, nor premised on incremental increases which bear no relationship to the values they are meant to protect. Such severe limitations on development and the economic growth of our country should not be imposed on so narrow and arbitrary a basis.

I do not believe, Mr. President, that the U.S. Senate should go on record as approving a policy that will potentially adversly impact future generations without first learning all there is humanly possible to know about the implications of the proposed policy. The Moss amendments provide for the kind of study and time for consideration of the ramifications of their findings, for the Congress to make a more reasoned judgment in the next year or two.

I may be considered an obstructionist for saying that we should proceed with caution on the subject of national ambient air standards, but so be it. I know the people of Alabama are committed to the concept of clean air, of improving air quality, and we do not take lightly our responsibility to provide for the general welfare and the improvement of the general health of our citizens. I do say, however, that individual Alabamians have contacted me in large numbers to request that economic growth in the State not be stymied by the Federal Government, nor that jobs not be lost because of Federal redtape, nor that we bring or impose more Washington decisionmaking into the decisionmaking processes of our local governmental units.

There is growing disenchantment in Alabama with the "know it all" attitude which seems to permeate the Washington scene and is reflected in broader and broader and deeper and deeper national legislative edicts impacting the lives of our citizens. Individual citizens tell me that more and more of their everyday lives are being controlled, manipulated, or impacted by the dictates of an all-wise, all-seeing, not-very-benevolent superbureaucracy. Cynicism is running deep; Alabamians believed that power flowed from them to the Central Government, and not the other way around. The daily incursions of the Federal Government into the lives of our citizens is felt; the proposed legislation can be viewed as a refinement of the new power of the superbureaucrats to have long-term impact without the citizens feeling it directly. The subtlety of S. 3219 is that its provisions, if enacted, would not be felt all at once by the citizens.

I am, of course, not at all convinced that we must take the extra steps to clean up our air quality that is proposed by this measure, but I think it is fair to ask the Congress and the Senate in particular, to study all the ramifications of the proposed policy before attempting to implement that which most citizens do not understand. We have a heavy responsibility to our constituents to not only represent their interests but to protect them from those who would impose a new value system on them through the instrumentality of popular-sounding legislative initiatives.

EXHIBIT 1

NO SIGNIFICANT DETERIORATION

IMPACT ON AIR QUALITY AND HUMAN HEALTH

U.S. Environmental Protection Agency:

". . . there are very strong regulatory measures in existence to prevent deterioration of air quality in regions where the national standards are currently exceeded. Strong regulatory measures also exist to insure that air quality in currently clean areas cannot deteriorate sufficiently to subject the public health or welfare to any currently quantifiable adverse effects."

U.S. Office of Management and Budget:

"(The non-deterioration proposals offer) no benefit relative to EPA's health standards, but will result in significant economic costs."

U.S. Federal Energy Administration:

"(No significant deterioration) sounds great, but it is not aimed at protecting human health. It is aimed at the aesthetic side of the environmental equation—whether or not the air looks clean . . . If you carry non-significant deterioration to its logical end, the West will stay clean and the East will get dirtier."

U.S. Department of Health, Education, and Welfare:

"According to EPA, the only documentable benefits to be achieved by non-deterioration regulations would be 'aesthetic, scenic and recreational.' "

National Economic Research Associates:

". . . these new (no significant deterioration) amendments will have their primary impact in areas in which population density is quite low and in which air quality is already quite good. Consequently, it is unlikely that the benefits from these amendments will be as great as (those) achieved from meeting (present standards) . . . even if the same level of benefit could be achieved, the cost benefit ratio for (the significant deterioration) amendments would be 34 to one."

Lafe Pomerance, Legislative coordinator, National Clean Air Coalition:

"All the (significant deterioration) bill does is to protect national parks, assures that new growth is as clean as possible and prevents the air from being equally dirty around the country."

IMPACT ON PEOPLE

U.S. Department of Housing and Urban Development:

". . . the adoption of any of the (significant deterioration) plans would result in the virtual cessation of community development activities . . . to provide for the future increase in population . . . the proposed rule would result in an intolerable situation—more people, but no place for them to reside."

U.S. Department of Health, Education, and Welfare:

"While non-deterioration regulations risk imposing substantial net costs on the nation as a whole, a disproportionate share of these costs might be borne by persons of limited economic means and residential mobility. These persons would benefit relatively little from the preservation of air quality in rural areas, while they would disproportionately bear any impacts of curtailed economic growth, altered urban and rural development trends, constrained national capacity to absorb anticipated population increases, and higher consumer prices for energy and manufactured goods."

IMPACT ON THE ECONOMY

U.S. Environmental Protection Agency:

". . . the Senate significant deterioration

proposal will not prevent the construction of major industrial facilities. However, (it) may require some facilities to employ different air pollution control measures, such as further control of sulfur dioxide emissions, construction of taller stacks or smaller plants, relocation at alternative sites with more favorable terrain conditions, etc. While the use of such control strategies will impose additional costs on consumers, these additional expenditures must be balanced against the benefit that would result from preventing the degradation of air quality up to the National (Health and Welfare) Ambient Air Quality Standards."

U.S. Department of Labor:

". . . we cannot find an adequate basis for agreeing with the statement . . . that 'this (proposed significant deterioration) section protects clean air areas from deteriorating while permitting the economic development necessary to achieve a steady improvement in our standard of living.' "

U.S. Department of Health, Education, and Welfare:

"If non-deterioration regulations do not allow for a sizeable margin of growth, the adverse impacts might be profound. Even with a declining birth rate, this country's population is expected to increase by some 60 million persons (30%) in the next thirty years. Without a 30% growth in economic production during the same period, we would suffer an absolute decline in per-capita income."

Governor Arch A. Moore, Jr. (R-W. Va.):

"It is my considered judgment and my deep concern, that if the (significant deterioration) proposals . . . are enacted into law, the effect upon this nation's already troubled economy could be disastrous."

IMPACT ON LAND USE AND GROWTH

U.S. Environmental Protection Agency:

"EPA's and other analyses indicate that the (proposed) Senate Class II increment would allow projected economic growth in most urbanizing areas to 1980. However, these studies show (that changes) would be necessary in order to avoid significant restriction and/or altered development patterns by 1990."

U.S. Council on Environmental Quality:

"Significant deterioration regulations . . . are also closely tied to land use issues . . . Under one of the (Senate) alternatives . . ., the class (III area) permitting the highest pollution level would be eliminated. This approach might mean that industry would have to disperse, not necessarily the best solution from a land use prospect."

Wallace H. Johnson, former Assistant Attorney General, Land and Resources Division, U.S. Department of Justice:

"A consequence of thus freezing at their current levels of development these 'cleaner than clean' areas might be the confining of industry and population to those areas of the country which are now 'dirty air' areas."

Bureal of Domestic Commerce, U.S. Department of Commerce:

". . . in (EPA's) Class I and Class II area designations the allowable degradation increments would not permit some industries to grow sufficiently to meet local and national requirements and objectives. This would be particularly true in the essential fields of natural resource processing and energy production."

U.S. Department of Health, Education, and Welfare:

"Non-deterioration regulations would produce a national land-use policy giving singular attention to air quality criteria. Serious land-use distortion might result, particularly if only a few regions would be capable of absorbing population or economic growth."

The Sierra Club:

"If the best technological developments are utilized and if numerous pollution producing sources are not concentrated in one place, most industry can enter clean areas without causing significant deterioration."

The Indianapolis (Indiana) News:

"(The House significant deterioration legislation) would achieve what has been the clear goal of EPA since its creation—complete control over land-use decisions and economic development. It would be disastrous for the economic future of the United States to be in the hands of bureaucrats who basically do not believe in the future."

U.S. Environmental Protection Agency:

"Many areas of the country have virtually no man-made emissions. To establish a policy that new emissions can only be introduced to the extent that current emissions are reduced would forever relegate these areas to an essentially undeveloped status. This . . . would, in turn, require that new pollution sources be located only in the semi-urban and urban areas of the country."

Governor Raul H. Castro (D-Arizona):

". . . adequate consideration has not been given to the effects of land ownership patterns and the potential diversities in land management philosophies in the implementation of the (significant deterioration) amendments. . . . Consequently, the economic development of this state could be unduly determined at the federal level."

Governor Mills E. Godwin, Jr. (R-Virginia):

"If this (significant deterioration) legislation is enacted in its present form, Virginia would feel impelled to ask the courts to set it aside as unconstitutional. Once the full impact for disruption of orderly, comprehensive land use planning of these sweeping proposals is comprehended by other states, I believe a substantial number of them will be joining the effort."

IMPACT ON ENERGY RESOURCES

Thomas S. Kleppe, Secretary, U.S. Department of the Interior:

"These Clean Air Act amendments could put us out of business in western coal. I think that the present Congress could make it impossible to utilize our coal resources in the West and that concerns me."

Consulting Geologists, Kent State University:

In a study of the impact of significant deterioration regulations on the 11 states with major portions of the nation's coal, oil shale and uranium resources, Kent State geologists concluded that: 1) new processing of approximately 98 per cent of Kentucky's coal reserves could be prohibited; 2) West Virginia could suffer inhibitions affecting more than 86 percent of its coal areas; and 3) mineral fuel resources—coal, oil shale and uranium—of Montana, Wyoming, Colorado and Utah would be affected by land areas needed to protect adjacent federal lands.

Senator Frank E. Moss (D-Utah):

"State and local governments and major industrial concerns in the country are justifiably alarmed about the full impact this (significant deterioration) legislation will have, for though the data available is too incomplete to list 'which' areas will be affected 'what' way, there is at least general agreement that the new policy will drastically curtail industrial expansion in the majority of the states, and especially in those energy resource states . . . which are being called upon to meet the goal of energy independence . . ."

IMPACT ON CONSUMER ELECTRIC BILLS

U.S. Environmental Protection Agency:

"It is expected that the major impact of the Senate (significant deterioration) proposal will be on the electric utility industry. . . . the Senate proposal will also increase average residential customers yearly expenditures in 1990 by a maximum of $28 per year. This is equivalent to an increase of slightly more than 2%."

The General Electric Company:

"The average cost of electric energy in 1990 could be as high as 10¢ (per) kilowatt hour as a result of meeting the proposed amendments." (Note: The 1975 average cost of electricity is 2.70 cents per kilowatt hour.)

National Economic Research Associates:

"In the absence of currently proposed amendments, the Clean Air Act for the electric utility industry will cost each American household $1,500 between 1975 and 1990. Amendments proposed in S. 3219 are estimated to add $299 per household to these costs but . . . as high as $673 per household if more extreme interpretations of the legislation are accurate and if electricity demand grows at the high end of the projected range."

EXHIBIT 2

ALABAMA POWER CO.,
Birmingham, Ala., March 29, 1976.

Hon. JAMES B. ALLEN,
United States Senator,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR ALLEN: As you may be aware, on April 5 the Senate Public Works Committee will take to the floor of the Senate the amendments to the Clean Air Act.

Several weeks ago, Mr. Joe Farley sent to you copies of a newspaper article appearing in the *Los Angeles Times*, as well as other large daily newspapers, pertaining to a report by the Task Force Committee within the Environmental Protection Agency assigned to study the harmful effects of sulfur dioxide emissions. According to the newspaper article, there was some disagreement between members of this committee as to the validity of the findings in the final draft regarding the effects of sulfur dioxide on the public health and welfare.

Several members of Congress have requested immediate Congressional hearings in order to get the true facts and an accurate accounting of the findings of the Task Force Committee as quoted in the article.

Enclosed is an analysis of Alabama Power Company's position as to how these amendments to the Clean Air Act by Senator Muskie's committee will adversely affect Alabama Power Company, its customers, and the State of Alabama. We would certainly hope that you will support the Congressional hearings to review the EPA report and that you will further bear in mind our opposition to the pending amendments before casting your vote on this important matter when it comes before the Senate.

Sincerely,

JOHN H. HAWKINS, Jr.,
Assistant to Senior Vice President.

CLEAN AIR ACT AMENDMENTS

INTRODUCTION

The Clean Air Amendments that will be reported out of the Senate Public Works Committee contain provisions for the prevention of "Significant Deterioration" of air quality and requiring use of best available control technology (BACT) in the construction of new major emitting facilities. These provisions, taken together, assure that major incremental costs—over and above those expended under the present Act—will be incurred by the Nation as a whole. The existing Clean Air Act assures adequate health and welfare protection, and these costs will provide no additional benefits for the Nation. Effects which would be associated with the

"Significant Deterioration"—BACT provisions include significant increases in the consumer's electricity bill and major hindrances in the siting and construction of needed new bulk power facilities. "Environmental Control" provisions which return no quantifiable benefits to the citizenry of this Nation, while at the same time requiring large expenditures of funds, are reprehensible under the best of circumstances. During times like the present, when the energy production and financial resources of the Nation are being strained to near the breaking point, passage of such legislation by the Congress may be interpreted by the American people, when they understand the full impact of its provisions, as a betrayal of trust.

PROVISIONS OF SENATE BILL IN REGARD TO SIGNIFICANT DETERIORATION AND BACT

The Senate Bill provides for the division of the country's land area into Class I and Class II areas. Increments of air pollutants allowed in the highly protected Class I area are so small that both Environmental Protection Agency-Federal Energy Administration and utility industry studies show that major power plant sites within such areas will be essentially impractical. The Senate Bill provides for the mandatory designation of all international parks and all national parks and national wilderness areas greater than 5,000 acres as Class I. Larger increments of pollutants are allowed in the Class II areas but, even there, increases are limited to only a fraction of existing ambient air standards which were set for the protection of public health and welfare.

The best available control technology (BACT) provisions of the proposed Senate Amendments provide for case-by-case determinations of what is achievable for a particular facility through the application of production processes and available methods, systems and techniques, including fuel cleaning or treatment, for control of each pollutant. In addition, the bill provides that in no event will the emissions associated with such best available control technology exceed that provided by the New Source Performance Standards section of the existing Clean Air Act. Thus, the practical effect of the best available control technology provision of the proposed amendments is to negate and supersede the existing New Source Performance Standards of the Clean Air Act of 1970.

COMPARABLE PROVISIONS OF THE PRESENT CLEAN AIR ACT

The present Clean Air Act provides no consideration of "Significant Deterioration." By contrast, protection of the public health and welfare is to be assured through attainment and maintenance of ambient air quality standards. The primary standards are set to protect health with an adequate margin of safety. The secondary standard is that level of pollutants determined by the Environmental Protection Agency as being the concentration necessary for the protection of public welfare from any known or anticipated adverse effects. That adequate protection is afforded by this provision is apparent from the explanatory definition contained in Section 302(h) that "language referring to effects on welfare includes, but is not limited to effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property and hazards to transportation, as well as effects on economic values and on personal comfort and well being." Because of the all-inclusive nature of this language, it is quite clear that a properly set secondary standard is a threshhold level for public welfare effects and that no quantifiable benefits are possible at concentration levels below the secondary standard. Since all regulation under the proposed Significant Deterioration amendments treats pollutant concentrations at levels lower than the secondary ambient air standards, it follows directly that this legislation can provide no quantifiable benefits to public health or welfare.

Section 111 of the 1970 Clean Air Act, "Standards of Performance for New Stationary Sources," provides that the term "Standards of Performance means a standard for emissions of air pollutants which reflect the degree of emission limitations achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated." Since the Senate Bill sets the minimum level of "best available control technology" equal to the existing Standards of Performance for New Stationary Sources, it is certain that such additional limitation as might be determined on a case-by-case basis as required by the Senate Bill will incur substantial extra costs in providing emission limitations beyond the "best system of emission reduction" already represented by the Standards of Performance for New Stationary Sources.

EFFECTS OF SENATE AMENDMENTS

A December 1975 EPA–FEA study determined the capital cost of the Significant Deterioration provisions to be greater than $11 billion between 1975 and 1990. These estimates agree well with those made by the electric utility industry which estimated 1975 to 1990 costs in a range from $9.45 to $13.19 billion. Industry studies have further broken down this expected cost to a per-customer basis. These estimates indicate that the national average household cost of the significant deterioration-BACT provisions $40–$60 per year in 1975 dollars by 1990. Since there are nationwide averages, a state such as Alabama which relies very heavily on coal as a fossil fuel would incur costs to the customer significantly above these nationwide averages. These costs are to be borne by the consumer with no promise at all of *any* quantifiable benefits, not to speak of commensurate benefits.

The land use effects of the Significant Deterioration provisions are likewise striking. The significant deterioration provision of the Senate Bill would apply in all areas where present air quality meets national secondary standards for either sulfur dioxide or particulates, or both. Attached is a map of the State of Alabama which indicates that the only part of the State where nondeterioration provisions would not apply are small areas in the Tennessee Valley. All of Alabama Power Company's service area would be affected by the provisions. Even if it is assumed that all of the State's area is classified as Class II, the allowable increment of SO_2 and particulate concentration are so small as to produce severe restriction on power plant sitting in hilly terrain and, in any event, to act to restrict the size of power plants or other particulate or SO_2 emitting industries sited in a particular area.

SUMMARY

Without exaggeration and without equivocation, it is clear that the restrictions on power plant and industrial siting and the huge costs which will result from passage of the Senate Bill would have major detrimental economic effects on the citizens of the country. Further, it is absolutely true that the economic costs will not be counterbalanced by commensurate environmental benefits; in fact, there will be no measurable environmental benefits, because health and welfare protection already are provided in accordance with the 1970 Clean Air Amendments. Because of this protection against detrimental effects provided by the existing Clean Air Act, the Senate Amendments should be amended to explicitly affirm that attainment of Primary and Secondary Ambient Air Quality Standards is sufficient to prevent "Significant Deterioration."

If land-use legislation is to be passed, then it should be done under bills so labeled. To pass the wolf of oppressive and insensitive land-use legislation by disguising it in the sheep clothing of clean air protection would be the most irresponsible possible legislative action and would be certain to impose large unproductive costs on the citizens of our State and of our country. To prevent the imposition of these unproductive costs on an already heavily burdened economy, the "Significant Deterioration" and BACT provisions must be stricken from the Senate Bill.

Mr. ALLEN. Mr. President, the unanimous-consent agreement gave the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) permission to introduce an amendment. I was presenting my remarks pending the arrival in the Chamber of the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT). If it is the desire of the distinguished Senator from Virginia to proceed at this time with his amendment, I ask unanimous consent that I be allowed to yield to the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) for the purpose of introducing his amendment, and after action has been had on his amendment I will complete my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAM L. SCOTT. Reserving the right to object, Mr. President, and I will not object, is it the intention of the distinguished Senator from Alabama to yield the floor so that I will have control of the floor during that time?

Mr. ALLEN. That is correct. I am seeking to accommodate the Senator.

The PRESIDING OFFICER. It is the understanding of the Chair that the unanimous-consent agreement was to allow the Senator to introduce his amendment and then the floor will revert back to the Senator from Alabama.

UP AMENDMENT NO. 291

Mr. WILLIAM L. SCOTT. Mr. President, I call up my unprinted amendment No. 291. It was necessary to amend the printed amendment because of changes ing the amendments made by the distinguished Senator from Utah. The clerk has the amendment, as amended.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. WILLIAM L. SCOTT) proposes an unprinted amendment No. 291 to the Moss unprinted amendment No. 290:

On page 1, line 1 after the word "and" insert the following:

"SEC. 6. During the period of the study authorized by section 315 of the Clean Air Act, nothing in such Act shall be construed to require or provide for the establishment of Federal standards more stringent than primary and secondary air quality standards.". and strike line 2.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WILLIAM L. SCOTT. Mr. President, it is my understanding that there is no substantial change either in the substance of the amendment by the Sen-

ator from Utah or in the amendment that I have just offered.

I also understand that the amendment offered by the distinguished Senator from Utah (Mr. Moss) would strike section 6 of the committee bill and would provide for a study. However, the nondegradation policy of the Environmental Protection Agency, and the regulations of the EPA which were established subsequent to the District of Columbia court decision in Sierra Club versus Ruckelshaus, would remain in effect.

It appears to me that if these regulations remain in effect, the amendment by the distinguished Senator from Utah actually is a nullity. It does not accomplish anything because the regulations remain in effect. The Environmental Protection Agency is acting at the present time and will continue to act, unless we have some statutory law to prevent its action to go along with the whole concept of nondeterioration or nondegradation.

While I have not read the entire decision, there was a case yesterday before the Court of Appeals of the District of Columbia which reaffirms the principle of the Sierra Club case. Eleven cases were combined. I have a copy of the opinion of the court with me. It is 54 pages in length.

On pages 53 and 54 of the decision by a three-judge panel, the court concludes:

> We find no ground on which to disturb the regulations upon review, and we therefore affirm the EPA prevention of significant air quality deterioration regulations. Our review of Sierra Club versus Ruckelshaus and subsequent events have revealed no substantial reason for rejection of that decision, and we hold that the nondeterioration regulations promulgated pursuant to that decision are both rational and in accordance with law.

Mr. President, the original decision in Sierra Club against Ruckelshaus in 1972 arose from the District Court of the United States for the District of Columbia, the very same court that heard these combined cases on which the court of appeals ruled yesterday. In the original Sierra Club case, the Supreme Court of the United States sustained the court of appeals by a 4-to-4 decision. But Mr. Justice Powell did not participate in that decision, and Mr. Justice Stevens has since become a member of the Court with the retirement of Mr. Justice Douglas. Therefore, even though the case was sustained by a 4-to-4 decision, it taking a majority to reverse the court of appeals, that could very well happen to these cases when they come to the Supreme Court of the United States. There is no certainty that the cases decided yesterday will be permitted to stand.

In my opinion, the matter of policy regarding the balancing between air quality and economic well-being in our Nation should be decided by Congress and not by the courts or by administrative regulations. Yesterday's decision emphasizes the necessity for and I think gives greater impetus to the amendment that I have just offered for the consideration of the Senate, and the need to suspend the operation of the regulations during the period of the study provided in section 315 and in the Moss amendment.

My amendment simply provides that during the period of the study nothing in the Clean Air Act shall be construed to require the establishment of Federal standards more stringent than the primary and secondary air quality standards. The Administrator of EPA now has the authority to change the national primary and secondary air quality standards. He can raise or he can lower these nationwide air quality standards when he considers it to be in the public interest to make an adjustment in them. However, with nondegradation, his standards would have to be nationwide in their effect.

I say, Mr. President, that I believe that there is a probability that the Supreme Court will grant certiorari and will reverse this court of appeals case. There is a substantial Federal question involved in this matter. But Congress should not shirk its legislative and policymaking responsibilities.

Without my amendment, the Moss amendment leaves the decision up to the Government agencies and to the courts. One should not wonder why Congress continues to lose prestige, when we fail to face up to an issue as we would do in this case.

Mr. FANNIN. Mr. President, will the Senator yield for a question?

Mr. WILLIAM L. SCOTT. I am glad to yield such time as the Senator from Arizona might want.

Mr. FANNIN. I just wanted to be sure the Senator had finished explaining his amendment before I began questioning.

Mr. WILLIAM L. SCOTT. Go right ahead.

Mr. FANNIN. The distinguished Senator—I commend the distinguished Senator for offering this amendment; I think this is the most practical answer that we have to the problem facing us—with all the debate taking place on the floor, I think it finally settles down to one issue, and his amendment would settle that issue.

My question is, Are we debating just the concept of significant deterioration? Are we not also debating the ability of section 6 to get the job done? Is that not correct, I ask the Senator?

Mr. WILLIAM L. SCOTT. Yes. I think what we are attempting to do is to permit the Administrator of the Environmental Protection Agency to continue to set air quality standards nationwide.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. With a quality high enough to protect the health and welfare of our citizens, but to preserve to the States the right to establish even higher air quality standards.

Mr. FANNIN. Yes. Is it not true that the present EPA regulations have been granted land-use classifications with three classes of allowed growth?

Mr. WILLIAM L. SCOTT. Yes. In this case that was decided yesterday. That was approved.

I have serious questions about it. We have three classes, and the Court, on page 13 of its opinion, says that class I applies to areas in which practically any change in air quality would be considered significant.

I am talking about these pristine areas, the national parks and national wilderness areas.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. We could not build a plant anywhere near such areas that would in any way deteriorate the air quality. That means in my State, in the valley of Virginia, for example, the EPA might not allow construction of certain facilities in the valley region because of the close proximity of the Shenandoah National Park, and I think this is ridiculous and ill-advised.

Mr. FANNIN. That is ridiculous, and that would occur in many States of the Nation. The State I represent would certainly be involved.

Does my colleague agree that under the increments of this act, growth would actually be encouraged? On page 22 of the committee report, we have a chart entitled, "Ambient Air Quality Standards and No Significant Deterioration Increments, in Micrograms Per Cubic Meter," which shows a maximum annual increment on particulate matter in class 1 as 5 micrograms and in class 2 as 10.

Does my colleague agree that under the increments in this act, growth would be greatly encouraged as each industry sought its share of the allowed pollution?

In other words, would they not all be rushing out to build their plants, so as to come within that particular increment?

Mr. WILLIAM L. SCOTT. I am sure this is possible, but I did not quite understand. Did the Senator say growth would be encouraged or discouraged?

Mr. FANNIN. Actually encouraged, the thing about it is, the primary standard is 75 and the secondary standard is 60, and here we have a class 1 increment of 5 and a class 2 increment of 10. Under the stipulations set out in the legislation now before us States could only increase on increment by 5 in class 1. The class 2 increment is 10. In other words, that would be 20 on one and 10 on the other, and you have a secondary standard of 60 and a primary of 75. What would happen is that a company would be planning a facility, say, 5 years from now, and they would say "Perhaps by that time this increment will be used up by other facilities, so we could not build that plant; we had better build it now."

Mr. WILLIAM L. SCOTT. It is my understanding that the Moss amendment would strike this section 6.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. But at the same time, under the Court decisions, the Environmental Protection Agency is doing the same thing under regulations.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. I think we are overregulated today. I think Congress has actually the authority and the responsibility of establishing this, and not leaving it to unelected people downtown.

Mr. FANNIN. Yes. What the Senator is saying is true, but this does not bring about the desired solution. It seems to me we can find ourselves, as the Senator has stated at previous times and I think also this morning, that we are trying in this legislation for practically a no-growth program.

Mr. WILLIAM L. SCOTT. Does not the distinguished Senator agree that if we have air quality standards established nationwide, if the quality of the air were high enough to protect the health and welfare of the citizens of Arizona, it should be high enough to protect the health and the welfare of the citizens of Virginia and other parts of the State? And then if there is a particular problem area, we should leave that up to the States and to the localities.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. That is land-use planning, when we go further and let the Federal Government decide where they can put a plant locally or where they can put a shopping center locally, and that is what they can do if we do not adopt my amendment to the Moss amendment.

Mr. FANNIN. The Senator from Arizona wholeheartedly agrees, and certainly it would be devastating to many areas of the country if this legislation were adopted with these stipulations in it. Certainly I commend the Senator for offering his amendment because it seems the practical solution to this problem.

It is my understanding that natural pollution, dust, and organic particles, would not be included in allowable increments, but I doubt we yet have the ability to keep accurate measurement of pollution sources. This factor could be addressed in the study, could it not? It is one of the great needs we have that justifies the study.

Mr. WILLIAM L. SCOTT. Yes. I am in favor of a study. But I think we need somehow to cut the string now to eliminate these continued regulations because we are still in a recession in this country. Our unemployment is too high. And the Richmond Times Dispatch in an editorial says that "Man does not live by clean air alone."

Mr. FANNIN. That is right.

Mr. WILLIAM L. SCOTT. He needs clothes, he needs food, and he needs all kinds of things.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. I believe we need to have our economy continued to expand in order to have a healthy economy and to maintain our standard of living. I believe we ought to do it right now.

Mr. FANNIN. The Senator from Arizona agrees wholeheartedly. What has happened, I am sure, was never intended by Congress, when this legislation was approved—that we should place a barrier upon our economy, and that we should cost the country thousands upon thousands of jobs, maybe millions of jobs. We cannot even evaluate how many jobs have been lost because of some of the unreasonable stipulations that have been in the regulations promulgated. Of course, I certainly cannot blame the EPA for something that we in Congress have done, and I feel that if we had had a few studies before we adopted the legislation, maybe we would not be in the jam we are today.

Mr. WILLIAM L. SCOTT. I say to the distinguished Senator that remarks as this always recall to my mind the statement by our first great Chief Justice, a Virginia Chief Justice Marshall, when he said that the power to tax is a power to destroy. I think the power to regulate is the power to destroy. We can paraphrase his statement a little bit. The Government today overregulates the business community and overregulates the lives of people, and this is one specific instance where we are overregulating.

Mr. FANNIN. The Senator from Arizona wholeheartedly agrees.

The Governor of the State of Arizona, Governor Castro, wrote a letter to me. At this time I shall read from that letter. The letter answers some of the questions about which both of us have expressed concern as to whether or not around the country there is a great distress about what is happening with the promulgation of the different regulations that have been in effect, and those that would be in effect in this legislation is approved. The letter of Governor Castro of the State of Arizona spoke specifically to the issue of section 6. Although allegedly this would be a State-administered program, the western States, with large amounts of public lands, would be subject to vetoes from any number of different Federal land managers. In Arizona, 45.3 percent of our land is in the Federal domain, with 26.7 reserved in trust for Indian tribes.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. FANNIN. I will as soon as I finish the statement.

Mr. McCLURE. Surely.

Mr. FANNIN. I defy anyone to tell me this will be a State-run program with increments of pollution already set for the entire Nation in this bill and with input by numerous other parties to make development virtually impossible in much of the rural areas of this Nation.

Mr. President, I ask unanimous consent that Governor Castro's letter be printed in the RECORD.

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

OFFICE OF THE GOVERNOR,
Phoenix, Ariz., February 19, 1976.

HON. PAUL FANNIN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR FANNIN: I wish to call your attention to the impact which the proposed Clean Air Act Amendments of 1975 have upon the State of Arizona. Of major concern is the fact that adequate consideration has not been given to the effects of land ownership patterns and the potential diversities in land management philosophies in the implementation of the amendments. Federally controlled lands in Arizona account for 43.52 percent of the land area; and Indian reservations account for 26.73 percent. The distribution of these lands are such that only a small portion, if any, of the non-federal, non-Indian lands of the state would not be influenced by decisions, made by Federal Land Managers. Consequently, the economic development of this state could be unduly determined at the Federal level.

It is essential that State rights are preserved and that opportunities to participate in the decision making process are provided to local governments particularly when standards to protect human health and welfare are not exceeded.

I urge Congress to establish a study commission to investigate and analyze the implications and consequences of the non-deterioration provisions as promulgated and proposed and to consider the alternative approach outlined by my staff in the enclosed report.

Please feel free to contact me to discuss this matter of extreme concern to the State.

Sincerely,

RAUL H. CASTRO.

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

Mr. FANNIN. I am pleased to yield.

The PRESIDING OFFICER. Will the Senator from Idaho suspend?

Mr. McCLURE. Yes.

The PRESIDING OFFICER. The Senator from Virginia has the control of time.

Mr. McCLURE. Will the Senator from Virginia yield only a moment?

Mr. WILLIAM L. SCOTT. I am glad to yield to our distinguished Member.

Mr. McCLURE. One of the most difficult portions of the committee legislation to deal with lies in this area of the State-Federal relationship and it is a very difficult one. That is the reason I interrupted the distinguished Senator from Arizona because he said that the Federal Government would control the State decision because of the ownership of Federal lands, as I understood, to paraphrase his statement.

Mr. FANNIN. That is the way I was reading the Governor's letter, but I will stand behind the Governor's letter in saying that with all of the different provisions in the bill, regardless of what the Senator from Idaho feels will be the case, with the vast experience he has had in this field of activity, I do not think he will deny it is going to be very difficult for the Federal Government not to enter these decisions when we consider the number of Federal parks, recreation areas, monuments, and all that are involved, adjacent to many of the areas which we are talking about. I wish to have his statements of how we are going to get away from Federal regulation.

Mr. McCLURE. The reason that I wish to make the record as clear as it is possible to make it in this rather confused situation is that the distinguished Senator from Maine, the floor manager of the bill, as well as others on the committee have consistently taken the position that the language of the bill provides that the manager of Federal class I areas has the right and the duty to intervene in State decisions that deal with the kinds of structures that will take place outside of those Federal lands, but the decision shall be that of the State, so the Federal Government may have the right to intervene and to raise the question of

whether or not the State action will contravene the air quality related values for which the Federal class I area was created. The final decision under the bill is the decision of the State.

If we wish to look at the ability of the State to resist that pressure that is a separate issue, but I do think we ought to separate the issues into the question of who has the authority and then the question of whether or not they can exercise it.

Mr. FANNIN. Does not the distinguish Senator from Idaho agree that appeals are allowed by adjacent States on Federal land and they could have it tied up in court if the time permits? Is that not the case?

Mr. McCLURE. Certainly any aggrieved party, whether it be the Federal Land Manager, the Sierra Club, the industry that is involved, or the State agency, has access to the courts to review what is done. But the bill as provided by the committee says that the State agency shall exercise that authority.

Mr. WILLIAM L. SCOTT. Let me say that, in reading the report and in my limited knowledge of Federal bureaucracy, sometimes the matter such as the distinguished Senator from Idaho was discussing is what the mind of the administrator thinks it is.

I read from page 3 of the report:

> The Administrator thus could go to court to stop a permit for activities which would exceed the increments of pollution or which otherwise did not comply with the requirements of this section, including use of best available control technology.

I submit that, while the distinguished Senator from Idaho may be technically correct, it is not his mind that is going to make this decision. It is the mind of a bureaucrat, an unelected person, who may not share the statement he has just made. I say that this is something that we should eliminate, and we should be sure that the States have the final authority.

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

Mr. WILLIAM L. SCOTT. I am glad to yield briefly to the Senator.

Mr. McCLURE. I think the committee has done everything it can and it is trying very hard to move now to make certain the legislation says what we believe it says, to make the legislative history say what we believe it should say.

I say again to the Senator from Virginia that the language he has just read from the report refers to the nonclass I areas. That language refers to the basic strategy for controlling air pollution and not with relation to the Federal lands that are involved. We had a colloquy on that sometime last week, trying to distinguish again the decisionmaking authority as it affects the Clean Air Act generally and the class I areas particularly. It is very difficult to do.

I hesitate to interrupt at this time, but I think it is extremely important that the legislative history be as clear as we can make it on that point.

Mr. FANNIN. I wish it could be clearer. I have great respect and admiration for the distinguished Senator from Idaho and for his expertise in this field. He has devoted a great deal of time to it. We have heard others with expertise who disagree with him that section 6 seeks to accomplish what he states.

I have a letter that was issued by others who feel that they have the knowledge that the Senator from Idaho has. Perhaps they do not have the same expertise. They bring out, among other points advanced for support of section 6, that the bill shifts responsibility for protecting air quality to the States from the EPA, which I support.

I have heard all these arguments. However, under section 6, the Federal Government has, in effect, a veto power over the granting of any permit for construction of a facility if the Federal land manager merely alleges that emissions from a proposed major emitting facility may cause or contribute to a change in air quality or class I area.

The burden of proof is on the owner or operator of such facility to demonstrate that emissions of particulate matter in sulfur dioxide will not violate the infinitestimally small increases in pollution in class I areas. How the burden of proof may be met is not explained.

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

Mr. WILLIAM L. SCOTT. I yield.

Mr. McCLURE. I support the Scott amendment, incidentally, so that nobody will have any misapprehension about where I stand. I think it is a very clear statement of philosophical difference between the approach being furthered under existing court law and EPA regulations. I will vote for the Scott amendment because it says that we do not know enough about this field to legislate there now.

However, I am struggling, as best I know how, to make the record absolutely certain as to what the committee said in this particular language. The people who seem to oppose it the most are the ones who are making it read the worst.

Mr. WILLIAM L. SCOTT. Mr. President, I know that the distinguished Senator from Idaho, the chairman of the full committee, and other members of the Public Works Committee have worked long and hard on this matter, and they have tried to report a good bill. However, I think it is capable of being improved a bit, and that is what I am trying to point out.

Mr. McCLURE. I do not question that at all. I have never seen any legislative action in this body that could not be improved upon, and many times the greatest improvement would be not to do it at all; and I am sure the Senator from Virginia feels that way.

I refer to a statement made last week by the distinguished floor manager of the bill which appears on p. 23983 of the RECORD, dealing with this very point. Senator MUSKIE at that time said this:

> . . . the State makes the decision as to whether or not he is right.

I cannot underscore that too strongly as to the intention of the committee throughout the entire hearing, throughout the entire markup of the bill. It is the pivotal point around which much of the discussion takes place as to who should make that decision—the Federal land manager or the State.

With respect to what the distinguished Senator from Arizona just read about the applicant having the burden of proof, the applicant does, but that burden of proof will be judged by the State, not by the Federal administrator.

I say to the distinguished Senator from Virginia that a State bureaucracy is not necessarily different from a Federal bureaucrat. He still is unelected, but I think he is more approachable.

Mr. FANNIN. That is debatable, but we will not debate the question of who makes the final permit decision. The distinguished Senator from Idaho has cleared that up—the State is definitely the final judge.

Mr. WILLIAM L. SCOTT. Mr. President, I say to the distinguished Senator from Arizona that several Senators desire to speak, and want the Senator to go ahead and use such time as he feels is necessary, with the knowledge that other Senators desire to speak.

Mr. FANNIN. The Senator from Arizona does not want to take up a great deal of time. If the Senator desires, I will be pleased to put this statement in the RECORD and not take up the additional time.

Mr. WILLIAM L. SCOTT. I am glad to have the Senator take such time as he sees fit, but with the knowledge that others also wish to speak.

Mr. FANNIN. I thank the distinguished Senator.

Mr. President, the debate over the significant deterioration issue has been one of the most heated Clean Air issues since the amendments of 1970. It is clear that we have yet to even agree on the best remedy to the current committee version. I would like to explain my position and reasons for supporting the clearest solution to this debate—that is Senator SCOTT's of Virginia—amendment No. 2116, which should allow for no significant deterioration regulation during the period of a study on this concept.

Very simply, Mr. President, I agree with the goal of preventing "significant deterioration" of clean areas. We would not want this entire country on the border of our health-hazard standards. And certainly no State in the Union has more beautiful sunsets, or more of a diversity of breathtaking and panoramic views than my own State of Arizona—obviously significant deterioration would blight the enjoyment of those wonders. I and others do not consider the allowed increments of pollution in this legislation "significant". Actually they have no meaning, unless the existing conditions of an area are known—along with seasonal, natural pollution estimates. This all assumes, of course, that accurate measurement can be made of different pollutants and attributed to specific sources.

Since there is such strong disagreement about the effects of section 6 in the

committee bill, I would think reason demands a thorough study of the impact of significant deterioration regulations before implementation—before either program—that promulgated by EPA pursuant to the court's decision or following enactment of the bill before us. At this point, I would like to share with my colleagues two letters. The first is from the Governor of Arizona and has already been inserted earlier in my comments.

(1) Governor Raul Castro's letter speaks specifically to the issue of section 6. Though allegedly this would be a "State" administered program western States with large amounts of public lands would be subject to vetoes from any number of different Federal land managers. In Arizona, 43.5 percent of our lands are Federal domain, with 26.7 percent reserved in trust for Indian tribes. I defy anyone to tell me this will be a State-run program—with increments of pollution already set for the entire Nation in this bill, and with veto power by enough other parties as to make development virtually impossible in much of the rural area of this Nation.

(2) The second letter, I would like to insert for the benefit of my colleagues is from the director of one of our air quality control districts. As is obvious from Mr. Kopisch's remarks, he has become frustrated with the implement now, ask questions later approach.

I ask unanimous consent to have this second letter also printed in the RECORD.

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

PINAL-GILA COUNTIES,
AIR QUALITY CONTROL DISTRICT,
February 11, 1976.

Hon. GERALD FORD,
President, United States of America,
White House, Washington, D.C.

DEAR MR. PRESIDENT: On January 24, 1976, a Phoenix newspaper, the Arizona Republic, carried an item from the New York Times. This release concerned itself with purported deletions of sections of your economic message to the Congress.

Whether it was actually contemplated to include the sections involving the environment and the Environmental Protection Agency in your message, I don't consider important. What is important is that this is the first faint indication of sanity to come out of Washington in this matter. I am in complete agreement that the three issues noted in the reported environmental recommendations are probably the most important issues requiring major changes.

The issue of sulfur dioxide raised is of vital economic significance to the American people. Much, much more than they have been told.

Proper recognition has never been given that much of our energy short-fall is due to premature concern over sulfur dioxide in the 1950's and 1960's. It was this deliberately instigated concern which caused many apprehensive industries and municipalities to switch from coal to natural gas or to low sulfur fuel oil for their fuel needs. Cost evaluation analysis simply did not justify installing expensive control equipment.

The impact of this loss of coal users was a disaster to certain segments of the coal industry. The normal competitive growth of this great industry was turned upside down. Only this past year or so have we seen coal production return to the levels of twenty years ago.

It was the inability of our coal producers and consumers to pick up the extra demand resulting from the oil embargo which tossed this country into the most sickening energy crisis imaginable. The unexpected intensity of the recent depression primarily resulted from the effects of our fuel shortage and practically brought us to our economic knees.

If we are not to bring the consumer to the brink of financial disaster in the 1980's, common sense dictates that the Federal Agencies' brain wash of the American people concerning the potential harm of sulfur dioxide must be corrected.

It is almost beyond belief, that none of our leadership in Washington nor the EPA has informed the people that the high price and the shortage of fuel are a part of the cost of solving our environmental problems.

Polls quote the people as being in complete accord with our environmental goals. Would they be in accord if they were honestly informed of the total cost incurred to this point in time? Would they be in accord if the actual total future costs were completely delineated and not provided piece meal, and inaccurately?

If the President, the Congress and the EPA have not lost complete belief that the American people can be trusted to enter into the National decision making process, the people must be provided all the facts and all the costs involved.

The cynical hypocrisy of the Federal Government in now asking industry to convert back to coal on almost a crash basis and fifteen years too late, surely cannot escape the thoughtful citizen. Perhaps the Washington leadership should not worry though, after all, the only thing it cost us was an appreciable loss of control of our national destiny and tens of billions of dollars each year.

The Schimmel & Murawski ten year study of New York City is the first completed long range investigation of the largest city in the nation, since the Federal Agencies by decree upgraded sulfur dioxide from an indicator of pollution to an actual harmful pollutant. Their failure to find any evidence of harm from sulfur dioxide, as determined by their analysis of mortality statistics, must be given its proper emphasis. The EPA cannot be allowed to bury this report as being of no significance, as so many other reports have been.

Los Angeles County experience as reported at a St. Louis seminar in 1966 has been deliberately under emphasized. In reporting on their experence in cleaning up sulfur dioxide, they noted that year by year as the concentration levels decreased, the number of days of smog steadily increased. Los Angeles had not attacked the sulfur dioxide problem primarily because of health but because they felt it was a significant factor in their smog situation. Informally they admitted that perhaps they had inadvertantly removed a beneficial component which may have had the effect of hindering the formation of smog.

Outside of federally payrolled personnel and those benefiting from the fallout of the sulfur dioxide crusade, very few engineers or scientists in this Country believe there is any harm in existing atmospheric levels of sulfur dioxide. It is past time that this nation gets off this unbelievably expensive, misdirected sulfur dioxide health kick and recognize the truth.

If a nation of engineers and scientists, capable of letting men make the giant step from earth to moon, cannot agree after twenty years of intensive and well funded research searching only for the potential harm of sulfur dioxide, it has to be obvious that harm of any meaningful significance simply does not exist.

In Arizona, our most important industrial activity is the mining and refining of copper. In 1970, an important EPA official personally thrust himself into the public hearings in this State and with absolute conviction stated that the smelter industry could with existing and available technology and at a reasonable price, eliminate 90% of the sulfur dioxide being emitted from the then existing eight copper smelters. Public health officials of the State and many conscientious and concerned citizens believed him. State Statutes and Regulations were adopted to accomplish this 90% clean up. Five years later, after the expenditure of close to a half billion dollars, five of the remaining seven smelters, loaded for the first time in history with almost unmanageble debt, find it impossible to approach the 90% figure. I find the Federal Agency's 1970 actions utterly despicable and appallingly naive. Elements of bureaucratic harassment and almost childish irresponsibility has been evidenced by the EPA since 1970 in this purely Arizona matter. Even more incredible, the EPA is presently in the process of forcing still further uneconomic requirements on this hard hit industry. This, despite the objections now of a much more knowledgeable citizenry, our concerned State Health officials and a worried Arizona State Legislature.

The quoted statement, "Where the damaging effects of pollutants are confined to a locality, then the locality should be allowed to regulate itself" is the most pertinent and important statement ever to be credited to a top official in Washington. I hope that you believe this.

Any program as potentially harmful to the well being of our citizens, with the capability for punitive harassment inherent in the devastating and dictatorial threats contained in Sections 113 and 114 of the Clean Air Act, must be returned to the control of the people.

This winter I have been reading of people freezing to death for lack of fuel. I have been reading of people dying because of malnutrition. Reading of many desirable social activities for our young people curtailed or eliminated because of the expense of heating the required facilities and reading of cold churches, cold schools and cold homes.

Does such suffering actually balance off the advantages we feel will accrue once we achieve clean air?

Is there a difference between the colds, flu and asthma attacks whether caused by cold homes or by air pollution? Is there a difference in the absolute finality of death whether caused by freezing, malnutrition or by air pollution?

It appears that the Congress in their sincere desire to protect the health and the well being of the people, initiated a process which is degrading and killing the people at an increasing rate each year.

It appears that we have developed a debit balance in the mortality and morbidity statistics as a result of the almost holy crusade for clean air. This is a horrifying thought, but what is more horrifying is that these statistics will continue to worsen year after year, even were we to stop all actions previously taken. The effects of those actions are turning out to be irreversable. Actions presently on the legislative drafting boards and in the EPA regulations can only accentuate our existing problems making it even more difficult for those of our people with marginal incomes to obtain food, fuel and the other necessities required for comfortable, healthful living.

Even were the premises scientifically correct, this whole clean air crusade should be

re-examined for all its consequential results. But since many of the major premises are not scientifically correct, the course and momentum of our environmental thrust must be modified.

The philosophy that expensive corrections must be made simply because the *potential for harm may exist*, must be rigorously questioned. This nation cannot afford the cost of pure air. We may be able to justify the cost of healthful air, but even this justification must give proper and honest consideration to both the positive and negative results which will occur.

All the qualitative realities of living and dying must be balanced. Death is the ultimate reality, but the quality of the life we live until we face that reality is important also. Clean air is actually only a single relatively minor component of a multicomponent complex total that make for enjoyable living. We must regain a proper sense of proportion about environmental matters.

On April 4, 1974, I wrote to Congressman Conlan requesting help. I expressed at that time my personal frustration with the EPA and the methods used by them to carry out their "Congressional Mandate". I am attaching a copy of that letter as I find a year and a half later I still feel exactly the same about the EPA.

The last paragraph of the Conlan letter stated: "You fellows in Congress have the power to make some corrections or foul the whole mess up worse. I can only hope that you give this some deep thinking and make some vital corrections before it is too late".

Now I am asking the President of the United States to take the necessary time to give adequate thoughtful consideration to the issues I have raised and to use the prestige and power of your office to protect the most fundamental rights of the American people.

Respectfully yours,

L. C. KOPISCH, P.E.,
Director, Pinal-Gila Counties Air Quality Control District.

Mr. FANNIN. Mr. President, it is evident from the floor statements inserted by many Senators how controversial this section is. A study of this regulation's impact is essential. Completing the study before implementation of these far-reaching regulations is clearly the only intelligent means of meeting the overall objective—protecting Americans from unhealthy air.

In summary, Mr. President, we are not debating the concept of "significant deterioration." We are debating the ability of section 6 to get the job done—not just better than existing EPA regulations, but at all.

What I actually foresee in Arizona, under enactment of section 6, is an ill-timed scramble by industry and the utilities to overbuild during the next few years in order to have a share of the stringent increments, before other facilities have used them up and prevented all further growth. Then consumers will have to pay for plants which become obsolete almost before they are needed.

Mr. WILLIAM L. SCOTT. Mr. President, I am grateful for the comments and for the support of the distinguished Senator from Arizona.

I yield 5 minutes to the distinguished Senator from Utah.

Mr. GARN. Mr. President, I rise today in support of the Scott amendment to the Clean Air Act amendments. It seems to me, Mr. President, that this approach to the critical problems of nondeterioration of pristine air presents the most logically defensible case, and that we would be well advised to adopt it. Let me point out what the situation will be if we adopt the Scott amendment.

First of all, the primary and secondary air quality standards established by the 1972 Clean Air Act will remain in effect. The Scott amendment will not reach them, and I do not believe that they should be touched. I know that I would oppose any effort to weaken these standards. These standards go directly to the obligation of the Federal Government in the area of air quality: They protect human health and welfare. That is an obvious need, and one that Congress was quick to meet when air quality legislation was originally proposed.

However, saying that the Government has an obligation to protect human health is much different from the establishment of a national policy of nondeterioration of any air quality. That is a responsibility that should not, in my opinion, be undertaken at this time, certainly not on the basis of the testimony which has been taken by Congress to date.

In my remarks the other day, I emphasized that only 3 hours of hearings had been held last year on nondeterioration and only four witnesses had testified, hardly sufficient evidence on which Congress can act.

I do not believe that Congress intended such a policy when the 1970 act was passed. I believe that the Environmental Protection Agency has misconstrued the law passed that year. It is in the nature of bureaucracies to delegate to themselves more authority than Congress intended, and EPA has shown that tendency many times. Occasionally, the Federal courts help them, but they are quite capable of expanding their reach on their own. This nondeterioration policy is one good example; another is the policy of specifying what measures companies must use to achieve emission standards, rather than letting the companies use their own judgment in attaining the standards.

The Scott amendment goes to the heart of this problem by removing the statutory base EPA has used to promulgate nondeterioration regulations. Senator SCOTT's amendment is a neat, adequate surgical procedure. It deserves the support of the Senate.

In addition, Mr. President, adoption of the Scott amendment would leave in place the laws and regulations of the several States, protecting the quality of air within their jurisdictions. In my opinion, that is where any responsibility beyond simple health protection ought to lie. The local officials are the ones who know the local conditions, and are best equipped to weigh the relative values of preservation and development. The State of Utah long ago adopted an adequate law protecting air quality in the State, and my information is that other States have done the same. Contrary to popular belief, we in the West are not bent on destroying our natural environment, or in dirtying every liter of clean air. We know the mountains, the valleys, and the purity of the air around them. We are not certain that the residents of New York City and Los Angeles are all that well qualified to tell us how to protect our heritage.

Should the Scott amendment fail, Mr. President, I would then support the Moss amendment, of which I am a cosponsor, providing for a study of the impact of a national policy of nondeterioration. The adoption of such a policy is a momentous one, one that must be thoroughly studied before it is adopted. I have requested from a number of Federal agencies an evaluation of the impact of nondeterioration on the areas of responsibility under their jurisdiction. Without exception, they have responded that there is, at the present time, insufficient information on which to make a realistic evaluation. In short, we need more data, and we need time to obtain it. In the meantime, the EPA regulations remain in effect and we have the Federal primary and secondary standards and the State laws, as I have already noted. A vote for the Moss amendment, or for the Scott amendment, is not a vote for dirty air. To say it is is a slander on the 50 States of the Nation, and on the handiwork of the Congress of the United States in 1970.

To me, these amendments simply make sense, that we delay until such time as we can base a decision on facts rather than on emotion or the politically popular position to be for clean air.

There is not one Member of this body who is not in favor of clean air, but we must balance the needs for healthful clean air with the needs for communities and States around this country to have adequate development so that they can provide jobs in their communities and not go beyond the needed health standards to impose esthetic values from the national level. I hope the Scott amendment is adopted and I support it.

Mr. WILLIAM L. SCOTT. I appreciate the friendly comment of the distinguished Senator and thank him very much for contributing to the amendment.

Did the Senator from South Carolina desire some time?

Mr. THURMOND. I thank the Senator. I should like about 6 or 7 minutes.

Mr. WILLIAM L. SCOTT. I am glad to yield 7 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I have carefully considered the amendment of my distinguished colleague from Virginia (Mr. WILLIAM L. SCOTT), and have decided it is meritorious and worthy of my support, for the following reasons:

First, like the Moss "significant deterioration" amendment to the clean air bill, which I will support if the Scott amendment fails, the Scott amendment recognizes that Congress does not yet know all the answers regarding the extent to which clean air areas should be kept clean, the most desirable methods

of preventing undue degradation of air quality, and the implications of a new policy in this area. Premised in part on this lack of knowledge of what "prevention of significant deterioration" means in terms of its effects on desirable economic growth, the Scott amendment deletes section 6 of the bill—the section which establishes the new policy on nondegradation.

I agree that Congress should withhold definitive judgment on these questions until the state of knowledge regarding the impacts of this policy and its compatibility with other national goals are more accurately determined. I support the National Commission on Air Quality study of these issues and look forward to thorough consideration of the recommendations it is expected to make to Congress on this subject.

Second, the Scott amendment would nullify the effects of Court decisions in the case of Sierra Club against Ruckelshaus. Judicial interpretations of an ambiguous law in this case, which was eventually upheld for the Sierra Club plaintiffs in a tie decision by the U.S. Supreme Court, have compelled EPA to issue nondegradation regulations without specific guidance from Congress.

Mr. President, I have always been opposed to legislating by the courts and/or by the executive branch. Making laws and establishing public policy are, under the U.S. Constitution, the responsibility of Congress. Thus, with respect to this particular issue, I agree that Congress should prohibit the courts and the Federal bureaucracy from establishing through the back door a national policy on protection of clean air areas. The Scott amendment accomplishes this purpose.

Third, as the Senator from Virginia (Mr. WILLIAM L. SCOTT) has pointed out, the adoption of his amendment is hardly the radical, dangerous move that the opponents of the amendment claim. If the Scott amendment is passed, we still have the primary ambient air standard to protect public health and the more rigorous secondary air quality standard to protect public welfare, including sensitive crops, property values, et cetera. Even those who favor instituting a nondegradation standard now agree that we still face a herculean task in many areas of the Nation to improve air quality and reduce air pollution down to the level of the secondary standard. Furthermore, the Scott amendment does not prohibit any State from enacting, on its own or in cooperation with other States, air quality standards more stringent than the existing national ambient air quality standards.

Thus, Mr. President, I support the Scott amendment because I think it makes sense as public policy at this time. I do not want to prejudge the issue of prevention of significant deterioration of air quality in clean air areas, because I think it is in the public interest to work toward a cleaner, more healthful environment. This bill creates a National Commission on Air Quality to study all phases of air pollution problems and various control strategies. The Commission is required to make its recommendations on nondegradation and other air quality issues to Congress. I look forward to carefully reviewing these forthcoming recommendations and other relevant evidence with an open mind.

We readily admit that we do not know all the answers with respect to this issue and that we need more information. There is no compelling reason to enact a far-reaching, growth-limiting, nondegradation public policy into law now. Accordingly, I urge my colleagues to support the Scott amendment.

I think the Scott amendment is sound, and I commend the able Senator from Virginia for offering this particular amendment at this time. I feel it is in the public interest.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the thoughtful and kindly remarks in support of my amendment by the Senator from South Carolina. He is a cosponsor of this amendment. I might add that Senators BARTLETT, CURTIS, EASTLAND, FANNIN, GARN, GOLDWATER, and HELMS are also cosponsors.

Senator CURTIS is unable to be with us today. He is in Nebraska. He has asked me to submit a statement on his behalf for the RECORD.

I ask unanimous consent at this time that his statement be printed in the RECORD.

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

STATEMENT BY SENATOR CURTIS

As a cosponsor I wish to support the amendment of the Senator from Virginia, Mr. Scott, which will eliminate those provisions of the Clean Air Act Amendments regarding significant deterioration.

I know of no person in this chamber or in the Congress who would consciously vote for dirty air, or who is against our efforts to clean up the nation's air. I am for clean air, and I think the programs we have established in the Clean Air Act have done much to clean up the air.

I believe we have taken a logical, stern approach to regulating harmful emissions that have led to serious pollution, and that in time we will be able to develop even greater technology for controlling air pollution.

Under the Clean Air Act, we have established ambient air quality standards in two levels that are designed to ensure the health and welfare of the nation. This program is doing an excellent job in regulating and controlling pollution of our air. We are on the road to ensuring that our air and atmosphere will not become dangerously polluted in the future, while at the same time allowing our economic and technological progress as a nation to continue.

But now we are being told by some in and out of the Congress that controlling and abating pollution and cleaning up our air aren't good enough. We are being told that we must protect areas that have no pollution from ever having the slightest bit of pollution. We are hearing that existing areas of the nation with air quality much higher than is required by either the primary or secondary standards, must not have any increase in pollution or deterioration whatsoever.

And I announce that I am not opposed to that ideal. But there is one aspect of such purity of air with which I am concerned—to date I know of no technology, I have heard or read of no scientific development or research, and I am aware of no amazing inventions or discoveries that would automatically put a hold on our current level of air pollution or that would reduce it.

So far as I know, there have been no discoveries of devices that would control air pollution emissions one hundred percent—from automobiles, manufacturing plants, residential furnaces, commercial and public incinerators, or utility plants.

That being the case, Mr. President, I fail to see how we could possibly establish a standard of air quality that would allow for no addition of any pollutants or particulates to the atmosphere, without suffering the obvious consequence of an end to progress. We would, in reality, have to come to a standstill.

Now I know the proponents of the significant deterioration provision have said that it won't stop all progress, that it will allow continued growth and productivity. But what they haven't told us is what the cost will be for such continued progress. What will the cost be to install hastily researched devices that will lower our energy output? Hundreds of millions of dollars? Does anyone know? I don't think so. That is precisely why we cannot afford to initiate a program purely on emotions. We must first have the study, research and investigation will enable us to weigh the benefits against the costs.

It was not the intent of Congress in 1970 when enacting the original Clean Air Act, to establish an air quality standard to be arbitrarily applied nationwide. Yet that is what is being debated here because of court decisions based on the 1970 Act and because of efforts to have these amendments specify such a standard.

No! In 1970 we enacted a tough, hard-hitting bill that was designed to regulate and reduce air pollution on two levels. Through implementation by the Environmental Protection Agency, the Act was to protect human health in primary air quality standards, and protect the ecology around man in secondary standards.

As has been the case with much of the legislation passed by Congress in recent years, that 1970 Act was apparently so ambiguous, so imprecise as to result in court decision that "no significant deterioration" of air quality could be allowed under the Act.

Now that we are confronted with the issue, we have the opportunity to clarify the intent of Congress by legislative action. Instead, it appears we would write the court decisions into law.

Besides the obvious fact that disallowance of any increase in air pollution would be discriminatory against regions of the country where we have little or no pollution—particularly in the West—we will be establishing once and for all in law a constraint that can only shackle any economic growth and development and further our energy crisis.

We are crying for more needed jobs to combat unemployment on the one hand, while on the other we are establishing arbitrary standards that will slow if not stop any economic growth that can provide those jobs. At the same time we are setting back our energy independence effort seriously.

By not allowing any pollutants in the air of our pristine or pure areas of the West, we are stopping any future energy production in those areas which is vitally needed nationwide. What would proponents of this measure have us do? Build new electric generation plants in the northeast and industrial midwest where air quality standards are already constricted by heavy pollution? Or, perhaps, build no new facilities and have severe shortages of electric power?

Whatever the intent or thoughts, under the existing program being implemented by

the EPA, and under these amendments before us today, we would virtually preclude any new construction for energy production in most of our presently pure western areas where the fuel for such production is readily abundant.

In an interview in the July 19, 1976 issue of U.S. News and World Report, Deputy Administrator John Hill of the Federal Energy Administration warns that unless we modify the current program, the energy cost to the nation under the Clean Air Act will "be roughly equivalent to the 1.6 million barrels a day of oil that the Alaska pipeline will deliver."

I agree with Mr. Hill when he says "No one wants to be for dirty air," but that what we need "is a plan that will hold pollution to levels that protect health but at the same time not exact any unnecessary economic and energy penalties." Mr. Hill is correct when he says "We have too many other national problems that have to be balanced with the Clean Air Act," and I think it is time that Congress wakes up to the fact that we can't continue to legislate individual programs without regard to all aspects of their impact and effect.

I would like to emphasize that the Administration is opposed to any effort to legislate significant deterioration. In a letter of May 28, 1976 to the Public Works Committee Chairman, the President said, "The Senate and House amendments, as presently written, fail to strike the proper balance beween energy, environmental and economic needs," and he asked that the Congress eliminate those provisions dealing with significant deterioration.

Finally, I would like to quote in part from a recent paper prepared by the Library of Congress on the Clean Air Act and the issue of significant deterioration:

"The relatively slight Federal interest in the no significant deterioration rule stems from the fact that it applies only in clean air areas. The 'deterioration' referred to is a lowering of air quality down to the levels required by national primary and secondary ambient air quality standards. Those standards are set to protect public health and welfare, both broadly defined. Primary standards, designed to protect the public health, are to allow 'an adequate margin of safety.' The public welfare which secondary standards are designed to protect 'includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.' Thus the no significant deterioration rule, by definition, bears no relation to public health or to public welfare, broadly defined. The Environmental Protection Agency has pointed out the conceptual and practical problems of any such regulation; when measured against the drastic impact upon the State's power to control land use, Federal imposition of such a policy also raises constitutional problems.

"Prevention of significant deterioration in clean air areas necessarily involves close regulation of land use. Regulation of land use—or 'zoning' as it used to be called—clearly falls within even the most traditional concept of the State's police power. To usurp this power by regulation purportedly based on the commerce power, but admittedly not related to either public health or public welfare, may impair the State's integrity and capacity to function in a federal system."

It should be clear to all members of the Congress that the issue of significant deterioration is one of mass confusion. Where the courts themselves have been wrestling with the issue, where the administration is opposed to it because of the likelihood of an energy penalty and economic losses, where experts suggest that it is an infringement on the powers of the States, and where we already have strong air pollution control measures in the primary and secondary standards designed to protect our health and welfare, I think it would be foolhardy for the Congress to overstep its bounds by establishing a policy of no growth and land use control under the terms of significant deterioration.

I do not think the American people want this—indeed they cannot afford it. For this reason I urge my colleagues to consider all the aspects of this dangerous provision, and I add my support to an amendment by the Senator from Virginia, Mr. Scott, to eliminate any provisions concerning significant deterioration from the Clean Air Act.

Mr. WILLIAM L. SCOTT. Mr. President, I yield 15 minutes to the distinguished Senator from North Carolina (Mr. HELMS).

Mr. ALLEN. Mr. President, before the Senator yields, would he mind yielding for a couple of questions?

Mr. WILLIAM L. SCOTT. Certainly I would be glad to yield to the Senator from Alabama.

Mr. ALLEN. I would like to ask the distinguished Senator if his amendment would keep the EPA from implementing a national nondegradation policy during the study by the commission.

Mr. WILLIAM L. SCOTT. Let me say it is my understanding that the Administrator of the EPA has the authority under existing law, and will continue to have the authority if my amendment and the amendment of the Senator from Utah are adopted, to establish nationwide standards for the air quality standards to protect the health and welfare of the people of the country. He will not have the authority to spot-zone, to pick out particular areas, and say, "You have to have a higher air quality standard in this particular area or in this State." It leaves it up to the States and localities to set their standards above that if they care to, but not below the national standards, as long as whatever they do in the field of air quality control does not result in any pollution of the air beyond that permitted by the national standards.

I would add that the Administrator of the Environmental Protection Agency can change those standards when he feels it is in the national interest to do so. He can raise the standards or he can lower them. Congress has given him very wide discretion, and I think what Congress has done by statute is enough. I do not believe we should go any further. Leave land-use planning to the States, and let us allow the economy to continue to grow and not stagnate.

I hope that answers the question of the Senator from Alabama.

Mr. ALLEN. Yes, it does.

I want to ask one further question: Without the Senator's amendment, is it not correct that by leaving the Federal regulations in place, Congress is implicitly endorsing the highly restrictive EPA policy toward the States; is that not correct?

Mr. WILLIAM L. SCOTT. Yes, that is correct. In fact, just yesterday the Court of Appeals for the District of Columbia, in a decision wherein 14 cases were combined, upheld the right of the Environmental Protection Agency to continue to make these regulations.

Do we want Government by regulation or do we want Government by law? I think that is the issue before us.

I respect the amendment offered by the distinguished Senator from Utah, but if we let these regulations continue, then his amendment is really enough.

Mr. ALLEN. In other words, the Senator's amendment would not only give relief from the provisions of section 6 of the present bill, it would go farther and limit the regulatory power of the EPA as regards the States; is that not correct?

Mr. WILLIAM L. SCOTT. The Senator is correct. My amendment does not do any harm to the amendment of the distinguished Senator from Utah, but it goes further. It would suspend the operation of any regulation during the period of the study.

Mr. ALLEN. I thank the Senator for his information, and I inform him that I will support his amendment.

Mr. WILLIAM L. SCOTT. I thank the Senator. I thank the Senator for this colloquy.

Mr. HELMS. Mr. President, I would ask the Senator from Virginia a question: In light of the colloquy between the able Senator from Virginia and the able Senator from Alabama, is it accurate to say that the so-called nondeterioration standard is, in effect, nothing but Federal land use planning by another name?

Mr. WILLIAM L. SCOTT. It is land use planning in which you use air quality as the only standard for planning. I believe that good planning requires the use of many factors. Air quality should be one of them but not the only one.

I think that under the 10th amendment, under the police power, this is a matter that is reserved to the States under our dual system of sovereignty, and I think that is where it should be. The right to regulate the health and morals of the people is a State function. We have our county, our city, planning boards and zoning commissions, and they decide where a building should be located. I think that is where it should be as long as they do not do violence to the air quality that is established nationally by the Administrator of the Environmental Protection Agency.

If the quality of the air is high enough in one area to protect the health and the welfare of the citizens, then that same quality is high enough in any area to protect the health and welfare of the citizens. There may be a place like California where the local people feel that due to a specific situation they need higher air quality standards and, if they do, that is fine, let them establish high air quality standards. If they do not want a factory in a particular area, well, that is up to them. It might be they are talking about esthetic values rather than air quality, and that is a decision which, in my opinion, should be made locally, and we should not have an administrator in Washington making decisions that local government should make.

Mr. HELMS. I agree with the Senator.

Would the Senator also agree that our colleagues who have assured their constituents back home that they are opposed to Federal land use planning so-called, ought to be careful in their consideration of how they are going to vote on this amendment? If they vote against this amendment, then they are, in effect, voting for Federal land use planning under another name; is that not correct?

Mr. WILLIAM L. SCOTT. Yes; I think that is true.

I would say that the Governor not only of the State of Arizona—and a letter from him was introduced by the distinguished Senator from Arizona—but the Governor of North Carolina——

Mr. HELMS. Yes.

Mr. WILLIAM L. SCOTT (continuing). The Governor of Virginia and the Governor of a variety of other States, all have also indicated their support for this nondegradation policy. If you leave it out of the statutory law but you permit the court decisions to stand and the regulations of the agency to stand—and I do want to reserve time to review in somewhat greater detail this 53-page opinion that came out yesterday from the Court of Appeals of the District of Columbia because it is just full of regulations which are approved by the court that have not been enacted by Congress.

Mr. HELMS. I think it is essential that the Senator do that.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 15 minutes.

Mr. HELMS. I thank the Chair, and I thank the able Senator from Virginia.

May I ask the Senator another question? To the Senator's knowledge, concerning the effect of the so-called nondeterioration standard—has its economic impact been studied with regard to any industry other than the electric utility industry?

Mr. WILLIAM L. SCOTT. No; but I understand, and I am relying on my memory entirely, that insofar as the electric utility industry is concerned, something like $28 billion sticks in my mind, that it may cost over the next several years to comply with the proposed very standards.

Mr. HELMS. Who will ultimately pay that, may I ask the Senator?

Mr. WILLIAM L. SCOTT. You know who is going to pay that, the individual citizen.

Mr. HELMS. The consumer, is that not correct?

Mr. WILLIAM L. SCOTT. Certainly; the electric companies and all public utilities, all business enterprises have to pass on the cost.

Mr. HELMS. One is constrained to wonder, where is Ralph Nader when the consumers need him? Here is an instance in which he might pitch in and help in saving the consumers the enormous sum of money to which the Senator just alluded.

Mr. WILLIAM L. SCOTT. I am glad he does not have a vote in this Chamber directly.

Mr. HELMS. One other question. In the Senator's opinion, what would be the economic effect of the adoption of this standard, let us say, on the economy of the less-developed areas of our country?

Mr. WILLIAM L. SCOTT. Obviously, once again, I would have to generalize.

It has been said, and I have a number of editorials which indicate the opinion of editors around the country, that this is a no-growth policy.

I believe that in order for our economy to prosper, in order for us to have less unemployment, to have adequate jobs, that the economy has to expand and has to grow. We are having more and more people.

Mr. BUCKLEY. Will the Senator yield?

Mr. WILLIAM L. SCOTT. I see the distinguished Senator from New York on his feet. I know he feels very strongly on this question of abortion and he wants more people in the world.

As we have more people in the world and more people in this country, we are going to have to have additional industry. We are going to have to feed, clothe, and house these people.

I have the highest respect for my good friend from New York.

Mr. HELMS. We all do.

Mr. WILLIAM L. SCOTT. But I believe we are going to disagree. I believe there is inconsistency in this idea of not limiting the population, but limiting the economic growth of the country.

Mr. President, the Senator from North Carolina has the floor.

Mr. HELMS. I am glad to yield to the able Senator from New York. I presume he has a question.

Mr. BUCKLEY. I have a question I would like to ask.

Mr. HELMS. I might ask, since I only have 15 minutes, if the Senator would use his own time. If he has no time allotted to him, of course, I will be happy to share mine with him.

Mr. BUCKLEY. May I ask it on the time of the Senator from Virginia?

Mr. WILLIAM L. SCOTT. Since the Senator does have time of his own, why does he not use his own time?

The PRESIDING OFFICER. The Senator has no time.

Mr. HELMS. Then I will yield.

Mr. WILLIAM L. SCOTT. We will be glad to yield.

Mr. BUCKLEY. I would like to ask this question: The Senator said this is a no-growth policy. Is the Senator aware of a single example of where a permit was filed and denied under the existing regulations?

Mr. WILLIAM L. SCOTT. I am not one of the regulators. I am not an employee of the Environmental Protection Agency.

I have not searched their records. But I do know that we have groups like this going to the court. We have the Dayton Power & Light Co., intervenors, we have the Public Service Co. of Colorado, the Utah Power & Light Co., the State of New Mexico, the Pacific Coal Gasification Co., the Utah International, Inc., the Indiana-Kentucky Electric Corp., the Dayton Power & Light Co., the Buckeye Co., et al.

All of these have others under this phrase "et al."—and others.

We have the American Petroleum Institute, the Alabama Power Co., the Montana Power Co., the Salt River Project Agricultural Improvement and Power District, and others.

When we have groups like these, they are not just going to court spending their money; there is a large list of lawyers listed as representing various parties in this case. Somehow they are being hurt or they undoubtedly would not be there.

The mail I receive from the business community indicates that the business community may well be hurt under the proposed new Federal requirements.

The United States Chamber of Commerce is deeply concerned over the Federal nondegradation concept, and businessmen generally seem to be opposed to it. The Wall Street Journal indicates in an editorial that my amendment is essential and is what Congress should do.

I do not know the details or specific instances, but I am sure there may well be applicable situations around the country.

Mr. BUCKLEY. The Senator from New York has sought to find an example of any plant that has been denied the right to establish itself under the current policy of nondeterioration. He has discovered none. In fact, studies made by the EPA and FEA, and others, have demonstrated that under the increments in the Senate bill it will be possible to build a 5,000-megawatt, electrical power generating facility, which is twice as large as any we have.

Mr. WILLIAM L. SCOTT. Maybe the Senator can say why these electric companies are going to court.

Mr. BUCKLEY. I believe, they are uninformed as to what the existing law is, and what they can do.

Mr. WILLIAM L. SCOTT. I suspect their counsel is drawing a salary many times above that of any Member of the United States Senate, so they should be informed.

But I am glad to have the comment of my friend from New York.

Mr. BUCKLEY. I thank the Senator.

Mr. HELMS. Mr. President, I commend the able Senator from Virginia for proposing his amendment to the Moss amendment to S. 3219, known as the Clean Air Amendments of 1976.

I am a cosponsor of this amendment, along with several distinguished colleagues and I hope this amendment will be approved.

Simply said, what the Senator from Virginia proposes to do is to stay the effect of the EPA nondeterioration regulations during the 1-year period set out in the Moss amendment. That is correct, is it not?

Mr. WILLIAM L. SCOTT. I say to the distinguished Senator that I am not sure

whether the Senator from Utah changed the 1-year provision for the study.

I am told he has not changed it, so it would be during the 1-year period.

Mr. HELMS. Very well.

The distinguished Senator from Utah is on the floor and he has not indicated to the contrary, so I assume the 1-year period does continue.

Mr. President, I would prefer that the court-directed policy of "no significant deterioration" and EPA regulations promulgated subsequent to that court decision were dropped altogether, and that Congress mandate a return to actual intent of the 1970 Clean Air Act, which was to set national air quality standards that apply uniformly.

Any congressional mandate for the "no significant deterioration" standard is, in effect, a mandate for "no growth" for many regions of this country, as the able Senator from Virginia and others have pointed out. Federal bureaucrats will be able to exercise control over every locality and region in the country, determining what areas will grow economically, and those which will not grow, regardless of the needs of the people who live in the area. In effect, the "no significant deterioration" standard is nothing less than a Federal land use policy by another name, as was emphasized in a colloquy earlier this morning.

Many Governors have expressed concern about the built-in potential for mischief inherent in the legislative adoption of this standard. I happen to believe that States and localities know best what their needs are, both as to air quality meeting national standards of the 1970 act, and to their own area's economic growth.

The Governor of my own State of North Carolina, the Honorable James Holshouser, has expressed his opposition to the 1976 amendments:

"North Carolina is well aware of the provisions of both the House and Senate versions of amendments," Governor Holshouser has stated, "and we oppose the enactment of either of these amendments in the Law."

Similarly, Gov. Reubin Askew, of Florida, in a letter to Senator RANDOLPH, the distinguished chairman of the Committee on Public Works, strongly urged that—

You consider the consequences of adopting these provisions and empowering the Federal Environmental Protection Agency (EPA) to preempt the states' prerogatives in these areas. It is our position that the states are more capable of evaluating the economic and social implications of the desired air quality within their boundaries than EPA.

Gov. Cliff Finch, of Mississippi, has warned that—

If pending amendments to the Clean Air Act are passed, it will virtually halt economic development in our state.

So what we have here, Mr. President, is another confrontation with the growing reality that a mushrooming Federal regulatory bureaucracy is moving inexorably to total control, toward the twilight of the States, toward complete domination and control by the Federal bureaucracy.

If for no other reason—and there are countless other reasons—than the issue of State sovereignty, the Senator from North Carolina would be strongly supportive of the amendment of the Senator from Virginia.

Mr. President, by various standards of measurement the State of Mississippi is said to be one of the poorer States in this Nation. I think the question is relevant as to Mississippi and to other States which are trying to burgeon themselves upward, to provide a better life for their people.

I believe we have to raise the question as to whether we are going to deny Mississippi and other States the economic growth they so badly need simply to keep air in that State purer than the standards set by the Clean Air Act of 1970. Or, to put it another way, to satisfy the whims and caprices of Federal bureaucrats in Washington, D.C.

Adoption of the no significant deterioration standard well could have that effect in Mississippi and other States.

Governor Finch said:

The limitations that would be imposed by the pending amendments are so stringent that development would be severely impacted.

Governor Milliken, of Michigan, has stated his concern that the 1976 amendments, "could lead to federally mandated land-use programs based on air quality."

We have discussed that here today.

I say again that Senators who have gone home and assured their constituents, or who have written to their constituents, saying, "I am opposed to Federal land-use programs," had better be attentive to how they vote on this amendment of the Senator from Virginia today. Otherwise, sooner or later, the people back home may legitimately conclude that some of their Senators have been talking out of both sides of their mouths.

Mr. President, the list of Governors opposed to our concern about the adoption of and continued use of the no significant deterioration standard is long. Not only the Governors, but many businessmen, workers, and labor leaders have expressed themselves on this matter.

Mr. President, I ask unanimous consent that excerpts from several of the hundreds of letters I have received be printed in the RECORD at this point.

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

DESOTO, INC.,
Greensboro, N.C., June 9, 1976.

Hon. JESSE A. HELMS,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: DeSoto, Inc. is a major manufacturer of paints, wallcoverings, furniture and detergent and has plants in many states. Our plant in Greensboro produces various consumer paint products.

We are deeply concerned about amendments now being considered by Congress to the Clean Air Act. In particular, the nondeterioration amendments will have a serious impact on our plant, other plants of DeSoto, Inc., and industry throughout the United States.

This non-deterioration clause will effectively stop the building of new industrial plants. It will increase the consumption of oil by eliminating coal as an acceptable energy source. It will increase the costs of raw materials and finished goods. The total effect will be a disastrous impact on the economy. Through the present ambient air standards, the Government has adequate tools to protect the health of our country and environment. Consequently, there is no need or justification for adopting this amendment on top of the present ambient air standards.

I therefore urge you to vote against any non-deterioration amendments to the Clean Air Act.

Yours very truly,

W. C. SHEEHAN,
Plant Manager

GREATER DURHAM,
CHAMBER OF COMMERCE,
July 13, 1976.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR JESSE: My Directors have asked me to write you and express their concern over S. 3219 and HR 10498 which include provisions to impose air quality standards that go beyond the requirements of health and welfare. As we understand it, these bills support the concept that there must be "no significant deterioration" of the air quality in any area where the air is already better than present federal standards!

Our Board feels that enactment of these bills will have a serious impact on many existing industries as well as on future economic development throughout the country. We are also concerned over the fact that the methods for measuring the air standards called for by the bills have not yet been adequately defined and, in general, the long range impact of the bill has not been properly assessed. Our Board very much opposes the nondeterioration provisions of these bills.

Very truly yours,

ROBERT H. BOOTH,
Executive Vice President.

BANDAG,
May 24, 1976.

Hon. JESSE A. HELMS,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: As a businessman I am deeply concerned with the ramifications that the issue of "non-degradation" or "significant deterioration" in the Clean Air Act Amendments of 1975 will have on the business community.

While I support the protection of pristine air quality over a few irreplaceable natural areas, when such a strategy is applied in large areas, I feel that the considerations other than just a desire for clean air have to be included. I urge you to oppose the "non-degradation" issue of the Clean Air Act Amendments of 1975 because of the dubious constitutionality of such legislation, the lack of satisfactory investigation of all factors in light of the enormous impact of such legislation, and the inflexibility of the issue to take into consideration certain local characteristics.

The main points to consider are:

1. Is the need for and the direction of a "non-degradation" policy to be based solely on a single judicial interpretation of the Clean Air Act of 1970? The Clean Air Act of 1970 neither mentioned nor defined significant deterioration. Congress has never stated a policy concerning the issue of "non-degradation". Also, in the Clean Air Act of 1970, Congress found that "the prevention and control of air pollution at its source is the primary responsibility of State and Local governments". The legislation as proposed gives rise to legitimate concern for the public

intrusion upon proper functioning of our federalist system.

2. What does the "non-degradation" policy in its present form mean for economic development; what does it mean for the development of our natural resources and what is it going to do for present land use policies? These are factors which have not been, but must be, considered and investigated before such important legislation is enacted.

3. Each local area will have its own unique problems in satisfying the proposed "non-degradation" laws. Implementation could impose severe economic and/or social constraints on the area with little or no benefit derived from the cleaner air. Is it the intent of Congress to enact standards stricter than needed to protect human health and welfare at the expense of jobs, growth, and independence from other countries for basic materials merely for the sake of clean air?

A more desirable approach to the proposed "non-degradation" provisions would be to:

1. Have Congress state its position on "non-degradation" rather than allowing it to evolve through judicial interpretation.

2. Except in a few special areas under control of federal government, "non-degradation" limitations should be determined at the state level to best reflect the social and economic factors, in addition to the scientific justification for such standards for each local condition.

Again, I urge you to oppose the "non-degradation" issue in the Clean Air Act Amendments of 1975.

Sincerely,

VIRGIL L. KING,
Plant Manager.

DEERING MILLIKEN, INC.,
May 4, 1976.

Hon. JESSE A. HELMS,
Senate Office Building,
Washington, D.C.

DEAR JESSE: I have been concerned for proposed amendments to the Clean Air Act, especially with regard to the issue of "non-deterioration." As you know, this legislation could seriously impair the continued orderly development of our less populated areas, and could have a direct impact upon the textile industry—particularly in the event of curtailed gas and oil as energy sources.

Due to the lack of dependable data, the questions raised by many concerning the economic and environmental impacts of the proposed legislation have not been answered. In my judgment, a thorough study of these impacts should be made prior to the implementation of the "non-deterioration" legislation. Recent history reminds us that a number of our environmental decisions, though well intentioned, have been hastily made. For example, recall the issues of phosphates in detergents, cyclamates in soft drinks, and possible problems with the catalytic converters on the automobile exhaust. In addition, of course, the 1972 FWPCA is beset by legal challenges on all sides. In short, now is the time for reasoned rather than emotional legislation in the environmental area.

Sincerely,

ROGER MILLIKEN.

OUTDOORS UNLIMITED, INC.,
Ogden, Utah, April 28, 1976.

Hon. JESSE A. HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Outdoors Unlimited is a non-profit citizens conservation organization with a total membership of 4,540 (752 individual and 3,788 affiliate memberships) as of 2/29/76. The common bond of our diverse membership is the desire to see the strategy of multiple use management implemented as widely and as wisely as possible on our public lands.

We believe the "non-deterioration" concept set forth in the Clean Air Act Amendments (S. 3219) would have a disastrous effect on crucial development of energy supplies, and multiple use land management, which will serve to cast intolerable burdens on the consumer. The uncompromising rigidity of the "non-deterioration" proposals will inflict a staggering squeeze on all aspects of land use. It is our conviction that the "non-deterioration" provisions are based on the most scanty evidence of adverse health effects with no economic considerations.

It is our view that this subject should not even be considered until an exhaustive study has been made to establish confidence that serious economic injury will not result from such a decision.

Thank you for your consideration.

Sincerely yours,

JOHN H. LAGRANGE,
President.

[Telegram]
THOMASVILLE, N.C.,
April 28, 1976.

Hon. JESSE HELMS,
Senate Office Building,
Washington, D.C.:

Urge your efforts delete "non-degradation" provisions from Clear Air Amendments bill (S. 3219). This single-purpose, land-use control feature would significantly cut economic growth and eliminate jobs. Understand no legislative hearings have addressed this section of bill. Hope you insist on such hearings prior further consideration this antijob approach. Also urge you support Moss amendment for a study commission on "nondegradation."

TOM A. FINCH, *President.*

Mr. HELMS. Mr. President, the no significant deterioration standard was not mandated by the 1970 Clean Air Act. It is a creature of judicial interpretation and bureaucratic rulemaking. It does not protect the health and welfare of the American people; that is done by the standards set out in the 1970 Clean Air Act. What the no significant deterioration standard does do is set up an arbitrary control over localities which have air quality higher than the national standards set by the 1970 act, so that those localities in effect cannot engage in economic expansion which they feel to be vital and necessary for their own well-being.

Mr. President, localities should have local control over their own economic and industrial expansion, within the health and safety standards set out in the 1970 act. We should not allow the courts, EPA, or ourselves to mandate otherwise.

I thank the distinguished Senator from Virginia for yielding. I commend him for his amendment, and I urge its approval.

Mr. WILLIAM L. SCOTT. Mr. President, I am grateful for the support of my friend from North Carolina, and appreciate his contribution in support of this amendment to the Moss amendment.

Mr. President, I will continue with the statement that I was making before yielding to a number of Senators.

Under present law, State and local governments can provide for higher air quality standards either statewide or in problem areas. My amendment would not in any way restrict that State authority. This is as it should be because the nondegradation concept is tantamount to planning or zoning on a local or area basis where air quality is the only factor considered. Yet land planning over the years has been a function reserved to the States and localities under the 10th amendment of the Constitution and under the police power concept, whereby the State and local governments retain the power to regulate matters regarding the health and the morals of citizens within their jurisdiction.

Unless we eliminate the nondegradation regulations, the elimination of statutory authority for practical purposes is a nullity, because nondegradation will remain as a policy of the Environmental Protection Agency unless yesterday's decision by the court of appeals is reversed by the Supreme Court of the United States.

It is a policy the administrator of EPA has admitted goes too far. This is indicated on page 24843 of the CONGRESSIONAL RECORD of July 30 of this year in which Congressman PAUL ROGERS, of Florida, quotes from a letter to the distinguished Senator from Utah (Mr. Moss) in which the EPA administrator, Russell Train, states that—

> Current regulations provide much more of a role for EPA in the process than I would prefer.

The Senator from Utah may well want to put the entire letter of June 11 from Mr. Train into the RECORD at some later point. However, Mr. President, I ask unanimous consent to have printed in the RECORD at this point a copy of a letter dated May 28, 1976, from the President to the chairman of the Senate Public Works Committee.

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

THE WHITE HOUSE,
Washington, D.C., May 28, 1976.

Hon. JENNINGS RANDOLPH,
Chairman, Public Works Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be cosponsored by Congressman John Dingell and

Congressman James Broyhill, which reflects the position recommended by Russel Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress toward reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

GERALD R. FORD.

Mr. WILLIAM L. SCOTT. I call attention to the next to the last paragraph in which President Ford sets forth the administration's position on nondegradation. I read as follows:

> In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

This is the precise purpose of my amendment. The distinguished chairman of the subcommittee, the floor manager of the bill, did refer to it some weeks ago as being the only amendment, to his knowledge, that accomplished that purpose. He was critical of the President's position at that time, and also of my amendment.

Mr. President, my amendment has received substantial editorial support. I ask unanimous consent that a number of editorials be included in the RECORD after I make some brief comment with regard to each of them.

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

(See exhibit 1.)

Mr. WILLIAM L. SCOTT. Mr. President, one of the editorials is by the Wall Street Journal of July 26. It is entitled "Senator Muskie's No-Growth Bill."

The Journal states:

> What Congress should really do, though, is simply accept the amendment of Sen. William Scott of Virginia, who would strike the "no significant deterioration" approach and return to the actual intent of the 1970 Act, which was to set national air quality standards that apply uniformly.

A syndicated columnist, Mr. M. Stanton Evans, wrote an article which appear in various papers around the country entitled "Scott Amendment Should Pass."

The Evans' column concluding paragraph reads:

> All the elements of our current distress are enfolded in this issue: usurpation of congressional authority by courts and bureaucrats; Federal controls imposed upon the States; backdoor approaches to land-use planning and "no growth" zealotry; and counterproductive regulations that create more problems than they cure. Senator Scott has taken on a formidable challenge; here's hoping that he wins his battle.

The Northern Virginia Daily of July 14 contained an editorial:

> Senator Scott's amendment makes sense to us. All of us want a wholesome environment and pure air for ourselves and for future generations. But it is also possible to go too far in legislating a stringency that is not required. We believe Senator Scott's amendment is a fair approach to providing the balance needed in air purity while enhancing the solution of the Nation's energy and economic needs.

Mr. RANDOLPH. Mr. President, will the Senator from Virginia (Mr. WILLIAM L. SCOTT) yield at this point?

Mr. WILLIAM L. SCOTT. I am glad to yield to the distinguished chairman of the Committee on Public Works (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I have listened with interest to the recital of those editorials and articles which seem to indicate that this is a "no growth" bill. This is an assertion, by implication and even direct quotation, that is in error.

I wish to underscore that this measure comes to the Senate from a committee of the Senate, the Committee on Public Works, which does believe in growth. This committee, as my colleague knows, has the jurisdiction and the responsibility for the authorization and construction of the highway systems of the United States. We have the responsibility for water resources programs and economic development programs of importance to this country. These are programs which are growth in nature, and to designate, as has the Wall Street Journal, this measure as a "no growth bill" is totally inconsistent with the philosophy of the Public Works Committee.

Mr. WILLIAM L. SCOTT. Let me, if I may, interrupt just very briefly.

Mr. RANDOLPH. Yes.

Mr. WILLIAM L. SCOTT. And say to the distinguished Senator that there is an editorial in today's Bluefield, W. Va., Daily Telegram that says the same thing. So it is being said in West Virginia as well as in New York.

Mr. RANDOLPH. I am certain that the editorials would appear in all States, and I make no distinction.

That is the Bluefield Telegraph, by the way, instead of the "Telegram."

Mr. WILLIAM L. SCOTT. Yes, Daily Telegraph.

Mr. RANDOLPH. The Bluefield Daily Telegraph. One subject I know something about is the correct name of every newspaper in West Virginia, whether it agrees with me or disagrees with me.

I well understand that there is this outpouring of no growth attached to the legislation which has been reported from the Public Works Committee. There may even be some disagreement in connection with the amendment offered by the Senator from Virginia (Mr. WILLIAM L. SCOTT) as to whether this is a no growth bill. Let me say to my colleagues that this measure is not designed to limit growth. The focus of the bill is to provide for growth and development in a manner which maintains air quality in so-called clean air areas.

Mr. WILLIAM L. SCOTT. Mr. President, I assume that the distinguished Senator is using Senator MUSKIE's time.

Mr. RANDOLPH. I had not assumed anything.

The PRESIDING OFFICER (Mr. BAYH). The Chair would like to inquire, is someone controlling the time of the Senator from Maine?

Mr. RANDOLPH. I can take that responsibility. I have shared it at various times from the beginning of the bill.

Mr. WILLIAM L. SCOTT. The only reason I say that is that my time is somewhat limited.

Mr. RANDOLPH. Yes. I will not take longer at this point. I do say, however, that the Wall Street Journal, in my opinion, is inaccurate when it calls this legislation "no growth" because we are intensely interested in the development of industry and business, commensurate, of course, with the high quality of the environment in the country in which we live. I do not think they run head-on one against the other. The well-reasoned attitude of the committee expressed in the bill as reported to the Senate will commend itself to the Senate.

Mr. WILLIAM L. SCOTT. Mr. President, I am glad to have the distinguished chairman of the full committee share his thoughts with us on this important matter. There can well be differences of opinion. The distinguished Senator and I have a great similarity of views, though there may be some differences.

I did, Mr. President, a few minutes ago ask unanimous consent, which the Chair granted, to place in the RECORD a number

of editorials. One of them is an editorial from the Bluefield, W. Va., Daily Telegraph. It is dated August 3, 1976, today's date, and in the center of the editorial, in reference to nondegration, it has this paragraph:

This, of course, is a stunning blow for a great many areas whose hopes are pinned on the acquisiition of new industries or other forms of economic development. It means simply that if the EPA is to continue to have its way, these areas cannot progress economically if this progress is to be accompanied by any lowering of the present air purity levels, despite the fact that significantly greater levels of deterioration are present in other areas, and with no evidence that those levels pose a threat to health or to life.

Mr. President, on July 23, the Lynchburg, Va., News referred to the legislation before us as a "clear disaster," and, in its closing paragraph, stated:

These amendments, in effect, constitute a Federal land use control act, and control over the economic and industrial development of the Nation. The "no significant deterioration" amendment may improve the quality of the air we breathe, but it surely will limit the amount of food we eat, the number of jobs available, the amount of housing that can be built. It will be deciding what can be built and where, determine how we work and live and how we travel. As such, it is one of the most destructive bills ever to come before the Congress, and the liberals think it is just great.

The Richmond Times-Dispatch, in an editorial dated April 22, 1976, soon after the committee reported the bill, commenced its views with the statement:

Seemingly acting on the assumption that man can live by clean air alone, the Senate Public Works Committee has reported a package of environmental proposals that could result in economic paralysis of vast areas of the Nation. These measures could impede economic development almost everywhere, and halt industrial growth altogether in some sections, inevitably increasing unemployment and eroding the standards of living of countless Americans. Moreover, the proposal would thrust the power and authority of the Federal Government into some areas of concern that historically have been the provinces of State and local governments and should remain so.

Did the distinguished Senator from Oklahoma wish some time? I am glad to yield 10 minutes to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I rise today to speak to the nondegradation of air quality provisions of S. 3219. It is my belief that the amendments relating to nondegradation would seriously affect future economic growth, employment, domestic energy supplies, and capital availability for productive investments without providing significant benefits in air quality for the protection of the public health and welfare.

The National Ambient Air Quality Standards, NAAQS, were established to protect the public health and welfare. The proposed amendments would override the NAAQS and limit the allowable ambient air concentrations in most "clean" areas to levels well below the NAAQS and only to a small fraction of the NAAQS in some areas. I see these provisions as representing a "no growth, no win policy" for our rural areas.

Nondegradation areas are those areas where air quality meets national secondary standards for either sulphur dioxide—SO_2—or particulates or both. Virtually the entire State of Oklahoma will fall in the nondegradation area category if section 6 of this bill is allowed to become law. This circumstance will certainly play havoc with Oklahoma's industrial development program. For this reason and the reasons stated above, I cosponsored the Moss amendment to delete these provisions from the bill and instead study the matter for a better solution than is proposed in S. 3219.

I am now of the belief that a step further needs to be taken if my State, and many other States, are to be able to make any significant progress in its industry-developing program. In view of this belief, I have also cosponsored the Scott amendment, which in addition to deleting section 6 of the clean air bill and calling for a study, also provides for the suspension of the present regulations under which EPA is operating as a result of the Supreme Court decision in Sierra Club against Ruckelshaus. I believe this is a more logical way to handle this most important, and far-reaching matter.

Both the class I and class II designations carry very restrictive allowable increments of deterioration that are, in effect, zoning regulations based not on all of our citizens' social and economic needs, but on only one need—clean air. Given this single criterion, States and local communities would be deprived of at least some of their right to decide for themselves what use they want to make of their lands. In many cases, they would want to go the way of preservation. In others, they might well want to go the way of development—and, under these provisions, not be able to.

Certainly, class I areas should be kept "pristine," and they should be protected against intrusion by airborne pollutants. I refer now to class II areas, where moderate industrial growth would be permitted, within the allowable increments. The question that arises is what happens when one facility moves into a given area and "uses up" all or most of the allowable increments. Other industries which then might want to move into the same area would find it foreclosed to them. They would have to move to yet another class II zone where the increments still remained, even if the site might be ill-suited to a proposed plant's needs.

In the face of such discouraging prospects, it is entirely conceivable that the plant would not be built at all, and jobs would be lost. Moreover, an area with all of its increments used up might well find itself condemned to more or less permanent economic stagnation.

Surely it is the right of the several States and their local governments, long recognized by Congress, to decide how they want to use their own lands. Think for a moment about all of the cities and towns across America which are trying to attract new industries to reverse economic declines and provide job opportunities for their young people. These communities are trying to plan their economic future in a rational way. They have decided, often at town meetings, what types of industry they wish to attract and in many cases have even acquired land at great expense for industrial parks. The nondeterioration provisions could well pull the rug from under many such plans.

Mr. President, I am well aware of the time I was in the Governor's office in Oklahoma and was faced with the problem that my colleague in the Senate, Senator BELLMON, as former Governor, was faced with, the problem of our migration of young people, and we embarked, as he had, on a program of working in the rural areas to expand industrial development and job opportunities. We were able, over a period of time, to reverse the outward migration from the rural areas. Some of it was to the city areas in our own State, but at first the majority of it was to outside the State.

As time went on and opportunities were provided in the rural areas which had depressed economies, people remained in the State, took advantage of various training programs, and helped build up the economy. When the recession, which is just passing, first hit with fury the 50 States, it was very pleasing to see that in our State in Oklahoma unemployment was running about 3 percent less than the national average. This showed that there had been considerable progress made in opportunities for young people throughout the entire State, not only in the two metropolitan areas but also in the entire State for jobs, and enabled us to keep these young well-educated people within our State boundaries.

We had been exporting our No. 1 product, our educated, well-trained young person. But now we are retaining those people in our State.

I am concerned that, without the Moss and Scott amendments, we would be perhaps making it very difficult to continue this kind of aggressive program that bears in mind the two needs of business and industrial growth, and the preservation of our environment. I think the two can go hand in glove. Both are necessary, not one, either one rather than the other, but in my case I feel very strongly that we need both.

The problem, of course, is magnified when one considers the Western United States, where so many energy resources like oil shale and coal are located. Surely, ways can be found to protect the environment and at the same time make these vast energy reserves available to Americans. We need to appreciate the fact that the present air quality standards are very restrictive. We need to ask: What will happen when industries must operate within fractions of these standards, as the proposed significant deterioration provisions call for?

Another thought disturbs me. Under these provisions, the drift toward centralization of government would continue as communities, lacking the power to change things for themselves, increas-

ingly would look to Washington to solve their problems.

I feel very strongly that the implications of the significant deterioration provision deserve the most careful study which, I devoutly hope, will include the land use implications involved. One year is not too long a time to carry out such study. Once again, I wholeheartedly support Senator Moss's amendment.

Because the impacts of the proposed nondegradation regulations are very complicated, and also very significant, in-depth definitive studies, which have not been made on many of the impacts, should be carefully made. However, preliminary studies on some of the effects this legislation would have on future energy supplies are as follows:

First. A sulfuric acid plant meeting EPA's new source performance standards to produce acid for the acid-leaching in a large uranium mill and with a stack height of less than 200 feet could not be located in an EPA Class II area based on SO_2 emissions. This plant would also have to be located over 20 miles from a class I area. These studies did not consider other sulfur oxides from this mill, did not consider other pollutants and did assume the maximum class II area increment was available for the acid plant emissions.

Second. The proposed legislation and the ultimate regulations would seriously affect the timing and economics of development of coal deposits between now and the early 1980's and in addition the development of nuclear, oil shale, and coal conversion projects as domestic energy supplies. The impact would seriously impede our goal to develop the Nation's future energy supplies.

Third. Future supplies of gas and oil could be affected as the nondegradation regulations are extended to hydrocarbons, nitrogen oxides, carbon monoxide, and other pollutants that EPA decides are to be included as provided in the proposed legislation. Meeting these more restrictive hydrocarbons and other standards could incease the cost of gas and oil. Such standards might also restrict oil and gas production in some areas and present siting problems for new refineries and plants as well as expansions.

Many of the areas that would be designated as class I are in the Western States. Many of these same areas have the energy reserves that will have to be developed for future domestic energy supplies. The nondegradation proposals would prevent development of many alternate fuel sources to the level we need to provide greater energy independence.

The National Ambient Air Quality Standards are more than adequate for the protection of public health and welfare and more restrictive standards such as the nondegradation plan in the Clean Air Act amendments being considered are unnecessary and unjustified on environmental considerations. Such a plan could have serious detrimental impact on our Nation's growth, on employment opportunities, and on domestic energy supplies.

These consequences would certainly apply to Oklahoma. Activities in Oklahoma that could be seriously affected by these amendments are metal smelters, utilization and mining of coal, new gasoline plants and refineries, and agriculture activities that produce particulate emissions.

School buildings, shopping malls, and similar-sized facilities with heating plants of 250 million Btu's would be subject to control under the proposed act. I feel it is unconscionable for Congress even to be considering such provisions until the full consequences are measured and evaluated.

To construct new homes, schools, businesses, et cetera, a State would have to assure that the air quality impact of growth associated with the new facility would not adversely affect the EPA standards. Existing facilities would be subject to increasing penalties. One can imagine that a number of marginal industries, operating in rural areas, would shut down.

A rural area that wants to build a vocational-technical school, surely does so with the hope of attracting industry with the new reservoir of skilled workers that the school will produce. This kind of initiative on the part of a State would most certainly be curtailed if the proposed Clean Air Act amendments are enacted.

I say to the Senator from Virginia that we had such a plan when I was Governor, to have such schools throughout the entire State, so that virtually everyone—adult and youngster alike—was within commuting distance of a good vocational technical school.

As a former Governor of the State of Oklahoma, I can personnally testify that one of the goals of Oklahomans is a higher quality of economic growth for its people while still respecting the environment. Oklahomans very much want to achieve both, but not one—either one—at the expense of the other. However, while this legislation is couched in rhetoric regarding the "quality of life," it ignores the fact that a decent and satisfactory life involves more than "pristine air."

I thank the distinguished chairman, and I thank the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I am grateful to the Senator from Oklahoma for sharing his expertise and his experience as Governor of his State.

Mr. President, I shall continue with my prepared remarks.

On July 20, the Staunton, Va., Leader contained an editorial entitled, "Restricts Land Use," endorsing my amendment and concluding:

> The Federal Government already exerts control over our schools, businesses (particularly through OSHA and EEOC) and elections. Should States be required to give up control of land use also?
>
> We hope that reason will prevail. The "non-significant deterioration" policy is not needed to protect health or welfare. It should be rejected.

In a July 26 commentary, Robert F. Hurleigh, a former president of the Mutual Broadcasting System, endorsed my amendment and included this thought:

> In a fine spirit of legislating cleaner air, the well-intentioned Congress has created a situation wherein the economy of many States will be stifled with resultant loss of an experienced work force. This, in turn, would lead to an eroded standard of living.

His concluding sentence is:

> Senator SCOTT's proposals seem reasonable and fair.

Alice Widener, another syndicated columnist, in an article entitled, "Common Sense on Clean Air," included this Statement:

> The whole subject of the Clean Air Act is highly complicated, but Senator SCOTT has penetrated the smog. In plain English he explains that his proposed amendment "would permit construction in rural areas of the country where the air quality is higher than national standards, while still being subject to the regulations of the State and local governments and the national standards for the protection of public health and welfare."

The last editorial I bring to the Senate's attention is entitled "Sane Approach to Clean Air Needed," from the Danville, Va., Register of July 25, 1976, and among other things it states:

> If the friends of the environment will agree to listen to the opponents' arguments, they may find that America can promote industrial growth and the tapping of industrial resources without damaging the environment to the extent that they fear.

Mr. President, in remarks on the floor on July 27, I included letters from a number of Governors, and I do not propose to reinsert these letters at this time in the RECORD. However, the Governors of Florida, South Carolina, North Carolina, Alabama, Arizona, Maine, Mississippi, New Hampshire, Oklahoma, Texas, Utah, Michigan, Louisiana, Ohio, and Virginia, all indicated their opposition to nondegradation. Gov. Mills Godwin even indicated that if this legislation is enacted in its present form Virginia would feel impelled to ask the courts to set it aside as unconstitutional. I believe, Mr. President, that the views of these Governors properly reflect the opinions of the people of the country against a no-growth policy and a desire for our economy to continue to expand for economic prosperity and for the maintenance of our standard of living while at the same time maintaining air quality on a nationwide basis high enough to protect the health and welfare of our citizens.

Mr. WILLIAM L. SCOTT. Mr. President, I do have a few more remarks. I see that my time is limited. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 21 minutes.

Mr. WILLIAM L. SCOTT. I wonder whether the distinguished Senator from Utah desires to comment before I conclude my remarks, or if he wishes, to wait until later.

Mr. MOSS. I thank the Senator from Virginia.

I have not participated in this discussion because I had thought about my amendment earlier. This constitutes an amendment to my amendment.

I say to the Senator from Virginia that I have listened with considerable interest to his comments and those of my other colleagues about this amendment, the Scott amendment, that is before us. The reason why I did not write

my amendment to go as far as the Senator from Virginia indicates is that I felt it was important at least to keep in place EPA regulations that protect health and welfare. There are some difficulties with the administration of those regulations, including the latest court opinion that just came down. I have not had a chance to examine the full opinion but have only seen it in the press.

Despite matters like that, we at least are living under and getting along under a clean air statute now that has had an appreciable effect in improving air quality in many places. I certainly am not in favor of a step so far backward that we would abandon the advances we have made.

I do not say that to indicate that I think that is the import of the amendment of the Senator from Virginia, but that is the reason I felt that we ought to keep in place whatever we have now while we have the 1-year study time. I think it effectively answers those who allege that my amendment or the Senator's amendment would suddenly plunge us back into dirty air if we abandon the clean air objective. In fact, I have been advised by others that they have been called by some organizations saying, "You cannot vote for the Moss amendment, because we will all be strangling in dirty air."

I want to make it perfectly obvious that we are not going to take a step backward. We are going to be where we are now. Section 109 of the Clean Air Act mandates that EPA promulgate standards that protect the health and welfare of the people of this country. So we are not going to step backward.

What my amendment is trying to do is say, "Look, let us hold where we are and make a study that will last for years, make a study before we put permanently into law the provisions of section 6." I think that is a logical way to do.

The Senator from Virginia wants to go a step beyond that, and he has some very valid arguments—and I have not determined yet. I may very well support his amendment. If his amendment, of course, should carry, that would then become part of the Moss amendment and there would be a second vote. So if it carries, I shall be very glad to go ahead and still try to get my amendment. Should it not carry, I still shall press as hard as I can for the Moss amendment.

I guess what I am trying to say is we sort of have two levels here. One is a little more stringent, goes a little farther than does the Moss amendment.

Mr. WILLIAM L. SCOTT. I appreciate the remarks of the distinguished Senator.

Mr. President, as Senators in this Nation's highest legislative policymaking body, we should not take a myopic or a tunnel vision approach to legislative proposals. In my opinion, we have an obligation to consider the overall welfare of the country and its citizens. Will this bill add inflationary pressures to our economy? Will it require additional paperwork for both the Government and the businessman? Will it delay or prevent the construction of new plants, new industries, new jobs? Will it magnify our energy shortages or further restrict the use of coal, our most important fossil fuel? Will it handicap the Nation in expanding the economy and result in no growth or stagnation in many parts of the country?

I know that the Senate Committee on Public Works has worked long and hard to report out a bill and that the House Interstate and Foreign Commerce Committee spent a year considering a similar measure. I believe that in our deliberation today, we should consider whether passage of this bill in its present form is in the national interest.

Mr. President, I wish to yield briefly to my distinguished friend from Idaho and then use the remainder of my time to review briefly this court of appeals decision that was decided yesterday at the District of Columbia court. I yield to my friend from Idaho.

Mr. McCLURE. I thank my friend from Virginia very much for yielding. I yield to the Senator from Oregon for a unanimous-consent request.

Mr. HATFIELD. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that my staff man, Mr. Craig Honeyman, may be allowed the privilege of the floor during debate on this measure.

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

Mr. McCLURE. Mr. President, the only reason I rise to take part in this particular debate is to illustrate to Members of the Senate and, hopefully, to persuade some of them, that there is a distinction between the Moss amendment and the Scott amendment which compels me to view the two in quite different lights.

The Senate Committee on Public Works, as well as the committee in the other body, were confronted with a set of facts with which we must work. That set of facts included the decision in the Sierra Club against Ruckelshaus in which the court had decided that the congressional intention, as expressed in the act of Congress, was to protect the clean air areas of the country, as well as to establish primary and secondary standards. This, I think, went far beyond any understanding in Congress as to what was being done at that time, but regardless of whether it did or did not, it was the law.

Mr. WILLIAM L. SCOTT. Will the Senator yield at that point?

Mr. McCLURE. I certainly will.

Mr. WILLIAM L. SCOTT. I call his attention to page 11 of yesterday's decision by the U.S. Circuit Court of Appeals for the District of Columbia. At the beginning of page 11, it reads:

> As is apparent from the provisions of the Clean Air Act outlined above, prohibition of significant deterioration of air cleaner than the national standards is not an express requirement of the Act.

It goes on further and says that Judge Pratt, the trial judge, put it in under the "enhance" provision, to protect and enhance the air. So it is put in there by implication from the "purpose" clause, not the intention of the Senate.

Mr. McCLURE. That is very definitely correct, but the facts with which we were dealing at the committee—we were dealing with the regulations which EPA then had sought to put in place following the court's earlier decision, which was then tested in this case to which the distinguished Senator from Virginia has made reference. Whether it is the earlier case or this later, both or either go far beyond the primary or secondary standards. That is the fallacy that I see in the Moss amendment, because the Moss amendment does nothing at all to solve the basic dilemma to which he addresses himself.

I have listened carefully to the arguments of the Senator from Utah and he has made a very persuasive argument against nondeterioration standards, but leaves them in place with his amendment. I do not understand the logic which says we cannot possibly live with a nondeterioration standard, but we shall leave it there.

Mr. DOMENICI. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. DOMENICI. Is it not true that, with the more recent decision further interpreting the power of the Administrator under the "purpose" clause and rendering valid his present regulations, the statement of the Senator is even more true today than it was when the committee deliberated the matter?

Mr. McCLURE. I thank the Senator from New Mexico. He is exactly correct. So, regardless of how we feel about the issue of nondeterioration, we ought not to follow the blind path of the Moss amendment by simply saying that we will not adopt the committee's deliberation, we will let EPA and the courts do it, because the EPA and the courts are doing exactly what the Senator from Utah says is absolutely unbearable for us in our society today—because we do not know about it, he says.

I do not disagree with my distinguished friend from Utah. I think we do have very grave difficulties in applying a significant nondeterioration standard when we do not have as many facts and as much information as we would like to have. But the committee was faced with the indisputable fact that the court has said this has been mandated by Congress. So we attempted to deal with that in this committee bill by establishing standards, by setting guideposts, by alleviating a great deal of the uncertainty that was imposed by the original court decision. In my judgment, the bill that has been presented by the committee is an improvement over the existing law, the existing law as established and interpreted and applied by the courts and by the EPA.

Mr. DOMENICI. Will the Senator yield again?

Mr. McCLURE. I am glad to yield.

Mr. DOMENICI. Which laws and which regulations are left wholly in place by the Moss amendment, is that correct?

Mr. McCLURE. That is exactly correct. If you do not like deterioration, you ought to vote for the Scott amendment. If you think we do not know enough about nondeterioration and the effects on our economy, then you ought to vote for the Scott amendment because it does something about it.

Mr. MOSS. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. WILLIAM L. SCOTT. Mr. President, does the Senator from Utah continue to have time?

The PRESIDING OFFICER (Mr. CULVER). The Senator from Utah has no time remaining.

Mr. WILLIAM L. SCOTT. Mr. President, I have such a little time. I hate to deprive the Senator——

Mr. McCLURE. Let me conclude, if I may.

Mr. WILLIAM L. SCOTT. Yes.

Mr. McCLURE. I do understand that there is a problem with nondeterioration. I do understand that we are not certain what the base levels of pollution are. I do understand that there is a great concern about the State-Federal relationship, and I would like to say a very great deal more about what we have done in this bill to improve that. But if we do not believe we ought to move in that area at all, if we are not prepared now to deal with that question at all, then vote for the Scott amendment. Do not take the Moss amendment by itself, bare, without any description of what we intend, without any guidelines to EPA as to what ought to be accomplished, without any definition of the distinction between the State and Federal roles.

If you do not want to move toward nondeterioration, then vote for the Scott amendment. If you do believe that we are prepared and we must act in this field of nondeterioration, then vote against both. But do not vote for the one that leaves us in that no man's land with no resolution, no improvement, no guidelines, leaving it all to the courts and to the EPA. I think that would be the worst of all worlds.

I thank the Senator from Virginia for yielding.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the clarifying statement of the distinguished Senator from Idaho.

I yield very briefly to the Senator from New York.

Mr. BUCKLEY. I thank my friend from Virginia, and I appreciate that his time is limited.

I really want to reinforce what the Senator from Idaho said. The Senator is giving us an honest choice: Either you believe in nondegradation or you do not. But if you do not support the position of the Senator from Virginia then the committee bill comes closer to his objectives than the Moss amendment. The committee bill increases and enhances the authority of the States in making the critical decisions as to future development. So it is either the Scott amendment or the committee bill.

I thank my friend from Virginia.

Mr. WILLIAM L. SCOTT. I appreciate the comments of my friend from New York.

Mr. President, let me just take the remainder of my time and very briefly review the decision of the Court of Appeals for the District of Columbia, the case that was decided yesterday, 14 cases combined on this very question.

On page 11 it states that Judge Pratt held that under the purpose clause you could not significantly deteriorate air quality anywhere in the country regardless of how high that quality of air was, and whether it was still above the national standards.

Pursuant to this court order, the administrator reviewed and disapproved all State plans insofar as they failed to provide for prevention of significant deterioration.

That means, Mr. President, you cannot build in a rural area a plant where the principal business of a particular area is tree farming. If there is no deterioration, no pollution at all, and someone wants to put a factory or plant in this region that would significantly deteriorate the air quality, but it would still be far above the quality required to meet the national standards, why, the administrator could not approve that plan, according to page 11 of yesterday's decision.

Now, Mr. President, I believe it is essential for the welfare of this country that we have a healthy economy. I believe it is essential for maintaining our standard of living that our economy continued to grow and continued to expand. I believe the distinguished Senator from Utah, with his amendment, has taken a step in the right direction. But without doing away, suspending, the regulations of the EPA as well as the statutory law, his amendment has no practical effect at all. It is a mirage, it is just something that appears to be doing some good but it does not.

If my amendment is added to it then we will still have the primary and secondary air quality standards established by the administrator of the Environmental Protection Agency high enough to protect the health and welfare of the people of the country. We will leave to the States and to the local government the authority to require higher standards to meet local conditions.

Mr. President, I urge the adoption of my amendment to the Moss amendment, and I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I am glad to yield back the remainder of my time and have an immediate vote on the amendment.

EXHIBIT 1

[From the Wall Street Journal, July 26, 1976]

SENATOR MUSKIE'S NO-GROWTH BILL

Imagine that Congress passes a law, and an appropriate agency issues a regulation, that prohibits adult male Americans from weighing more than 200 lbs., on the grounds that excessive weight is both unhealthy and unattractive.

Then imagine the little people's lobby wins a federal court ruling that even skinny teenagers weighing 120 lbs. aren't allowed to add any significant weight, on the grounds that this is what Congress seemed to have intended when it passed the law.

Imagine further the outrage of those who think the court ruling to be nonsense—because it bears no realtion to either health or attractiveness, and in error—because Congress didn't intend to starve skinny teenagers when it passed the legislation.

The original author of the legislation then steps forward and says "Yes, indeed, I did have in the back of my mind freezing all Americans at their present weight, except for a pound or two for special cases that will be considered by federal bureaucrats. And to clear up any doubt, we're going to write the federal court ruling into the law."

All of the above is a rough approximation of what has happened since the Clean Air Act was passed in 1970. The legislation established national air quality standards, formulated by the Environmental Protection Agency based on health and ambient findings. The federal courts ruled that "no significant deterioration" of air qualify could be permitted, even in those areas well within the standards. And now Senator Muskie, author of the 1970 Act, spurred by the no-growth lobby, want to write into the law what the federal courts have already said is in the law.

The Senate is scheduled to debate the issue this week, and if common sense is to prevail, the very least it will do is accept the approach of Sen. Frank Moss of Utah, who wants to postpone for a year the engraving into stone of Mr. Muskie's "no significant deterioration" provision. Mr. Moss, whose state is the economic equivalent of our skinny teenager, proposes that a special commission evaluate the economic impact of the Muskie approach during this waiting period.

What Congress should really do, though, is simply accept the amendment of Sen. William Scott of Virginia, who would strike the "no significant deterioration" approach and return to the actual intent of the 1970 Act, which was to set national air quality standards that apply uniformly. President Ford more or less has endorsed the Scott amendment "in view of the potentially disastrous effects on unemployment and on energy development . . . until sufficient information concerning final impact can be gathered."

There is no national air quality standard, after all, when Congress gives the EPA bureaucrats the power to decide what the standard should be in northeastern Utah and what it should be in southwestern Tennessee. There would be varying classes of land, a "pristine" class where no deterioration would be permitted and others where some incremental deterioration would be allowed to accommodate economic expansion. There also will be gray areas, the buffer zones around the pristine areas, the sizes of which haven't been determined. If the buffer strips turn out to be 50 or 100 miles wide, there would be only nooks and crannies left in the country for major economic expansion.

To the browbeaten American businessman and industrialist, criticized for not creating jobs fast enough because they're too much concerned with profit, Senator Muskie's bill is an unnecessary nontariff barrier to trade. It legislates confusion as the chief means of cleaning up the air.

Whatever happened to the original idea, setting a tough federal standard that would provide for the nation's health to a reasonable degree, leaving to the states the option of enacting tighter standards if their citizens so desire? No doubt it was too simple and straightforward an approach for Washington to adhere to. Not enough red tape. Not enough confusion. Not enough bureaucracy.

The way things are going on the Clean Air Act there will be plenty of all those things. And whatever happens to the air, the Muskie proposal can certainly bring about "a significant deterioration" in local economies. That too, over time, can bring about a situation that is "unhealthy and unattractive."

[From the Danville (Va.) Register, July 29, 1976]

SCOTT AMENDMENT SHOULD PASS

(By M. Stanton Evans)

WASHINGTON.—If you doubt that the yen

for regulation in this country has reached the level of fanaticism, consider the "Clean Air Amendments of 1976."

The Environmental Protection Agency has come up with something called "Significant deterioration" standards for purity in circumambient air. These regulations say, in essence, that if a community or area in the United States has higher levels of air quality than those required by national standards, it may not do things that would lower them appreciably. It may not, in other words, reduce its standards to those permitted elsewhere.

The impact of this ultra-purist ruling is felt mainly in rural areas that are planning any kind of economic development—industry, shopping centers, a housing complex. It is an obvious barrier to growth and economic progress, mandating that any area now consisting of sylvan glades or open fields remain that way forever. It is a de facto "no growth" policy for America, a form of backdoor land control.

It has been put across, moreover, with hardly a word of public debate. The policy was not invented by the Congress, nor is there any evidence that Congress envisioned such a program when it passed the Clean Air Act of 1970. The ruling was promulgated by a federal court, and subsequently enforced by guidelines from the EPA—a prime example of "law" created by bureaucrats and judges.

One would think that imposition of such a policy by such a method would stir resistance in the halls of Congress. Such, however, is not the case, at least not with the Public Works committees of House and Senate. Both these bodies have stepped forth with proposals that would enshrine the "deterioration" standards in statue law, giving "no growth" the sanction of the Congress.

Fortunately, there are some members of the national legislature who oppose this abdication of responsibility, and common sense. Virginia's Sen. William Scott has weighed the impact of the "no growth" policy on his state and on the nation, and has taken the lead in trying to get it reversed. He proposed a commonsensical amendment that would establish standards in keeping with economic sanity. His amendment says, quite simply, that existing nondeveloped areas need not adhere to standards more stringent than those required for the nation as a whole, while maintaining adequate safeguards for public health and safety.

Scott's amendment has the backing of Virginia Gov. Mills Godwin, and several other governors, the Ford Administration, and many in the business community concerned about potential paralysis of the economy. It should be supported as well by anyone who cares about America's prospects for energy development, employment and productivity—all of which are serious problems for the nation.

An example cited by Scott makes the point about EPA overreaction. For several years the Hampton Roads Energy Co. has been planning to build a refinery at Portsmouth, Va. Some $6 million has been invested in the project, and an estimated 6,000 jobs, from start to permanent operation, would be generated by it. All existing local, state and federal standards have been met, except EPA's "nonattainment" clean air standards. So the project, the energy supply, and the jobs may be negated.

All the elements of our current distress are enfolded in this issue: Usurpation of congressional authority by courts and bureaucrats; federal controls imposed upon the states; backdoor approaches to land use planning and "no growth" zealotry; and counterproductive regulations that create more problems than they cure. Sen. Scott has taken on a formidable challenge; here's hoping that he wins his battle.

[From the Northern Virginia Daily, July 14, 1976]

SENATOR SCOTT'S AMENDMENT

There is a movement afoot in Congress which perfectly illustrates the fact that even the most highly motivated legislative actions can sometimes get bogged down in a morass of well-intentioned, but nonessential and inappropriate application.

This, we think, may be what has happened to the Clean Air Act amendment of 1976. According to Deputy Administrator John Hill, of the Federal Energy Administration, in the light of what we know today the requirements of the Act were overly ambitious.

Our world of 1976 is one of totally different problems. Serious energy and economic considerations exist now which were not applicable in 1970. And says, Mr. Hill:

"We also know that the targets of 1970 were based on inadequate health data. So, it's time to take stock and insure that our drive for clean air is not aiming at goals over and above what are needed to protect health. We have too many other national problems that have to be balanced with the Clean Air Act."

At present there are pending in Congress in both the House and Senate new amendments to the 1970 act, which would establish by statute a national nondeterioration policy aimed at keeping pristine clean air regions from being polluted significantly by industries and other sources.

The argument for the present interpretation of the 1970 act, which pressures for stronger anti-pollution measures, is not based on the wording of the 1970 act itself but on a federal judge's ruling which held that Congress meant to require a broad national "no significant deterioration" policy, when in fact the act did not even mention it.

Fear among members of Congress who would move more slowly on imposing additional restrictions, is whether in the drive of some of its members, in both the House and the Senate, to insure "pristine air," the more stringent national standards required would not only be unnecessary but would inhibit the development of new energy resources and impose unreasonable restrictions on economic growth.

Senator William L. Scott, of Virginia, is leading the fight in the Senate to maintain a balance between reasonable air pollution controls and the newly infused factors of which the Energy Administration's Hill spoke.

Sen. Scott has introduced an amendment to the Clean Air Act which proposes:

"To protect and enhance the quality of the nation's air resources by establishing, achieving, and maintaining national ambient air quality standards, standards of performance for new stationary sources and national emission standards for hazardous air pollutants so as to promote the public health and welfare and the productive capacity of the nation, but nothing in this act is intended to require or provide for the establishment of standards more stringent than primary and secondary ambient air quality standards."

Sen. Scott's amendment makes sense to us. All of us want a wholesome environment and pure air for ourselves and for future generations, but it is also possible to go too far in legislating a stringency that is not required.

We believe Scott's amendment is a fair approach to providing the balance needed in air purity while enhancing the solution of the nation's energy and economic needs.

[From the Bluefield (W. Va.) Daily Telegraph, Aug. 3, 1976]

SCOTT ON RIGHT TRACK

Sen. William Scott of Virginia should be encouraged in his battle to bring some semblance of sanity to the "clean air" battle. If Congress can be persuaded to accept Scott's proposals in one particular area the nation will be fortunate.

Currently Sen. Scott is attempting to persuade the Senate that it should not permit the courts and bureaucrats in the Environmental Protection Agency to implement rules and policies which were not envisaged by the first national environmental legislation enacted in 1970.

What has happened since then, according to Scott and other critics of the EPA, is that the agency has managed to interpret the law in a fashion which will impose a "no growth" policy on a great many presently undeveloped areas of the nation. In effect the agency, in an interpretation which has been upheld by a federal court, now says that no new "deterioration" in air quality can be permitted anywhere, even though the additional deterioration might still be well below present national standards.

This, of course, is a stunning blow for a great many areas whose hopes are pinned on the acquisition of new industry or other forms of economic development. It means, simply, that if the EPA is to continue to have its way these areas cannot progress economically if this progress is to be accompanied by any lowering of the present air purity level, despite the fact that significantly greater levels of deterioration are present in other areas, and with no evidence that those levels pose a threat to health or life.

When the full impact of the EPA stand becomes apparent, it is obvious there is going to be a national uproar, and there should be. It simply is not permissible for such unfair and unreasonable standards to exist. It should be emphasized that nothing in the original legislation enacted by Congress can be construed to give the EPA such a life or death power over the economic aspirations of undeveloped areas, Congress did not intend this to happen, but it is happening nevertheless.

If Sen. Scott can persuade his colleagues to accept a simple amendment to pending environmental legislation, this problem can be eliminated. Scott wants the law to say simply that nothing in the federal legislation can be construed to require or permit the enforcement of higher air standards than those presently allowed nationally. It is a fair proposal, indeed an essential one, if vast areas of the nation are not to be blocked off forever from achieving any further economic progress.

[From the Lynchburg News, July 27, 1976]

A CLEAR DISASTER

The U.S. Senate is about ready to vote on several amendments to the Clean Air Act of 1970 which will give the Environmental Protection Agency the ultimate authority to determine whether Lynchburg—or any other locality in the country—can build any more shopping centers or industries. The amendments constitute a "no-growth" policy in that they will prohibit construction of any project which threatens to increase air pollution, period.

Senator William L. Scott of Virginia has taken a leading role in opposing the economically destructive consequences of the amendments by striking from them the requirements that "no significant deterioration" of air standards can be permitted. If this requirement stands, it is difficult to see how Lynchburg would be permitted to authorize any new industries, or businesses, or even expand significantly any existing ones. This is because, aside from whatever pollution the EPA considered the new projects to produce, they also attract large numbers of workers who use automobiles to travel to and from work—and automobiles are a leading cause of air pollution.

The 1970 Clean Air Act prohibited the

construction of major industrial sources that might significantly pollute the air in so-called "nonattainment" areas—areas where air standards are already being violated. This includes most industrialized regions in the country. The amendments now before the Senate go further: they provide that there shall be "no significant deterioration" in the quality of air of any region whose air is better than the national standards set by the EPA. These clean air areas will be officially identified and the Federal Government given the authority to restrict economic or industrial growth within them.

The Hampton Roads Energy Company has been trying for two years now to construct a $350 million oil refinery and marine terminal in Portsmouth. The EPA has declared the refinery environmentally unacceptable because the photochemical oxidant (ozone) standards in Virginia are in violation of the national standards established by the 1970 Act. The EPA decision, in effect, constitutes a no-growth policy on the entire East coast because the coast constantly registers ozone concentrations higher than the national standard.

The Hampton Roads company has spent two years and over $6 million on the refinery plans. The EPA decision imperils 3,000 construction jobs, 500 permanent employees and 2,500 related jobs, not to mention the tax benefits to state and local govermnents. The decision also blocks the nation's attempts to provide more energy at a time when it is increasingly dependent upon foreign sources.

A no-growth policy is nonsense on its face because the population of the country continues to expand at an alarming rate. More people require more jobs, more housing, more of the necessities and luxuries of life. All of these require construction, manufacturing, transporting, retailing. We must improve the quality of the air we breathe, and we can while accommodating the millions of new Americans being added to the nation each year. We cannot accommodate them, however, by restricting industrial, manufacturing, and energy growth which their increasing numbers demand.

Senator Scott's attempt to delete the "no significant deterioration" provision has been endorsed by President Ford who has urged the Senate to "preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered." Lined up against them, in support of the no-growth policy at a time when the nation is beginning to recover from the recession brought about by inflation caused by government spending and the Vietnam war, are the liberal Democrats who control the Senate. The odds are against the Senator and the President, but they haven't backed off, and Scott intends to press the issue to a vote—which would put the liberals on record in favor of no-growth if they prevail.

While the economic consequences would be disastrous, the political damage would be even more so. This is because the amendments will give the Federal Government ultimate control over all major construction in the country. Nothing could be built without Federal approval anywhere, anytime, and the Feds would also be given final approval power over how anything could be built if it involves large numbers of people using automobiles. Moreover, localities will be required to develop transportation plans designed to curtail use of automobiles. If they fail to come up with plans satisfactory to the EPA, they may lose all Federal aid for their pollution control programs, including the construction of sewage treatment plants.

These "amendments" in effect constitute a Federal land use control act and control over the economic and industrial development of the nation. The "no significant deterioration" amendment may improve the quality of the air we breathe, but it surely will limit the amount of food we eat, the number of jobs available, the amount of housing that can be built. It will, by deciding what can be built and where determine where we work and live, and how we travel. As such, it is one of the most destructive bills ever to come before the Congress—and the liberals think it is just great.

[From the Richmond Times-Dispatch, Apr. 22, 1976]

THE CLEAN AIR BILL

Seemingly acting on the assumption that man can live by clear air alone, the Senate Public Works Committee has reported a package of environmental proposals that could result in the economic paralysis of vast areas of this nation. These measures could impede economic development almost everywhere and halt industrial growth altogether in some sections, inevitably increasing unemployment and eroding the standard of living of countless Americans. Moreover, the proposals would thrust the power and authority of the federal government into some areas of concern that historically have been the provinces of state and local governments—and should remain so.

Called the "Clean Air Amendments of 1976," the committee's recommendations constitute a frightening monument to the destructive capabilities of unbridled zealotry. The objective—to protect the public from polluted air—is noble but the suggested means of attaining it are fanatically extreme and dangerous. Consider these prominent features:

(1) There could be in the future "no significant deterioration" in the quality of the air of any region whose air is now better than the national standards maintained by the federal Environmental Protection Agency. Such clean air areas would be officially identified, and the federal government could restrict—or prevent—economic or industrial growth within them, no matter how essential growth might be to the area's economic health. Obviously this would constitute a usurpation of the land use control powers traditionally exercised by state and local governments.

(2) Since shopping centers, apartment buildings and office complexes tend to generate automobile traffic, which is a source of pollution, the federal government apparently could control the location and construction of such facilities. More federal land use regulation.

(3) National parks and wilderness areas would be protected from air pollution not only from sources within their boundaries but also from outside sources close enough to affect their air. This would permit the federal government to designate buffer zones in which economic and industrial development could be restricted or prohibited. Still more federal land use control.

(4) Localities would be required to develop transportation plans designed to curtail the use of the automobile. Communities that failed to develop plans satisfactory to the EPA might lose all federal aid funds for their pollution control programs, including that money used for the construction of sewage treatment plants.

There is more to the committee's horrendous clean air plan, but these illustrations will suffice to show how irrational and dangerous it is. Clean air is desirable, of course, but man does not live by clean air alone. He needs bread, shelter and transportation, which means there will be a continuing need for new industries, new power plants, new apartment buildings, new shopping and office complexes and automobiles. To make the development and regulation of such facilities contingent upon a central federal bureaucracy's concept of what constitutes acceptable air quality, regardless of peculiar local needs and desires, would be incredibly impractical as well as philosophically repugnant.

Virginia Sen. William L. Scott has vowed to take a "leading role" in fighting the amendments. Gov. Mills E. Godwin Jr. opposes them and says that Virginia may challenge their constitutionality if they become law. Other governors reportedly are also unhappy. The Senate, we hope, will heed these objections and reject the committee's proposals.

[From the Staunton, (Va.) Leader, July 20, 1976]

RESTRICTS LAND USE

Large areas in the Shenandoah Valley are embraced in the National Parks and National Forests, as much as 32 per cent of the area of Augusta County. These federal lands are not taxable by the state or localities.

Should the Environmental Protection Agency have the power to control land use in areas adjacent to these federal lands? Use would be controlled to protect the "clean air area" from nonsignificant deterioration which might result from location of a plant or other emission facility in the vicinity.

This does not involve more serious air pollution, which might affect health. Nor does it involve welfare, rather loosely defined by the courts to include (but not limited to) effects on soil, water, crops, vegetation, wildlife, climate, economic values, and personal comfort and well-being.

These already are protected by primary and secondary standards of the Clean Air Act of 1970.

Under new proposals, land use around the forest and parks would be controlled to maintain them above the standards required to protect health and welfare in other parts of the state.

No one wants to be against clean air, but this is a federal intrusion into land use, formerly the province of the states. It is an unnecessary enlargement of federal power.

Restriction of land use near the "clean air areas" will impede economic development of whole areas of our state and nation. Surrounding these federal lands with buffer areas of low-tax land, restricted as to industrial development, will have an effect on the standard of living, and on the tax rates for remaining property.

Both houses of the Congress have reported amendments to the Clean Air Act of 1970. Action on the Senate version is expected by the end of July.

Virginia Senator William L. Scott has announced that he plans to offer an amendment to the Senate version during floor debate. His amendment would eliminate the "non-significant deterioration" policy just discussed unless there is compelling evidence that a stricter policy in certain areas would be in the national interest.

Gov. Mills E. Godwin Jr. also opposes an extension of federal controls in this area, and Virginia may challenge their constitutionality if they are enacted. He, and other governors, feel that they are an intrusion on powers reserved to the states under the Tenth Amendment.

The federal government already exerts control over our schools, businesses (particularly through OSHA and EEOC) and elections. Should states be required to give up control of land use also?

We hope that reason will prevail. The "non-significant deterioration" policy is not needed to protect health or welfare. It should be rejected.

ROBERT F. HURLEIGH COMMENTARY, JULY 26, 1976

Although the voters in the recently concluded primaries proved rather conclusively that American citizens are fed up with "big government" and the bureaucratic do-gooders cranking out new rules for every state, it

comes as somewhat of a surprise that Congress seems to ignore these signs of the times. The immediate case is the Muskie amendment to the Clean Air Act of 1970. In a fine spirit of legislating cleaner air the well-intentioned Congress has created a situation wherein the economy of many states will be stifled with resultant loss of an expanded work force. This, in turn, would lead to an eroding standard of living. The Clean Air Act was passed in 1970 and established national air quality standards which were formulated by the Environmental Protection Agency. The heavy hand of Washington is apparent in trying to set rules and standards for every state in the union from the industrial northeast to the pristine areas of some of our southern and western states. The federal courts have ruled that no "significant deterioration" of air quality as set by the EPA will be allowed even in those areas well within the standards. This Clean Air Act of 1970 was sponsored by Senator Ed Muskie of Maine, who now wants the existing legislation be amended to include what the federal courts have interpreted the law to mean.

Senator Muskie and the well-intentioned fail to recognize that the nation's problems are quite different in 1976 than they were in 1970, and that serious energy and economic problems exist today which were beyond the horizon in 1970. The Deputy Administrator of the Federal Energy Administration says "the targets for the Clean Air legislation in 1970 were based on inadequate data, so it's time to take stock and insure that our drive for clean air is not aiming at goals over and above what are needed to protect health. We have too many other national problems that have to be balanced with the Clean Air Act."

What Congress should do is accept the proposals of Senator William Scott of Virginia which would protect and enhance the quality of the nation's air resources by establishing and maintaining national good air quality standards so as to promote the public health and welfare and the productive capacity of the nation. What Senator Scott wants is to return to the actual intent of the 1970 act, which, by the way, would allow for further study until more information is available concerning the final impact.

So here we have Senator Scott proposing that the tough federal standards of the original Clean Air Act that would provide for the nation's health to a reasonable degree while leaving the states—which the governors and state legislatures know best—the option of enacting tighter standards if so desired by its citizens. Senator Scott's proposals seem reasonable and fair. So goes the world today.

[From the Danville (Va.) Register, July 25, 1976]

SANE APPROACH TO CLEAN AIR NEEDED

One of the major continuing debates of this decade revolves around whether the nation's environment can be maintained in acceptable order while continuing to promote economically feasible industrial growth. That debate will reach a climax on the floor of the U.S. Senate this week as Senators discuss various versions of amendments to the Clean Air Act of 1970. What issues from those floor debates may well determine what direction America will take for decades to come.

Committees in both the Senate and the House have developed guidelines which would mandate tough measures in regard to air pollution controls. The proposed amendments would create "clean air regions" throughout the U.S. and a policy of "no significant deterioration" in the air quality of those areas would be maintained. These regions largely would be policed by the Federal government to make certain that no new sources of air pollution are located within them.

On the surface, that sounds like a good idea—at least some areas of this country would escape accelerating pollution of the air.

But beneath the positive aspirations of the amendments, being promoted by Sen. Edmund Muskie and others, are some quite serious concerns.

According to the amendments as now proposed, the Federal government, working through the Environmental Protection Agency, could restrict or prevent economic growth within those clean air regions. This could constitute a usurpation of state and local governmental control over land use. There is evidence to support a contention by opponents of the proposed amendments that such regulations would violate the U.S. Constitution.

Opponents of the plan, including Virginia Sen. William Scott, have argued that the proposed guidelines go too far, that the environment can be protected without going overboard and stepping on the rights of landowners.

Scott has been leading an effort in the Senate to make reasonable changes in the proposed clean air rules in an attempt to strike a balance between environmental protection and continued economic expansion. Essentially, Scott argues that the 1970 act is strong enough to protect the environment and that further restrictions will inhibit economic progress, as well as take power from the states and localities.

The senator will introduce his amendment to the Clean Air Act early this week. That amendment substantially would curtail proposed EPA activities, while allowing the states to determine if more stringent antipollution controls are needed in specific areas.

Gov. Mills E. Godwin, Jr., and President Gerald Ford also oppose the amendments as now written. They are not alone and their cause will be heard.

If the friends of the environment will agree to listen to their opponents' arguments, they may find that America can promote industrial growth and the tapping of new energy resources without damaging the environment to the extent that they fear.

The major damages to the environment were wrought before any controls were placed on industrial expansion. Now there is a surfeit of controls. The proposed amendments, as written by the Congressional committees, would create even more controls which would restrict development far beyond what appears to be necessary at this time.

We hope the advocates of a balanced approach to protection of both economic progress and the environment will prevail.

COMMON SENSE ON CLEAN AIR

(By Alice Widener, Publisher, U.S.A. magazine)

NEW YORK CITY, July 20, 1976.—What really is holding back our full economic recovery? Two things for sure: (1) Government regulation of every aspect of our lives—from father-and-son and mother-and-daughter school meetings to airplane travel fares and private housing construction; and (2) Congressional concessions to the lunatic fringe in ecology and consumer affairs.

As things stand now, it is growing harder and harder for an American to inhale or exhale without being pushed, pulled or scolded by Big Government. Therefore it is growing harder and harder for little and big business to make a profit, for our nation to develop a dynamic energy program, and for the average citizen to be able to afford the every day expenditures he or she must make.

On July 18, the New York Times carried a major article "How Government is Pushing Up the Cost of Housing" by Robert Lindsey. He quotes a California housing industry consultant who says, "There's a saying in the business that every time the City Council meets, the price of housing goes up." Today, members of City Councils and of State and Federal agencies are imposing expensive environmental restrictions on home construction so back-to-Nature oriented one would think we all want to be tree dwellers or beachcombers.

Propagandized by the ecology lunatic fringe, Congress passed a Clean Air Act in 1970 that is so unrealistic it is fit only for fictitious Martians. Despite all charges by zealots in the Sierra Club, Friends of the Earth and Project Survival, the historical fact today is that the air in our cities is far cleaner than it was in the late 19th century when the streets stank and so did even the idle rich.

Very shortly, the Senate and House will revise the 1970 Clean Air Act. Its extreme, Utopian provisions are severely hurting our industries and energy-producing public utilities. Standing resolutely against the fanatics and extremists is Senator William L. Scott of Virginia. He has offered a common sense amendment to currently proposed Clean Air legislation that strikes an appropriate balance between those seeking "clean air" at any price and those seeking technological advance at any price. What Senator Scott is trying to do is achieve *reasonable* environmental protection in a way that will not injure our standard of living.

As currently proposed Clean Air legislation is now, the excessively stringent restrictive regulations imposed on land use and industrial development can strangle our economic recovery. Sen. Scott recognizes that all of us want a wholesome environment. But he points out that presently proposed Clean Air amendments would require certain factories and other industrial concerns "to meet tougher and much more expensive pollution clean up standards than now are in the law." Sen. Scott's proposed amendment would enable factories and industries to locate in areas best suited to their successful, job-creating operations.

The whole subject of the Clean Air Act is highly complicated, but Senator Scott has penetrated the smog. In plain English, he explains that his proposed amendment "would permit construction in rural areas of the country where the air quality is higher than national standards, while still being subject to regulations of the state and local governments and the national standards for the protection of public healh and welfare."

In my judgment, we ought to back U.S. Senator William L. Scott's proposed amendment to the Clean Air Act and let our representatives in Congress know that we know our economy can't work and produce prosperity in such a rarified atmosphere that only non-terrestrial beings could thrive in it on angels' food.

Nobody can make anything worth while without making a mess—not a statue or cake or house-and-garden or even a poem. Making a mess is part of life. We even have to clean up after a baby is born. If we continue to put such totally impractical restrictions for cleanliness on all our endeavors, we'll soon have to limit our activities to unproductive, idle wish-thinking.

Mr. BUCKLEY. Mr. President, I urge the defeat of the Scott amendment, as I will urge the defeat of the Moss amendments.

Adoption of the Scott amendment would eliminate any Federal protection of air quality values of our national parks and wilderness areas.

I believe our Nation has a duty to "protect and enhance" the quality of our air to protect clean air that is already clean, and to enhance air that is found to be dirty to a degree that it endangers public health.

There are many reasons for a program that will prevent uncontrolled pollution up to the national standards. We need it to allow for future growth, trying to prevent one big polluter from preempting all the air for future time. We need it to protect against costly retrofitting of pollution control technology if new evidence shows the health standards must be tighter or that new sources want to build nearby. We need it in order to pass on to our children a nation where some respect is given to pollution control, not simply industry growth.

For these reasons, I urge the defeat of the amendment offered by the Senator from Virginia.

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

The legislative clerk called the role.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), 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 California (Mr. TUNNEY), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

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

The result was announced—yeas 17, nays 74, as follows:

[Rollcall Vote No. 454]

YEAS—17

Allen	Hansen	Stevens
Bartlett	Helms	Thurmond
Brock	Hruska	Tower
Byrd, Harry F., Jr.	Laxalt	
Eastland	McClure	
Fannin	Scott, William L.	
Garn	Stennis	

NAYS—74

Abourezk	Glenn	Moss
Baker	Gravel	Muskie
Bayh	Griffin	Nelson
Beall	Hart, Gary	Nunn
Bellmon	Hartke	Packwood
Bentsen	Haskell	Pastore
Biden	Hatfield	Pearson
Brooke	Hathaway	Pell
Buckley	Hollings	Percy
Bumpers	Huddleston	Proxmire
Burdick	Humphrey	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Cannon	Javits	Roth
Case	Johnston	Schweiker
Chiles	Leahy	Scott, Hugh
Church	Magnuson	Sparkman
Clark	Mansfield	Stafford
Cranston	Mathias	Stevenson
Culver	McClellan	Stone
Dole	McGee	Taft
Domenici	McIntyre	Talmadge
Durkin	Metcalf	Weicker
Eagleton	Mondale	Williams
Fong	Montoya	Young
Ford	Morgan	

NOT VOTING—9

Curtis	Inouye	McGovern
Goldwater	Kennedy	Symington
Hart, Philip A.	Long	Tunney

So Mr. WILLIAM L. SCOTT's amendment to the Moss amendment was rejected.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Ann Wray, of my staff, be granted the privileges of the floor throughout the consideration of the Clean Air Act.

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

The Senate will be in order.

Who yields time?

The Senator from Alabama.

Mr. ALLEN. Mr. President, I believe under the previous order the Senator from Alabama is to be recognized at this time.

May I inquire of the Chair how much time is available to the Senator from Alabama to discuss the amendment?

The PRESIDING OFFICER. The Senator has 103 minutes remaining.

Mr. ALLEN. May I use that time at this time?

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The vote on this amendment must occur by 1:30.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. How much time does the unanimous consent agreement give to the Senator from Maine on this amendment?

The PRESIDING OFFICER. It gave him 1 hour in addition to the Scott amendment where he has 58 minutes. The total on both amendments is 58 minutes remaining.

Mr. MUSKIE. I have 58 minutes of the time remaining between now and 1:30?

The PRESIDING OFFICER. If the Senator gets the floor and wishes to use the time.

Mr. MUSKIE. Does the Chair tell the Senator from Maine that, since the Senator from Alabama has the floor, the Senator from Alabama can exclude me from any discussion in this debate between now and 1:30?

Mr. ALLEN. Mr. President, may I——

The PRESIDING OFFICER. The Senator will suspend until we have order in the Senate. The Chair did recognize the Senator from Alabama.

Mr. ALLEN. Mr. President, I do not have any desire to use all the time between now and the time of the vote. At the same time, I feel the distinguished Senator from Utah should have an opportunity, while there are a number of Senators present, to present the case for his amendment. He spoke to empty seats all during the morning. I would ask unanimous consent that the vote on this amendment come at 2 p.m.

SEVERAL SENATORS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MUSKIE. Will the Senator yield?

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. How much time remains to the Senator from Alabama?

The PRESIDING OFFICER. Fifty-eight minutes.

Mr. ALLEN. I can use that at this time?

The PRESIDING OFFICER. The Senator has 100 minutes but under the unanimous-consent agreement the vote must occur at 1:30.

Mr. ALLEN. Do I have the right to use that time?

The PRESIDING OFFICER. The Senator can use his time.

Mr. ALLEN. I ask unanimous consent that this hour be divided equally between the distinguished Senator from Utah and the distinguished Senator from Maine.

Mr. MANSFIELD. Mr. President, reserving the right to object——

Mr. MUSKIE. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Montana.

The Senator will suspend until we have order. We are having difficulty hearing. We would appreciate the cooperation of the Senators. The staff is advised to cease conversation in the Chamber.

The Senator from Montana.

Mr. MANSFIELD. Mr. President, I did not have any idea, when the unanimous-consent agreement was made, that the distinguished Senator from Alabama was going to take any except a small portion of the time during the period between now and 1:30.

May I say, incidentally, as far as I am concerned I would not object to a 2 o'clock vote but a Member has objected because of a death in his family and he has to catch a plane so there is nothing we can do about that.

But it was stated specifically that the Senator from Maine would have 1 hour. I think 2 or 3 minutes of that 1 hour has been used. The Senator from Virginia (Mr. WILLIAM L. SCOTT) was given 2 hours, and I think he has used that time, and the rest of the time was to be allocated to the Senator from Utah (Mr. MOSS).

We did come in at 8:30 this morning. The Senator from Utah called up his amendment, it was laid before the Senate, and he spoke for about 40 minutes. I believe, at that time, and then, because of a lull which occurred, a colloquy ensued between the Senator from Tennessee (Mr. BAKER) and the Senator from Utah (Mr. MOSS) on Mr. MOSS's time, which took up about another 40 minutes.

So if my figures are correct, the Senator from Utah has had an hour and 20 minutes in one form or another, plus the fact that the Senator from Alabama, I think, used up 17 minutes of his own time previously.

The Senator from Maine (Mr. MUSKIE) is left holding the bag, even though it was specifically stated in the unanimous-consent agreement that he would have 1 hour. Of that time, as I say, I think 2 or 3 minutes has been used by the distinguished Senator from West Virginia, the chairman of the committee.

So I would hope this could be worked out with the smallest degree of friction possible. May I say again, I would not have been adverse to a 15-minute extension, but because of the circumstance which I mentioned, that was not possible.

Mr. ALLEN. I am not asking for any time, Mr. President, but I ask unanimous consent that the Senator from Utah be given 15 minutes between now and 1:30.

Mr. MOSS. Mr. President, reserving the right to object——

Mr. MUSKIE. Mr. President, if the Senator will yield, I would like to have something to say on how the time that was assigned to me through a unanimous-consent agreement is going to be used.

Mr. MOSS. Reserving the right to object, may I address the Chair?

I came here because the leadership asked me to be here at 8:30 to lay my amendment down, which I did. I spoke with one other Senator on the floor. Then Senator BAKER was able to come in, and we did have some colloquy. At one time the Senator from West Virginia was on the floor.

Finally there was no one to talk, and we had a quorum call taken out of my time because there was no one here.

Now the Senator from Maine says, "I have to have my time." Where was the Senator from Maine? He walked on the floor at noon today and the amendment was laid down at 8:30 this morning.

You can beat the game various ways, and it seems to me that this has been a pretty good ploy, just nobody is there, and nobody is going to read the RECORD until tomorrow, and the vote has to happen at 1:30.

What kind of debate is that? I think in fairness the Senator from Maine ought to be heard, and I think in fairness I ought to be heard, when there are a few Senators here to hear us, especially because the votes are going to be cast by the Senators who are sitting on the floor listening; they are not going to be cast on the record that they read tomorrow.

Mr. MANSFIELD. Mr. President, will the Senator yield and allow the Senator from Maine to have his say?

Mr. ALLEN. I yield 2 minutes, provided I do not lose my right to the floor.

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

Mr. MUSKIE. Mr. President, I am overwhelmed by the Senator's generosity, but in this unanimous-consent agreement, I voluntarily, in order to get an agreement, limited my share of the time since 8:30 this morning, on two amendments, to 1 hour. The opposition to the committee's position had the remainder of the time.

With respect to the time of the Senator from Alabama, I was in the negotiations over this time, and it was agreed that out of the total of 15 hours between this morning and Thursday afternoon, the Senator from Alabama would have 2 hours, the principal purpose of which he told us was to be able to offer amendments, in the event the Moss amendment was defeated, to the Randolph amendment which would then be pending. But now the Senator from Alabama wishes to use that grant of time for the purpose of eating into the time of the Senator from Maine.

Mr. ALLEN. That is not the desire of the Senator from Alabama. The Senator from Alabama said he did not wish to use any time.

Mr. MUSKIE. I will try to accommodate the Senator from Alabama. The Senator from Utah expresses a desire to have me make my case but wants to eat into the time for doing so. I would agree to an agreement to divide the time equally for the remainder of this morning.

Mr. ALLEN. That is perfectly satisfactory.

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

Mr. ALLEN. I thank the distinguished Senator from Maine for this concession. I think it is a very fair deal.

The PRESIDING OFFICER. Does the Senator from Utah seek recognition?

Mr. MOSS. Mr. President——

The PRESIDING OFFICER. The Senate will be in order.

Mr. MOSS. We are about to come to a vote on this——

The PRESIDING OFFICER. The Senator will kindly suspend until order is restored.

The Senate will be in order before we proceed. The Senate is not in order.

Each side has been allocated 27 minutes for debate on this amendment, and the Chair recognizes the Senator from Utah.

UP AMENDMENT NO. 290

Mr. MOSS. Mr. President, I appreciate the agreement of the Senator from Maine and others, and I would hope that a number of our colleagues would remain on the floor, because we are about to come to a vote on what is really an extremely crucial direction this country is going to take, having to do with continuing to preserve and improve our clean air resource, and at the same time balance it with the other things that we can never exclude from our minds, which include the production of energy, economic growth, and jobs.

This amendment simply says, "Let's leave everything in place where it is now."

Section 109, which mandates EPA to fix standards that will protect the health and welfare of the people of this country, leave that in place, do not disturb it, but do not lay another statute on top that changes the degradation standards and other standards to be met until we have had a study that will tell us what that is going to do. We want to know not only what it will do to our air, we want to know what it will do to our lands and our cities, our production of energy, and all.

I am told, for instance, that the lung association is calling Senators about the Moss amendment and saying it is simply a dirty air amendment.

I deny that. As a matter of fact, the regulations will not deteriorate at all. They will stay right where they are if the Moss amendment passes for a year, while we have our study and the Clean Air Act remains in force.

The issue is not a clean air or dirty air issue; it is more a growth or no-growth issue. I simply ask, why should we legislate blindly?

I pointed out that up until 2 or 3 days ago there had been no indication publicly as to where the President of the United States stands on this matter, and so I presented to this body an article written by a corerspondent for the Deseret News, in an exclusive interview with the President, in which the President stated his position very clearly.

Mr. White, who wrote the article, in summarizing what the President was for and against, said:

> The President favors an amendment which would delay for a year the new stricter provisions of the Clean Air Act.

And in a later paragraph, he writes:

> Ford said a legislative proposal by Senator Frank E. Moss (D.-Utah), to put off new stricter Clean Air Act amendments for a year, is a good one. "I am sympathetic with the Moss amendment. I believe that the significant deterioration issue requires more study, and I think the Moss amendment would give that time."

That is about what it reduces to, Mr. President, all we are saying is, "Of course we want clean air. We want the cleanest air we can possibly get in every part of this country."

But the provisions of section 6 will fix into law certain areas and certain standards that will not then be changeable unless we come back and legislate again. My amendment simply says: Let us not do that. Let us leave what we have in place now, keep all the protection we have now, but let us have a study. And I mean a full-length study that goes into many factors that I read into the RECORD the other day. That is what it is all about.

The map was discussed in the Chambers, and I was hoping that there would be more Senators present when we discussed the map. I found that was not possible. I discussed it, and Senators can read that discussion in the RECORD tomorrow, but they will not hear the discussion, at least from me, before the vote. That is simply the way it has worked out.

I appreciate the courtesy of the Sentor from Maine dividing the time, giving me a chance to say with Senators in the Chamber what my amendment is about and disspelling what I hope are misconceptions about it so that when the vote occurs Senators will vote with that in mind.

I will be glad to yield now to the Senator from Maine and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, let me say two things that I understand about the Moss amendment, and I do not think that they are inaccurate statements.

First of all, he proposes a study as a condition to any further action on the part of Congress or the Environmental Protection Agency under existing law doing anything about the clean air areas of our country, and he has said over and over again that there have been inadequate studies.

Mr. President, on May 26, 1976, I had printed in the RECORD some facts with respect to the time the Subcommittee on Environmental Pollution has put in in studying this problem. I also included in considerable detail, that took, I think, three full columns in the RECORD, the studies that have been developed by the Environmental Protection Agency because, Mr. President, under the mandate of the courts, the Environmental Pro-

tection Agency held rulemaking hearings all over this country before developing EPA's nondegradation regulations. It is on the basis of that kind of foundation that the U.S. Court of Appeals upheld EPA's regulations. And what did the court say? Let me read this significant paragraph.

It was a rational policy decision that the significance of deterioration of air quality should be determined by a qualitative balancing of clean air considerations against the competing demands of economic growth, population expansion and development of alternative sources of energy. The approach provides a workable definition of significant deterioration which neither stifles necessary economic development nor permits unregulated deterioration to the national standards. We, therefore, find that EPA acted within the discretion it is granted as matters of policy in choosing this design to prevent significant deterioration of air quality.

Mr. President, if EPA's regulations are a reasonable exercise of the authority provided by current law, it follows that the committee language is even more reasonable from the point of view of those who are concerned about economic growth, population expansion, and development of alternative sources of energy.

Let me direct the Senate's attention to another may in the back of the room. The red areas of that map are the only areas that are required to maintain what anyone might define by any terms pristine air quality. Those are the existing national parks and wilderness areas in excess of 5,000 acres which are included as the class I areas, and even as to them under the standards of the committee bill that air quality may be reduced if the air quality values of those regions are not jeopardized by that kind of a decision. So even as to them the committee bill is less restrictive than EPA's regulations, which were upheld yesterday by the circuit court of appeals.

Mr. DOMENICI. Mr. President, will the Senator yield on that point?

Mr. MUSKIE. Yes, I yield.

Mr. DOMENICI. The Senator is making the point that under the present legal, valid EPA no-significant-deterioration policy there is no flexibility in those red areas under their very regulations that one has to follow on the modeled increment, and that is no flexibility. Ours even has flexibility there. Is that what the Senator is suggesting?

Mr. MUSKIE. That is right. Under EPA's regulations, if there is a source outside those areas, no matter how distant, which intrudes upon them and would cause degradation to the standards set in the bill, they would be prevented, and it is for that reason that we have seen all these buffer zone maps for the last 9 months.

Mr. RANDOLPH. Yes.

Mr. MUSKIE. We have seen all these buffer zone maps for the last 9 months which have no relevance to that new map that has been put up on the floor, absolutely none. It is EPA's regulations, those which were sustained by the court yesterday, which are the basis for the buffer zone maps.

Mr. RANDOLPH. That is right.

Mr. MUSKIE. And that is as clear as can be to anyone who has read the hearings or followed the development of this legislation.

Second, all the white areas on this map are to be defined by the States who are mandated under the committee bill to identify the areas which are not meeting national ambient air quality standards and by definition the other areas which are cleaner than national ambient air quality standards. Until the States have done that job, no one can draw a map more defined than that one, and that map which was on the floor before I arrived in the Chamber this afternoon is such a map. It comes out of someone's daydreams because under the committee bill air quality regions, and by definition clean air quality regions, are to be defined under a process which gives the initiative to the States to establish those designations. So that map is the only map that is relevant to the discussion of nondegradation.

Mr. President, what the Moss amendment would do is not suspend the committee nondegradation provisions but kill them, because in order to reestablish a nondegradation provision if the Moss amendment were adopted, we would have to go through the whole legislative process all over again. Legislation would have to be introduced, committee hearings would have to be held, legislation would have to be reported to each body of Congress and enacted by Congress. The Moss amendment does not suspend anything. It kills it. And leaves in place what? It leaves in place the EPA regulations which the circuit court of appeals yesterday upheld as valid, notwithstanding the pleas of both industry and the environmentalists.

Let me make another point about that. The environmental groups challenged EPA's regulations for what reason? It was for a number of reasons but, among other things, because EPA's regulations cover only sulfur oxides and particulates, and the environmental groups think we ought to cover the other four major pollutants as well.

I do not know how that circuit court of appeals case ultimately is going to be decided by the Supreme Court, but it is going to be appealed by both industry and the environmentalists.

What, I ask Members of this body, will be the attitude of the supporters of the Moss amendment if, on a final judicial determination, the environmentalists win their case? What then? We may have four more major pollutants further restricting the potential for economic development and growth, and we may have some stricter guidelines than those that the circuit court of appeals applied to EPA's regulations yesterday.

The committee bill, in contrast, eliminates that uncertainty, eliminates those unknowns, eliminates those doubts. It is for that reason that 91 witnesses in behalf of industry urged EPA to defer its regulations so that congressional policy on nondegradation could be further clarified. That is exactly what we have done.

The court told us yesterday that this was not an antigrowth provision. This is a growth provision. The nondegradation provisions of this bill permit the construction of a 1,000-megawatt powerplant. That is bigger than anything we have in my State. Is that a no growth policy? Powerplants are the principal contributors of sulfur dioxide and particulate emissions. If a thousand-watt powerplant can meet the standards of this bill, what other source could raise a reasonable objection to this standard?

Mr. President, it is not that these provisions restrict growth. On the contrary, they make it possible for the future growth of this country to take into account, in an orderly and constructive way, not only economic growth, population expansion, and alternative sources of energy, but clean air considerations as well.

I have faced the ranks of opponents to clean air legislation since 1963. Led by the utilities of this country, they have opposed environmental legislation through all that time.

They do not want to suspend these regulations. They do not want to suspend EPA's regulations. They want to kill them. They want to have as much right to invade the public interest in clean air and clean water as they had for the last 200 years. That is what they want. Regardless of the consequences, they want to pioneer the empty areas of this country until they are as dirty as anything else.

I have heard Senator Moss and Senator SCOTT ask, Why are not the national primary and secondary ambient air quality standards good enough? I will indicate why they are not good enough. It is because they are the minimal standards that we could insist upon in the dirty areas of this country. It is not that they are sufficient by all standards, all measures of the public interest. Not at all.

So I take it, by implications, from what Senator Moss and Senator SCOTT have said, that they would be satisfied if the standard in every square inch of this country were the national primary and secondary standards.

Well, that was not good enough for this committee, which voted unanimously for this provision. When we have Senator MCCLURE on one end of the political spectrum of this committee—and I will not pick anybody but myself at the other end, lest I hurt somebody politically—but when we consider the range of political philosophies represented in the Committee on Public Works, and they supported this unanimously, and the more conservative members of the committee have been among the most ardent and vigorous and enthusiastic proponents of the committee provisions, there must be a reason. The only reason I can suggest is the reason well reflected in the language in the court's opinion yesterday.

We did not all agree in committee. Some of us wanted stricter standards than those contained in this bill. I cannot recall anybody who wanted anything that would have deliberately weakened the bill. It was a matter of judgment.

The increment approach is simply a device for enabling State and local governments, under the jurisdiction of EPA, but with the initiative clearly left to States, to plan for the orderly growth of

their economies, so that they do not again produce for this country situations such as those in Los Angeles, Washington, D.C., Chicago, Boston, and many others that I could define.

I yield to the chairman of the full committee, Senator RANDOLPH.

Mr. RANDOLPH. Mr. President, not only the members of the Committee on Public Works, but also the Members of the Senate, are grateful for the record that the able Senator from Maine (Mr. MUSKIE) has made in the field of well-reasoned environmental programs. Through his leadership the opportunity for continued growth and progress in this country has remained.

To reemphasize what the Senator has just said about the State of Maine under the provisions of this bill, construction of a 1,000-megawatt powerplant would be permitted. Is that correct?

Mr. MUSKIE. That is right.

Mr. RANDOLPH. The Senator said that in Maine there was nothing of that size. In the State of West Virginia, we have some rather large plants. But there is none that is more than about half that size.

Mr. MUSKIE. Mr. President, at this point I reserve the remainder of my time, because I want to yield some time. I assume that Senator Moss and Senator ALLEN will want to respond to what I said. In due course, I will yield to the Senator from New York (Mr. BUCKLEY) and the Senator from New Mexico (Mr. DOMENICI).

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 11½ minutes remaining.

Mr. MUSKIE. Mr. President, I yield the floor at this time.

The PRESIDING OFFICER. Who yields time?

Mr. MOSS. Mr. President, I have listened with interest to the presentation of the floor manager of the bill, the Senator from Maine, and I noticed that he placed tremendous emphasis on the fact that this was unanimous. In fact, as I recall, he repeated that again and again.

I have before me the committee report on this bill and I find that in the committee report, individual views were filed—these are separate individual views—by Senators RANDOLPH, MUSKIE, MONTOYA, GRAVEL, BENTSEN, MORGAN; then Senators BAKER, BUCKLEY, and STAFFORD joined in expressing their views; then Senator BUCKLEY and Senator STAFFORD put in some other individual views; then Senator MCCLURE, Senator DOMENICI, and Senator HART.

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

Mr. MOSS. Each had individual views.

Mr. MUSKIE. Individuals views are not necessarily dissenting views.

Mr. MOSS. I did not say they were dissenting views.

Mr. MUSKIE. The vote was 13 to 1 on reporting.

Mr. MOSS. I am not challenging that. I was just saying that the Senator——

Mr. MUSKIE. For what purpose is the Senator wasting valuable time?

Mr. MOSS. I will not yield for that.

The Senator said the committee was unanimous, the committee was unanimous.

Mr. MUSKIE. I mean on this provision.

Mr. MOSS. Will the Senator please not interrupt me? I will yield if I am asked to yield, but I do not like this constant interruption, interruption, interruption.

The committee may have voted finally to report the bill. However, if we are talking about great unanimity, why in the world did every Senator on that committee feel he had to register his individual views? That is the point I am trying to make.

I think the Senator, himself, in discussing this matter, pointed out—in fact, I will quote him from the RECORD of Tuesday. He said:

> As a matter of fact, the whole area of environmental pollution is replete with uncertainties because of our dynamic, ongoing, involving industrial society, so that we can never have a status quo we can measure in its dimensions.

It seems to me, Mr. President, that that is really the basis that we who favor the Moss amendment are talking about. We are playing with uncertainties, replete with uncertainties. That is part of what I am saying on all these individual views, because of those uncertainties.

Does that not argue for having a full, complete study of this matter before we go forward?

The Senator from Maine pointed out that a certain number of hearings were held and that there had been a number of studies on this matter before the bill was written. Well, those that were had before there was any section to write a study about probably did not have much relation to what they had. Consequently, what we need now is to have the commission in place, with the expertise it has, answer the questions that are laid down specifically in the Moss amendment, that have to be answered before we decide what we can write into law, that will then be difficult to change once it is in the law.

The EPA regulations that were upheld yesterday to which the Senator referred had the safety valve of a class III area. The present Senate bill would abolish that safety valve of a class III. That safety valve was part and parcel of the reasonableness of EPA's present regulations.

How does the Senator cite this point as support for its abolition here? What I wanted to hold onto in place is what the court has found reasonable at this point. I say that we are not taking a step backward. We are saying, from here, let us not go any further; let us take what we have in place now. The powers of the EPA remain in place, and then, after the study is complete, in a year's time, we shall then know.

I suppose one of the great faults of the legislative body, and any that is as busy as the U.S. Senate, is that we do legislate without having all the facts at hand. We ought to do everything we can to overcome that deficiency. In this case, we ought to do it by mandating the study, mandating that it be made. I would like to do that.

I also wanted to comment that the Senator indicated that some 91 industry witnesses came in and testified for the bill, but I would also like to point out that the members of the National Construction Industry Council joined in a statement supporting the Moss amendment. This includes a long list of very prestigious national associations—the American Concrete Paving Association, the American Consulting Engineers Council, the American Institute of Architects, the American Institute of Steel Construction, the American Roadbuilders Association, the American Society of Landscape Artists, the American Subcontractors Association, the Association of Builders and Contractors, the Associated Equipment Dealers, the Associated General Contractors of America, the Associated Landscape Contractors of America, Ceilings and Intersystem Contractors, Concrete Reinforcing Steel Institute, the Council of Construction Employers, and the Mechanical Contractors.

As the Senate can see, that is about half of the ones that I have read so far, including, I might say, the National Association of Home Builders. All of them said, "Let us not lock this in until we have a study. That is what we think we ought to have, because we are dealing not only with clean air; we are dealing also with economy, energy, the place where people live, the lifestyle that we have. Let us know the answers to that before we lock it in."

I am happy to yield to the Senator from Alabama if he has a question.

Mr. ALLEN. I would like to make some remarks with respect to the amendment. May I have about 6 minutes?

Mr. MOSS. Yes, I have that time.

Mr. ALLEN. Mr. President, the distinguished Senator from Maine has stated that the power that EPA now has to forbid degradation of the environment is greater than it would have under the provisions of this bill—under section 6, that is. If that be true, Mr. President why does he object to retaining in EPA this greater power that it now has and not, at this time, put in section 6, which is, according to him, a limitation upon the power of EPA?

It is less restrictive, he says, than the present law, the present power of EPA. If that be true, let us leave EPA with this greater power that it now has, greater than is provided in section 6, and then, let us study, under this commission provided by the Moss amendment, the very questions raised in the Randolph amendment—and there are plenty of questions raised.

I ask unanimous consent to insert, as questions to be studied by this commission under the Randolph amendment, sections (A) through (F) of the Randolph amendment as showing the areas that need to be studied—that need to be studied—according to the Randolph amendment, while section 6 is put in, but under the Moss amendment, before section 6 is put in.

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

> In carrying out the authority of this subsection the Commission shall study, among others, the following:

"(A) whether the provisions relating to the designation of, and protection of air quality in class I regions under this Act are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to (i) add to or delete lands from such designation, and (ii) provide appropriate protection of the air quality over such lands;

"(B) whether the provisions of subsection (g) of section 110 of this Act, including the three-hour and twenty-four-hour increments, (i) affect the location and size of major emitting facilities, and (ii) whether such effects are in conflict or consonance with other national policies regarding the development of such facilities;

"(C) whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act, including an analysis of the costs associated with that technology;

"(D) whether the exclusion of nonmajor emitting sources from the regulatory framework under this Act will affect the protection of air quality in class I and class II regions designated under this Act;

"(E) whether the increments of change of air quality under this Act are appropriate to prevent significant deterioration of air quality in class I and class II regions designated under this Act; and

"(F) whether the choice of predictive air quality models and the assumptions of those models are appropriate to protect air quality in the class I and class II regions designated under this Act for the pollutant subject to regulation under subsection (g) of section 110 of this Act.

Mr. ALLEN. Let us leave EPA with this great power that it has and let us study and see whether it needs to retain this great power or whether some less power is given to EPA. I do not regard this as being less restrictive than the present power of EPA. The proponents of the bill say, "Yes, section 6 is less restrictive." I do not believe that.

There is another point that I want to take issue with the distinguished Senator from Maine on. He said that certain industries—I believe he spoke of the utilities—want to kill the EPA regulations. If there is any indication of that in the Moss amendment, I do not see it. It does not strike out any present power of EPA. It leaves EPA with all the powers that it now has, but it says, let us not put in these more restrictive or less restrictive—depending on who is talking—let us not put in these measures until we have had a study to recommend to Congress what added or what less power should be given to EPA in the field of nondegradation. The Moss amendment, far from killing EPA's power, leaves it with every single bit of power that it now has; so how is that trying to kill the EPA regulation? It retains it.

The distinguished Senator from Maine says that the bill is less restrictive, so it would seem to the Senator from Alabama, according to the statement of the Senator from Maine, that he is seeking to weaken the power of EPA; whereas, the Moss amendment would allow EPA to retain all of its present power and then have a study by the Commission to determine what the policy of the Congress should be in this regard. After the study, we could legislate.

What is the use of legislating and then studying? It is getting the cart before the horse. We ought to study and then, in the light of that study and the recommendations of the Commission, we should legislate.

One of the points that the Randolph amendment called for a study on is in connection with the implementation of section 6 of the bill—let us listen to this. This is what it is supposed to study.

(C) whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act—

That is another way of saying section 6—

including an analysis of the costs associated with that technology.

So apparently, Mr. President, we do not even know the present state of our knowledge on this subject which is such that we do not even know whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under this section. I would say we ought to find that out before we legislate.

Five other areas of study are called for here in the Randolph amendment. I suppose any commission would want to study these very same subjects. I do not think it is peculiar to the Randolph amendment. I am sure the commission under the Moss amendment would make the same study in these areas.

Apparently we know practically nothing about this subject, yet we are legislating in the blind. So I believe the Moss amendment is a sound amendment and, apparently, it would retain the higher power that EPA now has and would not change that until a study has been made indicating the changes that should be made.

But the proponents of the bill say that EPA has more power now than they would have under this bill. So why weaken EPA's power? I would not think the advocates of the clean air amendments would be seeking to make EPA less powerful in this area, and that is exactly what they say they are doing. Yet they have the temerity to say that those who are opposing these amendments are seeking to kill EPA regulations. Well, it is just contrary, it would seem, because the Moss amendment keeps EPA at its present power.

The proponents of this bill say that section 6 will be less restrictive than EPA is now able to mandate.

I yield back the remainder of my time.

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

Mr. MUSKIE. Mr. President, what is the situation with respect to time?

The PRESIDING OFFICER. The Senator from Maine has 12 minutes remaining.

Mr. MUSKIE. How much time does the Senator from Utah have?

The PRESIDING OFFICER. The Senator from Utah has 6 minutes remaining.

Mr. MUSKIE. I yield, Mr. President, 4 minutes to the Senator from New York, 4 minutes—3 minutes each to Senators BUCKLEY, MCCLURE, and DOMENICI.

Mr. BUCKLEY. Mr. President, I must oppose this amendment, which seeks to eliminate the Senate provision defining significant deterioration. This issue involves a set of specific numbers—the "increments" listed in the bill—that was developed by the Environmental Protection Agency following extensive study and hearings across the country. These increments, included in regulations in effect for more than 18 months, apply everywhere the air is cleaner than ambient standards now in effect. The significant deterioration numbers in the bill have no effect at all—and this procedure has no effect—in other areas of the Nation.

A major concern of mine is my belief that the Senate must resolve this issue, moving it out of the courts and into the hands of the States. We have produced a reasonable solution to do this.

Under court order, the Environmental Protection Agency on July 16, 1973, published a notice of intent to publish regulations on significant deterioration. This was followed with EPA hearings around the Nation. A year later, EPA published proposed regulations, with final regulations issued on December 5, 1974. Thus, for a year and a half, significant deterioration regulations have existed. Industry has lived under it, with no noticeable, adverse impact on economic growth. The major change in this bill is that the regulations are given specific, legislative sanction, and control of significant deterioration is shifted from EPA and the courts to the States.

Whether we maintain the status quo or adopt the provisions of this bill, potential pollution from a proposed new major industrial source would be studied and projected to determine if the new facility is likely to exceed the allowed increase in air pollution. How burdensome is this process? It means that the owner of the new facility may have to monitor the air in the area of the plant to determine what pollution exists there now. This would establish the "baseline" against which the increment will be measured. Then the proposed source must show, to the satisfaction of the State, that it will not violate the specified increments in the bill—the same increments of growth in the EPA regulations. That seems to me to be a reasonable demand to place on the types of major facility we are covering in this provision, which only covers specified categories of major industrial sources.

So the process is not burdensome. How burdensome are the specific limitations? Delmarva Power concedes that—

A plant as large as 2,000 megawatts could be built without violating the general numbers. According to a study by the Federal Energy Administration and the Environmental Protection Agency, the increments allow construction of a 1,000-megawatt-power plant "unless the surrounding terrain within three miles was at least 500 feet above the top of the plant's stack.

If the surrounding terrain is at or below the top of the plant's smoke stack, the committee language allows "the siting of a 1,000 megawatt powerplant that meets New Source Performance Standards by the use of low sulfur coal,"

the FEA–EPA report stated. The analysis also indicates that plants producing as many as 5,000 megawatts of power could be built, if scrubbers are used.

Mr. President, the average size of new electric powerplants is presently 800 megawatts, far less than any of these figures. The Nation's largest existing electric powerplant is, I understand, the Navajo Power Plant at Page, Arizona. It produces 2,250 megawatts of electric power. Thus, according to the FEA–EPA study, our class II numbers could allow construction of plants twice as large as the largest one now in existence.

That does not sound to me like a no-growth provision.

What about other industries? Most of the studies have focused on powerplants. That was because these studies have shown that powerplants would be the ones most affected by the requirements of no significant deterioration. If a large powerplant can be built at a specific site, virtually any other major industrial facility will also be able to locate there.

The pulp and paper industry has argued that its needs have been ignored. But nearly all of the effects of a kraft pulpmill relating to significant deterioration involve the generation of power. Thus the studies of powerplants easily are transferable to a study of kraft pulpmills.

One aspect of the Senate's definition of significant deterioration is the protection provided for a few specific areas—national parks and national wilderness areas over 5,000 acres in size. The test established by the bill involves an analysis of the effects of the potential pollution on park values. It is not a specific test against any specified numbers other than the fact that the proposed plant must meet the regular so-called class II increments, which I have already discussed. Thus, the Senate bill contains no buffer zone of 100 miles radius or 50 miles or even 5 feet. Each decision is based on a case-by-case analysis involving the Federal Land Manager and State.

There are a variety of other options to scrubbers, such as coal cleaning or "beneficiation" to reach the same level of control. A paper presented by Stephen Baruch, Environmental Projects Manager of the Edison Electric Institute, stated:

> The advantages of coal beneficiation are that the process is available and commercially acceptable; it concentrates carbon in the clean coal thereby increasing its heating value; it reduces concentration of trace elements, and the product has more uniform ash, moisture and BTU content.

Mr. President, I believe it is clear that the Senate provision is a reasonable approach. It will produce major improvements in pollution control at a reasonable capital cost. It is a sound investment for our future. And the maps displayed by the Senator from Utah notwithstanding, it permits orderly economic growth.

Mr. President, we have heard a great deal of talk in recent hours and days about increments and charts and maps. Is my projection right or is yours? Whose map is correct?

I would like to put that question aside, because it is not relevant to the Senate's provision relating to no significant deterioration.

First, it is clear that a great deal can be constructed under the Senate class II increments. We have studies from EPA and others that show that well designed powerplants as large as 5,000 megawatts can be built and still meet the class II increments. That is twice as large as anything now in existence in this country.

But if you were to ask me whether a particular plant can be built at a specific location, I cannot give you an answer, yes or no. To a great extent that is what this bill is all about. This bill creates a framework allowing local people—rather than the Federal bureaucrats—the opportunity to make that decision.

The committee's no significant deterioration language is essentially a preconstruction review process that affects the very limited number of major industrial sources. It is a process, to a degree greater than has existed to date, that will bring the public and local governments into the decision of whether or not a particular plant will be located at a particular site, and what degree of technology will be used to control emissions from that source. It is a process that allows local people to decide what they want: one big plant, or five little plants, no growth, or whatever. The committee bill does not prejudge that decision. It creates a framework for that decision.

By establishing a process of public hearings, together with analyses of potential pollution impact, this bill encourages local governments and the people of the area to make the choice they have every right to make.

There are those who say industry should be unfettered in its decisions on where and how to build new sources. In its broadest sense, I support that philosophy. But I also believe that the public has a right to know what effects can be expected from the location of a new major pollution source. Just as the power to tax is the power to destroy. The American public has every right to participate in decisions on where these sources of pollution will be placed, and how they will affect the health, welfare, and esthetics of the area.

For that reason, I urge acceptance of the committee program to prevent significant deterioration of air quality.

As a brief closing remark, I would like to reiterate for, I guess, the 16th or 18th time, certain truths about the situation confronting us.

The committee bill does nothing new. It does not change the basic situation, as it has existed since the Ruckelshaus decision.

What we are doing is inserting a degree of certainty, so that business may go forward with plans in the cleaner areas of our country, knowing the ground rules by which they may develop.

There is ample testimony, as the Senator from Maine pointed out, that you can have large power developments without exceeding the limitations imposed by our bill.

Second, one of the points we have heard from the Senator from Utah (Mr. GARN) and the Senator from North Carolina (Mr. HELMS) is that Governor after Governor after Governor wants to restore greater authority to the States, so that the States—not EPA and not the courts—will have control over the economic development of their own areas. Well, this is precisely what this bill does. It shrinks the authority of EPA, and transfers the critical decisionmaking responsibility to the States so that a State may determine for itself what kind of industry it wants. It can decide if it wants to have one or two major facilities or whatever within the available increments established under this legislation.

Finally, it is argued that we should not lock in the situation, pending the results of the study. Well, the reason the committee has maintained a study, a study that will be more focused with the Randolph amendment, is that we are dealing in a constantly developing situation. It is prudent that we have an ongoing process by which we may periodically review where we are, and decide how we might amend the legislation in order to achieve with greater precision the goals we have set for ourselves, as a Nation.

It is contemplated, of course, that we will come back to the drawing boards when that study is completed. There is no reason in the world why we should not take the opportunity we have now, based on over a year of intensive work by this committee, to fix in law certain of those principles that, in fact, are now operating by virtue of regulations issued by EPA.

The clean air legislation has two objectives: One is to clean up those areas in which we have pollution that is dangerous to health and to other important qualities that we value. The other is to make sure that where we have cleaner air, we do not repeat the process we are trying to correct in other areas of the country. We need to have a policy that enables us to move prudently with our economic objectives, while not fouling our nest. This is precisely what this legislation does.

I urge the defeat of the Moss amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Terry Kay of Senator PACKWOOD's staff be granted floor privileges.

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

Mr. DOMENICI. Mr. President, I would like to address several remarks to the Moss amendment. Although the bulk of my opening remarks addressed Senator Moss' proposal, from what I have heard in subsequent debates, I feel several of the points bear repeating.

First, the study proposed by Senator Moss is a sham. After having reviewed the scope of the study cited in the amendment, I believe it safe to say that an effort of this magnitude is impossible to conduct in a professional manner within 1 year. The analogous National Water Quality Commission study took over 3 years. The Committee on Public Works has been told by the Department of Transportation that it will take 2 to 3 years to determine the impact on the railroads of the construction of a new navigational lock at Alton, Ill. on the Mississippi River. Against such a background, it is almost an affront to the Senate's collective intelligence to propose

that the list of investigations cited in the Moss study could be conducted within a year. If we were being candid, I believe we would have to admit that it will take 6 months to pick a director and a staff.

My other objection to Senator Moss' study proposal is that it is inherently flawed. A major premise in the study rationale is that the current state of the art of air quality diffusion modeling makes the studies the committee has relied upon unreliable. However, even if one grants this contention, what is Senator Moss' solution. Does he offer to use different modeling techniques? No.

Does he offer to gather data based on real world experience? No. All the Moss amendment offers us is another study employing the same flawed modeling techniques. This hardly presents a convincing case for the committee to suspend 16 months of effort. Moreover, the committee's efforts were not formulated in a vacuum but rather were built upon several years of hearings and analytic work done by EPA in promulgating its nondeterioration regulations.

If we are looking for a model upon which to base our efforts, the National Air Quality Commission provided for in the Senate bill appears more appropriate. The Commission, during its study of nondegradation, will employ data derived from the actual workings of the law. Such real world feedback can then serve as the basis for making future modifications in the law.

The Moss amendment states that because of our ignorance we need more study. But his study has all the real world relevance of counting angels on pinheads. A serious effort to understand the impact of nondegradation would not fear the present Senate bill, but rather embrace it as the first step in gathering knowledge on how our environmental values can be protected. The Moss amendment has its origins not in intellectual curiosity, but obstructionism. It is designed not to foster knowledge, but to retard it. Accordingly, it is an environmental Trojan horse that should be categorically rejected by the Senate of the United States.

RATIONALE FOR NONDEGRADATION

There is one oversight in the present debate on nondegradation that I believe should be corrected. This is that the rationale for nondegradation has many facets, and is not dependent upon a single line of argument. This has been obscured by the debate over the adequacy of the secondary standards.

For New Mexico, the importance of a nondegradation policy does not hinge on the validity of the secondary standard alone. Eliminating the threat of economic coercion is equally important. New Mexican officials have repeatedly stressed that without a strong Federal nondegradation policy they fear they would be forced to sacrifice environmental quality in negotiating for new industry. The committee's nondegradation policy provides a Federal umbrella for States that are pursuing a policy of orderly economic growth. With such a Federal umbrella in place, States are free to impose reasonable environmental restrictions without fear that a sister State will steal new industry from them by sacrificing environmental restraints.

I surface this point to stress the multifaceted basis of nondegradation. Other States may have their own individual reasons for supporting nondegradation. Some may be concerned over the fate of those industries, such as the tourist industry, which are bedrocked on environmental quality. Some may be concerned that they are producing electrical energy that is exported to other States. Under such circumstances, the producing State is left with the pollution while the receiving State gets the electricity. New Mexico, for example, exports 65 percent of its electricity. Examples such as these only demonstrate that support for nondegradation has a variety of components, and that its legitimacy as a national policy rests on more than a single argument over the adequacy of the national ambient air quality standards.

Mr. President, I have a number of additional things to say. I am going to try to address them mostly with respect to the nature of the argument made by those who favor the Moss amendment.

Let me say at the inception for the Members of the Senate who are interested in whether or not a committee and the committee structure works in the U.S. Senate, and are looking for the reasons for each Senator writing his thoughts in this report, the fact is that the committee structure worked in this case.

The reason why Senators BUCKLEY, BAKER, MCCLURE, STAFFORD, and DOMENICI on the Republican side indicated their concern in this report is that they worked on this bill.

This is not a bill that is the product of a subcommittee made up of one or two members and the staff. This is the product of 14 months, innumerable hearings, well over 70 markup sessions, drafts, redrafts. We have arrived as a committee of this institution, at the conclusion, Mr. President, that, first, as a committee we wanted a policy for this Nation of no significant deterioration.

Second, we arrived at the conclusion that we did not want the Director of EPA under a court mandate interpreting a preamble to the Clean Air Act to implement in a detailed manner this policy of nondegradation.

How many U.S. Senators take this floor and criticize the bureaucracy of the Federal Government for the way it carries out the intent of our acts? We saw in the EPA's regulations with reference to a no-significant-deterioration policy, a congressional abdication.

We saw them establish under court mandate, with only a couple of words in a preamble, a policy of no significant deterioration for this land and, after all those hearings, after hearing the witnesses, we concluded that if we were going to have such a policy, and we unanimously supported it, the Congress ought to be the principal drafters of what made up that policy for this Nation.

So for those Senators who are in doubt as to what we are voting, it is very simple, Mr. President: We are voting as to whether or not we want a no-significant-deterioration policy for this country drawn, and administered, in almost every detail by an administrator, or do we want one that comes from the concerted, collective, committee effort with the kinds of Senators whom I have described on our side of the aisle having the input, from our chairman to Senator MUSKIE with all shades of Senators in between having drafted it for this institution.

That is the issue. If we vote "Yes" for Senator Moss, we want Mr. Train to develop that for us with no guidelines.

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

Mr. DOMENICI. If we vote against it, we vote for this kind of input for the legislative process.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. MCCLURE. I thank the Senator.

Let me state at the outset what I understand the issue to be, or, perhaps better, what it is not.

The issue is not whether we are going to have nondegradation. The issue is not whether or not the Senate is going to decide to have a nondegradation policy. The Senate has already decided that.

The Senate voted against the Scott amendment which would have settled that issue.

Those who supported the Moss amendment should not be permitted to express it in the terms of saying, "If you vote for the Moss amendment, you are against the nondegradation policy."

They are voting in favor of the existing nondegradation policy and against the nondegradation policy expressed in this bill.

There can be no other rationale. There can be no other logic.

So those voting for the Moss amendment are voting for the existing nondegradation policy.

I think, as the Senator from New Mexico and other members of the committee, that this committee, after 14 months of very hard work, has come up with a better policy for nondegradation, that is better to administer, is more flexible, gives the States greater rights in determining their own plans, better opportunities to determine their own direction, with greater opportunities for industry to arrange with the State for the necessary permission to proceed under the plan set forth in the Senate bill.

By all standards and by all regards, I think the Senate bill is an improvement over the situation under which we find ourselves now that would be perpetuated by the Moss amendment.

I think those who voted against the Scott amendment ought to also, in good conscience, vote against the Moss amendment.

If there is any logic at all in voting against the Scott amendment and for the Moss amendment, it must be on the basis that they prefer the regulatory scheme under the existing court decisions and under EPA regulations than they do under this bill.

I voted for the Scott amendment for one reason and one reason alone. That is, that there is enough confusion in this body to persuade me that 100 Members

in the U.S. Senate do not understand the issues involved.

Under those circumstances, it seemed to me better to proceed slowly rather than quickly, and if we are going to have a policy, it not be the uninformed policy.

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

The Senator from Maine.

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

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. How much time is there?

The PRESIDING OFFICER. The Senator from Utah has 6 minutes. The Senator from Maine has 3 minutes.

The Chair stands corrected. The Senator from Maine has 2 minutes remaining.

Mr. MOSS. Mr. President, I just have a very few minutes and I think we have talked a great deal about this bill. The last three Senators who addressed this body had certain things to say. Let me, first of all, concur with them.

I think their committee worked extremely hard. I was aware of that long series of markups. I know they struggled with this bill. I once served on that committee.

Incidentally, lest it be thought I am a dirty air man, I supported the Clean Air Act just as I did clean water, I think I have always been further on the side of the environmentalists.

But the Senator from New York (Mr. BUCKLEY) said that certainty is needed, the certainty given by section 6.

If certainty is needed, why then did industry and labor come forward opposing section 6, if it gives all that certainty?

There is a pack of letters coming in from nearly every large corporation in this country, about 50 of them, saying that they want the study of the Moss amendment and they want to have that before they get section 6.

Besides the construction building trades of the AFL–CIO, a vast part of our organized labor came in and said the same thing. They support the Moss amendment.

So obviously, there is no certainty in section 6 that they can see. They are fearful of it and they want to have the study first.

The Senator from New Mexico (Mr. DOMENICI) said that the many individual views that were in the report show the committee's work. I agree with that. They worked hard. Each one went about writing individual views because there were so many variations over views in the committee about the bill and about the subject matter and about the whole thing they were talking about.

It seems to me that this argues very strongly for more specific information about what section 6 is going to do, what its impact will be on the air, land, economy, jobs, and the capital risk before it is written into law.

If there is that much difference among the committee who studied hard for a year and a half or longer on this bill, think of what labor and industry think now, and think what the rest of us think about it.

We would like to know what is down at the bottom before we jump off the cliff. There may be some big rocks down there.

The Senator from Idaho (Mr. MCCLURE) said that the committee version is better than the EPA regulations.

That may be so, but industry does not think so, and they are the ones that are putting up now with the regs and, obviously, they are having some trouble with them because we have lawsuits and all that sort of thing.

But at least they prefer to go on with something that is somewhat known to them than take the section now until there has been a study.

I come back to that again and again, because what we have to do is know as best we can what is going to happen if we write nondegradation into law.

As Senator MCCLURE so eloquently said, there is enough confusion in the Senate that we do not know, really, what we are doing and what we are getting at.

If I ever heard an argument for the Moss amendment, that is it.

Yes, there is confusion. Yes, there is concern. Yes, there are constituents coming at us from all sides—industry, labor, environmental groups, and others—and they obviously are confused about this.

Why can we not hold where we are, with the regulations and statutes that are in place now, until we get a study? A year's time is not going to cause any great degradation or shift in our pattern of air in this country.

I say that the Moss amendment makes eminent sense. It would give stability to some of the things that we will finally write into law.

If industry is so fearful now that they are unwilling to accumulate capital and risk it on producing energy or building plants, or elsewhere, they can have some degree of knowledge and security if we suspend section 6, drop section 6, and mandate the study and mandate it to be within 1 year's time.

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

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

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I regret that I must oppose the amendment of the Senator from Utah (Mr. Moss) to strike section 6 from this legislation. If adopted this amendment would leave the Senate in the position of not formally responding to the most controversial issue before the committee during the development of the Clean Air Amendment of 1976.

Furthermore, the absence of any language in this measure on the question of nondeterioration of air quality would imply that this body is unwilling to assert that those areas of our country where the air is relatively clean should be protected from pollution.

I regret that an amendment I proposed became involved in the dispute of the issues raised by the proposals of the Senator from Utah (Mr. Moss). We reached agreement, however, on the schedule for voting on various nondeterioration amendments. I believe that the Senate can now dispose of this question in an orderly fashion that will permit us to consider other sections of this important legislation.

The legislative proposals to protect clean air areas are indeed the most controversial in this bill. Members of the Committee on Public Works believe that we have adopted a balanced and workable approach to this problem. It is unfortunate that there have been numerous misunderstandings about both the intentions of the legislation and its potential impact.

The able Senator from Maine (Mr. MUSKIE), the chairman of our Subcommittee on Environmental Pollution, has spoken on this subject on several occasions. He has placed in the CONGRESSIONAL RECORD a lengthy statement responding to questions about the committee's action and which clearly explained the intent of the committee and the effects of the nondeterioration provisions of the bill. That statement, together with the text of a speech by Senator BAKER on the same subject, was sent to each Member of the Senate. Last week during debate on this question, the Senator from New York (Mr. BUCKLEY) discussed in detail the nondeterioration provisions of the bill. I hope that my colleagues have had an opportunity to review these materials so that we can debate this important issue free of the many misconceptions that have existed.

The issue of nondeterioration was raised initially in court decisions and administrative actions. Many organizations and individuals came to the Congress asking that we review this important policy decision and provide congressional direction to its implementation. The Committee on Public Works, after extensive consideration, has developed what we believe to be a rational and responsive approach to preventing the deterioration of our highest quality air resources.

The reaction to this legislation has been frankly surprising. Those who urged the Congress to become involved originally are now opposing the legislation. They do so for reasons that are often vague and are based on misleading interpretations of fact. Dire consequences are forecast if the nondeterioration provisions of this bill are adopted.

Mr. President, as I said at the outset of the debate, the significant deterioration program will be almost totally administered by the States.

I want to reiterate and strengthen the belief that I think the Members, not only of the committee but of the Senate, have, that this provision in the Clean Air Amendment of 1976 will not bring a halt to industrial and commercial activity in the United States. It will not prohibit the development of needed energy resources. It will not impose land use planning on communities. It will not result in high costs to individual citizens.

The members of the Committee on Public Works would never approve a measure—certainly, I would not approve it—that would impose intolerable conditions on the country in the name of either environmental protection or any other worthy cause.

The basic issue with which the amendment of Senator Moss is concerned is whether there will be a congressionally determined policy to protect clean air areas. The provisions of the committee bill state that there will be such a policy and establish the parameters for its implementation. There should be no question that we must protect those areas where air pollution is nonexistent or at a relatively low level. Such protection is far easier and less costly in the long run than trying to take corrective action after the air has been subjected to harmful emissions.

I repeat, there is a wide latitude in the bill presented to the Senate from the committee. There is adequate protection for the States. The basic authority to carry out the program is there because they know the problems and can better address local conditions.

Mr. President, I say with all respect to my colleagues from Utah that if his amendment is adopted in the Senate, I think we have begun to take a step backward in relationship to the quality of air which Americans desire very much to be as high as possible.

More than a year's work by the committee would be revoked but, more important, the nondeterioration regulations proposed by the Environmental Protection Agency will remain in force. These are the regulations to which strong objections were raised and they would, in fact, bring about many of the undesirable results that are wrongly attributed to the committee bill.

This is an important issue and it is one that must be directly addressed by the Congress. I repeat that the nondeterioration section of the bill is a reasonable and workable answer to a far-reaching and complex question. I urge that the amendment be defeated.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BROOKE. Mr. President, I hope that when future students of our history read that the debate over amending the Clean Air Act of 1970 began in Washington during a summer in which the air quality index was "hazardous" more often than not, they will find it mystifying, sad, and unfamiliar. If we can accelerate the impressive progress the Nation has made toward cleaning our atmosphere, perhaps they will. But, if we allow the remaining areas where the air is relatively pristine to deteriorate to the mediocre quality of present secondary standards, those generations may well look back on the decisions we make today with anger and regret.

I have deliberated long and hard over the method of preventing significant deterioration proposed by the committee. While I am convinced the goal is a proper one, I have definitely been concerned about the questions that have been raised about the economic and social implications of this kind of regulatory mechanism. In the end, I am voting against the 1-year delay because I do not think it will help us solve the fundamental problems this approach does present. On the other hand, I think these problems are less serious than the continuing deterioration of now-cleaner air. I believe they are capable of review and solution by the National Air Quality Commission which will learn from their implementation and propose whatever changes will be necessary to the Congress.

As I debated with myself over this issue, I viewed the arguments as falling into two categories. First, there were the economic arguments that growth in industry and employment would be cut back. I believe we already have enough data to rebut that. Of course, pollution control is never entirely cost free, but I think the costs of a nondegradation policy will be moderate and acceptable in light of the importance of the goal.

More important to me was the governmental or social argument that we are setting up a regulatory system that is overburdensome and which, even worse, may have unintended side effects like distortion of optimal urban growth patterns or misdirection of State planning resources. I admit that these questions have particular merit in this instance and that I do not think the bill answers them all. On the other hand, I see nothing in the Moss amendment which will provide answers to these questions in a year. Furthermore, I have considered alternative methods in my own mind, such as changing the secondary standards and relying on new, tougher minimums. But these, too, have their flaws and all would take a long time to enact and implement while clean air areas deteriorate. On the other hand, the Congress will certainly be receptive to recommendations by the new National Commission on Air Quality once it has reviewed these new provisions in action. Finally, if we delay, we are stuck with the EPA regulations recently promulgated. And I am convinced that Federal regulation is a good deal worse in most instances than State regulation.

Since feelings on this matter are so strong on both sides, I would like to review both kinds of arguments. For example the economic arguments raised in opposition have been several; such as:

First. The class II "intrusion factors" and class I locations will make it impossible to build the very large coal-fired powerplants that will be needed in the next 10 to 15 years.

Response: This is not true. Recently, FEA and EPA randomly selected and analyzed 74 projected coal-fired powerplants, including some as large as 3,000 megawatts. The FEA–EPA report concluded that none of the planned capacity of the 74 powerplants would be affected by the mandatory or mandatory and discretionary class I areas. The same analysis concluded that all of the planned new powerplants could be built and still meet the House class II or class III increments. This is particularly noteworthy because these 74 plants were planned without any consideration of conforming with the prevention of significant deterioration policy.

Second. Even if a single new large coal-fired powerplant could be built in an area, the policy would prohibit large coal-fired powerplants from being constructed in areas in which existing plants are located.

Response: This is not true either. The amount of new pollution increases allowable in any class II area is the same—with a single exception—regardless of whether that area has existing powerplants on date of enactment. This is because the allowable pollution increment is the amount of pollution increase allowed in addition to existing—"baseline"—levels. In fact, greater growth may be achieved in areas with high industrial concentrations, since any pollution reduction from existing sources would leave additional room inside the baseline for new sources to come in without using any of the increment.

Third. Even if new isolated powerplants could be built and expansions or additions to existing plants could be built, large new energy parks could not be built under the PSD provision.

Response: This also is not true. Assuming the new powerplants use best control technology which has been adequately demonstrated, taking into account cost, and assuming fairly flat terrain, up to 8,000 megawatts of new power generating capacity could be built without exceeding class II increments. By contrast, Potomac Electric Power's entire Washington, D.C. service area's historic peak power use was only 3623 megawatts.

Fourth. If other industry wanted to locate in the area of the energy park, this could not be allowed even in a class III area.

Response: This is not true, under the House bill, which is, I think, the better in this case, with fairly flat terrain, a class III area could add up to 16,000 megawatts of new capacity or could permit "colocation" of industrial sources and powerplants. This information is also contained in the EPA's study. The largest coal-fired powerplant in the United States is approximately one-fifth the above capacity.

Fifth. The FEA–EPA analysis which concludes that very large coal-fired powerplants could be built in hilly terrain is based in part on assumptions that tall stacks can be used. But the House bill prohibits tall stacks or stack increases.

Response: This is not true. The House bill allows credit for stack heights up to 2½ times the basic height of the structure. This means that the average new coal-fired powerplant could have stacks as tall as 500 feet.

Sixth. These studies all assume that new growth will be the only occasion for using up the increments. Not all this room for growth will be allowed, because as existing sources return to full capacity operation after overcoming the recession, they will use up much of the available increment.

Response: This is untrue. Again the House bill, unlike the Senate bill, defines the "baseline"—to which new pollution increases may be added—on the basis of total "design capacity" of existing sources, not actual emissions. I support the House version.

Seventh. But existing sources which are now burning oil or natural gas and which must convert to coal because of ESECA–FEA orders or natural gas curtailments will eat up some of the available increment.

Response: This is not necessarily true. It is within the discretion of the Governor of the State not to count these pollution increases from existing sources against the increment. This exclusion authority would last for a long enough time until the existing source could acquire necessary equipment or low sulfur fuels to abate the increase.

Eighth. Dust stirred up by construction equipment could cause the particulate increments to be exceeded. Therefore, this is a "no growth" bill.

Response: Again, the House bill expressly gives the Governor of the State authority to permanently exclude from consideration any pollution from construction or other temporary activities. This important provision should be included in the act.

Ninth. The available room for growth of new sources may not be so great because of natural background particulates.

Response: First, in those areas where natural particulate levels are so great as to cause the national ambient air quality standards to be exceeded in any area, then the significant deterioration provisions for particulates would not apply to that area. Second, natural background levels of pollution would be counted in the "baseline" under the House bill. Thus, allowable increments would be in addition to the baseline. Third, if the full increments could not be used because background particulates approach the level of the ambient standards, the Governor could exclude these background particulates from consideration. Again, I believe these are the provisions we should adopt.

Tenth. Even if large powerplants could be built in an area, they would have to be spaced 40 to 100 miles apart, because of the intrusion effects referred to under first, above.

Response: According to EPA studies of the House bill, a new 1,500-megawatt powerplant "A" using best technology could be located within 1 mile of another powerplant "B" without exceeding class II increments, even if powerplant "B" consumed 90 percent of the class II increment in its area. Under current regulations, in fact, the distance would be 28 miles.

Eleventh. Best technology and prevention of significant deterioration requirements will be extremely costly and the cost figures quoted by EPA are much too low.

Response: Analysis by a contractor for the Electric Utility Industry—National Economic Research Associates, NERA—and by EPA come to similar conclusions on the cost impact of these provisions; that is, the provisions of S. 3219 will have only a small cost impact. For example, by 1990, EPA estimates the bill will require an increase in total utility industry capital investment of 2.3 to 2.7 percent. The industry-NERA estimate is 1.4 to 2.2 percent. EPA estimates that because of these provisions the average residential electric bill will increase by only 1.9 to 2.3 percent by 1990. The industry-NERA estimate is 2.5 to 3.8 percent by 1990.

Twelfth. The best technology requirement for new powerplants will slow western low sulfur coal development and adversely affect railroads which would carry the coal.

Response. In fact, under the bill demand for low sulfur coal will be greater than under present EPA regulations. This has been recognized by the Electric Utility Industry consultants in the NERA study which concluded that under the House bill, by 1990, demand for western low sulfur coal will be 30 to 35 percent higher than if the bill were not enacted. The NERA study also concluded that enactment of this legislation will boost total coal demand 0.7 to 1.1 percent above what it would be without the bill.

Thirteenth. The only values of this policy are to health and environment. There are no economic benefits.

Response. This is not true. First the policy will create an incentive for development of new improved pollution control technology, including inherently clean processes. Second, these new technologies will enable more sources to locate in an area without using up the remaining air resources, thus making greater concentration of growth possible.

The social or political questions about the way we set up the regulatory system are important ones too. For example:

One. Some have said that this is a land use planning bill in disguise and that Federal land use controls based solely on the criterion of air quality will result.

This is not true. As a matter of fact, the bill assures the States will have sole jurisdiction over the air quality classifications of 100 percent of all non-Federal lands and 97 percent of all Federal lands. Since the committee bill allows the States to control air quality over all State and private lands, and even over nearly all Federal lands, it clearly is not "a Federal land use policy."

Moreover, the bill in question only regulates air quality and emissions, not land use. The States are free to use the land as they see fit for any purpose or, if they choose, to allow the land to be used on a first-come-first-serve basis, so long as the air quality and emissions requirements are met. This does not differ from existing laws.

In determining whether to allow major pollution increases or to restrict pollution growth, States are directed by the bill to prepare analyses not only of health and environmental impacts, but also of economic, energy, and social impacts. These analyses are to be available to the public, so that the hearings can be a forum for consideration of economic, energy, and environmental factors. Presumably the States already have planning policies dealing with several variables.

Two. Some say while the States could have final redesignation authority, EPA will have the final say over which sources may get permits to construct.

The States are responsible for deciding whether to issue permits to new sources. EPA will only be issuing permits if a State refuses to do so. No State permit may be disapproved if the procedures are followed and if the ceilings and increments set in the bill are observed. EPA will not be authorized to add new requirements or limitations by regulation.

The purposes of setting specific requirements in the bill are: to set clear minimum national requirements which will not be subject to legal challenge; to give the States the authority to implement in these measures; and to limit EPA's authority to add new requirements and to second guess the States.

There are some who fear the delays will keep growth rates low in the next few years.

Three. The extent of the "intrusion effect" for any new plant cannot be calculated with certainty. It must be calculated by models, which predict widely varying results. And environmental groups with their models may challenge planned new construction which would be allowed under other models.

The distances of 50 miles or more, discussed by some assumes a very large, coal-fired powerplant meeting only minimum emission limitation requirements and under worst case weather and pollution conditions. But the bill requires new industrial sources of pollution to use best available control equipment, thereby reducing the potential distance a huge coal-fired plant would have to be built from a national park or other class I area to as little as 6 miles or less.

The models actually used by EPA do not predict any drastic intrusion effects. Furthermore, at the request of various industry and labor groups, the House bill was amended to require EPA to hold an open conference on air quality modeling and to set a standardized model—or models for varying conditions—after going through stringent rulemaking procedures. Thus, any uncertainty over which model should be applied will be ended. This provision is in the House bill, and should be added to the Senate bill.

Fourth. Some feel the 1-year monitoring requirement for new sources will result in a growth moratorium.

This is not true. First, the monitoring provision only applies to "major sources" as defined in the bill, that is, 100 tons/year. Second, the monitoring may be for less than a year if the basic necessary information can be provided in less time. Third, it may be waived altogether if the data is already available. Fourth, monitoring would normally occur in the site selection process and so should not cause any halt in construction.

As I, like many of my colleagues, considered the alternatives, the one which most often was suggestive that national secondary standards protect against adverse health and welfare effects.

I have concluded this is not true. The Health and Environment Subcommittee has published a 40-page paper describing the ways in which even the national primary ambient air quality standards are inadequate to protect health—"Prevention of Significant Deterioration: An Ounce of Prevention," December 3, 1975. A summary of the limitations of the primary standards is as follows:

First. The margins of safety set to prevent the occurrence of known and anticipated health effects have turned out to be very modest or nonexistent.

Second. The national primary standards are based on the assumption that a no-effects threshold can be proved; in fact, this assumption of a safe threshold

appears to be false for many, if not all, of the pollutants.

Third. The national primary standards are not designed to protect against genetic mutations, birth defects, or cancer which may be associated with air pollution, although these risks may be reduced by reducing pollution to levels of the ambient standards.

Fourth. The national primary ambient standards are not designed to provide adequate protection against diseases which result from long-term chronic exposures or periodic short-term peak concentrations of pollutants.

Fifth. The national primary standards fail to protect against hazards to health resulting from cumulative or synergistic effects of multiple pollutants in the air.

Sixth. The national primary air quality standards do not protect against adverse effects which appear to be related to derivative pollutants which result in the atmosphere—such as sulfates and nitrates.

Despite the availability of this document for 4 months, no one has taken issue with its basic conclusions. Moreover, similar studies have shown adverse effects to crops and the environment at levels below the secondary standards.

And the national ambient standards do not protect visibility in areas such as the Grand Canyon or other national parks or national wilderness areas. At sulfur dioxide levels equivalent to the national secondary standard, visibility can be as little as 3 to 4 miles. If particulate pollution levels are simultaneously high, visibility may be reduced still further, without exceeding the secondary standards.

Of course, one answer has been that, if the national ambient air quality standards do not protect health and environment from all adverse effects, then the standards should be revised to provide such protection.

No safe threshold can be established for these pollutants, according to the National Academy of Sciences. Thus, in order to protect against all harmful effects it would be necessary to set a zero or background standard.

Obviously, this no-risk philosophy which ignores all economic and social consequences is impractical. This is particularly true in light of the legal requirement for mandatory attainment of the national primary standards within 3 years.

Others have suggested that unless conclusive proof of actual harm can be found based on the past occurrence of adverse effects, then the standards should remain unchanged and no pollution limits should be applicable to areas which are cleaner than the ambient standards. The second approach ignores the commonsense reality that "an ounce of prevention is worth a pound of cure."

What the committee bill does is to strike a proper balance between these two approaches. Since there is a reasonable basis for anticipation of tightening of the ambient standards, a policy of maximum practicable protection of health and welfare has been developed.

I think the best we can do is keep our clean air clean while we learn more.

Finally, what about Massachusetts? Our area is least affected by these provisions as it would nearly all be class II under the Senate bill, or class III if the House system is enacted. Only two or three areas in New England might be designated class I. Studies made by the State's department of environmental affairs confirm the findings of the EPA and the National Economic Research Associates. To put it simply, at worst it may not be possible to locate a coal-fired electric generating facility in southeastern Massachusetts until the technology of stack scrubbers improves significantly. But no such plant is currently planned. And I believe the time delays that might be involved if this were someday to become a possibility, can be justified by the need to keep our air from further deteriorating.

Thus, the important findings are that the bill allows for many growth options using best technology to control emissions. Indeed, we in the East may benefit by the fact that this may provide incentives to locate new growth in already industrialized regions rather than on new lands on the fringe of development.

All in all, I am persuaded that the committee policy with certain amendments which are contained in the House version, represents the best possible way to go to preserve our atmosphere while we develop more sophisticated tools.

Mr. President, I ask unanimous consent that part of the text of the summary of EPA's study of the economic impact of the Senate significant deterioration provision be printed in the RECORD following my remarks.

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

SUMMARY OF EPA ANALYSIS OF THE IMPACT OF THE SENATE SIGNIFICANT DETERIORATION PROPOSAL [1]

INTRODUCTION AND CONCLUSIONS

A. Introduction

A major purpose of the Clean Air Act of 1970 is "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." The Act is administered by the U. S. Environmental Protection Agency (EPA) and has been interpreted by the courts as barring the degradation of air in areas that are cleaner than the National Ambient Air Quality Standards.

The purpose of this paper is to summarize over 8 months of analyses that EPA and its consultants have conducted on the specific impacts of the Senate Bill on selected major industries, including electric utilities, kraft pulp and paper, refineries, synthetic fuel plants, and cooper smelters.

B. Conclusions

The principal conclusions of EPA's analyses are:

The Senate significant deterioration proposal will not prevent the construction of major, economically sized industrial facilities. Rather, some sources may have to employ different air pollution control strategies such as further control of sulfur dioxide emissions, relocation at an alternative site, construction of taller stacks or smaller plants, etc.

The Senate significant deterioration proposal allows for the collocation of major industrial sources. Specifically, the minimum required separation distance for economically sized facilities meeting Federal New Source Performance Standards (NSPS) or an equivalently defined control level is 0 to 40 miles for power plants, 0 to 12 miles for kraft pulp and paper mills, 0 to 3 miles for oil shale plants, 0 to 30 miles for gasification plants, 0 to 18 miles for refineries, and 5 to 16 miles for copper smelters. If control beyond NSPS is assumed, the separation distances are reduced to 0 to 31 miles for power plants, 0 to 8 miles for paper mills, 0 to 6 miles for gasification plants, and 0 to 10 miles for refineries.[2]

The Senate proposal gives the States maximum flexibility in determining how close major sources should be located to Federal land such as National Parks and Wilderness areas. If the location of the source would have an adverse impact on the air quality values of the Federal land areas, major industrial sources would have to comply with the Class I increments and locate the following distances away from Federal lands that have been classified as Class I: 5 to 60 miles for power plants, 3 to 28 miles for kraft pulp and paper mills, 3 to 8 miles for oil shale plants, 7 to 40 miles for gasification plants, 12 to 43 miles for refineries, and 13 to 31 miles for copper smelters.[3] However, if the location of the source would not adversely affect the air quality values of the federal land area, the source would not have to comply with the Class I increments and could locate closer than indicated by the previous estimates.

It is expected that the major economic impact of the Senate proposal will be on the electric utility industry. Specifically, the Senate proposal will increase the utility industry's capital requirements over the next fifteen years by a maximum of $11.5 billion which represents about a 3% increase in the industry's projected capital expenditure in the absence of significant deterioration. The Senate proposal will also increase average residential customers yearly expenditures in 1990 by a maximum of $28 per year. This is equivalent to an increase of slightly more than 2%.

The Senate proposal will probably require some other industrial facilities to employ different air pollution control strategies such as further control of sulfur dioxide emissions, relocation at an alternative site, construction of a taller stack or a smaller plant, etc. However, most of these sources would be able to comply with the Senate proposal by meeting Federal New Source Performance Standards and locating in areas of flat or moderate terrain.

In the post-1980 period, a Class III designation or a variance from the Class II increment is probably required in some urbanizing areas in order to prevent significant restrictions and/or altered development patterns by 1990. A similar designation would probably be required for large scale energy and industrial development at one location (i.e., energy or industrial parks) and for copper smelters and gasification plants located in very hilly terrain.

ESTIMATED SIZE OF MAJOR INDUSTRIAL FACILITIES THAT CAN BE CONSTRUCTED UNDER THE SENATE PROPOSAL

EPA and its consultants have conducted extensive modeling analyses in order to estimate the size and type of facilities that could be constructed at one site under the Senate proposal. The results of these analyses, which are summarized in Table 2 and briefly discussed below, indicate that the size of facility which can be constructed is very dependent

[1] S. 3219—Clean Air Act Amendments of 1976—(Section 110 g).

[2] The low estimate for each industry assumes flat or moderate terrain while the high estimate assumes hilly terrain.

[3] The low estimate for each industry assumes control beyond NSPS and flat or moderate terrain. The high estimate assumes control equal to NSPS and hilly terrain.

on assumptions concerning surrounding terrain, stack height, pollution control technology and worst case meteorological conditions. The results presented in Table 2 represent EPA's best estimate of the maximum size facilities which could be built at one site under the Senate proposal. However, in order to obtain site specific estimates for actual facilities, a case-by-case analysis would be required. Such a review may give results slightly higher or lower than indicated in Table 2.

1. Coal-Fired Power Plants—

Between an 1100 to greater than 4000 mw coal-fired power plant meeting New Source Performance Standards (NSPS) could be built in areas of flat or moderate terrain (i.e., where the surrounding terrain is below the top of the stack). If the source controlled beyond NSPS, a 1250 to greater than 5000 mw plant could be built in flat or moderate terrain. EPA's analyses also show that terrain has an important impact on the size power plant that can be built. Specifically, in areas of hilly terrain (i.e., where the surrounding terrain is considerably above the top of the stack—3.5 to 5% slope) only a 450 mw plant meeting NSPS could be built. However, if the plant controlled beyond NSPS, a 1100 mw plant could be built in the East and greater than a 4000 mw plant in the West.

2. Petroleum Refineries—

EPA's analyses show that refineries in flat or moderate terrain will not be constrained by the Senate Class II increment. Assuming compliance with NSPS, one 300,000 bbl/d fuel oil refinery and two 300,000 bbl/d gasoline refineries could be built at one site. If control beyond NSPS is assumed (i.e., .3% oil), two 300,000 bbl/d fuel oil refineries and three 300,000 bbl/d gasoline refineries could be built at one site.[4] In areas of hilly terrain, fuel oil refineries meeting NSPS may have to reduce capacity to 100,000 bbl/d (a typical refinery expansion). Gasoline refineries may have to reduce capacity to 200,000 bbl/d (slightly smaller than a typical new refinery). However, if control beyond NSPS is assumed, even in areas of hilly terrain, typical size new gasoline and fuel oil refineries could be built.

3. Synethic Fuel Plants—

EPA's analyses show that in areas of flat or moderate terrain typical size oil shale (50,000 bbl/d) and gasification plants (250 mmscf/d) would not be constrained by the Senate Class II increment. In fact, it would be possible to put several oil shale and gasification plants at one site without violating the Senate Class II increments for sulfur dioxide.[4] However, in areas of hilly terrain only an oil shale plant of 68,000 bbl/d can be built. This is slightly larger than the proposed typical size plant. The comparable limitation for a gasification plant meeting NSPS (where applicable) in areas of hilly terrain is 100 mmscf/d. However, if control beyond NSPS is assumed, a 330 mmscf/d gasification plant could be built in hilly terrain. If the constraining terrain feature is closer than 6 miles, a Class III designation may be required to site a 250 mmscf/d gasification plant. However, use of taller stacks or the selection of a nearby site with less hilly terrain could be feasible alternatives.

4. Kraft Pulp and Paper Mills—

EPA's analyses show that at least two 1000 ton per day kraft pulp and paper mills meeting NSPS with on-site coal-fired generation could be constructed in areas of flat or moderate terrain. Since most kraft mills burn fuels with much lower sulfur content than coal, this analysis is extremely conservative. In areas of hilly terrain a kraft mill capacity of about a 600 tons per day mill could be built if the plant just met NSPS. However, if control beyond NSPS is assumed, the allowable size mill in areas of hilly terrain could increase to 1000 tons per day in the East and to over 3000 tons per day in the West. Unbleached mills have much lower emissions and would be significantly less restricted. In view of the fact that the typical size for new paper mills is about 1000 tons per day and 400 tons per day for expansions at existing sites, it can be concluded that the Senate proposal will not prevent the construction of economically efficient draft pulp and paper mills.

5. Copper Smelters—

EPA's analyses show that at least a 1500 ton per day copper smelter meeting NSPS could be constructed in areas of flat or moderate terrain. In areas of hilly terrain about a 1000 ton per day facility could be built. If the constraining terrain feature is closer than 4 miles, a Class III designation may be required. However, use of a taller stack or selection of a nearby site with less hilly terrain could also be feasible alternatives.

ECONOMIC IMPACT OF SENATE PROPOSAL

The data presented in Tables 2, 3 and 4 show that the Senate significant deterioration proposal will not prevent the construction of major industrial facilities. However, the Senate proposal may require some facilities to employ different air pollution control measures such as further control of sulfur dioxide emissions, construction of taller stacks or smaller plants, relocation at alternative sites with more favorable terrain conditions, etc. While the use of such control strategies will impose additional costs on consumers, these additional expenditures must be balanced against the benefit that would result from preventing the degradation of air quality up to the National Ambient Air Quality Standards.

It is expected that the major economic impact of the Senate proposal will be on the electric utility industry. The results of EPA's study[5] are summarized in Table 5.

TABLE 5.—ECONOMIC IMPACT ON THE ELECTRIC UTILITY INDUSTRY OF SENATE SIGNIFICANT DETERIORATION PROPOSAL

	Capital expenditures 1975–90 (billions)	Household expenditures [1] on electricity in 1990 (per year)
Baseline in the absence of significant deterioration	$435	$1,200
Impact of Senate proposal	[2] $2.4–$11.5	$3–$28
Percent increase due to Senate proposal	[2] 0.5–2.6	0.3–2.3

[1] Household expenditures on electricity include the direct expenditures for monthly electricity bills and indirect expenditures to producers of other goods and services in order to pay the cost of the electricity used to produce these goods and services.

[2] The low end of the range assumes that BACT is defined by the States to be NSPS or SIP's where more stringent. The high end of the range assumes that BACT is defined to be low sulfur coal plus scrubbers in the West and medium sulfur coal plus scrubbers in the rest of the country.

As indicated in the above table, the Senate proposal would increase the industry's capital requirements over the next ten years by a maximum of $11.5 billion. This represents a maximum increase of 2.6% in the industry's projected capital expenditures of $435 billion in the absence of significant deterioration. In order to finance the required expenditures, average expenditures per household in 1990 would increase by a maximum of $28 per year. This is equivalent to an increase of about 2.3%.

With regard to other major industrial facilities, Tables 2, 3, and 4 support the conclusion that most facilities will not have to employ different air pollution control strategies. Rather, most of these facilities would be able to comply with the Senate significant deterioration requirements simply by complying with the current requirements of the Clean Air Act (i.e., New Source Performance Standards). However, a few of these facilities may have to relocate to areas of flat or moderate terrain, control beyond NSPS, build a taller stack or smaller plants, etc.

TABLE 1.—SERVICES COVERED BY EPA'S AND U.S. SENATE'S SIGNIFICANT DETERIORATION REGULATIONS

Type of source, EPA regulations, and Senate bill: [1]

1. (a) Fossil-fuel fired steam electric plants of more than 1,000 million BTU per hour input, covered, covered.

(b) Fossil-fuel steam electric plants of more than 250 million BTU per hour input but less than 1,000 million BTU per hour input, not covered, covered.

2. Coal cleaning plants (i.e., thermal dryers), covered, covered.

3. Kraft pulp mills (i.e., recovery furnaces), covered, covered.

4. Portland cement plants, covered, covered.

5. Primary zinc smelters, covered, covered.

6. Iron and steel mills (i.e., metallurgical furnaces), covered, covered.

7. Primary aluminum ore reduction plants, covered, covered.

8. Primary copper smelters, covered, covered.

9. Municipal incinerators capable of burning more than 250 tons of refuse per day, covered, covered.

10. Sulfuric acid plants, covered, covered.

11. Petroleum refineries, covered, covered.

12. Lime plants, covered, covered.

13. Phosphate rock processing plants, covered, covered.

14. By-product coke oven batteries, covered, covered.

15. Sulfur recovery plants, covered, covered.

16. Carbon black plants (i.e., furnace process), covered, covered.

17. Primary lead smelters, covered, covered.

18. Fuel conversion plants, covered, covered.

19. (a) Ferroalloy production facilities, covered, not covered.

(b) Secondary metal production facilities, not covered, covered.

20. Hydrofuric acid plants, not covered, covered.

21. Nitric acid plants, not covered, covered.

22. Sintering plants, not covered, covered.

23. Chemical process plants, not covered, covered.

24. Petroleum storage and transportation for facilities with a capacity exceeding 300,000 barrels, not covered, covered.

25. Taconite ore processing facilities, not covered, covered.

26. Glass fiber processing facilities, not covered, covered.

27. Charcoal production facilities, not covered, covered.

28. Fossil-fuel boilers of more than 250 million BTU per hour input, not covered,[2] covered.

[1] The 29 source categories specified under the Senate Bill must meet the criteria of having the potential to emit more than 100 tons per year. If one of the specified sources does not meet the criteria, it is not regulated under Section 110 g.

[2] Although not covered as a separate source category under EPA regulations, many such facilities would be included as part of the other source categories specified.

[4] It should be noted that the National Ambient Air Quality Standards for oxidants may prevent the construction of more than one refinery, oil shale, or gasification plant at one site.

[5] EPA, *A Preliminary Analysis of the Economic Impact on the Electric Utility Industry of Alternative Approaches to Significent Deterioration*, February 5, 1976.

TABLE 2.—ESTIMATED SIZE OF MAJOR INDUSTRIAL FACILITIES THAT CAN BE BUILT AT 1 SITE UNDER THE SENATE CLASS II INCREMENT

Type of facility	BACT=NSPS [1]		BACT=Control beyond NSPS [2]	
	Flat or moderate terrain [3]	Hilly terrain [4]	Flat or moderate terrain [3]	Hilly terrain [4]
Coal-fired powerplants [5]	1,100–4,000+ MW	450 MW	1,250–5,000+ MW	1,100–4,000+ MW.
Kraft pulp and paper mills (with onsite generation) [5]	2,000+ TPD	600 TPD	3,600–5,000+ TPD	1,000–3,900 TPD.
Gasoline refinery	Two 300,000 BPD plants	200,000 BPD	Two 300,000 BPD plants	300,000 BPD.
Fuel oil refinery	300,000 BPD	100,000 BPD	Three 300,000 BPD plants	245,000, BPD.
Oil shale plant	Six 50,000 BPD plants	68,000 BPD	Not applicable	Not applicable.
Gasification plant	Four 250 MMSCF/D plants	100 MMSCF/D	Eight 250 MMSCF/D plants	330 MMSCF/D.
Copper smelter	1,500+TPD	1,000 TPD	Not applicable	Not applicable.

TABLE 3.—REQUIRED SEPARATION DISTANCES FOR MAJOR INDUSTRIAL FACILITIES UNDER THE SENATE CLASS II INCREMENTS

Type of facility	BACT=NSPS [1]		BACT=Control beyond NSPS [2]	
	Flat or moderate terrain [3]	Hilly terrain [4]	Flat or moderate terrain [3]	Hilly terrain [4]
Coal-fired power plant (1,000 MW) [5]	0–28 miles	40 miles	0 mile	12–31 miles.
Kraft pulp and paper mills (with coal-fired onsite generation) (1,000 TPD) [5]	0 mile	12 miles	do	3–8 miles.
Gasoline refinery (300,000 BPD)	do	3 miles	do	2 miles.
Fuel oil refinery (300,000 BPD)	2 miles	18 miles	do	10 miles.
Oil shale plant (50,000 BPD)	0 mile	3 miles	Not applicable	Not applicable.
Gasification plant (250 MMSCF/D)	do	30 miles	0 mile	6 miles.
Copper smelter (1,500 TPD)	5–13 miles	16 miles	Not applicable	Not applicable.

TABLE 4.—REQUIRED DISTANCE FROM MAJOR INDUSTRIAL FACILITIES FROM CLASS I AREAS

Type of facility	BACT=NSPS [1]		BACT=Control beyond NSPS [2]	
	Flat or moderate terrain [3]	Hilly terrain [4]	Flat or moderate terrain [3]	Hilly terrain [4]
Coal-fired power plants (1,000 MW) [5]	60 miles	60 miles	5–20 miles	25–42 miles.
Kraft pulp and paper mills (with onsite generation) (1,000 TDP) [5]	10–20 miles	28 miles	3–14 miles	7–16 miles.
Gasoline refinery (300,000 BPD)	20 miles	37 miles	14 miles	26 miles.
Fuel oil refinery (300,000 BPD)	23 miles	43 miles	12 miles	22 miles.
Oil shale plant (50,000 BPD)	3 miles	8 miles	Not applicable	Not applicable.
Gasification plant (250 MMSCF/D)	19 miles	40 miles	7 miles	33 miles.
Copper smelter (1,500 TPD)	13–28 miles	31 miles	Not applicable	Not applicable.

FOOTNOTES TO TABLES 2 TO 4

[1] Best available control technology (BACT)—NSPS assumed the following emission rates. (Note: The letter (A) indicates that no NSPS exists and that a practicable fuel-sulfur content was assumed.)

Coal-Fired Power Plant.—1.2 lbs/million Btu.

Kraft Pulp & Paper Mills (with on site coal-fired power generation).—1.2 lbs/million Btu.

Gasoline Refinery (A).—0.75% sulfur content (by weight).

Fuel Oil Refinery (A).—0.75% sulfur content (by weight).

Oil Shale Plant (A).—Emissions from Colony EIS include controls on major emission sources.

Gasification Plant (A).—1.2 lbs/million Btu. on the steam plant. Emissions from gasification process are derived from individual EIS's.

Copper Smelter.—Stack emissions of 6.4 lbs/ton of concentrate plus 1% of input sulfur (captured fugitive emissions). Uncaptured fugitive emissions equal to 0.5% of input sulfur.

[2] BACT—Control Beyond NSPS was assumed to be equivalent to the following emission rates. (Note: The range indicates the use of different grade coals—FGD on medium-sulfur coal in the East and FGD on low-sulfur coal in the West.)

Coal-Fired Power Plant.—0.12–0.46 lbs/million Btu.

Kraft Pulp & Paper Mills (with on site coal-fired power generation).—0.12–0.46 lbs/million Btu.

Gasoline Refinery.—0.3% sulfur content.

Fuel Oil Refinery.—0.3 sulfur content.

Oil Shale Plant.—Not applicable.

Gasification Plant.—0.2 lbs/million Btu on steam plant only; 99% control of TSP.

Copper Smelter.—Not applicable.

[3] Flat or moderate terrain asumes that the surrounding terrain is below the top of the stack. When a range is given, the more restrictive figure corresponds to terrain at or near the stack top and the less restrictive figure corresponds to terrain at or near the plant elevation (generally equivalent to a 0 to 1 percent slope).

[4] Hilly terrain assumes the direct impaction of the plume on terrain significantly higher than the top of the stack. For Table 2, this was equivalent to a terrain slope of 3.5 to 5 percent. For table 3, the distance to the constraining terrain feature for two facilities varies from industry-to-industry due to different stack heights and emission rates. EPA's analysis indicates that the constraining terrain feature when collocating two typical facilities is within the range of 3 to 20 miles. Table 4, indicates the distance from the typical facility to the point of impaction in an assumed Class I area.

[5] The range of numbers indicated under BACT = Control Beyond NSPS correspond to the use of coals with different sulfur content. The more restrictive member corresponds to the use of medium or washed sulfur coal from the Mid-West with flue gas desulfurization (FGD) plus the most constraining terrain condition (see footnotes 3 and 4), the less restrictive figure corresponds to eastern or western low sulfur coal with FDG plus the less constraining terrain condition.

APPENDIX—DESCRIPTION OF TYPICAL FACILITIES

Description, typical size, and stack height:

Coal-fired power plants, 1,000MW, 500 feet-1,000 feet.

Kraft pulp and paper mills with on-site coal-fired generation, 1,000 TPD, 100 feet-300 feet.

New gasoline and fuel oil refineries, 300,000 BPD, multiple source highest stack 200 feet.

Refinery expansions 100,000 BPD, multiple source highest stack 200 feet.

Oil shale, 50,000 BPD, multiple source highest stack 312 feet.

Gasification, 250 MMSCF/D, multiple source highest stack 300 feet.

Copper smelters, 1,500 TPD, 500 feet-1,000 feet.

Mr. BUCKLEY. Mr. President, as my colleagues know by now, the Circuit Court of Appeals for the District of Columbia yesterday affirmed the existing Environmental Protection Agency regulations to prevent significant deterioration of air quality.

I shall not take the time of the Senate to quote the clear and strong views of the court. But I would like to make two points, as they relate to the decision:

The court found the philosophy of preventing significant deterioration a reasonable and necessary one. And the court, by making this decision, underlined for the Senate the existence of the present regulations.

Thus, as the Senate confronts a decision on the Moss amendment, we have a choice: Do we want the country to be subject to bureaucratic regulations and EPA source review, or do we want to replace that with a carefully defined and reasonable statutory policy. The latter, I believe, is wise public policy. I, therefore, urge the Senate to defeat the Moss amendment.

Mr. EAGLETON. Mr. President, ever since it was introduced 4 months ago, the Moss amendment to delete the nondeterioration provision of S. 3219 has been the subject of intensive debate and lobbying. Serious questions have been raised about the economic and energy impact of such a program and, frankly, I do not believe those questions have been fully answered.

Clearly, we cannot afford to pursue one objective, no matter how worthy, without concern for competing values. And, I think we have to recognize that, increasingly, our environmental programs collide with economic and energy goals. How serious that impact will be and what mitigating steps might have to be taken are matters that will require continuing attention.

I am not persuaded, however, that the existence of unanswered questions should be the basis for abandoning a key program in our effort to provide a healthy environment. It is not enough that we clean up the air after it has been polluted to dangerous levels. I think we must take reasonable preventative measures, as well.

I have no doubt that was the intent of Congress in 1967 and 1970 when it established the broad public policy of protecting and enhancing the quality of our air, and the courts have so ruled. Unfortunately, Congress did not provide specific guidelines for a nondegradation program, and the Environmental Protection Agency, acting under court order, has been left with enormous, unrestrained discretion to write its own program.

That situation led in 1973 to demands by industry and the administration for congressional action exemplified by the following statement by Carl Bagge, representing the National Coal Association at a July 1973 Senate hearing:

> This is far too significant an issue to be determined by the judiciary. Its economic and social implications are so broad that it cannot and should not be determined by an independent regulatory agency in a rule-making proceeding as has been proposed. This is an issue which can only be resolved . . . by the Congress of the United States.

The Senate Public Works Committee responded to these entreaties by adopting guidelines for a nondegradation program. Those guidelines shift primary responsibility for administering the standards to the States and they substantially reduce the number of areas which automatically would be designated class I.

The Moss amendment proposes to delete those guidelines from the bill and to withhold any congressional action until after completion of an economic and energy impact study. Significantly, however, Senator Moss does not propose to eliminate the court-ordered EPA program which would continue while the study proceeds and I understand he will oppose any effort to do that.

For all practical purposes, then, the choice is whether to allow EPA and the Federal courts to formulate a nondegradation program through regulations or to replace them with carefully considered congressional guidelines which reserve a preeminent role for the States. It was the view of all members of the Public Works Committee—majority and minority members alike—that Congress had to act.

While I am persuaded that there is a need for better understanding of the full implications of the nondegradation program and of the validity of the standards established by the act, I believe that some program is needed and that the Senate committee's approach is superior to that of EPA. For that reason, I support the committee position against the Moss amendment. I will also vote for the proposal for a careful study of these questions, and I am prepared to support any changes in the act which that study indicates are necessary.

Mr. FANNIN. Mr. President, during earlier debate, the distinguished Senator from Idaho and I engaged in discussion on the sovereignty of State permits. Because we did not reach agreement, I would like to ask my colleague further questions. If the permit applicant meets the class I increments, but a Federal land manager is not satisfied, who makes the final permit decision?

Mr. McCLURE. The State makes the final permit decision. Both the committee bill and the report attest to that. There is language in the report, however, which might be used to argue otherwise. I refer to the phrase, "and certify to that effect before the State may issue a permit." This language, however, must be viewed in context with the actual bill language, "to the satisfaction of the State.". Furthermore, the floor manager, Senator MUSKIE, stated explicitly on the floor that, "The State makes the decision as to whether or not he is right," in referring to the FLM decision. As Senator MUSKIE said:

> The State has the option under this bill to decide that he is wrong and to proceed with its decision.

Mr. FANNIN. If the permit applicant does not meet the class I increment, but the State feels there would be no adverse impact on the air-quality related values, may the State grant a permit over a Federal land manager's objection?

Mr. McCLURE. Yes, the State may grant a permit over the FLM objection. Again referring to the floor manager's statement—

> The Federal Land manager has the responsibility to protect his area's clean air values.

If he feels that it is necessary for him to intervene, then he is obligated to do so. But, the final decision still rests with the State.

Mr. NUNN. Will the Senator yield?

Mr. MUSKIE. I am delighted to yield to the Senator from Georgia for a question.

Mr. NUNN. I thank the Senator. Is it not true that, at the present time, EPA has regulations which implement a nondeterioration program?

Mr. MUSKIE. Yes, that is correct.

Mr. NUNN. Is it not also true that if section 6 of the pending bill is struck, these EPA nondeterioration regulations will remain?

Mr. MUSKIE. That would be the situation.

Mr. NUNN. Is it not true that the allowable air quality increments for class I and class II are the same under EPA regulations and under the Senate proposal?

Mr. MUSKIE. Yes.

Mr. NUNN. Furthermore, is it not true that under EPA regulations, any redesignations from the present class II to the stricter class I or the more lenient class III are subject to Federal approval and control?

Mr. MUSKIE. The Senator from Georgia is again correct.

Mr. NUNN. Is it not also true that under the pending bill, such reclassification is left to the discretion of the individual States?

Mr. MUSKIE. That would be the effect of the committee's bill.

Mr. NUNN. It is also my understanding that under EPA regulations, industry may not build in or near a class I area if it cannot meet the class I incremental scheme?

Mr. MUSKIE. Yes, the Senator understands correctly.

Mr. NUNN. Is it not true that under the pending bill, an industry may build near class I area, even if the increments are exceeded, if the State is convinced that this will not impair the air-quality values in the class I area?

Mr. MUSKIE. That is also true.

Mr. NUNN. Mr. President, it would then appear to the Senator from Georgia, that, since the incremental standards are the same under both the Senate bill and the EPA regulations, the major difference involves the individual State's ability to better control the decisions involving a balance between clean air and necessary industrial growth. If section 6 is struck, as the Moss amendment would do, we would be left with the EPA regulations which do not allow this increased State participation. I thank the distinguished Senator from Maine.

Mr. TAFT. Mr. President, I have long believed in a commitment to cleaner air in our environment. I believe that we can proceed with a policy of no major significant deterioration and still continue to progress and grow as a Nation. I believe the bill without the Moss amendment will do this. This policy must be implemented by the States in such a way so as not to prevent growth or to cause economic depression, and I believe this can be accomplished. That is why I support the committee bill, S. 3219, over the Moss amendment, and the EPA regulations.

The Moss amendment would delete section 6 of the bill, the significant deterioration section, in favor of leaving standing the EPA regulations which were promulgated as a result of the court decision in Sierra Club against Ruckelshaus, and which were affirmed by the U.S. Court of Appeals for the District yesterday. Industrial groups, environmentalists, and the executive branch have asked that the Congress legislate the issue of nondegradation, rather than leave it to the regulations to define. After many studies and many markup sessions, the Senate Public Works Committee has written a bill which sets general standards and gives responsibilities for protecting air quality to the States, instead of letting the Federal Government dictate how our land will be used. Under the bill's provisions, National parks and wilderness areas of over 5,000 acres would be protected from the deterioration of their air quality. This is as it should be. The EPA regulations would permit the Federal land manager to designate any Federal area as a class I area.

We all realize that "clean air" areas

are becoming harder to find, just when many Americans are seeking more of these areas closer to their hometowns and cities. The quality of life is too important for us to allow our clean air areas to become dirty. We have spent too much time, effort, and money cleaning up the areas which already have dirty air, and now we are asking whether we should allow the few areas which are considered clean to become dirty. It is a ridiculous question.

The significant deterioration test in the bill affects only new, major industrial sources. It does not preclude construction of major facilities in areas adjacent to class I areas. If a proposed source would exceed the class I pollution increments, it may still be built if the source can show that its emissions will not damage the air quality values of the park or wilderness area. This determination would be made on a case-by-case basis. Under this bill, businesses will know the rules by which they can construct new plants, rather than relying on regulations tied up in the courts indefinitely.

The Senate has defeated the Scott amendment, which would have struck down the policy of nondegradation both in the EPA regulations and in section 6 of S. 3219. Therefore, the Senate now must choose between the nondegradation policy in the regulations or in the bill. The bill provides flexibility for the States to determine where major facilities should be built.

The committee bill sets up the National Commission on Air Quality to study and report to the Congress within 3 years on the adequacy of the clean air programs. I believe this continuing review of the program, to assure that appropriate "midcourse corrections" can be made if necessary, is important. Senator RANDOLPH has an amendment to mandate this study within 2 years, and I expect to support that amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Keep Clean Air Clean," published in the Cleveland Plain Dealer on June 2, 1976.

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

[From the Plain Dealer, June 29, 1976]

KEEP CLEAN AIR CLEAN

Any day now, a bill to amend the Clean Air Act of 1970 will come up for a vote in the U.S. Senate. An important provision for relaxing pollution emission deadlines appears pretty much a compromise: In the environmentalist view, it goes too far; in the view of the Ford administration and industry, it does not go far enough.

Another important provision remains highly controversial. This section, written by the Senate Public Works Committee, is intended to maintain air purity in areas of the country which have cleaner air than required by the 1970 standards—in other words, to establish a policy of "nondegradation" for air quality in these areas.

This feature would protect national parks and wilderness areas. Also, it aims to assure that new growth within the nation be as clean as possible, and that air will not become equally dirty throughout the country.

These are reasonable goals. They do not, as many opponents allege, seek to stifle industrial and economic progress and impose new federal land-use rules. The "nondegradation" proposal would have states, not the federal government, determine in which of two classifications clean-air areas belong, except that national parks and wilderness areas would automatically go into Class I where the most strict standards would apply. Industries would have to be located far enough away to avoid contamination of the park and wilderness properties.

Sen. Frank Moss, whose home state of Utah has vast energy resources located near national parks, opposes this. He has introduced an amendment to delay nondegradation, pending an impact study. In effect, this would kill the best effort yet to keep clean air clean.

The United States has made significant strides toward air quality improvement. It would make no sense now to let this progress be offset by allowing clean air regions to become dirty. Especially is this true in the case of national parks and wilderness areas which are among the all too few places where Americans can go to find wildlife in natural habitat, see clear, clean skies and draw full breaths of pure, fresh air.

Senators should be so reminded and vote for nondegradation and the health and welfare of their fellowman.

The PRESIDING OFFICER. Time has expired. The question is on agreeing to the amendment.

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

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

The question is on agreeing to the Moss amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend until we have order in the Chamber. Senators have a right to hear their names called.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. LONG (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from California (Mr. TUNNEY). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is necessarily absent.

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

The result was announced—yeas 31, nays 63, as follows:

[Rollcall Vote No. 455 Leg.]

YEAS—31

Allen	Ford	Metcalf
Bartlett	Garn	Moss
Bentsen	Goldwater	Schweiker
Brock	Griffin	Sparkman
Byrd, Harry F., Jr.	Helms	Stennis
Byrd, Robert C.	Hollings	Stone
Cannon	Hruska	Talmadge
Dole	Huddleston	Thurmond
Eastland	Johnston	Tower
Fannin	Laxalt	Young
	McClellan	

NAYS—63

Abourezk	Hansen	Nelson
Baker	Hart, Gary	Nunn
Bayh	Hart, Philip A.	Packwood
Beall	Hartke	Pastore
Bellmon	Haskell	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Percy
Buckley	Humphrey	Proxmire
Bumpers	Jackson	Randolph
Burdick	Javits	Ribicoff
Case	Kennedy	Roth
Chiles	Leahy	Scott, Hugh
Church	Magnuson	Scott, William L.
Clark	Mansfield	Stafford
Cranston	Mathias	Stevens
Culver	McClure	Stevenson
Domenici	McGee	Taft
Durkin	McIntyre	Weicker
Eagleton	Mondale	Williams
Fong	Montoya	
Glenn	Morgan	
Gravel	Muskie	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, for.

NOT VOTING—5

Curtis	McGovern	Tunney
Inouye	Symington	

So Mr. MOSS' amendment was rejected.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED ON S. 3219

Mr. BUMPERS. Mr. President, this week the Senate will be considering the 1976 Amendments to the Clean Air Act. I would like to comment briefly on what is likely to be the most strongly debated section of those amendments, namely section 6, the nondeterioration provision. Many have spoken on this issue during the past several months.

In particular, I would refer Members to the excellent technical statements in support of the nondeterioration provision by Senators MUSKIE and BUCKLEY of the Public Works Committee. There is little that I can add to their excellent refutation of the arguments advanced by some that this provision is a prescription for "no-growth."

I would, however, like to bring to your attention some additional information, and reasons why I feel the maintenance of clean air regions in this country to be essential.

Last fall, the Honorable George Brown of California held a most sophisticated and impressive set of hearings on the effects of chronic low level pollutants in the atmosphere. The hearing record ran to some 1,500 pages, and came to some important and surprising conclusions. The most significant and disturbing findings were in the area of low level air pollutant damage to our agriculture and forests. Let me quote directly from the summary of the report—page 1022:

The agriculture and forestry groups agreed that large-scale damage to productivity is occurring at *pollutant concentrations much below ambient standards or commonly observed ambient levels*. Moreover, damage is widespread and often not related to proximity to sources of pollutant emissions." (Emphasis added.)

This conclusion is consistent with recent findings of decreased timber production in the Northeastern States and

in the Scandinavian countries. In both these regions the decline in timber productivity is highly correlated with the introduction of high sulfur fuels, and the increasingly acid rainfall which appears to be a consequence of their use. The Society of American Foresters make an especially pertinent comment on this matter when they state:

There is legitimate concern that limits of ambient pollution in local areas leads toward "tall stack" solutions that only tend to distribute the problems of chronic pollution and acidic precipitation over ever widening zones. . . . And there is need to avoid mere cosmetic emission control of particulates, at the expense of creating more invisibles that create chronic air pollution and acid rain.

Mr. President, only this morning I returned from my home State of Arkansas, a State which I am pleased to say, still contains many large regions whose air quality would be protected by the nondeterioration provisions of this act. While I was home, there was much discussion about the impact the nondeterioration provision will have on our industry. I came away convinced that the class II regions permit more than adequate industrial growth for Arkansas.

More to the point is the fact that the nondeterioration provision is critical to the economic well-being of my State. The top three revenue producers in Arkansas are forestry-agriculture, tourism, and industrial-manufacturing. I have already spoken to the adverse impact of chronic low level air pollutants on forestry and agriculture. Tourism in Arkansas is also highly dependent upon our abundant clean air and water resources, as is our growing housing industry. Both younger people and the retired are flocking to Arkansas to escape more developed, environmentally degraded regions of the country.

The point may legitimately be raised that if Arkansas is so anxious to have clean air, why do we not just go ahead and promulgate nondeterioration provisions for yourselves, and leave the rest of you alone. The best answer which I can provide to this challenge is that prepared by the 16 States that filed a brief as amici curiae in the Supreme Court case Ruckelshaus against Sierra Club in support of the nondeterioration principle.

The Administration promulgated the criteria for protection of existing high quality air as a requirement of the ambient air quality standards in 40 U.S.C. 50.2(c) (Supp. 1972), which provides that air of higher quality than the ambient air quality standards shall be protected from significant deterioration. This requirement of no significant deterioration is essential to the promotion of both the public health and welfare and the productive capacity of the population.

The protection of air resources requires a uniform national requirement of no significant deterioration. Such a requirement protects the air quality in rural areas from being polluted down to the minimum quality level of the standards. It protects the traditional economic base of these areas from the destructive effects of pollution levels at or near the standards. It prevents these areas from attempting to attract industry by enacting lenient emission control requirements that encourage pollution to the minimum quality levels of the standards. It also protects those states that have developed no significant deterioration criteria from the pollution of their neighboring states.

The Administrator's failure to require that state implementation plans protect clean air from significant deterioration frustrates and defeats the purpose of the Act. It results in clean air areas of the country being placed in the position of competing for industrial development by lenient emission control requirements that encourage pollution to the level of the standards. It threatens the economic security of clean air areas that are dependent upon industries that depend on the high quality air resources. It threatens the economic security of the industrial centers of the nation by making it difficult for them to compete for new industry and to develop stringent regulations to clean up their existing industry. It frustrates the efforts of states to protect their own resources from significant deterioration.

In other words, Arkansas and other clean air States need to have their air protected from emissions originating in other States, and, second, we need to avoid the destructive practice of trying to lure industry from one State or one region to another by permitting some States to promise less stringent air quality standards.

Now, I am aware that the proposed nondeterioration standards will mean that greater attention will have to be given to siting of new emitting facilities. There will unquestionably be some increase in the cost of electricity and manufactured goods. By the same token there will be jobs and investment opportunities created to meet the task of meeting these stricter standards.

I might add also that it is usually a good deal less expensive to prevent this pollution and the damage it can cause, than it is to clean up after a power plant or factory has been built.

Finally, I recognize that we need to burn more coal for electrical power generation, and the costs of stricter controls required under section 6 will fall heavily on this particular source. In fact, for those of us concerned about nuclear power, this provision may shift the balance a bit more in favor of that source economically. All of these problems are, in my view, worth the price we must pay to maintain the quality of our air in clean air States like Arkansas.

There are those who claim that we need more time to determine the consequences of enacting the nondeterioration provision. Others state that we need to be more certain of the "proof of effect" before we enact this legislation. Finally, others argue that after all, nature pollutes some clean air areas so why should not we let people pollute these areas as well?

I think we are courting disaster if we follow any of this counsel. These points are well addressed by the House report to which I referred earlier.

In some cases totally verifiable cause-and-effect evidence for harm due to chronic pollution may be impossible to obtain; even though the potential danger is very great. In these cases, several groups recommended that standard setting be based on probability of risk, rather than 'proof-of-effect.' The American Medical Association, citing the difficulties in obtaining epidemiological evidence and the long time span required, stressed that, 'Ideally, the basis of standards should move from proven effects to probabilities of risk. To do this, the nation will have to improve its capabilities to evaluate the probability of risk.' Similarly, in the field of forestry, 'There is concern in the forestry community that a shift toward "proof-of-effect assessments" as a basis for emission control is short-sighted and could be disastrous to forest ecosystems where we cannot make adequate estimates of pollution impacts and where the effects might not become evident until long after emissions have begun.' "

Finally, I see the nondeterioration provisions of this act as providing the only hope we have for maintaining the diversity of air quality options which the people of this Nation deserve. As people exercise their options by moving to clean air regions, the nondeterioration provisions of this act will also guarantee that the very values which they moved for will not be destroyed by their coming.

Mr. President, I ask unanimous consent that there be printed the summary of statements received at the hearings on effects of chronic pollution chaired by the Honorable George Brown of California, and the accompanying statement by the Society of American Foresters.

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

SUMMARY OF STATEMENTS RECEIVED FROM PROFESSIONAL SOCIETIES FOR THE HEARINGS ON EFFECTS OF CHRONIC POLLUTION

Congressman George Brown's Subcommittee on the Environment and the Atmosphere solicited contributions from a large number of professional societies. The goal was to broaden the information base of the normal Congressional hearing procedure, and to bring the best and most timely scientific information available into the political decision making process. By inviting the societies to use any convenient working method—task forces, questionaires, review panels, collecting individual scientists' statements, etc.—Congressman George Brown and his Subcommittee hoped to set up a model for rapid, informal input of professional society expertise in questions of public policy.

The material submitted by the societies far transcended, in depth and policy impact, what could possibly have been obtained in ordinary hearing proceedings. Much of the material was not, only generated but also reviewed by the most authoritative leaders in the fields of health, agriculture and meteorology, and thus represents the highest consensus of scientific opinion as to critical problems in this area. The following points represent some of the most strongly stated common themes of these contributions.

(1) *Assessing the effects of pollution in the chronic, low-level range is a much neglected area.* Though contributors from almost all areas—health, agriculture, general ecology, and meteorology—agreed on the possibly enormous costs and complexities of chronic effects, most observed that the resources seemed to be inevitably directed toward short-term crises. The levels of uncertainty regarding low-level pollutants are extremely high, and research programs are very often not targeted towards resolving these uncertainties.

(2) *Lack of coordination among Federal agencies in this inherently interdisciplinary area has made solid research progress almost impossible.* The American Society of Agronomy stressed, "We in Agriculture have been frustrated by the lack of sufficient research in the Health Effects Branch of EPA. We find the environmental health research effort is too small and is fragmented among, EPA, NIH, and FDA." The American Fisheries Society similarly emphasized that "there is a

great need to improve communication between scientists, regulatory groups, industry, and the general public on matters concerning health and the environment. The present structure of many regulatory groups responsible for various phases of environmental and health protection is causing confusion and frustration in the general public."

(3) *Monitoring of base-line and perturbed human, agricultural and biosphere health is essential to reaching an understanding of environmental pollutant threats to health in all these areas.* As a top priority recommendation, the American Phytophathological Society wrote, "To obtain information needed for revision of standards, date on pollutant concentrations . . . need to be obtained. Combined pollutant monitoring with instruments and plants should be done at strategic locations all over the country as a continuous check on the effectiveness of pollutant standards." Similar considerations apply to substances which may affect the total biosphere through affects on climate. An American Meteorological Society Committee emphasized that "it is essential that the global distribution of various trace chemical species in the stratosphere and troposphere be measured, monitored, and interpreted." And in human health itself, the American Society of Biological Chemists stressed that exposures to chemicals are so pervasive, and traditional cause-effect diagnoses of pollutant-caused disease are so ineffective in the chronic realm, that careful statistical analyses of health trends are essential to help us see the dangers we are inflicting on ourselves.

(4) *Transport, transformation and synergetic effects of trace pollutants may be the key to our understanding of their effects, and yet our research has tended to focus on their properties at the source of emission and in isolation from each other.* The A. B. Little Corporation, submitting a statement on behalf of Kennecott Copper, Phelps Dodge, and the Electric Power Research Institute, stressed that all health effects attributed to SO_2 emissions may actually be due to effects of SO_2 combined with other pollutants. The problems of widespread transport and dangerous transformation of pollutants was emphasized by the Society of American Foresters: "there is legitimate concern that limits of ambient pollution in local areas leads toward 'tall stack' solutions that only tend to distribute the problem of chronic pollution and acidic precipitation over ever-widening zones.—And there is need to avoid more cosmetic emission control of particulates, at the expense of creating more invisibles that result in chronic air pollution and acid rains."

(5) *In some cases totally verifiable cause-and-effect evidence for harm due to chronic pollution may be impossible to obtain; even though the potential danger is very great.* In these cases, several groups recommended that standard setting be based on *probability of risk,* rather than "proof-of-effect." The American Medical Association, citing the difficulties in obtaining epidemiological evidence and the long time span required, stressed that, "Ideally, the basis of standards should move from proven effects to probabilities of risk. To do this, the nation will have to improve its capabilities to evaluate the probability of risk." Similarly, in the field of forestry, "There is concern in the forestry community that a shift toward 'proof-of-effects assessments' as a basis for emission control is short-sighted and could be disastrous to forest ecosystems where we cannot make adequate estimates of pollution impacts and where the effects might not become evident until long after emissions have begun."

(6) *The research needed to answer the critical questions of effects of chronic pollutants must be of a long-term, steadily sustained, nature.* Because chronic pollution effects are inherently so complicated to assess, "crash programs" of strictly targeted research are not likely to be helpful. The American Society for Microbiology stressed the need to avoid crisis research, and that "better research and more data are needed to fill the gaps, on which to base new standards, and on which to make predictions." The Institute of Ecology sent the Subcommittee's questionnaire to 220 of its members, with more than 50 responses received. One of the strongest points made by the respondees was the following: "One of the most important [needed] changes involves the time-frame of research, monitoring and control activities. When we are dealing with chronic effects which may take decades to make their magnitude fully apparent, we must move beyond fiscal plans based on a two year cycle."

In the specific areas, starting with human health, the following needs were cited by numerous societies:

(1) Epidemiological studies need to be sharply expanded, better designed, and efforts of Federal, state, county and local agencies need to be much better coordinated in order to obtain a true picture of pollution threats to health. The American Medical Association wrote that, "there is no other way [than epidemiology] to obtain the needed dose-response or exposure-response relationships between complex urban atmospheres and specific health effects."

(2) General screening of mass produced chemicals for mutagenic and carcinogenic effects should be started at once. Numerous societies pointed out that rapid and inexpensive bacterial screening tests could be used as a preliminary alert of possible genetic effects of chemicals produced in large volumes, with more extensive animal testing to be used as a follow-up in suspicious cases, as mutagenic compounds are often carcinogenic as well.

(3) Trained manpower in epidemology and public environmental health is in short supply. Traditional medical curricula do not emphasize the statistical aspects of public health which are so important in evaluating environmental health threats.

In the area of agriculture, the following points were most strongly made:

(1) The agricultural and forestry groups agreed that large-scale damage to productivity is occurring at pollutant concentrations much below ambient standards or commonly observed ambient levels. Moreover, damage is widespread and often not related to proximity to sources of pollutant emissions.

(2) Research is most urgently needed in assessing the costs in agricultural productivity due to pollutants. This is especially critical as we move out of an era of agricultural surpluses, and is essential in striking proper cost-benefit balances in standard setting.

(3) In a particular area, that of using sewage sludge as fertilizer for agricultural land, lack of research data is causing confusion among both farmers and sewage authorities. The disposal of sewage sludge as fertilizer may be essential to the successful economics of some sewage treatment systems, but the conditions of safety of this procedure for land used for food crops is not established, and current research programs are not addressing the problem sufficiently.

In the area of possible climate effects due to chronic pollution, these two points were stressed:

(1) The costs of even small climate changes could be enormous, in terms of agricultural productivity alone. For this reason investment in global monitoring systems of climate trends, and of manmade or natural changes in the atmosphere components, could have a very high return in terms of critically needed data.

(2) In particular, there is near unanimity that carbon dioxide concentrations in the atmosphere are increasing rapidly. Though even the direction (warming or cooling) of the climate change to be caused by this is unknown, very profound changes in the balance of climate factors that determine temperature and rainfall on the earth are almost certain within 100 years. Monitoring programs started now, before the carbon dioxide effect begins to be substantial, could provide essential warnings of needed changes in human activity before disastrous effects occur.

SOCIETY OF AMERICAN FORESTERS,
Bethesda, Md., November 6, 1975.

Hon. GEORGE E. BROWN, Jr.,
Chairman, subcommittee on the Environment and the Atmosphere, House of Representatives, Washington, D.C.

DEAR MR. BROWN: In response to your letter of August 1, I am enclosing the requested statement on the interest of the Society of American Foresters in the consequences of chronic low-level pollution, along with some recent publications on the subject. The statement was prepared by the Society's Working Group on Forest Pathology. The authors were Professor William H. Smith, School of Forestry and Environmental Studies, Yale University, and Dr. Richard G. Krebill (Forest Service, USDA) Chairman, Forest Pathology Working Group, Society of American Forests.

Dr. Krebill has been in touch with Dr. Thomas Moss of your office concerning the coverage and timing of the statement, which is due in mid-November.

Sincerely yours,

JOHN A. BEALE,
President,
Society of American Foresters.

EFFECTS OF CHRONIC LOW-LEVEL POLLUTION ON FORESTRY

A statement prepared by the Pathology Working Group of the Society of American Foresters for use of the Subcommittee on the Environment and the Atmosphere of the House Committee on Science and Technology, as requested by Congressman George E. Brown.

The forestry community as represented by the Society of American Foresters has a deep interest in the potential consequences of low-level, chronic air pollution.

We are gravely concerned about potential impacts of pollutants to forest ecosystems and about the potential indirect harmful effects to the numerous goods and services obtained from forest resources. Pollution was identified as one of the top five forestry issues facing us, in an opinion poll amongst our membership in 1974. Some of our thoughts are expressed on the following pages which are arranged according to the proposed Hearings outline.

AGRICULTURE AND THE BIOSPHERE

I. From the viewpoint of forestry, chronic, low-level pollutants are of considerable concern, but an area of such a limited information that it is possible to do little more than make educated guesses on the consequences. Depending on the kind of pollutant, its amount, the time it's present, and numerous other variables, the effect might vary from a stimulatory "fertilizer" effect, to an innocuous effect, to a subtle or significant loss in timber growth, to a loss of genetic diversity within sensitive forest species, to possible major changes in species composition and major upset in ecosystem functioning. Chronic effects of air contaminants on forest ecosystems may occur over expansive areas and be interstate or international in character.

In forestry, where it is customary to think in terms of life-spans of hundreds of years for forest trees and cutting cycles of several decades, it is recognized as especially important to consider long term consequences

of pollutants and not to neglect some of the less conspicuous components. Certainly we need to address the photooxidants such as ozone and peroxyacetylnitrate, the sulfur oxides, the nitric oxides, the fluorides, ethylene, aldehydes, mercaptans, ammonia and heavy metals. But we also mustn't fix too tightly on particular pollutants, since the kinds and mixes are certain to change as man's cultures evolves. Take, for instance, the radioactive pollutants that have only recently entered into ecosystems and the fluorocarbons which are also new but of possible grave consequence if indeed they are destroying the UV-protective ozone layer in the stratosphere.

Part of the threat is direct reduction in photosynthesis and necrosis of tissues with accompanying loss of vitality and loss of growth in exposed trees. Over long periods of exposure to low-level pollutants, it is possible that the more sensitive portion of populations could be eliminated by direct effects of the pollutant. In some species such as eastern white pine, we know that there is considerable genetic variation with respect to sensitivity to air pollution. Both laboratory and field exposures indicate that chronic exposure to a single pollutant might remove a significant portion of the genetic makeup of an exposed population over a fairly short period. Exposure to another pollutant might have a similar impact, so that ultimately a series of exposures to chronic levels of new pollutants could greatly reduce the genetic diversity of a species. (See Dochinger 1972 and Hepting 1964).

Added to direct effects of chronic pollution in trees are indirect effects such as possible increases in susceptibility to insects and diseases. Insects such as bark beetles and diseases such a root rots are known to attack and kill trees weakened by air pollution. For instance, much of the loss in ponderosa pine in the San Bernardino Mountains of southern California is from the western and mountain pine beetles and from annosus root rot that attack pollution-weakened trees. Another item of major concern in forests is the long-term effect on competition amongst species and on reproduction capacity. In the San Bernardino Mountains, for instance, it appears that incense cedar and black oak remain prolific and in other ways less sensitive to photo-oxidant pollution than does ponderosa pine. With continued pollution, the forest is changing from ponderosa pine toward incense cedar and oak. Shrubs are apparently even less sensitive and win out on many sites. In either case, an adverse change in forest type occurs. (See Miller 1973).

Indirect effects can be very subtle. For instance, bees are quite sensitive to sulfur dioxide, and many plant species are dependent upon bees for pollination.

Maintenance of a healthy ecosystem requires a continuing input of nitrogen to replace that which is lost, such as to ground water and to the atmosphere. Much of the nitrogen comes through biological fixation by specialized plants or bacteria. In wet Douglas-fir forests, for instance, blue-green algae of lichens contribute an important portion of the nitrogen input. Unfortunately, lichens and possibly some of the other nitrogen fixers are suspected of being especially sensitive to pollutants. The long term consequence of chronic pollution could be a much less productive system.

The threat of air pollution as a precursor of acidic precipitation is especially great for fragile ecosystems of higher elevations and latitudes and especially in the aquatic environment of lakes and streams. Considerable data is being gained in southern Norway and Sweden, where it appears that pollutants originating across western Europe are transported with storms, transformed into acids, and entering ecosystems as acidic precipitation. Much is in the form of snowfall; acids concentrate in snowpacks so that early runoff is extremely acidic. The effect is dramatic to fish and most other aquatic organisms. Many former trout fisheries are now barren except for tolerant fungi and sphagnum moss. Salmon runs, too, are diminishing in many impacted rivers. And the Scandinavian scientists express a major concern that the acidic precipitation is leaching nutrients needed for sustained forest growth. We share their concern and are alarmed by early warnings, such as in the White Mountains of New Hampshire where we are experiencing early stages of the same phenomena (see Abstracts of Acid Precipitation Symposium—Columbus, Ohio, May 1975).

And there is also concern within the forestry community that we might overreact to air pollution and hastily exclude beneficial forest burning in the name of preventing air pollution. Fire is considered by the experts as part of the natural process by which forests have evolved. Prescribed burning has many highly desirable features such as releasing nutrients from dead materials, reducing hazards of catastrophic wildfires and reducing competition of understory brush species. And smoke from forest burning is not toxic to vegetation and in fact, likely has an important role in maintaining beneficial microorganisms at the expense of pathogens such as rust fungi (see Parmeter and Uhrenholdt, 1975).

Of course, when handled improperly, smoke from forest burning is an esthetic nuisance and irritating to man. But when handled under proper meteorological conditions, smoke can be directed away from habitation and result ultimately in a beneficial nutrient fallout or washout. The strongest point for prescription burning is that it reduces fuels and thereby limits chances of devastating conflagrations. Even with the best of fire control efforts, such fires occur and produce enormous loading of smoke to the air, and often where and when the smoke is needed least. Much of this can be avoided through educated prescribed burning.

II, III, IV. Air pollution has had, is having, and will continue to have an influence on forest ecosystems throughout the temperate regions of the world in both rural and urban locations. The nature of this relationship can be divided into three classes.

Under conditions of low dosage, Class I relationship, the vegetation and soils of forest ecosystems presumably function as a very important sink for air contaminants. When exposed to intermediate dosage, Class II relationship, individual tree species or individual members of a given species may be adversely and subtly affected by nutrient stress, reduced photosynthetic or reproductive rate, predisposition to entomological or microbial stress, or direct disease induction. Exposure to high dosage, Class III relationship, may induce acute morbidity or mortality of specific trees. The ecosystem impact of these various relationships would be very variable (Table 1). In the Class I relationship, pollutants would be transferred from the atmospheric compartment to the biotic (organic) or available nutrient compartments. Depending on the nature of the pollutant, the ecosystem impact of this transfer could be undetectable (innocuous effect?) or stimulatory (fertilizing effect).

If the effect of air pollution exposure on some component of the ecosystem biota is inimical then a Class II relationship is established. The ecosystem impact in this instance could include reduced productivity or biomass, shifts in species composition, increased secondary effects such as insect outbreaks or disease epidemics or increased morbidity and reduced vigor. The ecosystem impacts of Class II relationships are extraordinarily important because of their potentially widespread significance. Taken together, the Class I and II relationships comprise the chronic low-level air pollution-forest ecosystem relationship.

In the presence of high air pollution dosage, Class III relationship, impact on the structure of the ecosystem may be gross simplification and disturbances to the function of the ecosystem may include basic changes in hydrology, nutrient cycling, erosion, microclimate and overall stability. Specific examples in all of these classes are presented in Smith (1974).

A more complicated situation occurs with pollutants such as fluorocarbons, where the concern is not the direct exposure but rather the uncertain hypothesized effect on the stratospheric ozone layer and the resultant effect of increased ultraviolet radiation received at ground line. Through measurement and modeling it appears possible to predict the physical effect, but the biological consequences of an altered UV regime is a great unknown. Somewhat akin to this is the acidic precipitation problem where again it is not direct exposure to a pollutant that is of concern.

While these numerous ecosystem impacts resulting from air pollution stress have been identified, few have been quantified in the field. We are especially deficient in our ability to generally assess Class I and II relationships. This hiatus of knowledge is due to several factors in addition to the obvious difficulty of making accurate measurements of subtle processes in expansive and frequently remote forest ecosystems. Among the most important factors are: (1) the extraordinarily variable response different plant species and individuals within species have to individual air pollutants, (2) the strong controlling influence that local edaphic, topographic and meteorological conditions exert on plant response to air contaminants, (3) the fact that numerous tree species and most forest shrub and herb species have not been evaluated in regard to response to air pollutants, (4) the realization that most of our data stems from studies with a very few pollutants reacted singly and that some gaseous and particulate contaminants and mixtures of pollutants have received little research attention, (5) that much of the research has been conducted employing air pollution dosages in considerable excess of ambient forest levels, and that (6) most of the investigations have been carried out under highly controlled and hence artificial environments. These six difficulties must be taken into consideration in future research.

V. Research should concentrate on Class I and II relationships as these are considerably more significant than Class III situations. With the recognized deficiencies in our information, we can speculate on the total impact of air pollution on forest ecosystems, but presently we cannot model or quantify it. Research whose results will detail the relationships between air pollution and forest ecosystems *must* be given high priority because of the size and significance of these ecosystems in temperate and urban regions and the numerous potentially damaging interactions that have been identified.

The following research problems are considered critical for an acceptable understanding of the relationship between air pollution and trees.

1. Dose-response information on visible (symptomatic) response with experiments appropriately designed to accommodate and consider the influence of genetic factors, environmental factors and interaction of air contaminants.

2. Dose-response information on invisible (asymptomatic) response, including an evaluation of the ability of air pollution stress to reduce growth and influence reproduction.

3. Analysis of the ability of air pollution stress to predispose or aggravate stresses caused by insect, microbial or other abiotic stresses.

4. Determine direct and indirect effects of

various chronic pollutants on birds, wildlife, esthetics, etc. in forest ecosystems.

5. Development of accurate, simple and reproducible methodology to identify and inventory visible (symptomatic) injury in the field.

6. Determine the physiological and biochemical bases of air pollution stress.

7. Determine effects of increased ultraviolet radiation to forest species.

8. Develop models to integrate effects and generate impact data for various doses of an array of the more significant pollutants in representative forest ecosystems.

9. Develop reliable and economically sound cultural procedures for protecting valuable trees and forests where chronic air pollution is inevitable.

10. Determine the usefulness of the use of resistant varieties to reduce air pollution stress of trees.

11. Determine ability of woody plants to reduce atmospheric contamination.

To answer these many questions, acceleration of research on chronic air pollution in forests is needed in both the resource-oriented agencies and the universities. Both are well suited for these kinds of research and realize that the continuation of forestry may be at stake.

VI. There is concern in the forestry community that a shift toward "proof-of-effects assessments" as a basis for emission control is short-sighted and could be disastrous to forest ecosystems where we cannot make adequate estimates of pollution impacts and where the effects might not become evident until long after emissions have begun. One problem is that it is nearly impossible to set a limit for pollutants such as fluorides that continue to accumulate in living plants until they become toxic. Another problem is that ambient levels have no direct relations to problems such as acidic precipitation or reduction of our UV shield in the stratosphere.

In fact, there is legitimate concern that limits of ambient pollution in local areas leads toward "tall stack" solutions that only tend to distribute the problem of chronic pollution and acidic precipitation over ever-widening zones. There is also concern that standards that limit a particular pollutant such as SO_2, can result in increased emissions of the reactive sulfates that can be equally, if not more harmful. Over the long haul pollution can only be adequately handled by control of emissions or by substitute technology with lesser pollution potential. And there is need to avoid mere cosmetic emission control of particulates, at the expense of creating more invisibles that result in chronic air pollution and acid rains.

Our current Clean Air legislation is good, even if difficult to implement. It is criticized by some as being conservative, but for the sake of our forests it is certainly better to err on the safe side. What is needed more than major new legislation is a stronger committment to developing an adequate understanding of pollution and its consequences, and a continuing commitment to regaining and preserving a more natural atmospheric environment. Standard-setting could include greater exposure to the public, and it would be beneficial to expose draft standards and regulations to vitally interested groups such as the professional natural resource societies.

Mr. BEALL. Mr. President, the Clean Air Act, as reported from the Public Works Committee, reflects a continuing desire and commitment on the part of the Senate to protect our Nation's environment. Many provisions contained in the bill are far reaching and, by their very nature controversial. But in my judgment, no portion of the bill is more important to the air quality of this Nation than section 6, "no significant deterioration."

Over the last few months, much evidence on both sides of the issue has been presented to me regarding the nondegradation provisions. I have carefully weighed these arguments, both from an environmental and economic point of view, and have concluded that a national policy of nondegradation in "clean" areas is a desirable and necessary step. Therefore, I support section 6, and oppose the Moss amendment.

We have made tremendous strides in recent years in cleaning up our Nation's air, but we still have a long way to go. The Congress, in setting up air quality standards based on health, did not mean that industry should have a green light to flirt with these thresholds. Rather, we have set minimum standards which must be met, and which will serve as a takeoff point for future efforts. I am deeply concerned that unless we clearly require that clean areas stay clean, we will have a gradual deterioration in our national air quality. We will, in short, be going backward instead of forward in our clean air effort.

Section 6 simply says that, in areas which have achieved ambient air standards, the air quality of the area may not deteriorate beyond certain specified increments. It does not apply to areas which have not acheived those standards. Section 6 also only applies to major emitters, and gives the States, not the Federal Government, primary responsibility and authority for implementation of the act on a case-by-case basis. Finally, the section would affect only new, not existing, sources.

Those who support the Moss amendment language calling for a study of the matter before implementation of the nondeterioration language argue that we do not know the full impact of that section. Yet the fact is that there have been many studies already conducted on the possible impact of nondeterioration. The Environmental Protection Agency alone has spent about $1 million on at least 21 nondeterioration studies. Additionally, private groups have done at least 23 studies on the Senate proposals. The Moss amendment would only continue the existing confusion, and delay significantly the development of a clear national policy on nondeterioration.

However, I fully recognize that the Senate has a responsibility to closely follow the effect of implementation of section 6, and thus I support the amendment offered by Senator RANDOLPH which allows section 6 to go into effect, but directs a national Commission on Air Quality to report back in 2 years on the impact of the nondeterioration section. If adjustments need to be made, this study will indicate them, and the Congress can act accordingly.

We must commit ourselves not only to cleaning up dirty air, but also protecting clean air from getting dirtier.

Therefore, I urge my colleagues to support this commitment by defeating the Moss amendment.

Mr. DOLE. Mr. President, as our Nation heads into the last quarter of this century, we are faced with a host of competing national goals including energy development, full economic recovery, and environmental protection. While efforts to accomplish these goals need not necessarily be mutually exclusive, we are working with limited resources and often with contradictory values. Consequently, all aspects of each of these goals must be thoroughly examined and weighed against each other so that we may have a workable program, composed of relative priorities, as national development proceeds in the future.

NONDETERIORATION PERMIT PROGRAM

Certainly, the effort to sustain the quality of the air we breathe has been, and will continue to be, a matter of primary attention and importance. For concentrated industrial areas, this will involve an effort to clean up ambient air quality to the extent possible, while for relatively "clean" areas like Kansas, the effort will involve a reasonable approach to maintaining healthy air standards in the face of future development. Air quality maintenance must be a principal environmental goal of this Nation. Yet, the approach to this goal must be practical and well-balanced.

In order to facilitate a coordinated approach to air quality management, Congress has, during the last 10 years, initiated legislative guidelines to cover several aspects of air quality management. While recognizing that States and localities must exercise a large share of responsibility in regulating air quality, Congress has nevertheless sought to provide the stimulus and the encouragement for active management programs, and I have supported these legislative initiatives in the past.

Most recently, in 1970, Congress established "public health and welfare" standards—air quality levels for public safety which "dirty" areas were encouraged to work toward. At the same time, the 1970 clean air legislation established a national mandate to "protect and enhance the quality of the Nation's air resources." A subsequent interpretation of that language by the Supreme Court—on a four-to-four decision—has led to a more concrete formulation of a "nondeterioration concept" for clean air areas which, although not specifically spelled out by Congress in 1970, is nevertheless clearly within the spirit of that act.

To comply with the Court's determination, the Environmental Protection Agency promulgated "nondeterioration" regulations—in January 1975—which statutorily limit the degrees of air quality deterioration caused by industry that will be allowed in clean air States like Kansas. Those regulations established three permissible classifications for air quality, including a "class III" category to allow the States to designate certain specific regions where industry could aggregate and where deterioration up to the public health and welfare standards would be permitted.

However, those EPA regulations have been challenged in Court. As a result, Congress has been asked to clarify its intentions for the nondeterioration per-

mit program during work on clean air act amendments this year. Needless to say, there has been a good deal of dispute about the precise nature which such a program should have. The Senate Public Works Committee has issued its recommendation and, while representing a good deal of careful study and consideration, it leaves a number of critical questions unanswered. I want to briefly state my feelings about that report, and the direction in which I feel Congress should move on this issue at the present time.

FOCUS ON COMMITTEE BILL

I commend the Senate Public Works Committee for giving the individual States a predominant role in administering the proposed nondeterioration permit program. In order to mitigate the extent of Federal interference in local land-use planning, the committee correctly recognized that the primary responsibility for implementation and oversight of this permit program should rest with the States. At the same time, the committee has recommended that the States determine for themselves exactly what constitutes "best available control technology" with respect to industrial applications for local expansion or new development. To this extent, the members of the committee have sought to assure a reasonable level of local and State input into the nondeterioration planning process, and I certainly agree with this frame of thought.

There is another point on which I am in general agreement with the committee, and that is in regard to the need for Congress to express itself more explicitly and affirmatively on the nondeterioration issue. The ambiguous and imprecise language contained within the 1970 act needs to be clarified, and this should rightfully be done through legislative action rather than solely through court rulings or administrative regulations. Neither delay for the sake of delay, nor avoidance of the issue by Congress will serve the best interests of either the general public or of industry. But despite my outlook on this point, I do feel that there are a sufficient number of unanswered questions about the administration of the nondeterioration program and its potential impacts that make further study not only desirable, but absolutely necessary for an intelligent resolution of this issue.

For one thing, I am concerned that the Senate committee's bill does not allow for a "class III" category permitting the States to designate certain regions for concentration of industry while still protecting the public health and welfare. Unlike the EPA regulations now in force, the provisions of this bill allow only for extremely restricted development in "class II" areas which comprise all land in the United States except for international and national park areas designated as "class I." Development in class II areas would be significantly limited by standards permitting only small "increments" of air quality deterioration which bear no relationship at all to the "public health and welfare" standards established by Congress in 1970. The impact of this arbitrary national standard could be substantial not only for industry, but for the general public as well.

UNANSWERED QUESTIONS

In spite of the numerous theories set forth about the potential repercussions of the nondeterioration program, and perhaps because of them, Congress simply does not at this time have enough precise information about the program's likely impact on the utilization of our Nation's resources; on the costs of producing goods; or on the availability of capital for industrial expansion, for technological improvement, and for maintenance of existing facilities. We do not know enough about how many jobs will be lost, about the resulting stimulus to higher consumer prices generated by higher industrial costs for compliance with the regulations. We do not know enough about the impact on the ability of this Nation to achieve energy self-sufficiency in the near future, or the incentives which may be established for large companies to locate overseas.

Before this Congress imposes a restrictive nondeterioration permit program on Kansas and the rest of the Nation, I want to know if the application procedures for industry are as economical and expedient as can possibly be expected, and just what the impact of those procedures will be on development planning. I want to know to what extent the nondeterioration provision might be construed as a back-door approach to Federal land-use planning based on the single factor of air quality.

These are all legitimate questions based on material that has recently come to light not only from private sources, but from Federal agencies as well. In separate letters to Senator Moss last spring, both the Federal Energy Administration and the Department of the Interior expressed concern about the provisions embodied in the committee's Clean Air Act amendments. The administrator of the FEA expressed concern that these provisions could result in increased capital costs to the utility sector, resulting in higher consumer costs for essential utilities; and he expressed the belief that nondeterioration provisions "could lead to substantial delays in siting new facilities" for energy development. Similarly, the Secretary of the Interior suggested that the Senate bill "will place substantial constraints on growth and resource use" and advised that "we should press forward with obtaining the basic data required."

Just as alarming to me were the conclusions set forth in a private study conducted by the National Economic Research Associates, Inc., on the estimated costs for the electric utility industry likely to result from the nondeterioration provisions in the Senate bill now before us. In its preliminary draft report issued on April 16 of this year, the NERA provided statistical evidence that the cumulative costs of these nondeterioration provisions between 1975 and 1990 would add an approximate $454 to the average household's normal utility bills during this period. Beyond 1990, the expected annual cost, per household, could be as much as an additional $90 above normal charges. These costs, stated in 1975 dollars, reflect the economic impact of the nondeterioration program on generating plants built after 1975 and covered by the provisions in this bill. These figures are for the south central area States, including Kansas, and similar estimates for other areas are both higher and lower than those just cited. The NERA report is an informative, albeit speculative preview of certain repercussions of what we have before us today. Just how close the NERA figures are to what could eventually transpire is impossible to determine at this time, but the question of increases in consumer utility costs is just one of several matters requiring further study, in my opinion.

TEMPORARY DELAY ADVISABLE

Due to these uncertainties, and gaps in our informational base, I do feel that Congress should have the benefit of additional data on the potential economic and social impacts of a restrictive nationwide, nondeterioration air quality program. The Moss amendments being offered on the floor at this time do, in my opinion, mandate a reasonable and minimal suspension of congressional determination on this issue until further information of this type is collected by the National Commission on Air Quality. It is my understanding that this delay would be in effect for no more than 1 year and would give us a much larger informational base on which to construct a sound air quality preservation program. This temporary suspension of congressional determination will not endanger the integrity of our air or permit undue industrial expansion during the interim, because the EPA regulations promulgated in January 1975 remain in effect at this time.

Under the terms of those regulations, permits for new development and expansion of existing facilities will continue to be reviewed jointly by the States and EPA to assure that no irresponsible pollution of the air occurs while we await further information on the long-range impact of this new program. With all factors given due consideration, I feel that this avenue is the most advisable for Congress to take at this time, and I am prepared today to give my support to passage of the Moss amendments. I am confident that within 1 year's time, this Congress will be in a much better position to act decisively and affirmatively to clarify its intent with respect to a national nondeterioration air quality program that will protect and preserve the integrity of the air we all must breathe.

Mr. PROXMIRE. Mr. President, I want to take this opportunity to thank the manager of the 1976 clean air bill and other Senators who have offered amendments to this legislation for their cooperation in securing a unanimous consent agreement on final passage for this Thursday.

American Motors is the largest single employer in the State of Wisconsin and, like other auto manufacturers, will be very much affected by sections 18, 19, and 20 of the bill dealing with auto emissions standards. Several amendments

having to do with these standards have also been offered.

Mr. President, I am and always have been a strong supporter of Federal legislation to clean up our Nation's air. Furthermore, I think we have an obligation not only to protect the environment, but also not to delay indefinitely in reaching a decision on legislation which will have the impact on industry of the bill, S. 3219, now before the Senate. In order to meet its obligations under the law effectively, industry must know what its obligations and the law are going to be.

It has been more than 4 months since S. 3219 was reported to the Senate. I am delighted that we can expect a final vote this week and that House action is also anticipated in the near future. I hope that the conference committee will reach an early agreement so that a joint version can be cleared for the White House as soon as possible.

FEDERAL COAL LEASING AMENDMENTS ACT—VETO

The PRESIDING OFFICER (Mr. BUMPERS). Under the previous order, the hour of 1:45 p.m. having arrived, the Senate will now proceed to the consideration of the President's veto message on S. 391, which the clerk will report.

The assistant legislative clerk read as follows:

Veto message on S. 391, a bill to amend the Mineral Leasing Act of 1920, and for other purposes.

(The text of the President's veto message is printed on page 22556 of the CONGRESSIONAL RECORD of July 19, 1976.)

The PRESIDING OFFICER. Time for debate on the veto message is limited to 30 minutes, to be equally divided and controlled by the Senator from Montana (Mr. METCALF), and the minority leader or his designee with votes thereon to occur at 2:15 p.m.

Time will now be moved back in accordance with the delay on the last vote to 2:20 p.m.

Mr. METCALF. Mr. President, the Chair has answered the parliamentary inquiry that I was going to direct. So the vote will occur 5 minutes later because of the delay on the last vote.

The PRESIDING OFFICER. To be precise the vote should occur at the hour of 2:22 p.m.

Mr. METCALF. I thank the Chair.

Mr. President, I ask unanimous consent that the following persons from the staff of the Committee on Interior and Insular Affairs be granted the privileges of the floor during the consideration and voting on this veto message: Mike Harvey, Dan Dreyfus, Mary Flanagan, Pietro Bevinetto, and Ted Orf.

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

Mr. METCALF. Mr. President, I yield myself such time as is necessary.

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order?

The Senator from Montana is entitled to be heard. Will Senators please confine their conversations to the cloakroom or take their seats?

The Senator may proceed.

Mr. METCALF. Mr. President, I shall be brief.

During the course of the last few days, the chairman of the Committee on Interior and Insular Affairs has printed a series of articles in the RECORD explaining some of the provisions of this bill. I suggest that those articles be made a part of the whole record on the determination of overriding this veto.

Mr. President, this is an amendment to the 1920 Mineral Leasing Act. It is not a surface mining bill. Whether or not we passed a strip mining bill in this Congress such as this would have been necessary. In fact, at the time that the surface mining bill was introduced and finally was vetoed by the President of the United States, this bill was also introduced to be considered by the Committee on Interior and Insular Affairs. This bill is a bill to correct many of the deficiencies that we have found in the Mineral Leasing Act of 1920, and to bring the provisions of that act up to date.

During the course of the discussion of this bill in the Committee on Interior and Insular Affairs, the committee decided that we would put in a provision, a title II, that would provide for control of surface mining, on the public lands, but the House of Representatives removed that. So today we are only considering amendments to the Mineral Leasing Act for coal leasing. They provide for regulation of a natural resource that belongs to the people of America—our Federal coal resources.

The President and his advisers have misread and misinterpreted many of the provisions of this bill. Let me give one specific example. Senator JACKSON over the last few days has put into the RECORD several other examples. But one example is the suggestion that because in this bill it is provided that there be an authorization for investigation and survey of our coal lands perhaps that would prevent any leasing whatsoever of the coal lands until that survey is completed. That is not the intent of the committee. That is not the intent of Congress. I have met with the members of the President's advisers and told them that.

Mr. President, anyone who reads the President's veto message and analyzes it, in view of the knowledge of what this bill is trying to do and what the committee has done over weeks and weeks of study and months and months of negotiation, must come to the conclusion that the President was ill-advised and misinformed when he vetoed this bill.

When he says that we will curtail the activities of coal mining, I feel that he is drawing a conclusion that is completely erroneous. Passage of this bill will help the coal mining industry. This will give them the stabilization that they need to go into the leasing and development of Federal lands. At the same time, it will give the people of the United States, whether they are in coal mining areas or not, an opportunity to realize greater benefits from the Federal lands that they own and greater benefits from the development of the resources in specific areas.

Consumers are going to benefit in two ways. This is the people's coal and when we increase the Federal royalty on coal we also increase the benefits to all the people of the United States, whether consumers or not, and we are also giving additional benefits to the local States and local people who need to have the benefits.

Mr. President, Congress in discharging its constitutional duty to determine the uses of Federal lands, has worked diligently on this piece of legislation for over 3 years. By vetoing S. 391, President Ford would deny that special mandate of Congress. As I view it, the President is attempting to arrogate to himself the powers delegated Congress to determine how the vast coal resources underlying Federal lands are to be developed.

Long ago, Congress placed Federal coal resources under the stewardship of the Secretary of the Interior. Nevertheless, it remains an inescapable fact that Federal coal belongs to all of the people of the United States—a fact too often ignored. The bill before us, S. 391, would reassert public ownership of Federal coal and reassert the duty of Congress to control its disposition.

S. 391 clearly recognizes our Nation's increasing reliance upon Federal coal development for the production of electricity and of the various substitutes for our declining domestic oil and gas reserves. The bill provides the Secretary of the Interior with new, updated guidelines for Federal coal leasing. In fostering Federal coal development, S. 391 would simultaneously end the speculative holding of Federal coal leases. It would prevent the domination of Federal coal leasing by the giant coal and energy corporations. In the long run, it would augment revenues returned to the Federal Treasury.

Certainly, I can applaud President Ford's pledge of support for provisions in S. 391 increasing the States' share of Federal leasing revenues from 37½ to 50 percent. But there is no denying that when the President vetoed this bill, he effectively prevented Congress from making this desperately needed impact assistance available to the States in which Federal coal development will very soon accelerate. To those who would point out similar provisions embedded in the BLM Organic Act (S. 507), I would say that is no alternative, considering the shortness of time and the extraordinary difficulties faced by the conference committee in trying to arrive at a compromise on that legislation.

The essential irony of the President's vetoing S. 391 is obvious to anyone familiar with the bill. S. 391 is basically compatible with the new policies and regulations recently unveiled by Secretary Thomas Kleppe. In many significant respects, it would provide legislative support to the new coal leasing program which the Department is now in the process of getting under way.

This is the sort of legislative support that Secretary of the Interior Kleppe indicated that he wanted when he testified at his confirmation hearings. Now under administrative pressure he has changed his mind. Nevertheless Congress should give statutory support to some of

Secretary Kleppe's regulations. We can do so by overriding President Ford's veto.

In our letter to President Ford, dated June 24, Representative PATSY MINK, chairwoman of the House Mines and Mining Subcommittee, and I stressed this very point in urging approval of the bill.

One can safely assume that Secretary Kleppe agreed with us because he is quoted in the Northern Wyoming Daily News of July 1 as having told the National Coal Association:

> If the President signs the bill (S. 391) now on his desk, our schedule for coal development will not be seriously hampered.

The Secretary went on to observe that "75 Senators are asking for it to be signed. Congress is not going to accept not passing a leasing bill."

In my opinion, Secretary Kleppe was absolutely right. The Department can continue to lease coal under its short-term criteria and implement its new program after enactment of S. 391. I am convinced this legislation is long overdue. I am equally convinced it will not do one iota of harm to our national coal producing capacity, contrary to what the President asserts.

There is a very substantial cross-section of industries and organizations intimately concerned with the outcome of our Federal coal leasing program which feels the same way. Among those on record as urging approval of S. 391 are Allied Chemical, Belco Petroleum, Union Pacific Railroad, American Public Power Association, National Farmers Union, FMC, Husky Corp., National Rural Electric Cooperative Association of Counties, and several environmental groups.

A number of Governors of Western States which will be affected by increased Federal coal development have also urged President Ford to approve this bill. Governor Judge of Montana has officially joined in support of S. 391 on behalf of the Western Governors Regional Energy Policy Office, representing the 10 Governors of North Dakota, South Dakota, Nebraska, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, and Nevada.

Mr. President, a year ago when Congress was attempting to override President Ford's veto of H.R. 25, the Federal Surface Mining Control and Reclamation Act, his administration concocted the most incredible barrage of phony statistics purporting to prove the H.R. 25 would cripple coal production and cause oil imports and utility rates to soar. Subsequent careful investigations by the Baltimore Sun and by the Louisville Courier-Journal failed to uncover any factual basis for those claims. Now, the Wall Street Journal has also helped strip away more of the administration's elaborate facade.

In an article appearing on Wednesday, the Wall Street Journal has this to say about the veto of the strip mine bill:

> Several coal men concede they could have "lived with" last year's vetoed bill. And many officials in the 34 states that have reclamation laws agree with John Witt, Kentucky's Land Commissioner. Given his state's own law, he says, "I can't see where the federal bill would have curtailed our mining and reclamation in any severe way."

Mr. President, there is no question about it. Congress was hood-winked that time by an ill-advised, politically motivated veto of a bill which was designed to bring a greater degree of equity and reason into the development of our national coal resources.

I trust that we will not fall into that trap again. Therefore, I respectfully urge colleagues to vote to override the veto of S. 391.

Mr. President, I yield to the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, the Federal Coal Leasing Amendments Act must become law despite President Ford's ill-advised veto. This is a bill which the Senate has passed twice by overwhelming votes. It is a bill which does what the President's veto message says should be done—establish in law "fair and effective mechanisms for future leasing."

The veto message makes it clear that the disagreement between the President and the Congress is solely over a few specific provisions of S. 391. The President's reasons for the veto are based on errors, misunderstandings, and a desire to retain authority in the executive branch which is properly exercised by the Congress.

Mr. President, S. 391 is the product of many hours of hard work by the Interior Committee under the leadership of Senator METCALF, chairman of our Subcommittee on Minerals, Materials, and Fuels. He has made a tremendous contribution to the development of sound guidelines for a management of the vast coal resources owned by the Federal Government. I also want to recognize the very great contribution made by the Senator from Wyoming (Mr. HANSEN) who continued the committee's tradition of bipartisan cooperation in development of natural resource policy. I agree with Senator HANSEN's description of S. 391 as—

> sound legislation which provides for a sensible leasing program, environmental protection, and critically needed aid for rural communities of the West that are besieged with heretofore nonexistent social and economic problems as a result of intensive new energy development activity.

Enactment of S. 391 now will give the coal industry and the Secretary of the Interior ample time to conform existing regulations and plans to its provisions before starting large-scale coal leasing in 1977.

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

Mr. FANNIN. Mr. President, it is with reluctance that the Senator from Arizona opposes the very respected friends of his, Senator HANSEN of Wyoming, and Senator METCALF of Montana.

Certainly, I very seldom am in disagreement with our distinguished colleague from Wyoming.

Mr. President, S. 391, the Federal Coal Leasing Amendments Act, was vetoed by President Ford because it contains provisions which will further postpone coal production from Federal lands.

As late as last month, Secretary Kleppe finalized a process that put in place modern coal leasing regulations—regulations which accomplish the purposes of S. 391, but without time delays and legislative redtape. I am concerned about time delays and legislative redtape. I certainly am not in disagreement with several other provisions of the bill. Those regulations address diligent development, commercial quantities, speculation, and fair return to the public. Recall there has been a moratorium on coal leasing for some 5 years while these new regulations were developed. How much longer must we wait to see Federal coal mined?

Provisions in S. 391 will require more time to prepare NEPA statements, coal exploration, land use plans, and public hearings. It is estimated that no coal will be leased under S. 391 for at least 5 more years.

This country cannot stand 5 more years of inaction. The time to base coal is now. Congress, if it overrides the President's veto, will be placing this country in a straitjacket—preventing it from utilizing the one fossil fuel it has in abundance.

Bringing liquefaction and gasification of coal on line could be lost if S. 391 becomes law. The bill requires that coal from Federal leases be dug in 10 years, yet we all recognize this is not enough time for the planning, construction, and financing of these expensive projects. Coal reserves must be procured first and are the foundation upon which such projects are built.

Requiring the Federal Government to explore Federal lands before offering them for lease is just another tactic to delay coal development. Worse, it sets a precedent for Government exploration for all natural resources—oil, gas, and hardrock minerals. This Nation has always looked to the private sector for exploration because it has the incentives to do the job right. I believe this would be just another step in the direction of nationalization of the coal industry. We should learn a lesson from the experience of Great Britain, which nationalized its coal industry.

For these reasons, I am compelled to support the President's veto of S. 391. In doing so, I am not turning a deaf ear to my colleagues who have urged greater mineral revenues for those States which will suffer socioeconomic impacts from increased coal production. I believe a simple bill which accomplishes the raise in States' share from 37½ to 50 percent is the better approach. The President in his veto message of S. 391 supported that concept.

There are several bills pending conference which have such a provision in them, and I would hope that vehicle would provide the alternative.

Mr. President, if we will look at the veto message, we will see what is involved. The Senator from Montana talks about the adverse parts of the veto message. On page 6, second 8A.(a), we see that the Secretary is authorized and directed to conduct a comprehensive exploratory program. Continuing on, we read "developing a comprehensive land use plan."

So we are talking about a delay each

time a step is taken in the direction of getting coal mined.

On page 2, it is explained that—

No lease shall be held unless the lands containing the coal deposits have been included in a comprehensive land-use plan and such sale is compatible with such plan.

So, Mr. President, we have great problems with this.

Mr. President, I have a letter from the Secretary of the Interior regarding this matter, in great opposition to the legislation. On the first page, he indicates that the rigid 10-year limit to achieve commercial coal production is one of the items with which he is in disagreement.

He then states:

The Federal exploration program contemplated in the bill could be extremely costly (potentially billions of dollars), and would unnecessarily involve the Federal Government in an activity that can be handled better by the private sector.

He goes on:

The required Justice Department antitrust review for each lease—no matter how small—would cause unnecessary delays and costs.

Then he refers to the time delay again:

It would be impossible in many instances to comply with the requirement to prepare a detailed mining and development plan within 3 years after an issuance of a lease.

Mr. President, I ask unanimous consent to have the letter printed in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., August 3, 1967.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On July 3, 1976, the President returned without his approval S. 391, the Federal Coal Leasing Amendments Act of 1975. That bill dealt with two major issues: the form of Federal assistance for communities affected by development of Federally-owned minerals, and Federal procedures for leasing coal.

In his message, the President agreed with the form of assistance to States adopted by the Congress in S. 391. He pledged support for increasing the States share of Federal leasing revenues covered by the bill from 37½ percent to 50 percent and indicated if S. 391 had been limited to that increased assistance, he would have signed it.

There is ample time remaining in this session of Congress to pass a separate bill and we urge the Congress to do so. We will be pleased to work with you to achieve this objective.

After years of intensive work and research, the Department of the Interior has now implemented a comprehensive new coal program designed to achieve stringent environmental protection while still providing access to the Nation's most abundant fossil fuel energy resource. We believe the Department has adequate authority to fully implement this coal development program. S. 391 would not add to that authority; indeed, we are concerned that it would seriously interfere with the present program and significantly increase the opportunities for litigation. Instead of facilitating coal production, S. 391 would inhibit production, contribute to our growing reliance on foreign oil, probably raise prices for consumers (particularly of electricity), and delay the achievement of greater energy self sufficiency.

It is very important that the Congress recognize the serious deficiencies in the provisions of S. 391 which deal with coal leasing. For example:

1. The rigid 10-year limit to achieve commercial coal production from a lease could prevent the use of Federally-leased coal by major electric utility and synthetic fuel projects. Even with maximum effort, experience has shown that more than 10 years is commonly needed to obtain equipment and support facilities, to build rail and other transportation facilities, and to construct associated generating facilities and coal conversion plants.

2. The requirement that a minimum royalty of 12½ percent be paid on all Federal coal leases (a) would mean that large acreages which might otherwise be developed may become uneconomic to mine, and (b) may mean higher costs passed on to consumers. This figure is unnecessarily high. Latitude must be preserved to set either lower or higher royalties based on economic conditions and the value of the resource.

3. The Federal exploration program contemplated in the bill could be extremely costly (potentially billions of dollars), and would unnecessarily involve the Federal Government in an activity that can be handled better by the private sector. In addition, completion of the studies called for could result in substantial delays in new leasing and production.

4. The requirement for public hearings, or opportunity for public comment at five separate stages in the leasing process is unreasonable and will cause major delays without any material benefit. Department of the Interior regulations now provide appropriate opportunity for public involvement and NEPA and other laws already assure public participation.

5. The required Justice Department antitrust review for each lease—no matter how small—would cause unnecessary delays and costs. The Attorney General already has authority to review leases that he believes may have significant anti-competitive effects. A full anti-trust review of single leases would be time-consuming and represent a major increase in workload for the Department of Justice. Furthermore, it would generally be impractical or impossible to make a meaningful anti-trust judgment on the basis of single leases.

6. The requirement that 50 percent of the total acreage offered must be leased under a deferred bonus payment is unduly rigid and may result in diminished development and production. Authority is already available to use a deferred bonus system when appropriate to increase compensation in leasing and give smaller firms a better opportunity to participate when this approach can be justified by the economics of the situation and the degree of interest in leasing Federal coal.

7. It would be impossible in many instances to comply with the requirement to prepare a detailed mining and development plan within three years after issuance of a lease. Lessees must obtain suitable markets, analyze reserves, arrange transportation, complete baseline data programs, the plan environmental protection efforts before they can complete the development and submission of mining plans which describe proposed operations in the detail and specificity which the Interior Department already requires, in order to assure attainment of environmental and production goals.

8. The 25,000 acre limitation including both Federal and non-Federal lands for consolidated mining units would preclude the development of some large scale electric utility and synthetic fuels projects. This acreage is insufficient to amortize the huge capital investment required to develop many of these projects.

There are other provisions of S. 391 which would adversely affect development of the Nation's coal reserves, add administrative comlexity and delay, provide the potential for lengthy litigation, and add to costs of energy and costs of government.

We should, instead, be seeking ways to avoid unnecessary governmental requirements and costs and to increase the production and utilization of our domestic coal resources where this can be done in any environmentally and economically acceptable manner. The alternatives are greater use of our rapidly diminishing oil and gas reserves or greater reliance on imports.

For these reasons, S. 391 should not become law and the Congress should proceed with a separate bill providing for an increase in States' share of leasing revenues without further delay.

Sincerely yours,

TOM KLEPPE,
Secretary of the Interior.

Mr. FANNIN. Mr. President, I yield 5 minutes to the distinguished Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Arizona.

Mr. President, I ask unanimous consent that my staff assistant, Tom Biery, may have the privilege of the floor during the consideration of this matter, the veto of S. 391.

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

Mr. BARTLETT. Mr. President, this Nation has abundant coal reserves, experts estimate as much as 600 years of supply at current consumption rates. Much of this coal and most of the low sulfur coal is in the West underlying Federal lands.

Our Nation's reliance on insecure foreign oil continues to increase daily. We currently import over 40 percent of our needs, and several months ago, imports of petroleum exceeded domestic production for the first time in our history. Legislation passed by Congress is retarding the production of crude oil; and Congress has failed to pass any legislation to correct our natural gas supply problems.

In the face of continually declining crude oil and natural gas production rates it would seem imperative for Congress to enact legislation to facilitate and expedite the production of our abundant coal reserves. If this is not done, our increasing dependence on crude oil and natural gas will have to be met by increased imports of crude oil.

At the same time, both Houses of Congress have passed, in several bills which have not yet become law, provisions which force boiler fuel users of crude oil and natural gas to convert to coal. While I have opposed such end-use allocation legislation because of its unnecessarily high cost and my belief that an uncontrolled market would be a better allocator of scarce fuel supplies, Congress should also recognize that coal conversion legislation will require the stimulation of coal development rather than its inhibition.

If the Federal coal leasing bill, S. 391, is enacted, new leases and production from our urgently needed low sulfur western coal reserves could be delayed for up to 5 years or more. This bill will severely hamper our Nation's ability to achieve energy independence and will unnecessarily increase our continued de-

pendence on unreliable, imported foreign oil. Not only would it add billions of dollars to the taxpayers' burden, but it would also increase energy costs to the consumer. I urge the Senate to sustain the veto of S. 391.

Before discussing some of the more onerous of the bill's provisions, I want to emphasize to the Senate that the bill before us today is not the bill passed by the Senate last July. It is the bill passed in January by the House of Representatives, on January 21, 1976. All but the enacting clause and the bill number of S. 391 were stricken, and the contents of H.R. 6721 was substituted therefore. Although the press of Senate business has been heavy, no effort was ever made to hold a conference. Conferees were never appointed by either the Senate or the House during the 5-month period following final passage by the House of its substitute for S. 391. The House language was recently passed on a voice vote by the Senate and sent to the President.

The bill involves changes in leasing procedures only. It has no provisions for surface mining regulation. Thus, Senators who voted for the original version of S. 391 because of its reclamation provisions should be aware that the current version of S. 391 contains no reclamation provisions whatsoever. Although I also opposed the original S. 391 because I believed it was detrimental to our Nation's energy future, I believe it is important for Senators to recognize now the exact nature of what we are considering.

In addition, it is important for the Senate to recognize that S. 391 in its present form is poorly drafted and ambiguous and, therefore, is subject to differing interpretations. Consequently, litigation can be anticipated in order to clarify its meaning. For 4 years, we have had an embargo on leasing the coal lands; and it is my concern that because of the provisions of this bill, there will be a further delay of at least 2 years because of the very difficult requirements of the bill and then lawsuits which will follow that. It is very unfortunate, then, that there was no opportunity for this bill to go to conference, because in conference many of the ambiguities and uncertainties could have been corrected.

The veto of S. 391 should be sustained because the bill if enacted would result in the following:

First. S. 391 goes a long way toward putting the Federal Government directly in the energy business and is therefore a step closer to energy nationalization. It requires a mammoth Federal exploration program which would put the Federal Government into costly development drilling.

Section 7 of S. 391 adds a new section 8A to the Mineral Lands Leasing Act which in part states:

> The Secretary is authorized and directed to conduct a comprehensive exploratory program designed to obtain sufficient data and information to evaluate the extent, location, and potential for developing the known recoverable coal resources within the coal lands subject to this act. This program shall be designed to obtain the resource information necessary for determining whether commercial quantities of coal are present and the geographical extent of the coal fields and for estimating the amount of such coal which is recoverable by deep mining operations and the amount of such coal which is recoverable by surface mining operations. . . .

It is possible to interpret these provisions in a way which would require the exploration of all Federal coal lands prior to any leasing, especially when read in conjunction with the following paragraph from the House report:

> Stratigraphic drilling must be carried out so or in such a manner that information pertaining to all recoverable reserves is obtainable. All information regarding results of test borings is to be supplied to the Secretary. The purpose of this requirement is to assure that lands are not leased for surface mining when greater amounts of coal could be recovered through deep mining operations.

It is important to emphasize that an exploratory program as extensive as the one required by this bill is not needed to make a prelease sale evaluation nor is it currently contemplated by the Department. Certainly, an exploratory program designed to determine such things as the "potential for developing" or "whether commercial quantities of coal are present" or an estimate of the amount of coal recoverable by deep mining or surface mining operations would have to be very extensive, on relatively close well spacing, and to depths deep enough to assess the presence of all coal on Federal lands.

It has been estimated by the Budget Office that a program of this magnitude would in the first 5 years encompass expenditures of $1.2 billion. Estimates for the total program range from $5 to $15 billion. These costs have in the past been borne by industry and not by the U.S. taxpayer. Inasmuch as much of the work is unnecessary, I would anticipate a taxpayer rebellion over such a requirement.

The Department of the Interior's request for $7.6 million was not for development drilling to determine commercial quantities of deep and strip coal as this bill requires. It is a mere drop in the bucket to the total cost of this exploration program.

Second. The bill, section 2(a)(1), requires the reservation of a reasonable number of leasing tracts for public bodies including Federal agencies, rural electric cooperatives, or nonprofit corporations controlled by any of those entities. The Federal Government would, therefore, be able to compete directly and perhaps unfairly for the acquisition of Federal coal reserves. Once leased and with mines in operation, it is clear that this provision sets the stage for direct Federal involvement in mining operations.

Third. Further, it must be recognized that the exploratory program is a prerequisite for the land use plan which in turn is a prerequisite for a lease sale.

S. 391 will extend the moratorium on Federal coal leasing that has been in effect since 1971 by another 5 years, perhaps longer. When the bill is administered in conjunction with NEPA, there could be as many as eight or nine public hearings required. There are no provisions in the bill for consolidation of these hearings, and the hearings are called for at separate and distinct stages.

Public hearings are required by the bill prior to a land-use plan, prior to a lease sale, prior to consolidation of leases into a logical mining unit, in the event of an unfavorable antitrust recommendation by the Attorney General, and relative to the evaluation of fair market value by the Department. In addition, the National Environmental Policy Act will require hearings on the Federal exploration program, on the promulgation of new implementing regulations, and upon the issuance of the environmental impact statements accompanying the land-use plan and the lease sale, all of which are major Federal actions under NEPA.

Current Interior Department regulations provide for consolidation of hearings while the bill does not, and hearings are not required under current departmental regulations upon the consolidation of leases into logical mining units, relative to antitrust decisions, or relative to the evaluation of fair market value. In addition, the current Department of the Interior drilling program is not a major Federal action requiring an EIS; new procedural and reclamation regulations have already been implemented; and the environmental impact statements on the land-use plan and on future lease sales are already in progress or are being planned.

The Department of the Interior spent over 3 years working on its coal leasing program which has recently been announced. As is apparent, S. 391 would require an unnecessary and time-consuming duplication of effort. This duplication of effort will be paid for by the American people in the form of higher taxes, higher coal prices and higher energy costs because of the delays associated with this bill.

Additional delays can be caused because of the potential for litigation at each and every stage of the new process. And, because of the bill's poor drafting and ambiguities, the potential for this litigation is very real.

More delay could be caused by the antitrust clearance which is required by the bill. It is misleading for the proponents of this bill to state that an antitrust review is not required. The bill states that no lease shall be issued, renewed, or readjusted, by Interior unless the Attorney General is notified with the necessary information "in order to advise the Secretary" whether or not his action is inconsistent with the antitrust laws. How can the Attorney General advise the Secretary without conducting an antitrust review, which is necessarily complex?

Because of the bill, low-sulfur, western coal production which is needed to comply with clean air standards will be delayed, and our dependence on unreliable high-cost foreign oil will be further increased for the near future. The significance of this delay is highlighted because the Federal Government owns approximately 50 percent of the total coal reserves in the Nation, and even a greater percentage of the low-sulfur western reserves. Federal leasing policy will affect approximately 80 percent of known coal reserves because of land ownership patterns. When the leasing of Federal lands is delayed because of this bill, develop-

ment of non-Federal adjoining lands will also be hampered because mining units encompassing both the non-Federal and Federal properties is frequently required before mining can be initiated.

Because of the inflexible 10-year production requirement and the 25,000-acre limitation on logical mining units, the bill would jeopardize the use of Federal coal for gasification, liquefaction, and larger size utility plants. This would occur because consolidation of leases into fairly large mining units is necessary before a gasification, liquefaction, and large utility plant can be financed and constructed. Because tons of coal, not acres, are mined, the 25,000-acre limitation could easily prevent the accumulation of sufficient reserves to justify a plant. The Secretary of the Interior is given no flexibility to amend this requirement if circumstances warrant. Additionally, the 10-year production requirement could also prevent the construction of large facilities which use coal. Delays in the acquiring of sufficient acreage to justify construction and in construction could prevent production from Federal leases within 10 years. Again the Secretary is given no flexibility to adjust the 10-year requirement. The Interior Department's new diligence regulations do include a 10-year production requirement. However, the production requirement can be extended for another 5 years in special cases. Further, the codification of this requirement would make it even more difficult for the Interior Department to adjust its regulations if and when necessary.

S. 391 will increase the cost of energy to consumers. The minimum royalty on coal has been increased to 12½ percent. The Senate bill provided a 5-percent minimum royalty and current Interior Department policy is an 8-percent royalty. There is no provision in S. 391 under which the minimum royalty can be reduced by the Secretary in special circumstnaces. Even though section 39 of the Mineral Lands Leasing Act allows the Secretary to lower royalties to encourage the maximum recovery of coal, the two provisions are inconsistent and certainly S. 391 was enacted many years after section 39 of the Mineral Lands Leasing Act. The increased costs caused by the increased royalty would make the mining of Federal coal more expensive and could reduce reserves and production. Increased costs would have to be passed on to the taxpayer along with the cost of the unnecessary Federal exploration program. Additionally, because of the increased crude oil imports which will necessarily result if this bill becomes law, consumers' energy costs will rise because imported crude oil is now approximately twice as expensive as coal.

The PRESIDING OFFICER (Mr. McCLURE). The Senator's 5 minutes have expired.

Mr. BARTLETT. Mr. President, will the Senator yield me 1 additional minute?

Mr. FANNIN. Mr. President, how much time does the Senator from Arizona have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. FANNIN. I yield the Senator 1 additional minute.

Mr. BARTLETT. I do support the sharing provisions in S. 391 to increase impact assistance to the Western States, and today have introduced legislation to increase the States' share to the exact level of S. 391. This bill does not provide for a minimum royalty. The critical defects of S. 391, however, should not be justified by this one proposition. This legislation I have introduced will correct the impact problem without jeopardizing the availability of western coal which is desparately needed to fuel this Nation.

Mr. President, I urge my colleagues to vote to sustain the President's veto of S. 391. It will increase consumers' energy costs, increase dependence on foreign crude oil, and further hamper the achievement of energy independence. S. 391 is not in the best interests of the Nation.

Mr. President, I ask unanimous consent that a letter from Secretary Kleppe to the President of the Senate be printed in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., Aug. 3, 1976.

HON. NELSON A. ROCKEFELLER,
President of the Senate
Washington, D.C.

DEAR MR. PRESIDENT: On July 3, 1976, the President returned without his approval S. 391, the Federal Coal Leasing Amendments Act of 1975. That bill dealt with two major issues: the form of Federal assistance for communities affected by development of Federally-owned minerals, and Federal procedures for leasing coal.

In his message, the President agreed with the form of assistance to States adopted by the Congress in S. 391. He pledged support for increasing the States share of Federal leasing revenues covered by the bill from 37½ percent to 50 percent and indicated if S. 391 had been limited to that increased assistance, he would have signed it.

There is ample time remaining in this session of Congress to pass a separate bill and we urge the Congress to do so. We will be pleased to work with you to achieve this objective.

After years of intensive work and research, the Department of the Interior has now implemented a comprehensive new coal program designed to achieve stringent environmental protection while still providing access to the Nation's most abundant fossil fuel energy resource. We believe the Department has adequate authority to fully implement this coal development program. S. 391 would not add to that authority; indeed, we are concerned that it would seriously interfere with the present program and significantly increase the opportunities for litigation. Instead of facilitating coal production, S. 391 would inhibit production, contribute to our growing reliance on foreign oil, probably raise prices for consumers (particularly of electricity), and delay the achievement of greater energy self sufficiency.

It is very important that the Congress recognize the serious deficiencies in the provisions of S. 391 which deal with coal leasing. For example:

1. The rigid 10-year limit to achieve commercial coal production from a lease could prevent the use of Federally-leased coal by major electric utility and synthetic fuel projects. Even with maximum effort, experience has shown that more than 10 years is commonly needed to obtain equipment and support facilities, to build rail and other transportation facilities, and to construct associated generating facilities and coal conversion plants.

2. The requirement that a minimum royalty of 12½ percent be paid on all Federal coal leases (a) would mean that large acreages which might otherwise be developed may become uneconomic to mine, and (b) may mean higher costs passed on to consumers. This figure is unnecessarily high. Latitude must be preserved to set either lower or higher royalties based on economic conditions and the value of the resource.

3. The Federal exploration program contemplated in the bill could be extremely costly (potentially billions of dollars), and woud unnecessarily involve the Federal Government in an activity that can be handled better by the private sector. In addition, completion of the studies called for could result in substantial delays in new leasing and production.

4. The requirement for public hearings, or opportunity for public comment at five separate stages in the leasing process is unreasonable and will cause major delays without any material benefit. Department of the Interior regulations now provide appropriate opportunity for public involvement and NEPA and other laws already assure public participation.

5. The required Justice Department anti-trust review for each lease—no matter how small—would cause unnecessary delays and costs. The Attorney General already has authority to review leases that he believes may have significant anti-competitive effects. A full anti-trust review of single leases would be time-consuming and represent a major increase in workload for the Department of Justice. Furthermore, it would generally be impractical or impossible to make a meaningful anti-trust judgment on the basis of single leases.

6. The requirement that 50 percent of the total acreage offered must be leased under a deferred bonus payment system is unduly rigid and may result in diminished development and production. Authority is already available to use a deferred bonus system when appropriate to increase competition in leasing and give smaller firms a better opportunity to participate when this approach can be justified by the economics of the situation and the degree of interest in leasing Federal coal.

7. It would be impossible in many instances to comply with the requirement to prepare a detailed mining and development plan within three years after issuance of a lease. Lessees must obtain suitable markets, analyze reserves, arrange transportation, complete baseline data programs, and plan environmental protection efforts before they can complete the development and submission of mining plans which describe proposed operations in the detail and specificity which the Interior Department already requires in order to assure attainment of environmental and production goals.

8. The 25,000 acre limitation including both Federal and non-Federal lands for consolidated mining units would preclude the development of some large scale electric utility and synthetic fuels projects. This acreage is insufficient to amortize the huge capital investment required to develop many of these projects.

There are other provisions of S. 391 which would adversely affect development of the Nation's coal reserves, add administrative

complexity and delay, provide the potential for lengthy litigation, and add to costs of energy and costs of government.

We should, instead, be seeking ways to avoid unnecessary governmental requirements and costs and to increase the production and utilization of our domestic coal resources where this can be done in an environmentally and economically acceptable manner. The alternatives are greater use of our rapidly diminishing oil and gas reserves or greater reliance on imports.

For these reasons, S. 391 should not become law and the Congress should proceed with a separate bill providing for an increase in States' share of leasing revenues without further delay.

Sincerely yours,

TOM,
Secretary of the Interior.

The PRESIDING OFFICER. Who yields time?

Mr. METCALF. I yield 5 minutes to my very good friend and distinguished colleague, a member of the committee, the Senator from Wyoming (Mr. HANSEN).

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, in the Powder River Basin of Wyoming many little towns are located that are primarily agrarian in nature, where winter is hard, but life in general is pleasant. The pastoral tranquility of these communities is being severely changed by the burgeoning energy demands of the remainder of the country.

The impact on these communities is and will be disastrous. It is not a question of small increments in population; many of these communities are doubling or tripling in size. New towns are being built in the prairie.

The size of these communities and the predominantly agricultural nature of their economies precludes using normal tax revenues for building facilities necessary for the new workers. The high percentage of Federal land in the areas concerned leaves little in private ownership and on the tax rolls, further exacerbating the situation.

Typical of western communities that heretofore have been primarily rural and agricultural, but which now face doubling and tripling population is Gillette, in Campbell County, Wyo. Gillette lies in the heart of the coal-rich Powder River Basin, where several surface mining operations are ongoing now, and more are planned in the immediate future.

An Interior Department sponsored study by the University of Wyoming of expected social and economic impact in the Gillette area projects a doubling of the population by 1985.

"Operating expenses for the city of Gillette will increase from $3 million to $5 million by 1985, and more than $21 million in capital requirements, such as streets and roads are foreseen. Revenues for the city are expected to lag behind expenditures by more than $3 million in 1980, and will continue to fall short of expenses through 1985," the study stated.

The workers imported to man these energy projects need schools, roads, and sewage facilities. They need the amenition that people everywhere need. The problem is they need them yesterday. This need for the facilities is caused by our national energy demands across the country. It is a national concern. S. 391 addresses that concern. It assures an orderly, stable transition and mitigates the traumatic changes.

The mineral royalty provision authorizes an increase in the portion of the royalties returned to the State to 50 percent, from 37½ percent. Under this provision 37½ percent of the payments to the States would still be reserved for schools and roads as now. The additional 12½ percent would be earmarked for aid to energy impacted areas. The provision says:

> . . . said additional 12½ per centum of all moneys paid to any state on or after January 1, 1976, shall be used by such state and its subdivisions as the legislature of the state may direct giving priority to those subdivisions of the state socially or economically impacted by development of minerals leased under this Act for planning, construction and maintenance of public facilities, and provision of public services.

As this country forges ahead in its efforts to utilize more coal, the Western States are willing to assume their share and provide this energy source, but with the safeguards as embodied in S. 391.

While this front-end money is of prime importance to Wyoming and every other public lands States, the bill accomplishes other important goals clearly in the national interest.

The Senate first passed a Federal coal leasing bill in 1974 by unanimous vote. In 1975, S. 391 was approved by a vote of 84 to 12. Earlier this year, the House of Representatives passed it by a vote of 344 to 51. Enactment of S. 391 will eliminate speculation with Federal coal leases; enhance competition among leaseholders; assure a fair return to the public; provide for coordination with State and local officials, public participation, and environmental protection; require thorough evaluation of Federal coal deposits to be offered for lease; and encourage maximum recovery of the coal.

The President agrees that legislation is needed to provide "fair and effective mechanisms for future leasing." S. 391 does that. The President agrees with the assistance provision of S. 391. The President agrees with the basic leasing policy in the bill. He disagrees with some of the provisions. I think the veto was based on factual errors. The Senator from Montana has offered a point-by-point refutation of the veto message. I heartily concur with the analysis. I urge my distinguished colleagues to join with me in the override of S. 391.

Mr. President, I would like to suggest respectfully that the reasons advanced in opposition to the bill, I believe, are in error. In the first place, the size and timing of the programs are left to the discretion of the Secretary of the Interior. This is clearly not a step toward the nationalization of the energy industry, as has been suggested by some of the opponents of this bill. The bill would not extend the moratorium on Federal coal leasing by another 5 years. Even Secretary Kleppe says our schedule for coal development will not be seriously hampered; nothing in the bill will increase the cost to taxpayers and consumers.

Indeed, the Energy Policy Task Force of the Consumer Federation of America supports enactment of the bill. It has indicated that it believes that it will lower—not raise, but lower—coal prices. I do not believe that the 10-year production requirement will jeopardize development of synthetic fuels for coal; nor will the acreage on logical mining units, which is set at 100,000 acres for the entire United States, retard such projects.

Many of the coal seams in the West are more than 100 feet thick. In these areas, a 25,000 acre logical mining unit will contain more than enough coal for any synthetic fuel or electric generating project.

Criticism has been made because there is no reclamation provision in this bill. As was pointed out by the distinguished Senator from Montana, this is not a strip mining bill and there was no conference between the House and the Senate for one very good reason: There was a strip mining provision in the Senate bill and the House clearly indicated that it did not want to have a strip mining provision in its bill. So the best of both bills were taken, in my opinion, for this reason: We do have a bill before us that is workable. It will achieve important economies insofar as the people of the United States are concerned. It will increase the royalties that go to the people of the United States. It will assure an ecological consideration, as mining units are developed. It will assure sufficient money to be returned to the States that are going to be called upon to produce the coal, to insure that there can be sufficient anticipation of the economic and social impact that surely results when you add twice or three times the population of a small town and then expect to take care of the people who come into that town.

I think this is a good bill. The States of this country, the public land States, particularly, for the most part have passed surface mine legislation that assures the kind of reclamation that the people of this country have indicated they would like to have put into effect.

I hope that the Senate will take occasion this afternoon to pass a bill that addresses the problems that we know about firsthand, because we have come to grips with them. We know that without the money that will be provided under this bill, there is no way that we can hope to minimize the impact that results when you add to the population of a town by two or three times.

This is good legislation. It assures the kind of orderly development that will minimize speculation in the coal fields, it assures the kind of competition that comes from the Department of the Interior knowing what the amount of coal is in a lease before it is granted. It will insure better deals for the Government of the United States than has been true in the past.

It does not provide for the kind of

overall investigative work that some people fear may be hurtful.

Mr. President, I ask unanimous consent that a series of newspaper articles from these Western communities attesting to the facts of energy impacts be inserted in the RECORD at the conclusion of my remarks along with other supporting data.

Again, I sincerely urge that the veto be overridden.

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

POWERPLANT WILL HIKE POPULATION TO 5,700

WHEATLAND, Wyo.—Testimony in the fourth day of Industrial Siting Council hearings on the proposed Laramie River Station power plant indicates the project will cause a total population increase of about 5,700 for the Platte County area by 1979.

Gary L. Watts, a University of Wyoming research associate hired by the Missouri Basin Power Project to study the plant's social impact, said 2,200 workers and their families are expected by the peak construction year.

Watts said 85 per cent of the population will probably live in Wheatland with 2,060 housing units such as mobile homes expected to serve them.

Robert L. Valeu, assistant manager for Wyoming operations of Basin Electric which is project manager for the plant, said a Joint Powers Board composed of representatives from Wheatland and Guernsey has been formed to obtain a loan designed to relieve housing problems and school overcrowding.

Valeu said the board would attempt to obtain a $3.3 million loan from the State Farm Loan Board to relieve the population impact in Platte County.

The six power companies forming the MBPP are seeking permission from the Industrial Siting Council to build the $1.3 billion, 1,500 megawatt plant to be fired by northeastern Wyoming coal.

The Power River Basin Resource Council, the Sierra Club, and a group of local farmers and ranchers forming the Laramine River Conservation Council believe more time is needed for study.

James G. Thompson, another UW research associate, said a random survey of Platte County residents indicated the plant would increase crime and require more community services and facilities.

The researcher said questionnaires distributed to county residents were part of a second socio-economic study conducted for six power companies composing the MBPP.

Thompson testified the survey indicated a need for four more doctors in the county, more shopping facilities and an increased police force to handle an expected rise in crime.

When cross-examined by David Palmerlee, an attorney for the Laramie River Conservation Council, Thompson said he felt the "quality of life" would be adversely affected by the power plant's impact, but called the term abstract and hard to define.

MINING WILL PASS AGRICULTURE

LARAMIE, WYO.—The executive secretary of the Wyoming Mining Association told a group of rural educators at the University of Wyoming that mining will soon supersede agriculture as Wyoming's No. 1 commodity.

Bill Budd pointed out in making the prediction that the mining industry is already the largest contributor to state and local revenues.

He also said the federal government is guilty of overregulating not only the mineral industry, but small business as well. Budd said Washington has become "too big, too complex."

COUNTY COAL IMPACT STUDY PLANNED

(By Kathy Rem)

Rocky Mountain Energy has commissioned studies, to begin immediately, to determine what social, economic and environmental effects four coal mines proposed for southwestern Carbon County would have on that area.

The proposed mines, according to Jim Shaw, Rocky Mountain Energy's manager of environmental services, would not begin until late 1978 or early 1979. The mines could draw more than 2,000 persons to the area, according to projections by E. W. Davis, manager of administration for RME.

RME is a wholly-owned subsidiary of the Union Pacific Corp. Representatives of that company and the firms designated to conduct the studies outlined their plans Wednesday at a meeting with the Carbon County Commissioners.

Conducting the social and economic study will be Ted Browne of Bickert, Browne, Coddington and Associates of Denver. Browne said he was interested in exploring the economic base of Rawlins and the surrounding area and how the proposed mines would alter that base.

Concerning the social structure of the area, Browne said he will try to determine how the expected influx of people would affect the library, the schools, the hospital, and so on.

The environmental study will be conducted by Dr. Brent Wahlquist of Westinghouse Environmental Systems Department, located in Pittsburgh, Pa.

Wahlquist will study vegetation on the areas designated as sites for the proposed mines, as well as wildlife, soils, hydrology and reclamation potential.

According to Shaw, the four mines would be located about 10 to 25 miles southwest of Rawlins, all at least partly in Carbon County. They would also run into Sweetwater County. He said they would all begin as surface mines, but may turn into deep mines and "go on for a long period of time."

No land leases have been obtained, which makes the projects "very tentative," said Davis, although RME has been talking to other companies about the mine proposals.

Shaw said the four mines would all be joint ventures. He said his company has been negotiating with Energy Development Co. for a mine at Red Rim, with Arch Mineral for a mine at China Butte, and with Pacific Power and Light for a mine at the Creston-Cherokee area. The other mine is proposed for the Atlantic Rim area.

Although definite estimates are impossible to establish at this early date, Shaw said the Red Rim and Atlantic Rim mines would possibly each yield two million tons of coal a year while the mine at China Butte could furnish up to four million tons. The mine at Creston-Cherokee, he said could yield two tons or up to 12 tons per year.

RME, he said, would plan to open the Red Rim mine first, if plans go as scheduled.

Based on statistics drawn from other mining projects, RME representatives said that 106 jobs can be expected to open with each two-million-ton coal operation. They estimated that for each job, another five people are drawn to the area because of increased business opportunity or as families of employes.

If eight million tons per year are taken from the Red Rim, Atlantic Rim and China Butte projects, there would be 424 employes for those three mines, or 2,120 new residents to the area, including businessmen and family. The estimate does not include Creston-Cherokee.

Shaw said that from 75 to 80 temporary construction people are also expected in the beginning phase of the project.

He also pointed out that if all our four mines are begun as planned, the impact would be gradual. Everyone would not arrive at once, he said.

[From the Northern Wyoming Daily News, June 1, 1976]

WHEATLAND TO SUFFER HEAVY INDUSTRIAL IMPACT

WHEATLAND WYO.—The planner responsible for preparing the Wheatland area for impending industrial impact from a $1.4 billion power plant said residents here are "naive" and will be stunned by the changes that the tide of new residents will bring.

Dave Sneesby, director of the city-county planning office, made that prediction and painted a bleak picture of Wheatland five years from now—town services swamped by a population that has tripled and battling snowballing crime rate and housing problem.

The Laramie River Station will be comprised of three 500-megawat units, according to Missouri Basin Power Project (MBPP) officials. Two units are scheduled to be completed by 1981 and third will be constructed by 1983, a spokesman for the consortium of power groups said.

The MBPP is made up of power groups in Wyoming, Colorado, Montana and the Dakotas. Power generated by the mammoth facility will be transmitted to those states and several others.

Lloyd Ernst, Wyoming operations manager of the MBPP, said construction of the facility is scheduled to begin in July, barring adverse developments in court cases brought by environmental groups in hopes of blocking construction until more study is done.

He said a delay in construction this summer could cost the MBPP $52 million.

"It is really critical that we do begin construction," he said.

"There hasn't been a project this big in a town this small, this far away from major cities," the planner of 13 months said. He said the only city that approaches what Wheatland residents can expect is Craig, Colo., where a government-financed power plant was built recently.

"Sneesby said the construction work force at the power plant will peak at 2,250 workers in five years. He predicted each of the power plant employes would create jobs in Platte County for one and one half service industry workers.

The 1,500-megawatt power generating facility planned by the MBPP for the Laramie River Station five miles north of here will rival the behemoth Jim Bridger power plant 30 miles east of Rock Springs in size.

The Jim Bridger power plant in southwestern Wyoming triggered an influx of construction workers that has beleaguered Rock Springs for the past six years and nearly doubled its 1970 population of 14,000.

But Sneesby pointed out that Wheatland, with a population of only 3,000, is more vulnerable than Rock Springs to industrial impact from the power plant. He said the town's population will probably triple within the next five years while the county's population—7,000 at last count—will most likely double.

The power plant will change the whole life style of the area—from a sleepy agricultural area to a booming, industry-based economy," Sneesby said.

* * * * *

EFFECT OF PROVISION IN S. 391 TO INCREASE MINERAL ROYALTY PAYMENTS TO STATES TO 50 PERCENT[1]

[Based on calendar year 1975 figures]

State	Total royalties paid to Federal Government	Royalties returned to State (37½ percent)	Royalties returned to State with 50 percent provision	Difference between 37½ and 50 percent
Alabama	$50,296	$18,861	$25,148	$6,287
Arizona	923,976	346,491	461,988	115,497
Arkansas	279,704	104,889	139,852	34,963
California	18,595,624	6,973,359	9,297,812	2,324,453
Colorado	92,249,754	34,593,658	46,124,877	11,531,219
Florida	47,410	17,779	23,705	5,926
Idaho	2,965,576	1,112,091	1,482,788	370,697
Kansas	658,266	246,850	329,133	82,283
Louisiana	494,554	185,458	247,277	61,819
Michigan	23,733	8,900	11,866	2,966
Mississippi	27,690	10,384	13,845	3,461
Montana	$12,345,394	$4,629,523	$6,172,697	$1,543,174
Nebraska	113,061	42,398	56,530	14,132
Nevada	2,540,280	952,605	1,270,140	317,535
North Dakota	1,545,037	579,389	772,518	193,129
New Mexico	68,903,026	25,838,635	34,451,513	8,612,878
Oklahoma	866,776	325,041	433,388	108,347
Oregon	879,978	329,992	439,989	109,997
South Dakota	916,034	343,614	458,152	114,538
Utah	15,269,261	5,725,973	7,634,630	1,908,657
Washington	45,682	17,131	22,841	5,710
Wyoming	92,715,391	34,768,271	46,357,695	11,589,424

[1] Note: S. 391 also contains a provision to increase the amount of the royalty paid to the Federal Government for coal to 12½ percent of the value of the coal. The figures above do not take into account this change, so the royalties States with coal would be higher.

PUBLIC POLICY RESOLUTION NO. 75, ALBUQUERQUE, N. MEX.—OCTOBER 29, 1975 ON DISTRIBUTION OF REVENUES FROM PUBLIC LANDS

Whereas, the accelerated production of minerals in the ten states comprising the Western Governors' Regional Energy Policy Office, as well as the remainder of the country, will result in substantial social and economic impacts in local communities, and

Whereas, many local communities have limited financial resources to create and sustain the social and economic infrastructure necessary for desirable community living under conditions of accelerated growth, and

Whereas, the revenues derived by the states from the sales, bonuses, royalties, and rentals of public lands under provisions of the Mineral Leasing Act of 1920 have been limited to 37½ percent of the total revenue and are restricted as to use for public school or other public educational institutions and for construction and maintenance of public roads, now, therefore be it

Resolved by the Western Governors' Regional Energy Policy Office.

That WGREPO support the amendment of Section 35 of the Mineral Leasing Act of 1920 (41 Stat. 450), as amended to provide:

(1) A reduction in the revenues distributed to the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, excepting those revenues from Alaska, from 5½ percent to 30 percent.

(2) An additional 22½ percent of all moneys received from sales, bonuses, royalties, and rentals of public lands to be paid to any State within the boundaries of which the leased lands or deposits are or were located to be used by the State and its subdivisions as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased for 1) planning, 2) construction and mainteance of public facilities, and 3) provisions of public services.

(3) That all moneys paid to any State from sales, bonuses, royalties, and rentals of coal deposits in public lands may be used by the State and its subdivisions giving priority to those subdivisions of the State social or economically imported by development of Federal coal, for 1) planning, 2) construction and maintenance of public facilities, and 3) provision of public services, as the legislature of the State may direct.

THE UNITED TEACHING PROFESSION,
Cheyenne, Wyo., July 26, 1976.

HON. CLIFFORD HANSEN,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR HANSEN: This letter is to assure you that you have our full support in attempts to override the President's veto of S. 391, the Federal Coal Leasing Amendments Act of 1975.

We will do our best to assist you in your efforts.

Sincerely,

DON SHANOR,
Executive Secretary, Wyoming Education Association.

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

Mr. FANNIN. I yield 3 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding. I take this moment just briefly and rather sketchily, because of the limitation in time, to rise in support of the President's position.

I hope the Senate will vote to sustain his veto. It is not often that I rise in opposition to a position expressed by my good friend, the Senator from Wyoming, but I know how strongly he feels about the necessity for finding some way for the communities in his State and other States affected by the current energy development in the Western United States to cope with the problems of that sudden community development that does impose very real problems.

I, too, come from a public land State and I am very much in favor of the increase in the States' share of the Federal leasing revenues. But I want to emphasize that, as the Senator from Oklahoma, the Presiding Officer of the Senate at this moment, has stated earlier, we have joined in cosponsoring legislation that will do precisely that this bill does in that field.

I also would like to point out that the President, in his message on the veto of this bill, said that he will pledge his support to the passage of that kind of legislation. So I think we have reasonable expectation that that kind of legislation can become law without it becoming imbedded in this particular bill.

I should point out, too, that the BLM Organic Act, which has passed this body and also passed the other body in different form, also contains a provision for the increase of royalties of the States. So I think that particular thing is going to be resolved and resolved favorably to the position of the Senator from Wyoming and my own position.

My major opposition to this bill does not lie because I oppose the strip mine legislation. I have supported strip mine legislation in the past. I expect to continue to support it if appropriate. But this does embark the Federal Government on a program of exploration of mineral values on public lands which I think we will live to regret if, indeed, we go down that trail.

I spoke to the Senator from Montana about that question before this bill was brought up for passage in the Senate because this bill, in the House form, had that provision. The Senate bill did not have that provision. I am very much opposed to that kind of injection of the Federal Government into what has to be, essentially, a production program—not just exploration to find out what is there. It will inevitably lead to a Federal yardstick in production and marketing as well, just as we have seen it do in other instances.

The information can be obtained without going into the Federal program, because that information is available from the private enterpreneurs.

Mr. President, I hope the Senate will vote to sustain the President's veto.

The PRESIDING OFFICER. The Senator's 3 minutes have expired. The Senator from Montana.

Mr. METCALF. I yield 2 minutes to the Senator from Wyoming.

Mr. McGEE. Mr. President, I rise in support of this effort to override the Presidential veto of S. 391, the Federal coal leasing amendments. The Washington Post this morning carried an editorial which struck an optimistic tone that we have mustered sufficient votes here in the Senate to comfortably override this ill-conceived veto. I hope that this optimism prevails today.

The editorial branded the veto as "the latest act of negativism coming from the Ford administration concerning the creation of a national policy on the mining of coal." The President has twice vetoed surface mining control and reclamation bills. To say that the administration is guilty of negativism is an understatement, Mr. President. I call it a calloused disregard for the problems which face the Western States as national pressures for energy development increase.

The Washington Post also carried an article by Colman McCarthy, "Leasing the West's Unprotected Land," opposite

its editorial. Both the article and the editorial underscore the problems which coal-producing States face and the diligent efforts which Congress has made to solve these problems and help prevent the Rocky Mountain area from being transformed into a second Appalachia. I ask unanimous consent that the editorial and Mr. McCarthy's article be printed in the RECORD at this point.

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

OVERRIDING THE COAL LEASING VETO

The Senate and House are scheduled to vote this week on the President's July 3 veto of the Federal Coal Leasing Amendments. The veto was the latest act of negativism coming from the Ford administration concerning the creation of a national policy on the mining of coal. The President has twice vetoed strip mine control bills. As with the latter pieces of legislation, the coal leasing bill had strong support in Congress. It passed the Senate by a near-unanimous voice vote and the House by 344 to 51. To let the President's veto stand is not only to waste the considerable work and thought that congressional committees put into the bill, but is to say that a national coal policy isn't needed at this time.

We supported efforts to override the vetoes on the strip mine bills, and we support the move to override the leasing veto. The two are inextricably linked, as discussed on the opposite page. The President argued that the leasing bill "would have an adverse impact" on coal production. If anything, it is the other way around; the bill promises to increase production because, among other things, it would give the industry a clear indication of where it can mine and what the costs would be. The legislation itelf includes such worthwhile provisions as redistributing the allocations to Western states of mineral leasing receipts. Wyoming, for example, would receive an estimated $10 million to $11 million annually, to be used in communities suffering the effects of boomtown growth brought on by coal development. The bill is also useful because it calls for a coal exploration program that would enable the government to discover what kinds of reserves—whether in coal to be stripped or deep-mined—are available.

The Senate, scheduled to vote today, is expected to be comfortably in favor of an override. The House vote, set for Wednesday, will be closer, according to some of the bill's sponsors. The bill deserves support, but no one should have the illusion that it is anywhere close to being the total answer to the question of what kind of coal policy the country needs. Originally, it was planned that the coal leasing bill would follow a strip mine bill, or at least be passed with it. Many of the protections to Western lands and the ranchers and farmers on them were in the vetoed strip mine legislation.

Worthwhile efforts are being made in the House—by Rep. John Melcher (D-Mont.) and others—to revive the strip mine bill. If anything, a successful override on coal leasing ought to be a prod to Congress to move ahead with the strip mine bill. To pass one without the other is to go only part of the way.

[From the Washington Post, Aug. 3, 1976]

LEASING THE WEST'S UNPROTECTED LAND

(By Colman McCarthy)

Last week in Denver, a group of citizens spoke out against what it saw as the raw and relentless power of the federal government to open Western coalfields to energy companies. The Western Coalition, a group of 85 agricultural, environmental and public interest organizations concerned about strip mining and coal development in the eight Rocky Mountain and Northern Plains states, was protesting the Interior Department's June 1 call for nominations for tracts to be considered for new federal coal leasing. It argued, among other points, that the 16 billion tons of western coal already leased to the companies could satisfy national needs for many years. It said also that although the Interior Department did well to ask for the view of citizens, it was impossible for the citizens even to think of participating. Why? "We have 60 days to analyze 92 million acres of federal coal lands and make our nominations for off-limit areas," the coalition explained. "That's one and one half million acres per day. The department requires us, with our meager resources, to provide exhaustive information on why these lands should be protected—the type of information the department has never collected in its decades of existence and billion dollar budgets."

The coalition's outcry is another voicing of a fear, long expressed, that nothing can stop the energy companies, as they roll westward, from repeating the assaults they gave to Appalachia's land and citizens. This fear has a bearing on a related coal issue now before Congress, as it is scheduled to vote (today in the Senate, Wednesday in the House) on whether to override President Ford's veto of the Federal Coal Leasing bill. The legislation establishes a system of deferred bonus payments which allows smaller companies to compete for federal coal leases. At the moment, with the 16 billion tons already leased, the bill's sponsors see their effort as an overhaul of the current system that encourages, among other things, more speculation than production.

In the context of this one vote, strong arguments exist for overriding the veto; as I see it, the Ford administration has allowed itself to be overly influenced by the wishes of the coal lobby, and it is the responsibility of Congress to move if the President won't. But the choice for Congress is subtler and more complex than a for-or-against-the-President vote on leasing rules. This is because the leasing bill comes only as part of the problem created by the sweep of strip mining across the West. The major fear of agricultural and environmental groups is that Congress may pass the coal leasing bill (if the veto is overriden) and end this session without passing a law providing strip mine controls.

The groups agree that money coming to the Western states under the leasing bill would be needed. The effects of the coal boom have already been seen; they are described by Rep. Teno Roncalio (D-Wyo.). "Many small towns in the Rocky Mountain West are suffering severe impact. Wyoming has skyrocketing rates of divorce. We lead in syphilis and gonorrhea per capita. Alcoholism is rampant. Child abuse is a national disgrace in our Western states. Suicide and mental illness are the impacts we suffer in our boomtown growth."

The coal leasing bill would bring money into the Western states, and the politicians who worked hard to override the veto would be hailed for profitably corralling and lassoing a President. But the fear is that once the leasing bill is passed, many of the same politicians will no longer be as enthusiastic as they once were for a strip mine bill. "The timing is wrong," says Carolyn Johnson, the coalition's coordinator. "We need the revenues of the coal leasing bill, but the timing makes me uneasy. We still don't have a strip mine bill. We are so vulnerable out here—ranchers and farmers—to political and economic pressures. If the coal leasing bill is passed, will that take away support for the strip mine bill? I'm leery."

When Johnson and others talk of the states' needing the money, they talk also of needing other things. They have in mind several provisions in the strip mine bill that are not in the one on coal leasing. No protection exists in the leasing bill, for example, for surface owners whose properties lie over federal coal, nor are there mining or reclamation standards to protect land and water resources.

The leasing bill is silent on these matters because when being drafted it was known or assumed that they would be covered in the strip mine bill. When it became clear that the strip mine bill was in trouble, the effort was made by Rep. John Melcher (D.-Mont.) to combine the bills into the National Coal Production, Leasing and Mine Reclamation Act. It was a sensible idea but was defeated late last year in the House Interior committee 21 to 20. At the moment, a revised strip mine bill is again before the Interior Committee (cosponsored by more than half its members), but it is separate from the coal leasing bill being voted on this week.

The separation has forced many of those in the coalition into not working to override the veto, even though they still support the bill. This puts them close to an alliance with forces they have bitterly opposed all along: the coal lobby and the Ford administration. Are their fears justified, that if the coal leasing bill is passed and the money flows into the states (however modest those amounts would be) then support for a strip mine bill will fade? Another reason put forward for not supporting the override is that without a leasing bill Congress would bestir itself to go back and pass both the leasing and the strip mine, as John Melcher once tried to do. But little time remains for that.

The angles to these speculations can form any number of political views. Two congressmen who have been involved in the debate all along dismiss the coalition's fears as groundless. Support for the strip mine bill will remain, both insisted. They agree that the strip mine bill should have passed first, but that that failure is no reason to back away from the coal leasing bill.

What is suggested by this debate, and the new positions that some groups have been forced into, is that Congress is again displaying its talent for complicating the simple: that the need for coal can be balanced with the need to protect the land and those living off it. The tragedies of Appalachia are properly assigned to the coal industry, but it now appears that if similar destruction is moving West, its travel agent may be Congress.

Mr. McGEE. Mr. President, I have made scores of trips to my State this year and have visted all 23 counties and most of the communities. Overwhelmingly the concern which I hear expressed most often by the people of Wyoming is that of the impact which coal and energy development will have upon our State, its communities, and our people. Likewise, I have received countless letters and telegrams in support of S. 391. Some have been copies of communications to President Ford urging that he sign the bill into law. I ask unanimous consent that some of these letters and telegrams be printed in the RECORD at this point.

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

THE UNITED TEACHING PROFESSION,
Cheyenne, Wyo., July 26, 1976.

Hon. GALE MCGEE,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGEE: This letter is to assure you that you have our full support in attempts to override the President's veto of S-391, the Federal Coal Leasing Amendments Act of 1975.

We will do our best to assist you in your efforts.

Sincerely,

DON SHANOR,
Executive Secretary Wyoming Education Association.

CHEYENNE, WYO.,
June 30, 1976.

Hon. GALE MCGEE,
Senate Office Building,
Washington, D.C.

The following message sent President Gerald R. Ford:

DEAR MR. PRESIDENT: The Wyoming Stock Growers Association urges you to give favorable consideration and approve Senate File 391 the Federal Coal Leasing Amendments Act. The signing into law of this important legislation will go a long way toward relieving Wyoming's "impact problems" that are bound to develop as the "energy crunch" comes upon the U.S. and Western coal and uranium becomes of paramount importance to the entire population of our country.

Sincerely,

KIM J. KRUEGER,
President, Wyoming Stock Growers Association.

GERALD R. FORD,
President of the United States,
White House, Washington, D.C.

DEAR MR. PRESIDENT: Rocky Mountain Energy Company, the mining subsidiary of Union Pacific Corporation, respectfully urges you to sign into law the Federal Coal Leasing Bill, S. 391. In urging you to sign the measure, we understand that you may have received advice from segments of the coal industry and responsible public officials to the effect that certain provisions of the measure are onerous and, therefore, unacceptable to them. We understand these reservations and to some degree have shared these concerns.

However, on balance, we believe that the opportunity authorized in the measure granting the public land states, such as the State of Wyoming, where our principal coal mining activities are now centered, the advantage of receiving a substantially higher share of mineral royalty income for use in ameliorating, in part, the socioeconomic impacts of major mineral development on the public domain outweigh the disadvantages contained in the Bill.

Respectfully,

ROCKY MOUNTAIN ENERGY COMPANY,
By JAMES C. WILSON, *President.*

UNION PACIFIC CORP.,
Casper, Wyo., June 25, 1976.

Hon. GALE W. MCGEE,
U.S. Senate, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGEE: As you know, we have heretofore caused to be delivered to your office a copy of the attached telegram forwarded by our mining subsidiary Rocky Mountain Energy Company, signed by its President, James C. Wilson, to President Ford expressing Rocky Mountain Energy Company's views that S. 391 should be signed.

As Governor Herschler may have expressed to you, we have some reservations about certain features of the measure which are, presumably, concerns shared in common with other segments of the coal industry. However, as the telegram states, we believe that the opportunity authorized in the measure granting Wyoming and the other public land states the advantages of receiving a substantially higher share of mineral royalty income outweighs the disadvantages contained in the Bill.

Rocky Mountain Energy Company and the entire Union Pacific Family are delighted to join you in supporting this measure which is of such great significance to the State of Wyoming and our neighboring states.

Sincerely,

D. THOMAS KIDD.

Senator GALE MCGEE,
Senate Office Building,
Washington, D.C.

Copy of message sent to President Ford:

Mr. President, urge you approve S. 391 currently pending your approval. We feel this action is critical to the cities in Wyoming to help provide for the impact created by mineral development which will provide energy to the Nation. Thank you.

GEORGE FRANK,
Mayor, City of Cody.

CASPER, WYO.,
June 23, 1976.

Senator GALE MCGEE,
Russell Senate Office Building,
Washington, D.C.

The Wyoming Rural Electric Association consists of 14 cooperative electric distribution systems and serves 45,000 consumers in Wyoming. We are very interested in the orderly development of Wyoming and in the impacts which are attendant to this development. We believe western minerals are essential in finding solutions to the national energy dilemma and that the State of Wyoming and the communities in the State are entitled to some consideration as these developments occur. We urge your approval of Senate Bill 391 as a means of increasing the States share of Federal mineral royalties.

CRAIG THOMAS,
General Manager, Wyoming Rural Electric Association.

NATIONAL ASSOCIATION OF COUNTIES,
Washingotn, D.C., July 19, 1976.

Re: Veto override for Coal Leasing Bill (S. 391).

DEAR SENATOR: The National Association of Counties (NACo) urges your support for a veto override for the Coal Leasing Reform Bill (S. 391).

This bill amends the Mineral Leasing Act of 1920 to provide for a comprehensive coal program on federal lands.

The bill has several important provisions for counties and other local governments that would be impacted by federal coal leasing activities. Consultation with state and local governments and the public is required in the preparation of the federal land use plans. Further, the Secretary of Interior "shall consider the effects which mining of the proposed lease might have on an impacted community or area, including, but not limited to, impacts on the environment, on agricultural, and other economic activities and on public services."

Of critical importance is the provision in the bill to raise the states percentage of federal coal leasing revenue from 37½% to 50%. The additional 12½% would be available to a state and its subdivisions giving priority to those communities socially or economically impacted by federal mineral development activities.

Your support for a veto override on S. 391 with these provisions will be greatly appreciated.

Sincerely,

JIM EVANS,
Legislative Representative.

FARM BUREAU FEDERATION,
Laramie, Wyo, July 6, 1976.

Hon. GALE MCGEE,
Senator, State of Wyoming,
Russell Senate Office Building,
Washington, D.C.

DEAR GALE: I was dismayed at President Ford's veto of S. 391 which would have increased mineral royalty payments from 37½ percent to 50 percent. I consider this one of the most disappointing legislative setbacks the West has suffered in many years.

I want you to know that we strongly support your efforts to override this deplorable veto when Congress reconvenes later this month. As you know the Wyoming Farm Bureau Federation has been a proponent of such increased mineral royalty payments for several years.

The importance of such legislation cannot be overemphasized since Wyoming will suffer the extensive impact which results from energy resource development. Wyoming and the other states with vast energy resources should not be forced to contribute more than is fair in meeting our nation's energy needs. It seems equitable to me for the federal government to help offset some of this impact by increasing mineral royalty payments.

On behalf of more than 7500 member families of the Wyoming Farm Bureau Federation, your efforts to secure Congressional passage of S. 391 are appreciated, as well as an attempt to override this unfortunate Presidential veto.

Best regards,

DAVID A. FLITNER,
President.

Cheyenne, Wyo., June 30, 1976.

President GERALD R. FORD,
Pennsylvania Avenue,
Washington, D.C.

DEAR PRESIDENT FORD: As a member of the Wyoming State Legislature, Appropriations Committee, I feel it necessary to write you in regard to S-391. The Federal Coal Leasing Amendments Act of 1975 is now on your desk for signature.

The State of Wyoming is proud to be in the position of becoming the energy capital of the United States. I feel that the mineral resources of our State are rightfully the property of all the people of the United States. S-391 will not, in the long run, reduce the Federal Treasury income from our minerals. The additional 12½ per cent tax returned to Wyoming is absolutely necessary for us to meet the impact problems associated with the development of these new coal fields.

Mr. President, in my capacity as a member of the Appropriations Committee of our Legislature, I assure you that these monies will be appropriated with the thought in mind to assist the United States in becoming energy sufficient. I urge you to sign S-391 in its present form to enable us to proceed on the road to your established goals of energy self-sufficiency.

Sincerely,

CARROL P. ORRISON,
State Representative.

WYOMING STATE LEGISLATURE,
Rock Springs, Wyo., June 29, 1976.

Hon. GERALD FORD,
President,
The *White House,*
Washington, D.C.

DEAR MR. PRESIDENT: I strongly urge your favorable consideration of S. 391, the Federal Coal Leasing Amendments Act of 1975, which has now been passed by both the Senate and the House.

This act is of great importance to all of Wyoming, and is of particular importance to Sweetwater County and Southwestern Wyoming, a mineral producing area which is now trying to cope with the impact of industrial expansion based on mineral production.

Conservative estimates are that Sweetwater County has doubled in population during the past three years, because of this industrial expansion. The funds which could be available through approval of S. 391 would be of great benefit to this area in meeting

the problems occasioned by this industrial expansion.

Sincerely,

ROBERT H. JOHNSON,
State Senator.

CHEYENNE, WYO.,
June 30, 1976.

Hon. GALE MCGEE,
Senate Office Building,
Washington, D.C.

The following message sent President Gerald R. Ford, June 30, 1976:

DEAR MR. PRESIDENT: As Chairman of the Wyoming House of Representatives Mines, Minerals and Industrial Development Committee, I urge you to sign Senate File 391, the Federal Coal Leasing Amendments Act, the finalization of this congressional action into law will be of great assistance to the State of Wyoming in helping us "bridge the gap" regarding the accelerated growth and expansion that is bound to occur as we develop Wyomings coal, uranium, and other mineral resources, for the benefit of the entire Nation.

Sincerely,

Representative DEAN PROSSER,
Chairman, Mines, Minerals and Industrial Development Committee.

ST. PAUL, MINN.,
June 29, 1976.

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

I strongly urge you to sign S. 391, the Federal Coal Leasing Amendments Act of 1975. In my opinion it makes significant and beneficial amendments to the Mineral Leasing Act of 1920. Its provisions providing for increased payments to the states, instituting a federal exploration program, providing for logical mining units, reserving certain tracts to public bodies, requiring mining and reclamation plans, imposing production requirements, and providing for a study of recovery methods, are most beneficial. In my opinion this bill merits your support and your signature.

LOUIS W. MENK,
Chairman, Burlington Northern Inc.

CHEYENNE, WYO.,
June 28, 1976.

Senator MCGEE,
Old Senate Building,
Washington, D.C.

The following is a copy of telegram sent to President Ford, White House, Washington, D.C.:

The Wyoming Water Development Association comprised of citizens of all water interests in the State urge your signing of S. 391. Funds are vitally needed in our State for use in energy impacted areas.

MERL RISSLER,
President, Alcova.

NATIONAL COUNCIL OF STATE COMMITTEES FOR CHILDREN AND YOUTH,
June 24, 1976.

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

DEAR PRESIDENT FORD: I urge you to approve the bill designed to increase the states share in mineral royalties. Additional revenues are desperately needed, especially in newly impacted areas, for human services. In Wyoming and other states, great hardship has been created by the influx of people demanded in producing fuel to supply national needs.

Respectfully yours,

EVERETT D. LANTZ,
President, National Council of State Committees for Children and Youth.

WYOMING COUNCIL FOR CHILDREN AND YOUTH,
Laramie, Wyo., June 24, 1976.

Hon. GALE MCGEE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGEE: Congratulations on moving a greatly needed revision of the Mineral Royalty Act toward fruition. This, in my opinion, is one of the most significant events in Wyoming's colorful history. If the bill becomes law, Wyoming will be indeed blessed.

We are fortunate to have Gale McGee representing the people of Wyoming in our Nation's Capitol. Best wishes for continued success and happiness.

Respectfully yours,

EVERETT D. LANTZ.

WYOMING EXECUTIVE DEPARTMENT,
Cheyenne, Wyo., June 24, 1976.

Hon. GERALD R. FORD,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Congress has recently passed and sent to you H.R. 6721, a bill to amend the Mineral Leasing Act. The bill contains a provision increasing the states' share of federal mineral royalties from 37½% to 50%.

This additional revenue is of crucial importance to a state such as Wyoming, where federal energy policies have resulted in unprecedented population growth from the opening of new coal and uranium mines and the construction of new power plants. This rapid influx of workers and associated service employees has put a substantial strain upon our small communities, some of which have seen their populations double over the past few years. They are rapidly approaching the limits of their bonded indebtedness.

It is inevitable that such activity will have some adverse effects upon our people, our environment, and our way of life. Nevertheless, Wyoming is willing to do her part in meeting the national energy crisis. I strongly believe that the federal government has a mutual obligation to provide this financial assistance to an area struggling with the effects of federal energy policies.

The royalty share amendment has had broad bi-partisan support throughout the Rocky Mountain area. Our Congressional delegation has backed the concept from its inception and they have spared no effort in guiding its passage through Congress.

The amount of money involved is small, compared to most federal programs. Yet it is a matter of the greatest importance to a rural state such as mine. I respectfully urge you to allow this bill to become law.

Yours sincerely,

ED HERSCHLER.

Mr. MCGEE. Mr. President, S. 391 should become law for two basic reasons. First, our coal leasing laws are in need of modernization so that we can stimulate the production of our coal resources in an orderly, environmentally sound, and equitable manner. The President's objections to this bill, in my opinion, are indeed minor. He fears that some of these provisions would have an adverse impact on coal production. I say let us proceed under the provisions of this bill, and if the President's apprehensions prove to be true, Congress will have ample time to modify its provisions later. On the other hand, our Western States do not have the time to stand idly by while our unprotected lands are being consumed by uncontrolled coal production and while our communities are being impacted by exploding population growth.

The second, and equally important, reason why S. 391 should become law is because of the financial aid it will provide for boom towns and impacted areas. The Western States' share of the Federal mineral royalty will be increased a modest 12½ percent. For Wyoming, at current production levels, this will mean an additional $10 or $11 million annually to be used by our communities to construct sewage disposal plants, provide good water, expand our hospitals and schools, build roads and highways, and provide other necessary services for our growing populations.

This financial assistance is already long overdue. Sweetwater County in southwestern Wyoming, for instance, has doubled its population in 3 short years. The city of Gillette in Campbell County has suffered the same impact due to coal development in the Powder River Basin, and many of the other communities in my State face the same consequences.

Mr. President, I made my case for S. 391 in a lengthy statement when it finally passed the Senate on June 21 of this year. I, therefore, send an urgent plea to my colleagues, both in the Senate and in the House, to vote for an override of the Presidential veto.

I wish to underscore the admonition of the chairman of the subcommittee, the Senator from Montana, and the comments of my colleague (Mr. HANSEN). The two of them have worked long and hard, almost literally, in the legislative mines to produce what we have learned long since is the only way in this body. That is to find the level of reasonable compromise.

That is responsible. I think we are facing here today the consequences of some unfortunate advice or ill advice to the President of the United States.

We appreciate very much the effort of our colleagues who seek to sustain that mistaken judgment. It happens to all of us occasionally and we are very tolerant toward that kind of position. The hard fact of the case is, Mr. President, that we are dealing with hobgoblins here. This is not halloween. Yet, the specter of what might or what if or what of has been paraded before us here. It is not in this bill. This bill is down to earth—in fact, it is in the bowels of the earth—in a responsible way to help us meet our energy demands.

I say to my friends on the other side of this question that time is running out for us in the West in terms of getting help. Everybody wants to help us now on impact funds, but they want to do it in another bill and another one and another one. We tried this a year ago and it is increasingly urgent. Before the time runs clear out, it is important that we get this bill through today.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. MCGEE. May I have 30 seconds?

Mr. METCALF. I yield 30 seconds.

Mr. MCGEE. I have asked to have printed in the RECORD a series of letters from people in Wyoming that are selected to show the diversity of the depth of the concern over this and to remind my colleagues that of our 81 incorporated communities in Wyoming, 26 of them are already severely impacted by

what is going on in energy in our State and we dare not wait longer.

Mr. METCALF. Mr. President, may I ask about the time?

The PRESIDING OFFICER. The Senator from Montana has 30 seconds remaining; the Senator from Arizona has 2 minutes remaining.

Mr. METCALF. Would the Senator from Arizona use his time and let me close with 30 seconds?

Mr. FANNIN. Mr. President, the Senator from Arizona wishes to make it clear that he supports the position that has been expressed by the Senator from Wyoming as far as the money that would be received from sales bonuses, royalties, and rentals of public lands to the States, and is a cosponsor of this amendment.

Also, there are several bills—even in conference—pending before the Congress at the present time which have such a provision in them, and I would hope the vehicle would provide the alternative that we have.

Mr. President, I do want to emphasize that the surface mining regulations released May 11 by the Department of Interior were effective as published in the Federal Register—in other words, immediately. Pertaining only to Federal coal lands, these rules for leasing, exploration, mining and reclamation were endorsed by both the CEQ and the EPA. State law applies where it is as stringent or more stringent, unless States try to block or lock up Federal coal reserves. BLM will administer coal leasing, permits and licensing; USGS has authority over coal exploration, mining and reclamation.

Mr. President, I bring that to the attention of the Senate because I think it is very important. We can accomplish, I feel, what the Senator from Wyoming wants, what the Senator from Montana desires, if we would just take advantage of the opportunities we have to send these amendments through on pending legislation, and this would be done.

Now, I do not think the Senator from Wyoming or, perhaps, the Senator from Montana feels that this bill—this is not a Senate bill it has been brought out continuously, and it is not what the Senator wanted or would not have been the bill they sent over.

The PRESIDING OFFICER. The time has expired.

Mr. FANNIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized for 30 seconds.

Mr. METCALF. Mr. President, this bill will stabilize the mining industry. This bill will give encouragement to the mining industry because we will give them the ground rules. This bill will enact into statutory authority many of the regulations that the Senator from Arizona has suggested that the Secretary of Interior has promulgated.

This bill will provide other regulations that Congress, in its capacity as overseer of the public lands, has to assert in its assertion of congressional authority.

This bill will provide help for the various communities in our States that are a result of coal mining activity, so that we can take care of schools, sewers, and all those things, and this bill will also provide for a more stable mining activity in the future. I urge my colleagues to override the President's veto.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HASKELL. Mr. President, later the Senate will vote on whether or not to override the President's veto of the Coal Leasing Amendments Act of 1976, S. 391. I will vote to override that veto and I hope that the Senate will approve the override vote.

Of particular importance to residents of Colorado and other Western States targeted for extensive new mineral and energy source development in the coming decades, is a provision of the bill which increases the States' share of mineral revenues collected under the Minerals Lands Leasing Act, from the present 37.5 percent to 50 percent, and makes the additional 12.5 percent available for a broader set of purposes than is permitted under the present law. While the existing law restricts the use of these revenues to the construction and maintenance of schools and roads, the coal leasing bill would permit the States to spend the additional revenues on all of the public needs of the communities affected by the rapid new development. This bill also permits the moneys already paid, or to be paid under the prototype oil shale leasing program to be spent for more than just schools and roads.

Mr. President, I cannot overemphasize the importance of this issue to Colorado's smaller, rural communities which are already feeling the impact of experimental oil shale development and accelerated coal mining activity. For this reason, I have sought to include provisions for this discretionary authority in a number of bills relating to mineral leasing and energy development. I am extremely pleased that the House-Senate conferees on the Land and Water Conservation Fund Act, S. 327, have just reported a bill which includes a provision I sponsored allowing a State to use its share of its Federal oil shale lease funds—87½ percent—for any public purpose it deems proper, such as planning, public facilities and public services, in addition to roads and schools which are now the only purposes for which those funds may be used. It is simply imperative that the Western States have the unrestricted use of this money to help cope with the rapid growth which will result from shale development, and to provide all types of services to their new residents.

In further support of this point, I would like to recommend to my colleagues a thoughtful speech by Dr. Pamela Kacser of the Federal Energy Administration who recently addressed the American Country Life Association's Annual Forum at West Virginia University in Morgantown, W. Va., on the subject of "Energy, People, and Rural Development."

In this speech, Dr. Kacser discusses the impact of the energy crisis on rural America from two points of view—the costs which rural residents must bear as a result of higher energy prices, and the impact on rural communities of rapid growth associated with accelerated energy resource development. She points out that in one of FEA's western regions, in six States running north and west from Colorado, there are 179 communities which may, within the next few years, suddenly face an influx of from 1,000 to 3,000 new workers directly engaged in energy. She cites a study conducted by the Denver Research Institute, of Sweetwater County, Wyo., the site of a large powerplant and of renewed mining activity. The institute concluded from its study that "an annual growth rate of 10 percent strains local service capabilities. Above 15 percent, seems to cause breakdowns in local and regional institutions."

Mr. President, I believe this interesting and informative discussion of the "energy boomtown" syndrome is pertinent to our debate over the use of the States' share of mineral leasing funds, and I think my colleagues will find Dr. Kacser's address interesting and useful. I ask that it be printed in the RECORD at this time.

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

ENERGY, PEOPLE, AND RURAL DEVELOPMENT

(An Address by Dr. Pamela Haddy Kacser)

ACKNOWLEDGMENT

The author gratefully acknowledges the assistance of three colleagues in the preparation of this paper, Ms. Ann Siler in connection with the section on Energy Resource Development, Mr. William Bowman for the section on Price Impacts on Rural Areas, as well as for computer work on this section, and Ms. Neva Harrison for her typing.

INTRODUCTION

It is a particular pleasure to address the Annual Forum of the American Country Life Association on the attractive campus of West Virginia University. This state shows, to an unusual degree, impacts of our nation's energy problems and policies, in both their expansionary and their onerous aspects. To coin a phrase, first the good news. Considerable development of our domestic energy resources, especially of our bountiful supplies of coal, is taking place right in this area. John L. Lewis must be chortling in his grave at the sudden upsurge in coal production and coal-mining income. On the other hand, as I shall spell out later, such areas as West Virginia are especially vulnerable to price increases in energy products.

I would like to take this opportunity to make a few comments first on the general impact of the energy crisis in the long-term aftermath of the embargo, then on the sudden increase in the last two years in energy resource development especially in rural areas, and finally on a method which I have developed in the Federal Energy Administration for analysis of the impact of energy price increases on different sub-groups in the American population, applied here to the rural population, and less reliably to the Appalachian region.

THE MEANING OF THE ENERGY CRISIS

What does the energy crisis mean for the United States over the long haul? We know that it means the likelihood of rising prices for imported fuel, and the possibility of total withdrawal of most foreign supplies.

To meet this crisis, we have tried to embark on a two-pronged policy of developing domestic energy resources and curtailing the use of imports, together with encouraging conservation. As a nation, we have not been notably successful in this policy.

Many people are worried that conservation implies no growth, in spite of the example of prosperous growing countries, such as Germany, who use much less energy per person than we do. Conservation does not mean a reduction, but a reallocation of our growing expenditures, from stoves to microwave ovens, from wasted heating fuel to heating fuel plus more insulation.

Basically, our long-term energy future means that there has been and will be a gradual upward shift in the price of energy compared with all the other factors of production, land, labor, capital and other raw materials. I anticipate that we shall be making gradual adjustments to these changed relative prices over the next fifty years. Why so long? Because we cannot scrap the stock of buildings and communities and transportation patterns which we have built up so laboriously for, as last weekend reminded us, two hundred years.

We might expect a slight acceleration in the existing trend of the population to relocate in the sun belt of the South and West, a rational adjustment to higher fuel costs. Within a region, the cost of commuting may slightly shift the relative desirability of the house in the outlying suburb compared with the one closer in.

In other words, we may have a more intensive use of our existing towns and suburbs, and even possibly slow the march of the suburbs into the rural areas. It is conceivable that eventually the energy crisis may do for some of the cities what successive major efforts of governments have not been able to do, to revitalize them by giving people reasons for wanting to remain in them.

The immediate aftermath of the embargo has, of course, imposed special problems on the rural areas, in terms of needs for, prices of, and availability of fuels, bearing particularly hard on the poor and the elderly. This important subject is discussed in considerable detail later. In sum, these problems created additional needs for public services, in turn putting extra strains on county and state services, just at the time their own costs had risen. In some states, revenues rose in this period, for example, where there was a tax on the production of gasoline. In other states, with a tax on sales of gasoline there was a severe drop in revenues.

For a time, you may recall, people switched to small cars, and stopped buying recreation vehicles. They cut back on long-distance leisure travel. They purchased insulation for their homes.

This first step on the long path of adjustment to higher energy prices was not smoothly followed by more. People stopped believing there was a problem. They reversed everything, switching back to larger cars, and recreation vehicles. One can only hope that this is a temporary deviation from the long-term trend.

This reversal of trend also gives more importance to the painful process of adjustment forced by higher prices, with all their attendant inequities. It also gives major focus to the need to develop many types of domestic fuels, traditional and modern. This domestic energy resource development presents particularly thorny problems for small communities. In one of FEA's Western regions, of six states running north and west from Colorado, there are 179 communities who may, within the next few years, suddenly face an influx of from 1,000 to 3,000 new workers directly engaged in energy.

These people and their families have to be fed, housed, schooled, and provided with roads, sewers and social services.

The financial and other problems this creates are discussed in the next section.

ENERGY RESOURCE DEVELOPMENT

The need for energy resource development is responsible for the "boomtown problem", an expression which appropriately, has both good and bad connotations. In the long-term, increasing energy supplies brings a very positive and healthy contribution both to the local economy and to the nation. But without vision, preparation, and money, the short term growing pains in a small community which happens to be the site of a new energy project can be severe.

Almost any rural area, across the nation, could be affected if selected as the site of a nuclear power plant. Rural areas in the coastal zones, where off-shore oil and gas is to be developed, will be the "land bases" for such activities, such as the Delmarva coast, near Washington, D.C. As I mentioned earlier, the coal areas of Appalachia were immediately affected with the onslaught of the oil embargo. The areas of the Rocky Mountains and the Northern Great Plains, too, have low sulphur coal and the less-economical, but potentially available, shale oil. All these areas are subject in some degree to the boomtown syndrome. But the most extreme recent example is the communities of the State of Alaska.

We now have enough experience with communities undergoing rapid growth from energy projects, to recognize and prepare for some of the inherent difficulties.

These difficulties arise because of the costs and the benefits of rapid growth are not simultaneous. For a small community, there is some initial mixture of both. But, in general, the benefits are long-range and regional, while costs are immediate and local. The Denver Research Institute conducted a study of Sweetwater County, Wyoming. Sweetwater is the site of a large new power plant and of renewed mining activity. The Institute concluded that "An annual growth rate of 10 percent strains local service capabilities. Above 15 percent, seems to cause breakdowns in local and regional institutions."

The initial strain results from the influx of construction workers performing the first phase of energy development workers. Their numbers, and the length of time of this first phase, depends, of course, on the nature of the energy project involved. A nuclear power plant may bring in up to 2,500 workers, and may require a construction period lasting up to ten years. (This brand new situation would be in stark contrast to a long-established mining community, which may have been suffering unemployment, and offers some "slack" in jobs, houses, and places in school.)

While larger urban areas might absorb such an influx, it would be a rare rural community which could do so. Sudden jumps in population require sudden increases in housing and all its attendant services, such as water and sewer systems. More schools are suddenly needed, and all manner of human services involved in health care such as hospitals, doctors, and sanitation services. New streets and connecting roads are necessary, more police, and other public servants.

It is not the need for services, but the sudden onset of the need which creates the problem. Provision of all these community needs requires heavy investment and perhaps greatly increased continuing costs. Yet the revenues produced by energy development will probably not be immediately available. Increased employment does soon produce a tax return for the community, but this return can in no way cover the heavy outlay which has been required. Taxes imposed on energy projects seldom materialize until the project is complete, and in operation, which, as we have seen, may be a matter of several years. Depending on states' tax systems, revenues may or may not be returned to the communities of need. Often energy development may occur in one county, and living development just over the line in another county.

In addition to a mismatch in dollar cost and benefit of energy development, there may be social strains. Long-time rural residents may resent newcomers, the changed pace of life, and face of the land. Newcomers may find little in the way of recreational activity, and the new payroll dollars they are anxious to spend, may bring a degree of inflation to the area. Elderly and retired residents, on fixed incomes, will suffer accordingly.

This general picture of an energy project boomtown will, of course, vary by the type of project, its location, and the particular community or rural area involved. The type of project determines the length of the construction phase, and sets the time required before the locale settles to its new, more stable, level of economic and social activity.

What can be done to alleviate the difficulties of a rural area undergoing the impacts of energy resource development? There is, of course, no pat answer and we seem to know more about the problems than the solutions.

One thing is clear. Foresight, planning and inter-governmental cooperative efforts are a must. We must usually rely upon the estimates of size and timing of projects made by energy companies, although these estimates have sometimes proven faulty. Local governments have to provide inventories of current conditions, and of their abilities to provide expanded services. Close cooperation between energy companies and local officials is mandatory, and based on the understanding that growth must be at a manageable rate. Since energy projects usually occur in small, remote areas, local officials may lack expertise in prediction and management. State and area-wide districts must help them in their problem. Federal assistance, too, may be in order, providing technical assistance and, perhaps, some funding. The Department of Housing and Urban Development, the Federal Energy Administration, and the Rural Development Service of the Department of Agriculture, are examples. This last, the RDS, has assembled an information system covering potential programs in the Catalogue of Federal Domestic Assistance, a must for communities under going rapid development. But the real key to success will still lie in the cooperative efforts of the particular groups involved and the desire to emerge as a stable and productive social unit.

PRICE IMPACTS ON RURAL AREAS

When FEA was first established in 1974, there was very little recent information available about energy consumption in general, and how changes in prices might affect different groups with our population, such as the poor, the Northeast, blacks, the elderly, and rural dwellers. The Congress, rightly concerned about these differential impacts, wrote into the FEA Act the requirement that information on these subjects should be collected and analyzed.

I was given the task of setting up a data system to examine such socio-economic impacts. With the help of a research firm, Mathematica, Inc., we set up the Household Energy Expenditure Model (HEEM), using a national sample of 50,000 U.S. households from the Public Use Sample of the 1970 Census of Population. We fed into this, some energy consumption information in the Census, supplemented by the Nationwide Personal Transportation Study. All these data were then statistically aged by Mathematica to 1973.

We now use this system frequently to examine the impacts of proposed policies and or problems as they arise. Another study which I have underway at present will eventually be used to improve the consumption data in the HEEM system.

We used the HEEM system to analyze the impacts of higher energy prices on rural households in the U.S. First, we examined

the impact of higher energy prices on all U.S. households for comparison purposes. Many of the general conclusions apply to rural households as well. Forgive me for the technical nature of this part of my presentation. You may wish to turn to the tables which I circulated.

Tables One and Two show average annual household home fuel and gasoline expenditures for all U.S. households. These expenditures are estimates from the HEEM model for the years 1973, 1974 and 1975. The expenditure estimates are cross-classified by various income groups and by geographic region.

National average annual home fuel expenditures from Table One are estimated to have increased from 1973 to 1974 by $100 from $415 to $515 and from 1974 to 1975 by $76 from $515 to $591.

The total 1973–1975 increase was estimated to have been $176. This 42.4% increase was, indeed, noticed by U.S. household consumers.

Home fuel expenditures, when estimated by income groups, show a pattern of regressive impacts. Increased home fuel expenditures can be expressed as percentages of disposable income. For the period 1973–1975, these percentage increases were estimated to have been 5.37% for the $1000–$4999 income group and only 0.88% for the $20,000–$24,999 income group. As income increases, the impact of higher energy prices decreases. Higher energy prices have a relatively more severe impact on lower income households.

When estimated by region, home fuel expenditures show differential impacts on various regions. For example, total increased annual average home fuel expenditures from 1973–1975 were estimated to have been $274 in New England and only $108 in the Pacific region. Generally, the colder regions and the regions with the highest 1973 energy prices were the regions experiencing the greatest expenditure increases.

National average annual gasoline expenditures from Table Two are estimated to have increased from 1973 to 1974 by $163 from $525 to $688 and from 1974 to 1975 by $43 from $688 to $731. The total 1973–1975 increase was estimated to have been $206. This 39.2% increase was also extremely noticeable to U.S. household consumers.

Gasoline expenditures, when estimated by income group, show a pattern of regressive impacts. When estimated by region, however, differential regional impacts are not evident.

Next, we can examine estimates of increased average annual household energy expenditures for rural U.S. households. Here, a caveat is in order. HEEM model estimates, when too finely disaggregated, become less reliable as the sample size decreases. Nevertheless, some useful conclusions can be made from the rural estimates given in Tables Three and Four.

For the nation as a whole, as shown in Table Three, rural household annual average home fuel expenditures were estimated to have increased from 1973 to 1974 by $154 from $438 to $592 and from 1974 to 1975 by $99 from $592 to $691. The total 1973–1975 increase was estimated to have been $253.

This was a 57.8% increase for rural households compared to a 42.4% increase for all U.S. households.

Rural household home fuel expenditures, when estimated by income group, show a pattern of regressive impacts. Increased annual average home fuel expenditures were estimated as percentages of disposable income. For the period 1973–1975, these percentage increases ranged from 7.6% for the $1000—$4999 income group to 1.24% for the $20,000—$24,999 income group. These regressive impacts are estimated to have been greater for rural households than for all households nationally.

When estimated by region, rural home fuel expenditures show differential impacts on various regions. Rural households in colder regions and in regions with high 1973 energy prices were relatively more affected than were rural households in other regions. Rural households in the North Central regions were relatively more affected than were non-rural households in these regions.

The estimates seem to indicate that rural households were disproportionately affected by higher home fuel prices. Reasons may have been that rural households are relatively more dependent on fuel oil and bottled gas. For example, the price of fuel oil increased by 58.4% from 1973 to 1974, and the bottled gas price increased by 78.7% from 1973 to 1974.

For the nation as a whole, as shown in Table Four, rural household annual gasoline expenditures were estimated to have increased from 1973 to 1975 by 39.4% from $498 to $694. This increase was similar to the national average increase for all U.S. households. Across income groups, a regressive pattern of increases is observed. In regions other than New England, expenditure increases are not noticeably different.

However, higher gasoline prices may have a larger differential impact on rural households than HEEM model estimates indicate. Persons living in rural areas generally have a longer distance to travel to work and find public transportation less available.

The auto is needed relatively more for recreational activities. And, higher gasoline prices cause increased costs for farming.

Concerning this last point, an FEA agricultural economist was consulted. It was reported that higher gasoline prices have had some direct impact on increased farm costs. However, more important is the fact that higher energy prices in general have indirectly caused farm input costs to rise. The higher costs of fertilizer, farm equipment, etc. could either reduce farm revenues or increase consumer food prices or both.

In conclusion, concerning rural households, it can be stated that HEEM estimates and other evidence indicate that rural households, especially low income households, may be relatively more adversely affected by increases in the prices of heating and cooking fuel and by transportation problems. Houses cost more to heat in rural areas, particularly in colder parts of the country, and the rural poor are more dependent on delivery services for fuel, on good neighbors, on limited public transportation, and on their own cars. During the 1973 energy crisis, there was some evidence that some of the fuel companies who delivered in the small units appropriate to the poor went out of business, or would only make larger deliveries.

Finally, the HEEM model was used to provide estimates of the impacts of increased energy expenditures on rural Appalachian households. The estimates are fairly unreliable due to the limited sample size. However, the estimates are presented to show that the limited, available data does not provide evidence to reject the notions that rural Appalachian households may have been adversely affected by higher energy prices in many of the same ways discussed above. See Table Five for the data that is available.

CONCLUSION

In conclusion, we can readily see that country life in the United States, which is already being transformed by a myriad of other economic forces, is of crucial importance both for energy problems and energy policies. Rural dwellers have special needs for transportation and fuel, and, our preliminary studies suggest, they have so far borne a disproportionate share of the energy burden. At the same time many of the new projects to develop further energy resources, both traditional and modern, will take place in rural areas. Those rural communities need planning assistance for their own social welfare. The nation needs that assistance to the rural communities in order to ensure the smooth development of the domestic energy resources with which this country is so richly endowed.

TABLE 1.—AVERAGE ANNUAL HOUSEHOLD HOME FUELS EXPENDITURES ALL U.S. HOUSEHOLDS: 1973, 1974, AND 1975

	1973	1974	1975[1]	1973–75 change as a percent of disposable income
Income:				
Less than $1,000	$345	$432	$499	NA
$1,000 to $4,999	353	444	514	5.37
$5,000 to $9,999	396	495	569	2.31
$10,000 to $14,999	447	551	632	1.48
$15,000 to $19,999	475	578	660	1.06
$20,000 to $24,999	503	615	700	.88
$25,000 and over	526	642	729	NA
	1973	1974	1975[1]	Total increase 1973–75[1]
Region:				
New England	$566	$746	$840	$274
Middle Atlantic	522	665	752	230
East north-central	441	535	619	178
West north-central	413	520	609	196
South Atlantic	404	508	582	178
East south-central	341	415	483	142
West south-central	314	375	440	126
Mountain	346	415	484	138
Pacific	310	365	418	108
National average	415	515	591	176

[1] Data for 1975 are preliminary, tentative estimates.

Source: All data are estimates from FEA's household energy expenditure model.

TABLE 2.—AVERAGE ANNUAL HOUSEHOLD GASOLINE EXPENDITURES ALL CAR-OWNING U.S. HOUSEHOLDS: 1973, 1974, AND 1975

	1973	1974	1975[1]	1973–75 change as a percent of disposable income
Income:				
Less than $1,000	$301	$394	$419	NA
$1,000 to $4,999	267	351	373	3.53
$5,000 to $9,999	431	565	601	2.26
$10,000 to $14,999	546	715	760	1.71
$15,000 to $19,999	705	924	982	1.58
$20,000 to $24,999	732	960	1,020	1.28
$25,000 and over	758	992	1,055	NA
National average	525	688	731	NA
		Increase		Total increase
	1973	1973–74	1974–75[1]	1973–75[1]
Region:				
New England		$168	$45	$213
Middle Atlantic		148	40	188
East north-central		171	46	217
West north-central		157	42	199
South Atlantic		160	43	203
East south-central		139	37	176
West south-central		141	38	179
Mountain		167	45	212
Pacific		158	42	200

[1] Data for 1975 are preliminary, tentative estimates.

Source: All data are estimates from FEA's household energy expenditure model.

TABLE 3.—AVERAGE ANNUAL HOUSEHOLD HOME FUEL EXPENDITURES RURAL U.S. HOUSEHOLDS: 1973, 1974, AND 1975

	1973	1974	1975 [1]	1973–75 change as a percent of disposable income
Income:				
Less than $1,000	$344	$463	$545	NA
$1,000 to $4,999	381	517	609	7.60
$5,000 to $9,999	444	599	699	3.40
$10,000 to $14,999	485	658	768	2.26
$15,000 to $19,999	516	691	796	1.60
$20,000 to $24,999	535	709	814	1.24
$25,000 and over	557	734	835	NA
	1973	1974	1975 [1]	Total increase 1973–75
Region:				
New England	$549	$766	$865	$316
Middle Atlantic	545	727	827	282
East north-central	524	716	835	311
West north-central	498	709	849	351
South Atlantic	398	528	608	210
East south-central	335	437	516	181
West south-central	362	491	600	238
Mountain	394	527	628	234
Pacific	373	483	559	186
Rural average	438	592	691	253

[1] Data for 1975 are preliminary, tentative estimates.

Source: All data are estimates from FEA's household energy expenditure model.

TABLE 4.—AVERAGE ANNUAL HOUSEHOLD GASOLINE EXPENDITURES RURAL CAR-OWNING U.S. HOUSEHOLDS: 1973, 1974, AND 1975

	1973	1974	1975 [1]	1973–75 change as a percent of disposable income
Income:				
Less than $1,000	$328	$429	$457	NA
$1,000 to $4,999	294	384	409	3.83
$5,000 to $9,999	464	608	646	2.43
$10,000 to $14,999	607	795	846	1.91
$15,000 to $19,999	734	961	1,022	1.65
$20,000 to $24,999	805	1,053	1,120	1.40
$25,000 and over	964	1,263	1,343	NA
Rural average	498	652	694	NA
		Increase		Total increase,[1] 1973–75
	1973	1973–74	1974–75 [1]	
Region:				
New England		$198	$53	$251
Middle Atlantic		138	37	175
East north-central		170	46	216
West north-central		167	45	212
South Atlantic		163	43	206
East south-central		127	34	161
West south-central		136	36	172
Mountain		158	42	200
Pacific		143	38	181

[1] Data for 1975 are preliminary, tentative estimates.

Source: All data are estimates from FEA's household energy expenditure model.

TABLE 5

AVERAGE ANNUAL HOUSEHOLD HOME FUELS EXPENDITURES APPALACHIAN RURAL HOUSHOLDS: 1973, 1974, AND 1975

	1973	1974	1975 [1]	Total increase, 1973–75	1973–75 change as a percent of disposable income
Income:					
Less than $1,000	$314	$412	$471	$157	NA
$1,000 to $4,999	336	438	503	167	5.57
$5,000 to $9,999	397	517	588	191	2.55
$10,000 to $14,999	407	529	597	190	1.52
$15,000 to $19,999	NA	NA	NA	NA	NA
$20,000 to $24,999	458	610	670	212	.94
$25,000 and over	563	705	783	220	NA
Average	376	488	556	180	NA

[1] Data for 1975 are preliminary, tentative estimates.

Source: All data are estimates from FEA's household energy expenditure model.

AVERAGE ANNUAL HOUSEHOLD GASOLINE EXPENDITURES APPALACHIAN RURAL HOUSEHOLDS: 1973, 1974, AND 1975

	1973	1974	1975 [1]	Total increase, 1973–75	1973–75 change as a percent of disposable income
Income:					
Less than $1,000	$328	$430	$458	$130	NA
$1,000 to $4,999	291	381	406	115	3.83
$5,000 to $9,999	494	648	689	195	2.60
$10,000 to $14,999	597	781	831	234	1.87
$15,000 to $19,999	581	761	809	228	1.30
$20,000 to $24,999	NA	NA	NA	NA	NA
$25,000 and over	NA	NA	NA	NA	NA
Average	476	623	663	187	NA

Note: Estimates for Appalachian rural households are based on a small sample and should be treated cautiously. Further validation is needed before these estimates can be considered representative.

Mr. HASKELL. Mr. President, I urge my colleagues to vote to override this ill-considered veto. The Coal Leasing Amendments Act of 1976 contains numerous provisions which will cause a restructuring of Federal coal leasing policy along much more logical lines.

There are provisions which would end the speculative holding of Federal coal leases, place a limit on the concentration of holdings, increase the return to the public from the development of its resources, increase environmental protection, planning and public participation in decisionmaking, and insure the maximum recovery of the resource.

In addition, and of special interest to my State, the bill contains provisions which would increase the States' share of mineral leasing revenues from 37.5 percent to 50 percent. The additional 12.5 percent could be spent on planning and construction and maintenance at any public facilities and would not be restricted to only schools and roads. Another provision would permit the States of Colorado and Utah, where the vast majority of our Federal oil shale reserves occur, to use the moneys available to them under the prototype oil shale leasing program for any public purpose, with priority to be given to those areas affected by the development of this energy resource.

We have been seeking these changes in the Mineral Lands Leasing Act for 4 years now. Development of western energy resources is increasing at a rapid pace. If our small communities are to cope with these developments in a rational manner, they must have the funds to permit local planning and the construction of the necessary facilities to accommodate large influxes of people.

Enactment of this legislation will answer many of the questions which prevent the reasonable development of western coal lands. Passage of a Federal coal surface mining bill next year will complete the package and enable development of these enormous energy resources to proceed.

Mr. DOMENICI. Mr. President, I am voting to sustain the President's veto of S. 391, the Federal Coal Leasing Amendments Act. This has been an extremely difficult decision for me to reach; however, after closely scurtinizing the reasons which prompted the President to veto this legislation, I find that I share his concerns.

I voted in favor of passage of S. 391 last July. Unfortunately, the bill was significantly changed before it was sent to the President for signature. The bill sent to the President contained provisions to increase impact assistance to the Western States from 37½ percent to 50 percent. This provision also allowed these revenues to be expended in meeting the energy impact needs of the Western States.

I felt that these provisions would out-

weigh to a certain extent some of the adverse provisions of the bill, therefore, I signed a letter addressed to the President urging that he sign the bill into public law.

In his veto message the President indicated his support for increasing the State share of Federal leasing revenues. In addition, I have received assurance from the Secretary of the Interior that he agreed with the President. He urges the Congress to move forward with a bill providing for an increase in the States' share of leasing revenues. I intend to cosponsor the bill being introduced today to accomplish this objective.

The President pointed out in his veto message that some of the provisions contained in S. 391 could cause delay in the production of low-sulfur western coal which is needed to meet clean air standards. It could jeopardize coal gasification and liquefaction because of the inflexible 10-year production requirement and the acreage limitation on logical mining units. Further, if enacted there would be increases in the cost to taxpayers and consumers because of the higher cost of foreign oil needed to replace the lost coal production.

I find the President's arguments compelling, and, particularly, in view of his offer to accept a higher State royalty, we are not forced to take the bad with the good.

Mr. THURMOND. Mr. President, I rise in support of President Ford's veto of the Federal coal leasing amendments bill, S. 391. I am in agreement that assistance is needed in this area, but I am opposed to the unnecessary and burdensome regulations and other complications included in this bill.

I do not think it is necessary to have rigid rules concerning the terms of leases. Flexibility is needed in this area because of the varied conditions involved.

Other troublesome provisions are the requirement of detailed antitrust review of all leases regardless of size. S. 391 also requires four sets of public hearings where one or two would suffice. These provisions would delay the development of our coal reserves by setting up new administrative hurdles to clear.

Our country is already beset by overregulation in many areas. We should have learned our lesson by now. This bill would cause a flood of time-consuming paperwork; it would have an adverse effect on the production of domestic coal; and it would also result in greater overall costs.

I feel that a much more acceptable bill can and should be passed in the coal leasing area. Thus, I will vote to sustain the President's veto of S. 391.

Mr. MOSS. Mr. President, it is unfortunate that, on July 3, 1976, the President vetoed S. 391, the Federal Coal Leasing Amendments Act of 1975. In so doing the President has manifested his desire to retain power in the executive branch that is properly subject to congressional guidelines. He has demonstrated his intent to oppose the will of Congress in its efforts to respond to a long-felt need for reform of Federal coal leasing policies. He has effectively denied the overwhelming congressional support the substance of this act has received since its introduction in 1974. This action, however, comes as no surprise in light of the President's past record on comprehensive Federal surface coal mining legislation.

The development of Federal coal is a necessity if we are to meet our goals of independence from foreign energy supplies. In my State alone we have 8 million tons of coal reserves. The steel industry in Utah and California uses coking coal of high unit value mined in the Uintah region of Utah and Colorado. The role of coking coal is important in the Western States' economies, even though the reserves are small in comparison to other forms of energy. The deposits of privately owned coking coal are being rapidly depleted, so future supplies will be almost totally from Federal lands. We must adequately provide for the transition to Federal reserves.

The benefits to Western States as outlined in S. 391 would have been considerable. Utah, for example, has over 3 million tons of recoverable coal reserves under Federal leases at the present time. Based on 1975 figures and existing law, Utah received $5,727,972 from these leases last year. Under S. 391 Utah would have received an additional $1,908,659 totaling $7,634,630. Not only would the bill have increased State revenues, it would also have broadened the purposes for which the States could use these funds. Thus, our hard-pressed communities faced with boomtown problems brought about by enhanced energy needs could have used their State's share of funds for purposes such as police and fire protection and water and sewer facilities.

The President's veto of the Federal Coal Leasing Amendments Act of 1975 will have far-reaching consequences. The damaging effects will be felt by every State in which Federal coal reserves exist. These are the two most urgently needed changes in current law. The increased return to the predominantly rural Western States is needed to provide front end money to deal with the sudden population increases and other problems accompanying rapid development of energy to meet national energy requirements.

The PRESIDING OFFICER. All time has expired. The question is, Shall the bill (S. 391) pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from New Hampshire (Mr. DURKIN), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS), is necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL), is absent due to a death in the family.

The yeas and nays resulted—yeas 76, nays 17, as follows:

[Rollcall Vote No. 456 Leg.]

YEAS—76

Abourezk	Hansen	Moss
Allen	Hart, Gary	Muskie
Baker	Hart, Philip A.	Nelson
Bayh	Hartke	Nunn
Bentsen	Haskell	Packwood
Biden	Hatfield	Pastore
Brock	Hathaway	Pearson
Brooke	Hollings	Pell
Buckley	Huddleston	Percy
Bumpers	Humphrey	Proxmire
Burdick	Jackson	Ribicoff
Byrd, Robert C.	Javits	Roth
Cannon	Johnston	Schweiker
Case	Kennedy	Sparkman
Chiles	Leahy	Stafford
Church	Long	Stennis
Clark	Magnuson	Stevens
Cranston	Mansfield	Stevenson
Culver	Mathias	Stone
Dole	McClellan	Taft
Eagleton	McGee	Talmadge
Eastland	McIntyre	Weicker
Ford	Metcalf	Williams
Garn	Mondale	Young
Glenn	Montoya	
Gravel	Morgan	

NAYS—17

Bartlett	Goldwater	Scott, Hugh
Bellmon	Griffin	Scott, William L.
Byrd, Harry F., Jr.	Helms	Thurmond
Domenici	Hruska	Tower
Fannin	Laxalt	
Fong	McClure	
	Randolph	

NOT VOTING—7

Beall	Inouye	Tunney
Curtis	McGovern	
Durkin	Symington	

The PRESIDING OFFICER (Mr. HATFIELD). On this vote the yeas are 76, the nays are 17. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

CHANGE OF VOTE

Mr. BUCKLEY subsequently said: Mr. President, I would like to make a unanimous-consent request. I am advised that on vote No. 456, on the veto override today, I am recorded as having voted "nay." I had intended to vote to override, and I ask unanimous consent that my vote be changed to show me as having voted in the affirmative. I understand it will not change the outcome.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? Without objection, it is so ordered.

(The foregoing rollcall vote has been changed to reflect the above order.)

TAX REFORM ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which the clerk will state by title.

The second assistant legislative clerk read as follows:

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

Mr. LONG. Mr. President, I would like to urge the Senate——

The PRESIDING OFFICER. The Senator will suspend until we have order in the Chamber.

Will the Senators please take their seats? Will Senators please refrain from conversations?

The Senator from Louisiana.

UNANIMOUS-CONSENT REQUEST

Mr. LONG. Mr. President, I would like to urge the Senate today to help us agree on a schedule for voting on amendments so we can bring as many of these matters as possible to a vote during the next few days. I really do not think a great deal of discussion is needed on these different items because most Senators are going to wait until the bell has rung and come in anyhow.

Here is what I would suggest: that we start out by voting on section 805. We can have 15 minutes on both sides. It deals with the investment credit for movies. And then we consider section 1205 with regard to administrative summons. I have an amendment that I am hopeful will be a midground between the two contending sides and hope to resolve that in ways that both sides can agree. Then we would move to title XX, the energy section, and vote on that. Then we would proceed to vote on amendments to title XXIII, which would be the tuition credit, the bond issues for hospitals, group legal services; and then proceed to vote on the captial gains amendment for sliding scale, and then proceed to vote on the provision in section 7.d., which would be charitable contributions of inventory, suggested by Senator RIBICOFF. Then hopefully, we could vote on Senator TAFT's indexing proposal and Senator JAVITS' proposal for contributions made by audit.

If the Senate is willing to vote on these matters without a great deal of discussion, I really do not think many votes are going to be changed by dragging these things out in debate. We could just move right on down the road in voting on these matters.

I ask unanimous consent that we allow for one-half hour to be equally divided, 15 minutes on both sides, 15 to be assigned by the manager of the bill and 15 which the Chair would assign to whoever cares to manage the time in opposition, with regard to the amendment on the investment tax credit for movies.

The PRESIDING OFFICER. Is there objection?

Mr. TAFT. Mr. President, I have no desire to hold up the procedures, but last week the distinguished chairman agreed that he would make an amendment that I have, No. 1902, the order of business today. A number of Senators have come to the Chamber because of that who are interested in speaking on the amendment. As the distinguished chairman said last week, this is a matter of considerable interest and considerable import. It is a matter of principle, not just a matter of detail in the bill. I have no objection to the other parts of the request, but I believe we ought to go ahead with the discussion of this amendment today in view of the arrangements which have been made.

I would be willing to agree to some time. I believe I have already told the distinguished chairman of the committee that I would be willing to go along on perhaps 40 minutes. That is cutting it pretty close because there are quite a few Members who wish to speak.

Mr. LONG. Is that 40 minutes on each side?

Mr. TAFT. Twenty minutes on each side.

Mr. LONG. Then I ask unanimous consent that on Senator TAFT's amendment we have a 40-minute limitation to be equally divided.

Mr. KENNEDY. Mr. President, reserving the right to object——

Mr. TAFT. Mr. President——

Mr. KENNEDY. Reserving the right to object, and I will not object to the request of the Senator from Ohio, I think the proposal of the Senator from Louisiana is eminently fair and I think it will expedite the business of the Senate. Quite frankly, there would be two minor points on it. I would hope that on the capital gains and the estate tax we could have an hour, or an hour and a half, or an hour and 45 minutes. I think the other times could be collapsed.

I would appreciate two things. First is, would the Senator read those items again slowly?

Second, the Senators from California (Mr. CRANSTON and Mr. TUNNEY) had spoken to me when I had indicated I had a floor amendment on the movies. We had considered discussing it last Friday and had given some notice on it. We had tried to work out an approximate time. I would like to see us establish Thursday as the day to start the debate. We could make that the pending business with the time which has been suggested. Maybe it would be 45 minutes equally divided. I think that would be accommodating.

Neither of the Senators are in the Chamber. Obviously, that is an important industry in California and they feel strongly about it.

Could we get that adjustment? Will the Senator be kind enough to read the amendments over again? I want to indicate that I agree with the procedure which the Senator is attempting to achieve.

I would hope that beyond that the other amendments which will come at the conclusion, in terms of trying to do something on the minimum tax and so forth, would follow the same procedure, trying to get an hour or an hour and a half so that we could possibly see the conclusion of the bill Friday or Friday afternoon.

Mr. JAVITS. Reserving the right to object, I do not want the Chair to rule until I have been heard. I do not know about the mechanics that Senator LONG wants to go through, but I want to reserve the right to object.

My amendment, I understand, was to have been dealt with today. I think we have made a lot of progress on it. If possible, I will consent to a time limitation of 20 minutes on a side. We have argued it very thoroughly. If possible, I would like to follow Senator TAFT and have it disposed of.

Mr. LONG. I have the Javits amendment listed here.

Mr. JAVITS. I know the Senator does.

Mr. LONG. I would have to see what the amendment would be and how it could be considered. We will go over that with the Senator as the day proceeds, and I hope we can vote on it today.

Mr. JAVITS. I hope so.

Mr. LONG. I do not see any reason why not. Frankly, I want to vote. I want to see the amendment considered. It is listed.

Mr. President, I would suggest that we simply withhold judgment on the Javits amendment until at least those of us planning the bill for the committee can see how we would work out the amendments. We will do that during the next hour or so.

So if we take the Taft indexing amendment first, we would then proceed to section 805 and have a vote on that.

Mr. KENNEDY. What we could do, we could do the investment credit on the ADR's, the Kennedy-Bayh amendment. We could do that afterward, and have maybe 45 minutes to a side. I would be glad to agree to that with the Senator.

Mr. JAVITS. Mr. President, will the Senator yield to me momentarily?

Mr. LONG. I yield.

Mr. JAVITS. Can we have an understanding that we will try to work with Larry Woodworth on the text of our amendment, but if the manager of the bill finds it as he is told it is, that we may follow after Taft, and then have Kennedy?

Mr. LONG. Fine. I would like to see the ADR amendment before it is called up, because we might not be for the amendment.

Mr. KENNEDY. We prepared the amendment, I think, about 10 days ago, but I will make it available to the Senator.

Mr. LONG. As soon as I have a chance to look at it, I would be glad to have action on that, but let us start out, then, with the Taft indexing amendment, and proceed as best we can with the others. Here is the order I would suggest:

Section 805, investment credit for movies.

Then I would hope we could dispose of section 1205. I have an amendment to offer on that, which would not give all sides everything they are hoping for——

Mr. HASKELL. Mr. President, will the Senator yield at that point? The Senator from Nebraska asked me if we could take up 1205 tomorrow afternoon. I said it was all right with me. The Senator from Nebraska is right behind the Senator.

Mr. LONG. I hoped we could dispose of it today.

Mr. HASKELL. Well, it is up to the Senator from Nebraska.

Mr. LONG. May I suggest, then, that I read this list, and we will do the best we can to vote on these today.

I had mentioned the administrative summons; we may have to postpone that until later on. Then we take the energy title, title XX.

Then we would go to title XXIII amendments, which would deal with tuition credit, the bond issues for hospitals, the group legal services, and then we would consider title XXV, with regard to a capital gains sliding scale; then we would consider charitable contributions of inventory, and as soon as we are ready and can come to terms on it, and see what our differences may be, we will consider the Javits amendment with regard to contributions by guardians.

I would ask unanimous consent that we start now with the Taft amendment.

Mr. HATHAWAY. Mr. President, reserving the right to object——

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. The Senator from Louisiana, I gather, is asking for a listing of the order in which items are to be taken up. He is not asking for time limitations on those now, is that correct?

Mr. LONG. Not at this time. I am only asking for a time limitation on the first one at this moment.

Mr. HASKELL. What is the first one?

Mr. LONG. The Taft amendment regarding indexing on personal exemptions.

The PRESIDING OFFICER. Is there objection?

Mr. HATHAWAY. Mr. President, reserving the right to object, the Senator from New Hampshire (Mr. DURKIN) has an amendment to strike the recycling amendment in title XX, and wants to know whether he could have a time limitation of 1 hour, to be taken up tomorrow or sometime later in the week.

Mr. LONG. Well, Mr. Durkin mentioned he had an amendment. I did not know he wanted to strike the whole amendment.

Mr. HATHAWAY. It is one section of it, I understand. But he would like to defer that until a little later on this week, as long as his rights are preserved, so he could offer his amendment at a later time.

Mr. LONG. I would hope Senators will not be asking for other things, but with regard to Mr. Durkin's proposition, I would suggest we try to accommodate him and vote on his subsequently.

Several Senators addressed the Chair.

Mr. LONG. We are willing to vote on other energy matters except that today, but let us defer that and consider the Taft amendment first.

Mr. BROOKE. Mr. President, I have three energy amendments, which I understand may be accepted. I have agreed to a time limitation on it. That is in title XX. One is in section 1 of the title, and the other is in section 2 of the title.

My question is, could we take those three up on top of each other at any time after the Taft amendment today?

Mr. LONG. I would like to take them up today.

Mr. KENNEDY. Mr. President, reserving the right to object, I want to speak to the Senator about what we take up after Taft, and then, after we work it out with Senator JAVITS, we are prepared, or at least I am, on the ADR investment credit, and also the airline industry subsidy, the Curtis amendment, and are prepared for a short time limitation, 15 minutes on either side, and then to take the foreign investment credit provision, which has some time limitation.

So we are prepared, any time there is a hiatus, to go into that situation. But just one thing. Could I ask that we make it Thursday at 2 o'clock on the movie investment credit to be the pending business, with a 45-minute time limitation, so that we can notify Senators from California if that is agreeable?

Mr. LONG. I had hoped we could vote on that matter about the movies before Thursday. I would hope, if we could make some kind of schedule, that we might vote on that at least tomorrow.

Mr. KENNEDY. All right. Could we make it after the ESOP vote? Coming back from California, they do not mind, obviously, coming back, but if we had some time set——

Mr. LONG. Senator CURTIS wanted to offer a stock ownership amendment right after ESOP. Would it be all right after Senator CURTIS offered that tomorrow?

Mr. KENNEDY. That would be fine. I ask unanimous consent, then, Mr. President, that after the consideration of section 804, after completion of that, that section 805, which would normally follow in any event, be made the pending business, the investment credit in the case of movies and television films, and that there be a 1-hour time limitation.

Mr. JAVITS. Mr. President, reserving the right to object, I did not get all that. After what?

Mr. KENNEDY. After the stock ownership plans.

Mr. LONG. After the Curtis amendment dealing with stock ownership.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, may I restate what I understand is the situation now?

The Senator from Louisiana is asking us to consent to going ahead with the Taft amendment, but with respect to all other matters except one, as to which Senator KENNEDY has just made his request, he is stating desires, but we are not putting that in except by unanimous consent, is that correct?

The PRESIDING OFFICER. To complete the Senator's understanding, there is also a unanimous-consent agreement pending on a Kennedy amendment to section 805 to commence tomorrow.

Mr. JAVITS. But that would be after the ESOP amendment.

Mr. LONG. That would be tomorrow.

Mr. JAVITS. Tomorrow, which is mine.

And then, in the meantime, the other matters are simply matters of scheduling; those are the only two things we are agreeing on?

The PRESIDING OFFICER. The Senator is correct.

Several Senators addressed the Chair.

Mr. KENNEDY. Mr. President, may we have an agreement on my request?

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Mr. President, will the Chair state the substance of the proposed agreement?

The PRESIDING OFFICER. There is a unanimous consent agreement pending of 40 minutes on the Taft amendment, as well as a request for 1 hour on a Kennedy amendment to section 805 after section 804 has been disposed of.

Mr. LONG. Mr. President, I would like to——

Mr. JAVITS. What is 805? I do not quite get that.

Mr. KENNEDY. That is investment credit on movies.

Mr. JAVITS. When is that?

The PRESIDING OFFICER. Tomorrow.

Mr. TAFT. Mr. President, a point of order. Is this coming out of my time?

The PRESIDING OFFICER. There is no time running at this point.

Mr. TAFT. I thought the Chair said there was a unanimous-consent agreement.

The PRESIDING OFFICER. The Chair stated one is pending, but it has not been agreed to yet.

The Chair has stated there is a unanimous-consent agreement pending of 40 minutes on the Taft amendment and 1 hour on a Kennedy amendment to section 805 after disposition of section 804.

Mr. JAVITS. Section 804 being the ESOP amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Several Senators addressed the Chair.

Mr. LONG. Mr. President, Senator CURTIS has an amendment he wishes to offer after we dispose of the employees stock ownership proposal.

Mr. JAVITS. I understand now, Mr. President.

Mr. LONG. After the Curtis amendment, I ask unanimous consent we then proceed to consider section 805 involving the investment credit for movies and have a 1-hour limitation equally divided.

Mr. ROBERT C. BYRD. That is tomorrow.

Mr. LONG. I am talking about tomorrow.

Several Senators addressed the Chair.

Mr. TAFT. Mr. President, it occurs to me, since the Senator from Oregon is not now present and he has a small amendment to my amendment that he might wish to call up, I ask unanimous consent that there be given 10 minutes to a side, if that is agreeable, on his amendment.

The PRESIDING OFFICER. Is there objection to the several requests?

Mr. JAVITS. Mr. President, on another question, which I do not think we are clear on, I was to bring up the amendment pertaining to section 804 tomorrow.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Therefore, the agreement to follow is for tomorrow, not today.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Yes. Mr. President, reserving the right to object, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. I thought the requested order was to go from section 804 of the Senator from New York, then to the amendment of the Senator from Ohio. What is the agreement?

The PRESIDING OFFICER. The agreements proposed are for a 40-minute limitation on the Taft amendment with 20 minutes on amendments thereto and on tomorrow an hour on a Kennedy amendment to section 805, after disposition of section 804.

Is there objection?

Hearing none, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1902

Mr. TAFT. Mr. President, I call up my amendment No. 1902, and ask that it be stated.

The PRESIDING OFFICER. The amendment is pending.

Mr. TAFT. Mr. President, this amendment is sponsored by myself, Senators BARTLETT, BUCKLEY, and DOLE. I ask unanimous consent that there be added as cosponsors Senators GARN, HELMS, and ROTH.

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

Mr. TAFT. Mr. President, this amendment is really quite simple. It would prevent inflation from producing a real increase, a more than proportional increase, in a taxpayer's tax bill, even when the taxpayer has no increase in real income.

The income tax today does not distinguish between that part of a wage increase which is merely a cost of living adjustment and that part which goes beyond the cost of living, and is a real increase. Any increase in wages is taxed at higher and higher rates, whether it represents an increase in real income, or whether it is just a cost of living adjustment.

According to a recent joint economic committee study, at the present time, a 1-percent increase in wages and prices leads to a 1.2-percent increase in taxes. My amendment would change that, so that 1-percent inflation would lead only to a 1-percent increase in taxes. This amendment would change that so that 1-percent inflation would lead only to a 1-percent increase in taxes.

Increases in income which are due only to inflation would result in income, prices, and taxes all going up by the same percent, instead of having taxes go up even faster.

I believe that we need this amendment desperately for a number of reasons.

The progressive tax system is supposed to act as an automatic economic stabilizer. Inflationary booms increase incomes and push people into higher tax brackets. This raises taxes and dampens the boom, which restrains the inflation. Recessions are supposed to be deflationary, pushing people into lower tax brackets, creating tax cuts, and stimulating the economy.

This theory has broken down, because we have had inflation and recession at the same time. Even with real incomes dropping slightly, normal incomes went up because of inflation. This meant that, in spite of falling real income, people were driven into higher tax brackets. They paid a rising share of a falling income to the Government. It is shocking to see the increase in real taxes paid from year to year by millions of typical workers even in years of stagnant or declining real income. This real tax increase during a recession is very destabilizing. It is destabilizing because tax increases in a recession have the effect of lowering personal spending and worsening the downturn.

We must not permit this destabilizing behavior of the tax system to continue. It was one of the causes—of many—of the recent recession, and it is a gross injustice as well to working people on fixed or slowly rising incomes. There is simply no reason whatsoever why a worker who barely receives a cost-of-living increase should see his after-tax real income fall because of an inflation penalty in the tax system.

From 1972 to 1974, construction workers saw their real incomes fall by more than 5 percent, while their real taxes went up more than 1 percent.

In that same period, steelworkers saw their real incomes rise 6 percent. But their real taxes rose 19 percent.

Autoworkers had a 7½ percent fall in real income, while their real taxes fell only 2 percent.

The tax brackets of the average worker in each of these groups was 19 percent in 1972, and 22 percent in 1975, clearly helping to bring on and prolong the recession. What kind of tax code is that?

Over the past 3 years, inflation has added $408 to a typical construction worker's tax bill, compared to an indexed, inflation neutral tax system.

It has added nearly $432 to the autoworker's taxes over and above an increase proportional to the cost of living.

In neither of these cases did these people enjoy higher real incomes. Why should they have paid these sums in higher taxes?

This is a crazy system. The only way to be certain of preventing these results is to move to an inflation-neutral tax.

This destabilizing activity would not have occurred if the tax system had been inflation neutral. My amendment would make the system inflation neutral, so that there would be a real tax increase only in the case of an increase in real incomes. There would never be a tax increase when incomes were falling just because inflation had put people into higher tax brackets.

The amendment attacks this problem of destabilization and inequity by providing an annual inflation adjustment to the personal exemption, standard deduction, the low income allowance, and each of the tax brackets which are the income levels at which taxpayers move up from one rate of tax to another. Adjustment years, running from July 1 to June 30, would be the basis of the calculation. By August of any year, the IRS would have available the data on the average consumer price index for the 2 prior adjustment years. The percent increase in the index would be calculated, and used to adjust the tax and withholding tables in ample time for the beginning of the next calendar year. Since the exemptions, deductions, and tax brackets would all be adjusted upward by the amount of inflation, a person having no increase in real income would also have no increase in real taxes. His tax increase would just keep pace with inflation, just as his income did. He would be taxed at precisely the same rate as he was the previous year.

That does not mean the Government will not receive more money because at that same rate they will be taxing on a larger base by the amount of normal inflation that had occurred. So the Government will keep up with the inflationary factors insofar as its income is concerned. It simply will not be able to go above that as a result of the fact of the various items in the tax code that I have mentioned.

People who received real wage increases would only be taxed at a higher rate on their real increase and would pay the same rate as the previous year on their old income plus cost-of-living.

The first adjustment year would run from July 1, 1975 to June 30, 1976, and the second from July 1, 1976 to June 30, 1977. During the summer of 1977, the IRS would receive data on the CPI for 1976–77, compare it to the CPI for 1975–76, and alter the tax and withholding tables in time for use in calendar year 1978. Therefore, this amendment would have no impact whatsoever on the budget for fiscal year 1977.

It is imperative that this amendment be adopted now, well in advance of next year's first concurrent resolution on the budget. If estimates of tax revenues generated by inflation's impact on the tax brackets are included in the first resolution next year, it will be too late to consider an amendment of this type. We owe it to the Budget Committee, the Congressional Budget Office, and the Treasury, to provide a reasonable amount of time to alter their budget estimates, which will be in the planning stages by the end of this year.

This is not a trivial problem. If this sort of adjustment is not made, the Government will continue to receive approximately an extra $5 billion a year, at current rates of inflation, over and above the amount of increased taxes that are needed to allow for the inflation in the prices of the things the Government itself has to purchase. It is a surreptitious transfer of funds from the taxpayers to the Federal Government. Without any vote having to be taken by the Congress, and without any bill having to be signed into law by the President.

Let me give a numerical example. Suppose taxes are ten percent on the first $1,000 of taxable income, and 15 percent on the second thousand. A person with $1,000 in taxable income would pay $100 in taxes. Now suppose there is an increase in prices and incomes of 6 percent. In the second year, that person has taxable income of $1,060 actually, it would be more if his exemptions and deductions were held constant in dollar amounts. But suppose they were adjusted, while only the brackets were left unadjusted. Then, on the $1,060 in taxable income, he would pay taxes of $109 instead of the $106 that would have just kept pace with inflation. This is because the inflation pushed up taxable income into a higher bracket, 15 percent in this example. The real value of the tax payment is higher than the previous year, even though the real value of income is unchanged.

This is hitting the lower income taxpayer harder than anybody else, because

the brackets change more rapidly at that level of income.

In reality, the situation is made even worse by the failure to adjust the personal exemption and standard deduction for inflation, as well as the brackets. Inflation erodes the value of these fixed dollar exemptions, and makes them a smaller percent of income, which has the effect of throwing a larger percent of gross income into taxable income. This pushes taxes up even further.

My amendment would simply return the excess tax, over a strictly proportional increase, to the taxpayer. In this example, it would amount to $3, the difference between $106 and $109. It would leave the taxpayer and the Government with the same purchasing power and the same shares of the same real income as the year before.

Now, what about the effect upon the deficit?

Although I am proposing to prevent the $5 billion increase in real taxes each year which is due solely to inflation, it is not the case that this will increase the deficit by $5 billion in any year.

In 1954, many leading figures opposed the reduction in tax rates that were then in effect due to the Korean war. They feared that lower taxes would increase the deficit. In 1963, they opposed the tax cuts first suggested by President Kennedy. They were again worried about the deficit. Yet in each case, the tax cut stimulated the economy, creating added output, and added employment. This meant that incomes rose and revenues rose.

What was behind these revenue increases?

The answer is that the lowering of taxes was behind it. But even in those years, you still had this retrogression against that attempted stimulation of the economy by lowering taxes, because you kept on this increase that results from the increase in the various brackets and in the various rates in which taxpayers find themselves.

When something is taxed, it shrinks. The greater the tax, the greater the shrinkage. Conversely, lower tax rates produce growth. Workers have more incentive to work overtime. Small businessmen work longer hours. Professional people take shorter vacations. People save more, invest more, hire more workers, and produce more output. Tax revenues rise, and unemployment compensation falls.

Let me stress this. Because of the stimulation of output, tax cuts have, historically, paid for themselves within about 2 years. Some of them have paid for themselves in the first year. By now collecting this $5 billion in inflation-induced additional taxes, the Government should only lose about $1 billion in the first year. Thereafter, because of the higher growth rate of the economy, the Government will actually receive more revenues from the tax decrease in spite of the lower tax rate.

Every businessman knows that overpricing a product can actually reduce revenue. He knows that lowering a too-high price may bring about a greater percentage increase in purchases than the percentage cut in price. I sincerely believe that we face the same situation today with our tax structure. If history is any guide, this amendment will not increase the deficit, it will reduce it. It will reduce it by stimulating economic growth, and by increasing employment. We are simply going to create more jobs with low tax rates than with high tax rates. Low taxes give the private sector an incentive to grow, and to create real jobs producing real goods.

Some Senators have asked, "Why don't we just cut taxes each year, instead of using indexing?"

The point is that we do not cut taxes each year. Even during recession, it takes so long to get a tax bill out of the Congress, that most of this year—and sometimes far longer—has gone by before the tax cut is put into effect. It was very late in the last two recessions before tax cuts were passed, and before the economic drag that inflation produces through higher taxes was eliminated. In between recessions, Congress sees no need for a tax cut. It simply takes the money in and spends it. When it does decide to cut taxes, it is usually by less than would be needed to return taxpayers all the way to the same tax rates that existed right after the previous tax cut. It always keeps something for itself in Washington. Meanwhile, the public thinks that taxes have really been cut, when in fact, we are usually left with a small net tax increase.

The tax reform bill this year is a good example. We have fought over the House and Senate versions of the tax cut. But in fact, the House version is a $5-billion tax increase, because it retains nearly the same tax code as last year. It is not tax reform or tax cutting, either. The Senate version was even less generous than the House. It would have meant a tax increase of $6 billion. Yet both of these provisions were advertised as tax cuts. I voted for the more liberal House version, as the lesser of two evils. But the public must not kid itself. The fact is, because we have not actually had a further $5-billion tax cut, inflation has really resulted in an actual tax increase. I am not so certain that this economic recovery is strong enough to take a $5-billion increase this year, a $5-billion increase this year, a $5-billion tax increase next year, and so on as long as the inflation continues.

This is the Bicentennial Year. Two hundred years ago, this country rebelled against taxation without representation. I feel it is very wrong for the Congress to be reaping a $5-billion windfall every year in increased taxes without ever having had to vote on these tax increases, and without ever having had to produce a tax bill for the President's signature. This hidden tax increase, which is largely unnoticed by the public, and by the news media, is clearly a case of taxation without legislation. It is a terrific drag on our economy, and specifically on the private sector, which produces real jobs and real goods. I think that 1976 would be a good time to put a stop to this sort of thing.

Mr. President, these are the reasons why I believe this amendment should be adopted at this time. I believe it will help the economy. I know it will be more equitable in helping our taxpayers who are hard pressed in these inflationary times. It has been tried in a number of other countries. Canada has had it for 3 years, and they feel that it has worked very well. The Netherlands is now trying it. It has long been known and studied by economists.

Actually, I think the only reason we have not adopted it in the past is that Congress apparently has liked the idea at times—I do not think it is admirable—that we sort of get an additional tax take every year over and above the mere increase in the cost of living that is involved. We have had the present graduated tax system, and we do not make any adjustments in the individual taxpayer's rise in bracket even though his income has gone down.

Mr. President, I reserve the remainder of my time. I will be glad to yield to the distinguished Senator from New York.

How much time remains?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. TAFT. I yield 3 minutes to the distinguished Senator from New York.

Mr. BUCKLEY. Mr. President, I am to support the amendment by the distinguished Senator from Ohio.

Two hundred years ago the American people rebelled against taxation without representation. Today the American people are victims of taxation by inflation, a cruel, hidden, deceitful tax brought about by inflation. Taxation by inflation is also tyranny. It must be stopped. We have heard much talk about "obscene" and "windfall" profits in recent years. The fact of the matter is that the U.S. Government has been raking in windfall profits. And the fault can be laid at the doors of the Congress for failure to correct so obviously unfair a system.

Every time a wage earner receives a raise in pay to offset a fall in purchasing power of his hard-earned dollar, he moves up to a higher tax bracket. The Government then takes away a larger percentage of his real earnings. What is given with one hand is taken away with another.

The American worker has become a victim of this governmental shell game and I say the time has come to stop the deceit gilted over with the phrase "inflation bonus" and force Government to be honest with the men and women who work and pay their bills and pay their taxes.

In my opinion, the automatic tax increase resulting yearly from the operation of inflation is one of the most inequitable aspects of the Internal Revenue Code. That taxpayers already squeezed by the spiraling decline in the value of the dollar should now find themselves faced with an automatic yearly tax increase as the result of that same inflationary phenomenon is certainly an ironic "slap in the face" for the American consumer.

It is not those who are already in the 50-percent tax bracket who find themselves the targets of this yearly tax increase. It is those in the steeply graduated lower- and middle-income brackets

who must bear this burden. And it is precisely this group which would benefit most from the indexation of the rate tables, standard deduction, and personal exemption, which the Taft amendment would provide.

I have worked hard over the past 2 years for a wider recognition of the need for indexing the tax code. I am proud to have been a major proponent of this type of reform, and to be the principal sponsor of the bills on which the Taft amendment is based. And I am, therefore, particularly appreciative of the keen insight and effective leadership which the Senator from Ohio has brought to bear on this problem.

Mr. President, the concept of indexing is one which is not new to this body. Since I introduced S. 3396 on April 29, 1974, the idea has been written on and endorsed by Milton Friedman, Ken Clarkson, the Wall Street Journal, and Gov. Ronald Reagan. There has been more than enough time for the study and evaluation of indexing, and such study and evaluation has been in fact undertaken by those with a desire to do so. Those studies have in almost every case resulted in an enthusiastic endorsement of this proposal. It is time that we accepted those findings, and abandoned efforts to stall this much-needed reform.

Up to 80 percent of any revenue loss which might occur during the first year of an indexing proposal would be recovered from the feedback effect of pumping $5-billion into the national economy. There is therefore no budgetary, political, or social reason why any Member of this body should oppose this attempt to achieve tax equity.

Mr. President, I congratulate the Senator from Ohio for bringing up this matter. I think it truly deserves the title "Tax Reform." The idea of indexing the income tax is something, as he knows, that I have been working to achieve for 2½ years.

It will mean that we will treat the people with lower earnings and middle earnings fairly. We will get away from an obscene expression called "the inflation bonus," which takes money out of the pockets of citizens least able to afford it and adds to the coffers of the Treasury, creating a windfall profit realized by the U.S. Government.

I believe it is time we face the impact of inflation on the tax system and utilize this entirely reasonable and entirely rational approach that will make automatic adjustments, so that the tax burden that we legislate will be maintained until we readdress the subject.

I know there are others who wish to speak on this subject. I urge all our colleagues to support the Taft amendment. I gladly associate myself with it as a cosponsor, and I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. I yield 5 minute to the Senator from Kansas.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. TAFT. I yield the 4 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I rise to express my enthusiastic support of this proposal to provide for the automatic adjustment of personal income taxes. Year after year the average consumer and taxpayer takes a beating from the persistent rise of prices. Those whose hard-earned dollar incomes do not automatically keep up with the rise in prices they have to pay for food, clothing, housing, and transportation, find their real purchasing power diminished.

Mr. President, it is intolerable that the Federal Government adds to this injury by allowing the real taxes of our citizens to increase as well. This situation currently exists due to the progressive nature of our personal income tax system. In an inflationary situation, this structure of the tax system allows the Federal Government to collect an ever-growing percent of the personal incomes of taxpayers automatically—without making any specific decision or taking any explicit action to do so.

According to budget projection examples by the Congressional Budget Office, personal income taxes could grow from 9.8 percent of personal income in 1976 to 12.2 percent of personal income by 1980. That difference amounts to over $40 billion in taxes per year by 1980. The amendment now before us will correct this intolerable and unintended situation by adjusting personal deductions, exemptions, and tax brackets in accordance with changes in the Consumer Price Index. At the beginning of 1978 and each subsequent year, withholding rates and personal tax liabilities would be adjusted by a factor equal to the previous year's change in the CPI. This is a straightforward proposal that would be easy to administer and would establish an important principle of fairness in the way the Government taxes its citizens.

In addition to making an equitable adjustment for the effects of inflation, this amendment may even have the effect of reducing inflation. Even though it is commonly held that reducing taxes is expansionary and inflationary, the Senator from Ohio has eloquently explained the effect of escalating taxes on wages and subsequently on inflation. It appears likely, therefore, that through this amendment we can mitigate both the causes and the effects of inflation.

Mr. President, this amendment would do nothing to change the widely accepted principle of taxation by ability to pay which underlies our progressive tax structure. Indeed, it would restore that principle. Mr. President, the ability-to-pay principle in theory applies to real—or constant dollar—incomes and real tax payments. This principle, as incorporated in our tax rates, has been undermined by inflation. As prices and incomes stated in inflated dollars rise, taxpayers are put in higher tax brackets. A higher marginal tax rate, and hence a higher average tax rate is applied to incomes that are not longer in any real sense.

For example, with a 5-percent inflation rate, an individual whose income increased by 5 percent from $8,000 to $8,400 would find his tax liability increased by more than 5 percent. For a family of four, the added tax liability would be $19. At the $16,000 level of income, the same example yields a $61 windfall tax gain to the Government. At the $24,000 income level, the excessive increase in tax liability is $149 under current tax law.

Mr. President, this amendment would correct this situation by returning those dollars to their rightful owners—the taxpayers. We are going to hear several objections raised by those whose initial instinct is to oppose this amendment. The Senator from Kansas would like to anticipate those reservations and place them in their proper perspective. First, some will question the wisdom of automatic tax cuts. This is a perversion of reasoning. All this amendment asks is to do away with automatic tax increases.

Second, it will be observed that the automatic adjustment will result in larger budget deficits. This need not be the case. If Government spending needs exceed revenues subsequent to this amendment, let the Congress justify those needs and explicitly vote for the higher taxes to finance them. If the case for the spending needs cannot withstand this test, then the American people would be better served by corresponding spending restraints.

At stake is some $40 billion of tax dollars by 1980. Some in Congress already have designs on those funds. We can act now to reduce the temptation to casually spend those dollars which are so important to the living standard of the taxpayer.

Third, some may think that the automatic adjustments provided by this amendment will interfere with our ability to manage economic fiscal policies. As a member of the Budget and Finance Committees, the Senator from Kansas sees no substance to this concern. In considering the appropriate overall fiscal policy for the coming year, the Budget Committees begin with a projection of tax revenues. This amendment would do nothing to change this starting-point situation—it would change only the number. It would remain, as it currently does, for the Budget Committee—in conjunction with spending targets—to recommend, and the Congress to approve, and for the tax writing committees and Congress to mold any necessary change in taxes.

Mr. President, the Senator from Kansas knows of no experts who assert that the way taxes change with inflation is optional in any sense. Fiscal drag—as it is often called—can exert a restraining effect on inflation. On the other hand, it can exert too much restraint and can impede economic recovery and growth.

Surely Congress can judgmentally determine when is the best time for taxes to be raised or lowered in response to these fiscal policy considerations.

Mr. President, the legislation we are considering has been publicized far and wide as a tax reform bill. We have considered numerous options for increasing or decreasing the taxes paid by various groups in our society. The vast majority of these do not directly affect the average American taxpayer.

It is the opinion of the Senator from Kansas that this amendment represents the most significant tax reform we have so far considered. If this body is serious about tax reform—not just for a few,

but for the majority—it will approve this amendment to eliminate the escalating and unfair taxation of the average citizen. I urge my colleagues to take this opportunity to undo some of the damage done by inflation and to return equity and the original purpose to our progressive tax system.

Mr. President, nearly 30 percent of Federal expenditures are now automatically adjusted for inflation. These programs provide either retirement or income support benefits to individuals. They include: Social security—OASDI; supplemental security income—SSI; railroad retirement, Federal civilian retirement, military retired pay, food stamps, and nutrition programs. There are numerous other smaller prorgams that are also indexed.

Many of us in this Chamber have supported indexation of these programs so that we can know that real benefits we are legislating. Fairness and consistency demand that Congress effectively control the real level of taxation as well. Just as the real benefits of these programs cannot be left to the whim of inflation, so must we prevent inflation from altering our real tax decisions after the fact. Whether imposed from abroad, by nature, or by our own policies, we should not allow inflation to either reduce the Government's commitment to the elderly and the poor or to increase its requirement of the taxpayer. To prevent inflation from distorting our priorities and our economic policies, the amendment now before us must be approved.

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

Mr. TAFT. Mr. President, I ask unanimous consent that the name of the Senator from New Mexico (Mr. DOMENICI) be added as a cosponsor of this measure.

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

Who yields time?

Mr. TAFT. I reserve the remainder of my time.

Mr. LONG. Mr. President, I really do not have a lengthy argument to make against this amendment.

The problem is this: When inflation occurs, it raises the cost of Government. We have to raise Government salaries, and it puts the Government more deeply in debt, and we need more revenue.

Of course, inflation does bring more revenue, because it pushes up the earnings of people. It also tends to depreciate the value of the personal exemption, and it tends to move people up the income ladder and therefore into the higher brackets.

That tends to help solve the problem to pay for all these pay raises which inflation makes necessary. I know our distinguished friend from Ohio appreciates that problem because, when inflation hits, he has to bring a bill in here to pay Government employees. We have to do the same thing for the armed services.

Here we are with an enormous deficit, so much so that we see no prospect of ever moving toward a balanced budget. And it is difficult—goodness knows, we have learned in writing this tax bill how difficult it is—to get Senators to vote for tax increases. I have proposed all sorts of tax increases and voted for tax increases that we cannot persuade a majority of Senators to vote for. Even when we call it reform, we cannot get them to vote for it.

One of the few things we have going for us, to give us a better chance to balance the budget, is that inflation does tend to bring in more revenues for the Government. It used to balance our social security fund for us, and we could then look and see how the people had been moved up and what they were paying. Then we could vote either to raise benefits or reduce the social security tax, because we were bringing in more revenue than we had anticipated. But, Mr. President, if this amendment should take place, not only will it increase our deficit, we shall be having to ask for a tax increase every year.

That being the case, Mr. President, with the enormous deficit that we are facing already, in my judgment, we would be making a bad mistake at this point to vote for a measure that is going to make it very difficult to raise Government revenues and make it necessary to ask for more and more tax increases, which it is difficult to ask Congress to pass.

Many times, when we ask people to vote for a tax increase, they will not vote for it, for very understandable reasons. Inflation is one thing that does tend, somewhat automatically, to help bring the budget into balance. In view of the fact, Mr. President, that we have not had a balanced budget for so long now that I cannot recall when the last time was, we ought to be trying to move toward a balanced budget, not away from it. I regret to say that this amendment will make it far more difficult for us ever to achieve a balanced budget.

Mr. BUCKLEY. Will the Senator yield?

Mr. LONG. Yes; for a question.

Mr. BUCKLEY. Is it not true that under an indexed tax system, if the cost of living goes up 10 percent, Government revenues also go up 10 percent? Will there not be a symmetrical increase in revenues to match the increase in cost of living?

Mr. LONG. The problem is that when the cost of living rises by 10 percent, the cost of Government services usually rise by 11 or 12 percent, so they do not balance off.

Mr. President, just as we found when we indexed the social security benefit, we have not been able to project a solvency in the social security fund since that time. It was solvent every day up until that point.

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

Mr. LONG. Now, it seems that when we index the tax structure, we shall be having to ask for a tax increase far more frequently than in the past and it will make it far more difficult to balance the budget.

Mr. TAFT. Will the Senator yield for a question on that social security matter?

Mr. LONG. I yield on the Senator's time. I am not going to yield on our time, because I want to bring the debate to a conclusion.

Mr. TAFT. Mr. President, do I have time?

The PRESIDING OFFICER. The Senator from Ohio has 1 minute remaining.

Mr. TAFT. Mr. President, the social security analogy is simply completely false. It has been known by the joint committee and the Committee on Finance for years that the whole social security problem comes not from the cost-of-living aspect of the increase, but rather, the fact that we have been going up constantly, biting from a bigger and bigger percentage of the income of the taxpayer. We have increased the coverage and we have taken our benefits up along as we have increased the amount of the salary of the individual that we are putting the tax upon. That is action taken by Congress. It has absolutely nothing to do with the cost-of-living increase. It happened to come along at the same time.

I wish the Committee on Finance and the Committee on Ways and Means would do something to correct it, because I think it is vital to be corrected. It has absolutely nothing to do with this problem whatsoever. The problems of the social security system come not from the cost-of-living increase by one whit, as compared to the other factors involved.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. TAFT. We have heard this afternoon that the Government needs its cost-of-living raise, too. We have heard that the Government must get more revenues to pay for what it needs during an inflationary period. This is all true. My amendment does not interfere with this in the slightest. It would allow Government revenues to rise with inflation, even when there was no increase in real income and we had incomes exactly rising with inflation, too. What this amendment would prevent is the increase in Government taxes on a constant real income at a rate even faster than inflation.

At the present time, a 10-percent increase in prices and incomes means a 12-percent increase in taxes. Is the Government so incompetent, and so inefficient, that where the rest of the population can get by with a 10-percent increase in income, the Government needs a 12-percent increase in income just to break even? What is there about the Government's conduct of its business that requires it to get more than an increase equal to the cost of living? Is the Government so wasteful that it insists upon paying a higher and higher price for everything it purchases over and above the general inflation? If the prices of the things which the Government buys rise more rapidly than the prices of the things which the rest of the population buys, then Uncle Sam will shortly be renamed "Uncle Sucker."

A little bit later on in this bill, in title XX, we shall be considering a recycling tax credit. This tax credit has undergone no study, no testing, and it has certainly not been approved of by anyone in the Treasury or the Environmental Protection Agency or any of the many

other agencies which are concerned with the condition of our environment. It is a brandnew loophole of a sort we have never indulged in previously. It is untested, and yet it is indexed. I shall read a passage:

(C) INFLATION ADJUSTMENT.—

(i) CHANGES IN AMOUNT.—Before the beginning of each calendar year, as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary the percentage difference between the price index for the most recently ended adjustment year and the price index for the base period. Both dollar amounts listed in subparagraph (B) shall be increased or decreased, as may be appropriate, by such percentage difference and, as increased or decreased, shall be the amount in effect for taxable years beginning during the calendar year following the adjustment year for which such report is made.

Now let me read you a paragraph from my amendment, which is designed to help the American taxpayer:

(e) INFLATION ADJUSTMENT.—

(1) CHANGES IN AMOUNT.—Before the beginning of each calendar year, as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the most recently ended adjustment year bears to the price index for the adjustment year preceding the most recently ended adjustment year. Each dollar amount listed in the tables under subsections (a), (b), (c), and (d) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for taxable years beginning during the calendar year following the adjustment year for which such report is made.

So here we have it: The committee says we must study the indexation of the tax system. The committee says it has not been tested. The committee wants to wait.

The indexation of the tax system has been studied in many of America's leading universities since the 1940's. It has received ample discussion and review in America's tax and economic journals. It has been in effect in Europe for years. It was adopted 3 years ago by the Government of Canada, a country which has a tax structure extremely similar to our own. The results there have been outstanding. Indexing of the tax structure has been studied, analyzed, and tested in practical use. It is a respectable and old established concept of great benefit to the taxpayer.

Contrast this with the recycling tax credit. This is the loophole, a brandnew loophole, which is meeting stiff opposition from the Treasury, the environmentalists, and those firms which are already in the industry. It is completely untested. It is of extremely questionable value to the industry, let alone to the taxpayer who will be footing the bill. Yet the committee does not seek to have it tested. The committee does not wish to have it analyzed. The committee does not want to wait. The committee wants the recycling tax credit now. Furthermore, it wants it indexed.

I think it is only fair, if the committee is willing to provide a small special interest group with a very expensive, brandnew loophole, and to have that loophole indexed on top of everything else, that the committee should also grant the boon of indexing to the American taxpayer. If the beneficiaries of the recycling tax credit loophole are to be protected from the ravages of inflation by indexing, then surely the American taxpayer, who is even more hard hit by the ravages of inflation, should have the same protection and the same benefit.

I should like to submit evidence of the serious study and great success of indexing in Canada, which has had an indexed tax system for 3 years, and I ask unanimous consent to have certain material pertaining thereto printed in the RECORD.

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

EXCERPT FROM "CANADIAN TAX JOURNAL" JULY-AUGUST 1974

. . . NEED FOR INDEXATION

In introducing the indexing proposal, Finance Minister Turner indicated that it was his intention to eliminate the unfair and unintended increase in taxes which occurs automatically as a consequence of the interaction of inflation and a progressive tax structure. It may be useful to comment briefly on the way in which this increase in taxes comes about.

There are two fundamental sources of higher taxes as a consequence of inflation, it is essential that the adjustment process offset both of these. In the first place, inflation causes taxable income to increase more rapidly than total or assessed income. This results from the fact that taxable income is derived from total income by allowing certain exclusions and deductions. If all the exclusions and deductions rose in response to an inflationary process at the same rate as total income, the relationship between total and taxable income would be unchanged. Many of the expenses that are deducted in arriving at taxable income do in fact respond to an inflationary process at approximately the same rate as does total income.

The income tax act, however, specifies other deductions in fixed dollar terms, most notably the basic personal exemptions which account for almost 80% of all exemptions and deductions from income. In consequence, in the course of an inflationary process in which total income may be assumed to rise at the inflation rate, total deductions and exclusions will rise more slowly than that rate. Taxable income will thus rise more rapidly than the inflation rate. For example, if an 8% rate of inflation were to induce an 8% rate of growth in total income, total deductions and exclusions would increase more slowly in an unindexed system. The net result would therefore be an increase in taxable income more rapid than 8% and—even with a proportional tax rate—an increase in taxes in excess of 8%. The real burden of taxes would thus have increased, even though real total income was unchanged. The avoidance of this result requires provision in the act to escalate deductions in such a way as to yield a constant real taxable income for a constant real total income.

The second source of higher real taxes as a consequence of inflation is found in the progressive rate structure. With such a rate structure, tax liability necessarily increases more rapidly than taxable income when taxable income does increase. In consequence, even in a situation in which taxable income rose at precisely the inflation rate (i.e., where the real value of taxable income was unchanged), the purely nominal increase in taxable income would result, in an unindexed system, in more income being taxed at the marginal rate. The net result is therefore an increase in the effective average rate and—with an unchanged real taxable income—higher real taxes. To avoid this result it is necessary that tax brackets be increased at the inflation rate. This would ensure that, for a constant real taxable income, there will be no change in the effective tax rate, and hence no change in real tax liability.

STABILIZATION EFFECTS

One of the traditional arguments against indexing the personal income tax has been that this would seriously impair the macroeconomic stabilizing properties of the tax system. The implications of an automatic adjustment process for the built-in stabilizing properties of the personal income tax are by no means certain. The conventional wisdom on this subject is based upon the assumption that price increases are coincident with an expansion in economic activity, and that indexing the tax system would imply tax cuts which would follow with a very short time lag the price increases. The conventional wisdom thus suggests that, just at the time when stabilization consderations would suggest taxes be increased to dampen aggregate demand, disposable income would be increased automatically by the personal income tax cuts attributable to indexing. In other words, it suggests that the reduction in tax revenues due to indexing would occur at the time of economic expansion, and the tax system would thus fail to perform its function as an automatic stabilizer.

This argument rests on two major assumptions: First that price inflation occurs coincidentally with the expansion in aggregate demand; and second that the tax reduction due to indexing occurs coincidentally with inflation. Both of these assumptions appear to be suspect. In the post-war period in Canada, price-level increases have lagged behind increases in the level of economic activity by approximately 9 to 18 months.

Indeed, the analysis presented by professor Bossons and Wilson in this journal suggests that the indexed tax system may actually, in some circumstances, be more stabilizing than the unindexed system.

Quoting from the Canadian Tax Journal on their experience with indexing . . . such evidence is available suggests that indexation either does not change this effect significantly or may actually enhance it in some circumstances. Should the automatic tax cuts occasioned by indexing be at any time fiscally inappropriate, they could be counteracted by discretionary increases. This could be done while retaining the equity and efficiency gains attributable to reliance upon real rather than nominal income for tax purposes.

. . . One further aspect of the effect of tax indexing on stabilization policy requires attention, namely, the effect of indexing on tax-induced wage inflation. It has often been argued that in a period of rising prices, workers bargain for wage increases which are sufficiently large to preserve their real disposable income—to maintain the purchasing power of their wages after tax. Since, under a progressive tax structure, marginal rates of tax exceed average rates, maintenance of the same disposable income requires that wage and salary increases exceed increases in prices. It is thus argued that the interaction of the progressive rate schedule with rising prices causes workers to bargain for wage increases in excess of price increases, thereby giving rise to "tax-push inflation".

Whatever the behavioral explanation for tax-induced wage inflation, it would appear from empirical evidence that the phenomenon does exist, although its magnitude is uncertain. By preventing purely inflationary increases in income from raising real tax liabilities, indexing should operate in such a fashion as to weaken this particular source of inflation.

. . . With respect to the impact of indexa-

tion upon the progressivity of the tax system, it was concluded that indexing decreases the share of total taxes paid by lower-income taxpayers, while increasing their share of disposable income. It is thus unambiguously a progressive measure.

. . . Should indexation occasion a long-run growth in personal income tax revenues below that necessary to finance a desired increase in real government expenditures, discretionary income tax increases could of course be imposed to provide the required revenues. Clearly, this process of explicitly legislated tax increases is superior from the point of view of accountability to taxpayers than is the alternative of relying upon a hidden "inflation tax".

. . . The effect of inflation coupled with progression in the rates of tax on personal income is to increase taxes at each income level to an extent that depends on the rate of progression in tax rates at that income. As a consequence, the tax increases resulting from inflation are highest not at incomes where the marginal tax rates are highest, but rather at incomes where marginal tax rates increase most rapidly. Such inflationary tax increases thus fall most heavily on middle-income taxpayers and on low-income taxpayers with incomes just below the exemption level. It is clearly difficult to argue that this pattern of incidence of the tax changes resulting from inflation reflects rational social policy.

Beyond this perverse incidence of inflation-induced tax changes on different income classes, there is an equally perverse effect on families of different size. The changes in effective tax rates are in most classes greater for families with more children—a result that would be sensible only were it assumed that families with children had their relative spending power improved in periods of general price inflation.

The differential incidence of inflationary tax increases on different income groups is reflected in a differential rate of increase in taxes on labour and property income. Except for small private corporations, the corporation income tax exhibits no progression in tax rates and hence is immune from inflationary increase in effective real tax rates. Further, property income of individuals is heavily concentrated among individuals with higher incomes who are already subject to marginal personal income tax rates equal to or close to the maximum rate of tax. Consequently the average rate of inflation-induced increase on effective tax rates on property income is relatively low.

The reason why taxes on labour income are increased by price changes to a greater extent than taxes on property income is that taxes on labour income are more progressive. This difference partly arises from the fact that the bulk of tax revenues from taxes on property income are collected through the corporation income tax and local property tax rather than through the personal income tax. In part, the difference also is due to the fact that property income taxed under the personal income tax is taxed at effective tax rates which rise less quickly than taxes on labour income, as a result of the effect of the dividend tax credit and the preferential treatment of capital gains.

CONCLUSIONS OF THE CANADIAN TAX JOURNAL, JULY–AUGUST 1974

The indexing procedure proposed by Finance Minister Turner to adjust tax rates for inflation would have two highly beneficial effects. It would eliminate a number of inequities resulting from the way in which inflation now affects effective tax rates. It would at the same time substantially reduce the rate of growth of direct personal tax revenues over the long term, unless such reduction were offset by explicit increases in tax rates. Through so doing, the proposal increases parliamentary control over tax rates.

These benefits would not be accompanied by any significant costs. Contrary to what has previously been assumed, the implementation of the proposed adjustment of tax rates would not reduce the stabilizing properties of the tax system. On the contrary the Turner proposal would slightly enhance the extent to which the tax system helps to stabilize fluctuations in real output. Moreover, taking into account the indirect effects of inflation-induced tax changes on subsequent price changes, the present contributions of the tax system to "cost-push" inflation would be substantially mitigated. As a result, implementation of the budget proposals to index tax rates should prove beneficial to macroeconomic stability.

Mr. TAFT. In conclusion, Mr. President, this amendment does not weaken the fight against inflation. By reducing the risk of recession, it allows the Government to pursue less inflationary policies without higher unemployment. This would increase the chances of bringing inflation under control. It would stimulate output and employment, and help to curb inflation by removing the need for wages to rise even faster than the cost of living just to preserve after-tax income. It would help to protect the taxpayer-wage earner from the cruelest tax of all—inflation.

Mr. ROTH. Mr. President, I rise in support of this amendment to adjust the personal exemption, the standard deduction, and the tax brackets by the annual rate of inflation. I have introduced legislation in the last two sessions of Congress to index the tax system by the rate of inflation, and I am pleased to join my distinguished colleagues from Ohio (Mr. TAFT) and from New York (Mr. BUCKLEY) in sponsoring this amendment to the tax reform bill.

This amendment is an important and fundamental reform of a tax system which uses inflation to automatically push taxpayers into higher tax brackets. This results in an annual tax increase that has its greatest impact on low- and middle-income taxpayers.

Under our present tax laws, the Government is the only beneficiary of inflation. This is because the Government relies on inflation to continually increase tax revenues, and allows Congress to continue spending without facing the political consequences of funding new spending programs through tax increases.

The inflation of the past few years has benefited the Government at the expense of the average low- and middle-income taxpayers of this country. Although the price increases for food, utility, and housing receive more attention, the largest increase in a family's budget the past few years has been in their income taxes.

I believe that an indexed tax system would provide at least partial relief from inflation. It would insure that a family will no longer be forced to pay more taxes simply because inflation has pushed it into a higher tax bracket.

For many senior citizens on fixed incomes, this amendment could result in a tax cut each year that prices rise. And this proposal would reduce the amount of inflated revenues that the Federal Government collects and spends each year.

Despite the recent easing of inflation, we cannot afford to ignore the disruptive impact of inflation on our economy. The Congress cannot continue to spend and spend and then cut taxes every election year.

Although this amendment will be characterized as a radical change in our system of taxation, the approach is modeled after systems that have been successfully adopted by a number of countries, including Canada. I can see no reason why we cannot adopt this amendment to provide real tax relief for low- and middle-income taxpayers, and I urge the adoption of this amendment.

Mr. TAFT. Mr. President, I have an amendment. The Senator from Oregon has not been able to get to the floor, apparently. I have an amendment that I offer on his behalf, which was agreed to under the consent agreement.

The PRESIDING OFFICER. All the time would have to be used or yielded back.

Mr. TAFT. Mr. President, all my time is yielded back. Will the Senator from Louisiana yield his time back? On the amendment, not on the amendment to the amendment.

Mr. FANNIN. Mr. President, 1 minute?

Mr. LONG. I yield to the Senator 1 minute.

Mr. TAFT. Let me say that the amendment to the amendment that has just been offered, under which there are 10 minutes on each side, provides merely that the bracketing goes to the nearest $5 figure, a point which the Senator from Oregon raised. I thought that was a sound point, so I have offered it as an amendment, and I certainly have no objection to an amendment being offered.

I am glad to yield on the amendment to the amendment to the Senator from Arizona.

The PRESIDING OFFICER. The amendment to the amendment is not pending. The Senator from Louisiana has time remaining and has not yielded back. Therefore, the amendment to the amendment is not in order.

Mr. TAFT. I thought the Senator from Louisiana yielded back his time on the amendment.

Mr. FANNIN. Mr. President, the Senator from Louisiana yielded 1 minute to the Senator from Arizona.

Mr. TAFT. I have no time to yield to the chairman.

Mr. FANNIN. The chairman yielded 1 minute to the Senator from Arizona.

I commend the distinguished Senator from Ohio. Certainly, I understand why he is pushing for this amendment and has offered it. I do feel that this amendment raises the important question of whether we should build into the tax laws some form of automatic inflation adjustment mechanism. I have been concerned about that. I feel that I would like to study it further and to learn more about it.

The Senator has furnished information to me and to the other Senators and it has been very helpful. Still, there are some questions that I have concern about.

The Committee on Finance received only a limited amount of testimony on this subject. For a variety of reasons, we in the committee concluded that

it would not be possible to deal adequately with this subject in this particular bill. Several members of the committee did feel, however, that it should give further study to it and directed the staff to undertake a study of the possibility of adjusting the tax system for inflation. I am confident that the staff, in this study, will focus on a variety of proposals, including the one embodied in the pending amendment.

For these reasons, and while I support the goals of the Senator from Ohio, I hope that the Senate will defer action on the amendment pending completion of the staff study.

Mr. HATHAWAY. Will the Senator from Louisiana yield a minute or 2?

Mr. LONG. I yield 2 minutes to the Senator from Maine.

Mr. HATHAWAY. I thank the Senator for yielding.

I point out that the whole subject of indexing is a very complicated subject. I think proponents of the amendment understand that indexing in certain areas can lead to greater inflation, rather than protecting those that we intend to protect, by having certain income or, in this case, the income tax bracket indexed. I think the Senator from Arizona makes a wise suggestion when he says that we should study this matter. We should study not only the proposed amendment by the Senator from Ohio, but indexing in general, all these cost-of-living escalator clauses that are in union-management contracts, as well as tacked onto some of the Federal legislation such as the Social Security Act, and come back with some kind of a comprehensive plan that takes into consideration all of the factors that were mentioned here in the debate.

For that reason, although at a later time I might be willing to support the Senator from Ohio, at this time, in view of the tremendous lack of information we have as to the consequences of this amendment, I feel constrained to vote against it. I thank the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana has 11 minutes remaining.

Mr. LONG. Mr. President, I hope we can bring this matter to a conclusion and, therefore, rather than vote on two different amendments, I would like to move, in due course, at the proper time, that the amendment be laid on the table, and that would take with it the amendment to the amendment.

Let me ask, Mr. President, assuming that an amendment is offered to the amendment, at what point would it be in order to table the basic amendment?

The PRESIDING OFFICER. When the time has expired on the amendment in the second degree.

Mr. LONG. Then, Mr. President, I yield back the remainder of my time, that is, on the basic amendment.

UP AMENDMENT NO. 292

The PRESIDING OFFICER. All time has been yielded back on the original amendment.

The clerk will report the amendment to the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) for Mr. PACKWOOD proposes unprinted amendment No. 292.

Mr. TAFT. Mr. President, I ask that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, line 10, after the period insert the following: "If, for taxable years beginning during a calendar year such amounts, as multiplied, are not multiples of 5, each such amount, as multiplied, shall be increased to the next greater multiple of 5, and, as so multiplied and increased, shall be the amount in effect for such taxable years (but for purposes of making the computation required by the preceding sentence, the Secretary shall use the actual product rather than the increased amount).".

On page 3, line 14, after the period insert the following: "If, for taxable years beginning during a calendar year such amounts, as multiplied, are not multiples of 5, each such amount, as multiplied, shall be increased to the next greater multiple of 5, and, as so multiplied and increased, shall be the amount in effect for such taxable years (but for purposes of making the computation required by the preceding sentence, the Secretary shall use the actual product rather than the increased amount).".

On page 4, line 10, after the period insert the following: "If, for taxable years beginning during a calendar year such amounts, as multiplied, are not multiples of 5, each such amount, as multiplied, shall be increased to the next greater multiple of 5, and, as so multiplied and increased, shall be the amount in effect for such taxable years (but for purposes of making the computation required by the preceding sentence, the Secretary shall use the actual product rather than the increased amount).".

Mr. TAFT. This amendment was introduced on behalf of the Senator from Oregon (Mr. PACKWOOD), and I would be glad to yield him 10 minutes.

Mr. HATHAWAY. Mr. President, will the Senator from Oregon yield for a unanimous-consent request?

Mr. PACKWOOD. Yes.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that John Stewart and David Freeman be granted privileges of the floor during the vote and debate on the tax bill.

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

Mr. PACKWOOD. Mr. President, I thank the Senator from Ohio for introducing the amendment. It is very simple and it does not go to the substance of the merits of indexing, which I do support. But the amendment that Senator TAFT has offered on my behalf would simply round off the taxpayer's figures to the upward $5, not the nearest up or down but upward $5, so that indexing each year you would not have dollars and cents in fractions of figures.

I think it is a very simple amendment. I do not think this particular amendment should be controversial as far as the concept of indexing is concerned, and I would be prepared to yield back the floor.

Mr. TAFT. Mr. President, I wonder if the Senator would yield me some time?

Mr. PACKWOOD. Yes; I would be happy to.

Mr. TAFT. I would like to concur with the Senator from Oregon that no mathematical problems could be created by his amendment and, therefore, I expect to support it.

I would like to make a couple of points in response to the points that have been made by the distinguished chairman of the committee.

First of all, with regard to the inflationary pressures that might be created by this amendment, it is quite the other way around. We have the cart before the horse here.

The reason, the principal cause, for inflation in this country today, and the principal cause has been the pressure of wages, wage demands.

What has the reason for this been? The reason for this has been that the same worker who about 10 years ago was paying maybe a 5-percent rate on his taxes is now paying at a 15-percent rate even though his real income has not gone up at all; and even though his dollar increase or wages go up every year, when he gets down to the time when he has to pay his taxes he finds he is going to have to pay more and more taxes, a higher percentage of his total income, because he has moved up in the bracket without any increase in real income at all.

So if you are really talking about preventing inflationary pressures on the economy, what you need is this indexing type of amendment so that the worker each year knows approximately what bracket he is going to be in unless he has got a merit increase of some sort. If it is just a cost-of-living increase he knows he is there and he does not, because of the inflationary factors, build further inflationary factors by the wage increases he has to move on.

Let us take just one other argument that has been made, and that is that somehow you are going to increase the deficit by this. As I indicated in my original statement, I think quite the contrary is true in the scenario we have today. The history of tax decreases in the last 10 to 15 years has been in the long run they created revenue, and in the very long run either. We estimated on the basis of past studies and what happened in 1963 that we might lose $1 billion in the first year to which this would be applicable, which would be fiscal 1978. After that we figure we are going to be ahead of the game because of the stimulative effect of a real tax cut that is involved.

We are just kidding ourselves with this bill, as we have kidded ourselves in the past in some of the bills we put in, saying that this is going to help the economy under the Keynesian theory of economics because the taxpayer is not going to have as much money to spend. Actually we are increasing it because we are in an inflationary period, and the increase in the brackets the taxpayers find themselves in, and the smaller percentage of the total income their personal exemptions represent or the standard deduction represents means that really they are having a tax increase even though you say you are giving them a cut in taxes.

So that the two principal arguments that have been made by the chairman to me are totally specious under the circumstances we have been talking about.

I thank the distinguished Senator from Oregon for giving me time.

Mr. PACKWOOD. I agree totally with the Senator from Ohio. If the theory—and I have never been totally convinced that the theory works, but if the theory—is that a tax cut will expand the economy, will increase the revenues, will put people back to work, will make them consumers so that businesses make more profit and pay more taxes, this, in essence, is a tax cut, if you want to call it that. What it really is, is simply making sure that everybody keeps a fair share. Not that he gets a fair share but he keeps a fair share of the taxes without being nibbled away by being put into a higher tax bracket. This is not a theory that you get to keep as much money, which is worth less, but you keep more money, you get to keep more money at a time when inflation has made everything cost more.

If the purpose of tax stimulus is true, if the theory works, that by putting more money into the hands of consumers we spur the economy, then this amendment is going to put more money into the hands of consumers and spur the economy.

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

Mr. PACKWOOD. Yes.

Mr. DOLE. We are talking about a large sum of money by 1980, and all we seem to be doing is not to avoid a tax cut but to avoid a tax increase on an annual basis, talking about avoiding a tax increase. It is just as simple as that. The Senator from Kansas, as the Senator from Oregon knows, also knows that there are a number of indexing programs such as SSI, food stamps, social security, you name it. We have an indexing program. All we are suggesting here is that we put this $40 billion back into the workers' hands, and taking it out of somebody's hands who does not have an idea of how he is going to spend it. If we have to spend money, let us meet it head-on.

Mr. PACKWOOD. It is the fairest of all amendments because we have indexed almost everybody who is receiving money from the Government, but the very person who is going to pay the tax, the low-income earner, we are not going to index him.

Mr. BUCKLEY. May I say, too, this is an unfair tax increase on those individuals in our society who are least able to afford it because the people in the lowest tax brackets are rapidly raised to the higher tax brackets.

Mr. PACKWOOD. Because we have a maximum fixed tax bracket on earned income, and all we are doing is pushing those lower up to a higher bracket. For those who already paid 50 percent this is not a loophole for the wealthy.

Mr. BUCKLEY. The people in the Treasury talk about this wonderful inflation bonus. They have never asked those who would pay it.

The people who are in the lowest tax brackets suddenly find themselves paying out more tax dollars, and the Senate and the Congress never had the guts to legislate on this matter.

Mr. PACKWOOD. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, some time ago I participated with the distinguished Senator from New York in a rather interesting dialog about income tax and tax indexing, and I want to commend the Senator from Ohio and the Senator from New York for bringing this matter to the attention of the Senate.

I say whether or not this passes today or whether or not our distinguished chairman is successful in tabling the matter is not really why we are here. I think if we do focus in for Senators on the notion that when we set a progressive income tax and then set brackets that, as a matter of fact, those are totally defied and havoc sets in when you have inflation, and so we have an unintentional resetting of the brackets and the areas and levels of taxation that we are imposing on our citizens, in particular those who work hard for a living.

Speaking of a spiral, I would suggest to the Senator from Ohio that we are talking about a spiral of wanting to make more money, and labor leaders wanting more money for their people, and higher contracts for employment. Here is one of the very reasons why when they go to the bargaining table they say, "After taxes, we are getting less under the new pay raise than we were before, so we want more this year."

So, in a very real sense, this would be one of the most meaningful and true reform measures to come out of this debate that has been here on the floor for 3 or 4 weeks.

If serious attention is given to this real thief in the sense that it is a tax levy without our really wanting it to be, without our telling anyone we are doing it, but it comes to us anyway, then those who work hard to make more, negotiate hard to earn more, end up paying more and getting less.

I commend the Senator from Ohio.

Mr. TAFT. I thank the Senator.

Mr. President, if the Senator will yield for just one comment, I notice in the last 2 years the Senate voted a cost-of-living increase for Government employees by a sizable majority.

I say if we tried to protect the Government employees from inflation, let us try to protect the taxpayers, too.

Mr. PACKWOOD. I am prepared to vote on my amendment.

Mr. LONG. Mr. President, may I have 2 minutes to speak?

The PRESIDING OFFICER. The Senator has 10 minutes. The Senator from Louisiana.

Mr. LONG. Mr. President, this amendment would have the effect of reducing Government revenues when inflation hits. When inflation hits, Government revenues go up and so do Government costs. One tends to offset the other.

But this amendment would have the effect, with 6-percent inflation—which is not at all unusal today—of reducing Government revenues by $5 billion when we already have an absolutely uncontrollable Government deficit.

By reducing taxes further as inflation hits, it tends to feed the fires of inflation by reducing Government revenues and putting more money into circulation at a time when we should be trying to restrain the economy.

Mr. President, we cannot afford this revenue loss. We once had a solvent social security program. It remained so until we started indexing those benefits so that when inflation would move the cost of living up, up would go the benefits automatically.

Prior to that, we would look at the situation and see what we could afford to pay out in increased benefits and how we needed to raise the tax to keep the program solvent.

Then we started indexing the social security program—and we have projected long-range bankruptcy ever since that time.

This amendment would mean that every time we have 6-percent inflation, we will lose $5 billion in revenue.

We cannot afford those kinds of revenue losses. We cannot get this Congress together and vote tax increases when they are needed.

Therefore, these sorts of automatic tax increases that occur by virtue of inflation are needed unless we can find some other way to raise the revenue, which we have not been able to find. We need all the revenue we can find, whether by accident or circumstances. We simply cannot afford this revenue reduction.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. LONG. Has all time expired?

The PRESIDING OFFICER. The Senator still has 8 minutes.

Mr. LONG. How much time remains to both sides?

The PRESIDING OFFICER. One minute on the other side. Eight minutes to the Senator.

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

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I am prepared to yield back and vote on the amendment.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back——

Mr. LONG. Mr. President, I move to table the Taft amendment, which would take with it, I understand, the amendment to the amendment.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the——

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Taft amendment. 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 Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 68, nays 22, as follows:

[Rollcall Vote No. 457 Leg.]

YEAS—68

Abourezk	Hansen	Metcalf
Allen	Hart, Gary	Montoya
Baker	Hart, Philip A.	Morgan
Bayh	Hartke	Moss
Bellmon	Haskell	Muskie
Bentsen	Hathaway	Nelson
Biden	Hollings	Nunn
Brooke	Hruska	Pastore
Bumpers	Huddleston	Pell
Burdick	Humphrey	Proxmire
Byrd, Robert C.	Jackson	Randolph
Cannon	Javits	Ribicoff
Case	Johnston	Schweiker
Church	Kennedy	Scott, William L.
Clark	Leahy	Sparkman
Cranston	Long	Stafford
Culver	Magnuson	Stennis
Eagleton	Mansfield	Stevenson
Eastland	Mathias	Stone
Fannin	McClellan	Talmadge
Fong	McClure	Weicker
Glenn	McGee	Williams
Gravel	McIntyre	

NAYS—22

Bartlett	Ford	Percy
Brock	Garn	Roth
Buckley	Griffin	Scott, Hugh
Byrd, Harry F., Jr.	Hatfield	Stevens
Chiles	Helms	Taft
Dole	Laxalt	Thurmond
Domenici	Packwood	Tower
	Pearson	

NOT VOTING—10

Beall	Inouye	Tunney
Curtis	McGovern	Young
Durkin	Mondale	
Goldwater	Symington	

So the motion to lay on the table Mr. TAFT's amendment (No. 1902) was agreed to.

Mr. LONG. Mr. President——

Mr. McINTYRE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. LONG. I ask unanimous consent that I may yield to the Senator from New Hampshire without losing my right to the floor.

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

Mr. McINTYRE. I ask unanimous consent that a member of my staff, Mr. William Donovan, may have the privilege of the floor during the title XX energy provision debate.

The PRESIDING OFFICER (Mr. BROCK). Without objection; it is so ordered.

TITLE XX (AS MODIFIED)

Mr. LONG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of title XX, energy related provisions, a summary of which I include in my remarks at this point, except for section 2006, which I ask be considered as a separate amendment because the Senator from New Hampshire (Mr. DURKIN) wants to offer an amendment on that tomorrow.

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

TITLE XX—ENERGY RELATED PROVISIONS

1. *Residential insulation credit (sec. 2001 of the bill).*

The committee amendment provided a refundable credit of 30 percent of the first $750 ($225 maximum) spent for insulating an existing residence after June 30, 1976, and before January 1, 1979.

Under present law, no special credit or deduction is allowed for expenditures for insulation of a taxpayer's own residence. Expenditures for insulation that qualify as an improvement of the house may be treated as an addition to the taxpayer's basis in the house.

There was no provision for residential insulation in the House tax reform bill, but the energy tax bill (H.R. 6860) provided a credit of 30 percent on the first $500 spent, for a maximum credit of $150, for installation in existing residences after March 17, 1975, and before January 1, 1978.

2. *Credit for residential solar or geothermal energy or heat pump (sec. 2002 of the bill).*

The committee amendment provided a refundable credit of 40 percent on the first $1,000 and 25 percent on the next $6,400 ($2,000 maximum) spent on the installation of solar or geothermal energy equipment after June 30, 1976, and before January 1, 1981, in a residence occupied by the taxpayer. The committee amendment also provided a refundable credit of 20 percent on the first $1,000 and 12½ percent on the next $6,400 ($1,000 maximum) spent on the installation of a heat pump after June 30, 1976, and before January 1, 1979, for an existing residence.

There is no special credit or deduction for solar or geothermal energy expenditures for a taxpayer's own residence. Expenditures for solar or geothermal energy units that qualify as an improvement of the house may be treated as an addition to the taxpayer's basis in the house.

3. *Investment credits relating to energy conservation and production (sec. 2003 of the bill).*

a. *Business insulation credit.*

The committee amendment extended the investment credit to the insulation costs in an existing business property paid or accrued after December 31, 1976, and before January 1, 1979.

Under present law, insulation of business property is included among structural components which are not eligible for the investment credit.

There is no comparable provision in the House-passed tax reform bill, but in the energy tax bill (H.R. 6860), the House extended the investment credit to include the costs of insulating an existing business structure after March 17, 1975, and before January 1, 1978.

b. *Business solar and geothermal equipment credit.*

The committee amendment provides a special investment credit of 20 percent through 1981 and 10 percent through 1986 for both solar and geothermal energy equipment. Credit is available for equipment which becomes a structural component of a building and for equipment installed for lodging property. Generally it is effective at the 20-percent rate only for property acquired, or the construction of which is commenced, after May 25, 1976, and before 1982, and it is effective at the 10-percent rate for property acquired, or the construction of which is commenced, after 1981 and before 1987.

Under present law, solar or geothermal energy equipment does not usually qualify for the investment credit because this equipment is usually considered as a structural component of a building.

There is no comparable provision in the House-passed tax reform bill, but in the energy tax bill (H.R. 6860), the House extends investment credit at the current rate to solar energy equipment. The credit is available for equipment which becomes a structural component of a building and for equipment installed for lodging property. It would become effective when both the installation and expenditure are made (or incurred) after March 17, 1975, and before 1981.

c. *Waste conversion equipment.*

The committee amendment provides that a 12-percent investment would be available for equipment acquired after December 31, 1976, and placed in service before January 1, 1982. This credit would revert to the statutory rate in effect in 1982. Waste conversion equipment is defined to include equipment to use waste as a fuel, process waste into a fuel, sort and prepare waste for recycling, and recycling equipment.

There are no special tax provisions in present law that specifically relate to these categories of equipment.

There is no comparable provision in the House-passed tax reform bill, but the energy tax bill (H.R. 6860) provided for 5-year amortization and a two-thirds investment credit.

d. *Organic fuel conversion equipment.*

Under the committee amendment, an investment credit of 12 percent is provided for equipment acquired after December 31, 1976, and placed in service before January 1, 1982. After that date, the ordinary rules of the current investment credit would apply to this equipment. Organic fuel conversion equipment is defined to include equipment used to convert organic material into energy forms.

Under present law, there are no special tax provisions that relate specifically to this category of equipment. There is no comparable tax provision in the tax reform bill, but the energy tax bill (H.R. 6860) provided for demonstration and development grants from an energy trust fund for new technologies which would include organic fuel conversion.

e. *Railroad equipment.*

Under the committee amendment, a 12-percent investment credit would be made available for railroad rolling stock, communications, signal or traffic control equipment, classification yard equipment, and freight handling equipment for loading or unloading trailers and containers on and from railroad cars that have been placed in service after December 31, 1976, and before January 1, 1982.

Under present law, no special tax provision is applicable to expenditures for these kinds of railroad equipment. Railroad rolling stock was eligible for five-year amortization through December 31, 1976; the investment credit was not available to equipment for which an election had been made for rapid amortization. Alternatively, the railroad could take the investment credit and use ADR lives with accelerated depreciation. For communications systems, classification yard equipment and freight handling equipment, the taxpayer also may take the investment credit and use ADR guideline lives with accelerated depreciation.,

The House-passed tax reform bill contained no provisions relating to these types of railroad equipment. Under the House-passed energy tax bill (H.R. 6860), eligibility for the election for five-year amortization would be extended through December 31, 1979, for railroad rolling stock, and the election would be made available for equipment used in communications, signal or traffic systems, classification yards and certain freight handling equipment for loading and unload-

ing trailers and containers on and from railroad cars. Equipment eligible for the five-year amortization election also would be eligible for a two-thirds investment credit.

f. *Deep mining coal equipment.*

The committee amendment allows a 12-percent investment credit for deep mining coal equipment for a 10-year period for equipment placed in service after December 31, 1976, and before January 1, 1987. This provision covers depreciable equipment needed to reach underground coal deposits in slope mines, shaft mines, or drift mines and to extract the coal and bring it to the surface. It applies to the machines and equipment used in the process of actual mining, including conveyor belts, loading machines, and cars used to bring coal and miners out of the mine. The credit also applies to machinery and equipment used in newly opened mines, in new shafts or tunnels in existing mines and to reopened shafts or tunnels.

Under present law, this equipment is eligible for the current investment tax credit under the ordinary rules pertaining to all investment.

The House-passed tax reform bill did not contain a comparable provision. The energy tax bill (H.R. 6860) passed by the House included a provision for five-year amortization for deep mining coal equipment placed in service after March 17, 1975, and before January 1, 1981. This equipment also would be eligible for a two-thirds investment credit.

g. *Coal liquefaction and processing equipment.*

The committee amendment permits a 12-percent investment credit for the capital cost of depreciable machinery or equipment used for processing coal into a liquid or gas. This provision covers the range of liquids and gases which can be derived from coal (as well as usable byproducts), including low-BTU gas, high-BTU gas, synthetic crude oils and chemical feedstocks. In addition to gasifiers, reactors, and other equipment directly involved in processing the coal, eligible machinery and equipment includes the facilities for coal preparation and crushing; for upgrading coal oil to synthetic crude oil; for recovering solvent and sulfur; for preparing and disposing of water; and for product storage. Equipment used to drill wells, or to fracture coal in a mine and to pipe process gas to the surface, as part of underground gasification, is also included. The credit is also to be available for equipment used in the solvent refining process to remove sulfur, ash or other pollutants in order to produce a clean solid fuel from coal. The provision also permits machinery and equipment used in demonstration and pilot plants and in other testing activities (as well as machinery and equipment used in commercial production) to receive the extra credit if the equipment is the type that, if used in a trade or business, would be depreciable. The credit is available for eligible property that is placed in service after December 31, 1976, and before January 1, 1987.

Under present law, these kinds of equipment are eligible for the current investment tax credit under the ordinary rules pertaining to all investment.

The House-passed tax reform bill did not contain a comparable provision. The energy tax bill (H.R. 6860) passed by the House included a provision for five-year amortization for qualified equipment for processing coal into a liquid or gaseous state. It also would be eligible for a two-thirds investment credit. Both provisions would apply to equipment placed in service after March 17, 1975, and before January 1, 1981.

h. *Coal slurry pipeline equipment.*

The committe amendment provides a 12-percent investment credit for costs incurred in installing pipeline equipment to carry coal in a slurry. The special credit applies to equipment placed in service after December 31, 1976, and before January 1, 1987. Under the amendment, the credit is confined to the central elements of the slurry system: the main pipeline itself, the high-pressure main pipeline pumps (including spare pumps) necessary to move the coal through the line, and control and communications equipment for operating the pumping stations. The amendment defines an eligible pipeline as depreciable tangible property which constitutes a coal slurry pipeline and related equipment for transporting coal from the mine or other gathering point over relatively long distances from the mine (or from a related preparation plant) to another geographical area where the customer is located or where barges, rail lines, or other facilities for further shipment of the coal are located.

Under present law, the equipment is eligible for the current investment tax credit under the ordinary rules pertaining to all investment.

The House-passed tax reform bill did not contain a comparable provision. The energy tax bill (H.R. 6860) passed by the House included a provision for five-year amortization for a qualified coal pipeline. It also would be eligible for a two-thirds investment credit. These provisions would apply to equipment placed in service after March 17, 1975, and before January 1, 1981.

i. *Shale oil conversion equipment.*

The committee amendment provides a 12-percent investment credit for capital expenditures for machinery or equipment which is necessary to reach, extract and convert shale rock into raw shale oil. The provision does not cover expenditures for refining crude shale oil after it has been extracted from the rock. It is intended to cover machinery and equipment used to obtain water needed for the extraction process, to dispose of spent shale after the oil has been extracted, to dispose of run-off waters from wastes produced in the extraction, and to remove impurities from oil and gas produced from the shale. This provision also permits machinery and equipment used in demonstration and pilot plants for shale oil extraction to receive the 12-percent credit.

Under present law, the equipment is eligible for the current investment tax credit under the ordinary rules pertaining to all investment.

The House-passed tax reform bill did not contain a comparable provision. The energy tax bill (H.R. 6860) passed by the House included a provision for five-year amortization and a two-thirds investment credit for this type of equipment that would be placed in service after March 17, 1975, and before January 1, 1981.

j. *TVA compensatory adjustments.*

The committee amendment would allow TVA to reduce the annual payment by an amount equal to a 12-percent investment credit earned on investments in equipment for organic fuel conversion, coal processing, coal pipeline and shale oil conversion. Unused credits would be carried forward to the next fiscal year.

Under present law, TVA, as a wholly owned government corporation, is not taxable. It is required to make annual payments to the Federal Government as a return on the appropriated Federal funds invested in power facilities.

There is no TVA provision in the House-passed tax reform bill or energy tax bill.

k. *ESOP.*

The committee amendment provides that a corporation which is eligible to receive a 12-percent investment credit under section 2003 of the Senate bill would be eligible for an additional 2 percent if that would be contributed to an ESOP.

Under present law, an employer is entitled to an additional percentage point of the investment credit, if it contributes the additional credit to an ESOP.

The House-passed tax reform bill and energy tax bill did not contain a comparable provision.

4. *Deduction for production and intangible drilling costs of geothermal development (sec. 2004 of the bill).*

The committee amendment allows current expensing of intangible drilling costs for wells drilled for geothermal steam and associated geothermal resources. Also provides a deduction (in the nature of, but in lieu of, a depletion deduction) for 22 percent of the gross income from the property for production of geothermal steam and associated geothermal resources, but not to exceed 50 percent of taxable income from this property. The provision would be effective for taxable years beginning after 1976.

Under present law, it is unclear whether a depletion deduction or the intangible drilling cost deduction is allowable for the production of geothermal steam and associated geothermal resources.

There is no comparable provision in the House-passed tax reform and energy tax bills.

5. *Denial of investment for portable air conditioners and heaters (sec. 2005 of the bill).*

The committee amendment provides that portable, self-contained air conditioning and heating units placed in service after December 31, 1976, no longer would be eligible for the investment credit.

Under present law, portable, self-contained air conditioning and heating units are eligible for the investment credit, if they are not attached to the building or structure.

There is no comparable provision in the House-passed tax reform bill, but the energy tax bill (H.R. 6860) provided that portable, self-contained air conditioning and heating units would no longer be considered to be qualifying property for the investment credit.

6. *Credit for purchase of matter which can be recycled (sec. 2006 of the bill).*

The committee amendment provides a tax credit to a recycler for purchase of recyclable solid waste materials which exceeds 75 percent of the amount purchased during the base period, 1973, 1974, and 1975. For new recyclers, the base period is the first three years of production. The amount of the credit is one-half the rate of percentage depletion for metals (except previous metals), 10 percent for textiles and paper, and 5 percent for glass and plastics. A ceiling and floor are provided for the credit for paper waste. The provision would be effective for materials purchased for recycling after December 31, 1976.

Under present law, there is no provision for a recycling tax credit.

The House passed tax reform and energy tax bills did not include a recycling tax credit.

7. *Repeal of manufacturers excise tax on buses and bus parts (sec. 2007 of the bill).*

The committee amendment repeals the excise tax on all buses and also the excise tax on bus parts and accessories sold after June 30, 1976.

Under present law, there is a 10-percent manufacturers excise tax on the sale of buses weighing more than 10,000 pounds, except for local transit and school buses. The manufacturers excise tax on bus parts and accessories is 8 percent.

There is no comparable provision in the House-passed tax reform bill, but the energy

tax bill (H.R. 6860) repealed the excise tax on intercity buses.

8. *Excise tax on rerefined lubricating oil (sec. 2008 of the bill).*

Under the committee amendment, new lubricating oil would be exempt from the manufacturers excise tax when mixed with 45 percent or more of waste or rerefined oil.

Under present law, new lubricating oil that is mixed with waste or rerefined oil is subject to the manufacturers excise tax on lubricating oil. These is no refund of the tax for nonhighway uses of the new oil portion of the oil mixture.

There is no comparable provision in the House-passed tax reform bill, but the energy tax bill (H.R. 6860) exempted now oil from the excise tax when it is mixed with 45 percent or more of waste or rerefined oil.

9. *Exemption from retail excise tax on special motor fuels in nonhighway use (sec. 2009 of the bill).*

The committee amendment provides an exemption for nonhighway use such as liquified petroleum gas (propane) used in an industrial lift truck.

Under present law, nondiesel motor fuels used by nonhighway vehicles are subject to a 2-cents-per-gallon tax. Diesel fuel used by a nonhighway vehicle is exempt from tax.

There is no comparable provision in either the House-passed tax reform bill or energy tax bill.

10. *Oil swaps (sec. 2010 of the bill).*

The committee amendment would permit tariff-free exchanges of equivalent kinds and quantities of oil between the United States and Canada.

Under present law, all petroleum and petroleum products imported into the United States are subject to import duties which vary according to the grade of petroleum or type of product.

There is no comparable provision in the House-passed tax reform and energy tax (H.R. 6860) bills.

Mr. LONG. Mr. President, I send to the desk an amendment in the nature of a modification to the committee amendment.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 1472, line 14, strike out "(including a clock thermostat)".

On page 1477, line 2, after "expenditures" insert the following: "and qualified wind-related energy equipment expenditures";

On page 1479, line 3, after "expenditures" insert the following: "or qualified wind-related energy equipment expenditures";

On pages 1480, 1481, 1482, and 1483 redesignate paragraphs (4), (5), (6), (7), and (8) of subsection (c) as paragraphs (6), (7), (8), (9), and (10).

On page 1480, after line 18, insert the following:

"(4) QUALIFIED WIND-RELATED ENERGY EQUIPMENT EXPENDITURES.—The term 'qualified wind-related energy equipment expenditures' means any amount paid or incurred by an individual for any installation which occurs after June 30, 1976, and before January 1, 1981, of wind-related energy equipment on or adjacent to any dwelling unit located in the United States.

"(5) WIND-RELATED ENERGY EQUIPMENT.—The term 'wind-related energy equipment' means equipment—

"(A) which, when installed on, or adjacent to, a building uses wind energy to generate electricity to heat or cool such building or provide hot water for use within such building;

"(B) which meets such standards or criteria for performance as the Secretary of Housing and Urban Development may prescribe;

"(C) the original use of which commences with the taxpayer; and

"(D) which has a useful life of at least 3 years.";

On page 1484, strike lines 4 through 8 and insert in lieu thereof the following:

"(e) TERMINATION.—This section shall not apply to any qualified heat pump equipment expenditure paid or incurred after December 31, 1978, nor to any other expenditure paid or incurred after December 31, 1980.".

On page 1486, line 20, after "solar energy equipment" insert the following: ", wind-related energy equipment,".

On page 1488, line 18, strike the phrase "or a clock thermostat".

On pages 1490 through 1496, redesignate paragraphs (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), and (15) of subsection (d) as paragraphs (5), (6), (7), (8), (9), (10), (11), (12, (13) (14), (15), and (16), and strike out "paragraphs (7), (8), and (9)," in paragraph (12), as redesignated by this paragraph, and insert in lieu thereof "paragraphs (8), (9), and (10)".

On page 1490, after line 23, insert the following:

"(4) WIND-RELATED ENERGY EQUIPMENT.—The term 'wind-related energy equipment' means property (of a character subject to the allowance for depreciation) which, when installed on or adjacent to a structure, uses wind energy to generate electricity to heat or cool such structure or to provide hot water for use within such structure, the original use of which commences with the taxpayer, and which meets such criteria as the Secretary of Housing and Urban Development may prescribe. For purposes of this subpart such equipment shall be treated as section 38 property (as defined in section 48(b)), but the rules contained in section 48(a)(3) (relating to property used for lodging) and the words 'and its structural components' contained in section 48(a)(1)(B) shall be disregarded with respect to such property.".

On page 1,516, strike out lines 13 through 16, and insert in lieu thereof the following:

(b) Technical Amendment.—The headnotes to part 10 of Schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended by adding at the end of item 2 the following new subsection:

On page 1,516, in the matter following line 16, strike out the following: "'2. _____'".

Mr. LONG. Mr. President, I ask unanimous consent that there be a time limitation on amendments to this title of one-half hour, to be equally divided between the manager of the bill and the sponsor of the amendment.

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

The Senate will be in order.

The Senator from Massachusetts is recognized.

AMENDMENT NO. 2136

Mr. BROOKE. Mr. President, I ask unanimous consent that the names of Senators MCINTYRE, CASE, RIBICOFF, and JAVITS be added as cosponsors of amendment No. 2136.

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

Mr. BROOKE. Mr. President, I call up my amendment No. 2136, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself and others, proposes and amendment numbered 2136.

Mr. BROOKE. I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. BROOKE's amendment (No. 2136) is as follows:

On page 1470, line 1, strike out "of residence" and insert the following: "and other energy-conserving alteration of principal residence".

On page 1470, line 6, strike out "of residence" and insert the following: "and other energy-conserving alteration of principal residence".

On page 1470, line 10, insert after "insulation" the following: "and other energy-conserving component".

On page 1471, line 13, insert immediately after "insulation" the following: "and other energy-conserving component".

On page 1471, line 22, insert after "lation" the following: "and other energy-conserving component".

On page 1471, insert immediately after line 24, the following:

"(4) CERTAIN NEW EQUIPMENT.—No credit shall be allowed under subsection (a) for any amount paid or incurred for the installation of any entirely new heating system or for the installation of equipment designed to permit the use of alternative fuels.".

On page 1472, strike out lines 3 through 11, and insert in lieu thereof the following:

"(1) QUALIFIED INSULATION AND OTHER ENERGY-CONSERVING COMPONENT EXPENDITURES.—The term 'qualified insulation and other energy-conserving component expenditures' means any amount paid or incurred by an individual for insulation and other energy-conserving components (including amounts paid or incurred for the original installation of such insulation and other energy-conserving components in connection with any reconstruction of a dwelling unit) installed after June 30, 1976, and before January 1, 1979, in a dwelling unit located in the United States which is—

"(A) used by the taxpayer as his residence, and

"(B) in existence on May 25, 1976.".

On page 1473, between lines 2 and 3, insert the following:

"(3) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any—

"(A) retention head burner or comparable new burner at a reduced firing rate or such firing rate as is necessary to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(B) devices electronically or mechanically operated to provide prompt and effective ignition,

which meets such performance and safety standards, including having a useful life of at least three years, and which will materially increase the efficiency of operation of the unit, thereby conserving fuel, as the Secretary may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development, and the original use of which commences with the taxpayer.

"(4) HEATING SYSTEM.—The term 'heating system' means the entire assembly of items, fixtures, equipment, or materials which is designed, when installed in or on a building, to provide the heating for such building, to provide for the heating of the water used within such building, and to provide for the automatic operation and control of such hard-

ware. Such term includes, but is not limited to, all necessary fittings and related installations which are a part of such assembly.".

On page 1473, line 9, insert after "insulation" the following: "and other energy-conserving component".

On page 1474, line 1, strike out "(4)" and insert in lieu thereof "(6)".

On page 1474, line 11, insert after "insulation" the following: "and other energy-conserving component".

On page 1474, line 15, insert after "insulation" the following: "and other energy-conserving component".

On page 1475, line 1, insert after "insulation" the following: "and other energy-conserving alteration".

On page 1475, line 13, insert after "insulation" the following: "and other energy-conserving alteration".

On page 1475, strike out the matter between lines 17 and 18 and insert in lieu thereof the following:

"Sec. 44A. Insulation and other energy-conserving alteration of principal residence.".

Mr. BROOKE. Mr. President, the benefits to be derived from a national energy conservation program have been established by a wealth of testimony before several committees in the Senate and the House. Thirty-five million American homes, because of inadequate insulation, waste the equivalent of 130 million barrels of oil each year that could be saved through proper retrofit of the building.

I am delighted that the committee bill included a provision for a refundable tax credit to homeowners who insulate their residences. More than a year ago I testified to the Finance Committee regarding the importance I personally place on providing incentives for retrofitting both existing buildings and existing home central heating systems. In December, and again in March, I introduced amendments to other tax measures to provide tax credits to families for this important energy conservation purpose. Now we at last seem to be ready to enact a measure which will make an important and cost effective contribution to our national energy conservation effort.

But I am disappointed that the committee omitted an important provision which would have created a total and truly efficient program for conserving energy in the home. The home heating system itself is often less than maximally efficient, and therefore wastes fuel. Looking at both ERDA and private studies has convinced me and many of my colleagues that another 21 million homes are wasting the equivalent of 17 million barrels of oil each year which could be saved during the next 3 years if the heating systems were retrofitted with modern components to reduce their fuel consumption. In the long run, 5 to 10 percent of the fuels consumed by oil and gas furnaces in homes could be saved by installation of conservation equipment. In many cases, there can be greater energy savings by upgrading the furnace than by adding more insulation.

But, Mr. President, the industry which produces these devices is underdeveloped. And the idea of retrofitting the heating system is even newer to homeowners than the idea of undertaking extensive insulation. There is yet no mass market and no mass marketing. In fact, if any market situation demands the creation of incentives for the public to make certain purchases that serve the national interest, it is the oil and gas heating system retrofit market.

Indeed, this need will be even more acute once the Congress adopts the generous tax incentives to make electric heating systems more efficient by adding incentives for purchasing heat pumps and solar equipment. Oil and gas heat fires millions and millions of American homes and will not become obsolete in one generation. Those systems must be made as energy-efficient as we know how.

The amendment No. 2136 which I am offering today represents a bare-minimum proposal. There are actually many devices which American homeowners could effectively use to up grade their heating systems. These include in oil units retention head burners, zone controls, convective stack dampers, new baffling, new end cone assemblies, and in gas units, new blower/motors, electronic igniters, and high efficiency burners. But we have found it difficult to estimate the cost of providing a tax credit for all these items. The problem is a real Catch 22.

We need to create market incentives for installation of heating system conservation equipment. But in order to know what the cost to the Treasury will be, we need to know what the demand for retrofit items will be. But there is no way to know the demand because there is no market.

The first amendments my colleagues and I filed would have permitted the same tax credit available for insulation expenditures to be claimed for any energy-conserving equipment that was certified as increasing the fuel efficiency of the heating system. Although the most expensive of the heating systems items costs only between $200 and $300, the open-ended nature of the amendment meant that the Treasury and the FEA felt that the revenue loss could be virtually open-ended too. I disagreed with their estimates, but we did redraft the amendment to make very specific the list of items which would be eligible. However, when the Joint Committee on Taxation provided revenue loss estimates of $46 million the first year, and over $60 million for each of the 2 subsequent years, I had to agree with several of my colleagues that that was too much to add to the anticipated revenue losses for the insulation credit.

Therefore, this provision we offer today makes only the two most energy-saving pieces of heating system hardware eligible for the tax credit. These are: the new burner unit, which mixes fuel with maximum possible amounts of air, often at a low firing rate, to produce maximum combustion efficiency in both oil and gas units, and the electronic igniter, which eliminates the pilot light in gas burners and thus saves 3 to 5 percent of that precious fuel. These two items will, first of all, save large amounts of fuel. Over the 3-year life of the program, we expect to convert enough units to save the equivalent of 17.2 million barrels of oil per year by 1979 alone. Using a $12 per barrel of oil figure, this means saving the equivalent of $207.3 million a year by 1979. These figures are based on ERDA's technical assessment of the savings potential and the Joint Committee on Taxation's estimates of the demand for the new installations. Mr. President, I ask unanimous consent that a table displaying the energy savings figures be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BROOKE. But most important, the credit will help acquaint the oil and gas heat consumers with the availability of retrofit devices and thus help start up the demand for the savings this kind of item can provide.

The Joint Committee on Taxation has estimated the revenue losses to be:

	Million
In transition	$2
In fiscal year 1977	32
In fiscal year 1978	66
In fiscal year 1979	56
Total	156

I believe these are responsible and realistic figures. Furthermore, I believe we can and must afford them. The Congress is about to enact a separate conservation program totalling $575 million in authority. Of this, $200 million will demonstrate new ways of conserving energy in homes. But not one penny has been designated for expanding the utilization of these existing technologies where we already know they can be effective. Certainly an average of $50 million a year is a modest sum for this addition to our conservation tools, especially when compared to the $1.5 billion we plan to spend for the new conservation and the insulation tax credit combined. And, if we take into account the additional revenue losses for the proposed heat pump and solar tax credits, this additional expenditure virtually disappears. The 17.2 million barrels of potential Btu's saved every year after we have retrofitted most systems will be with us and will grow as the industry develops.

I must add that I share with several of my colleagues a general distaste for using the tax system to establish national priorities and programs. I, too, would prefer to do everything by direct subsidy. But our best efforts this summer have not brought us near to achieving a loophole-free tax package. And I believe this provision offers a sound way to let the ordinary tax-paying family benefit from the system just as does the insulation credit. For once, we have a measure which benefits not a multinational corporation or special interest group, but rather, almost every homeowner with an older oil or gas furnace. And we can, as a result, expect the substantial energy savings which must be a primary national goal.

EXHIBIT 1

ENERGY SAVINGS FROM AMENDMENT NO. 2136

	Savings per unit (ERDA)	Estimated units (in thousands)	Barrel savings (in thousands)	Fiscal year
Retention head burner	4.3 bbl per year	0.425	1.828	1976
		.675	2.902	1977
		.675	2.902	1978
High-efficiency burner	4.3 to 14 bbl per year (estimated average 10).	.25	.250	1976
		.75	.750	1977
		.75	.750	1978
Gas high-efficiency burner	7.0 bbl per year	.495	3.105	1976
		1.395	1.395	1977
		1.395	1.395	1978
Gas electronic igniter	(Estimated 2 bbl per year.)	[1] .350	.700	1976
		.350	.700	1977
		.350	.700	1978
Total			17.277	

[1] Private estimate. ERDA did not study.

Note: Total at $12 per bbl equivalent equals $207,300,000.

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished floor manager and with the ranking Republican Member (Mr. FANNIN), and it is my understanding that they are willing to accept the amendment.

Mr. LONG. Mr. President, this amendment is consistent with the philosophy of this title. It does have merit, and if it should be the judgment of the Senate that it should be agreed to, I would be happy to go to conference and urge that it be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 2136) of the Senator from Massachusetts.

The amendment was agreed to.

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

Mr. GLENN. Mr. President, I ask unanimous consent that Lynn Weiss of my staff have the privilege of the floor during the consideration and voting on this measure.

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

AMENDMENT NO. 2137

Mr. BROOKE. Mr. President, I call up my amendment No. 2137 and ask that it be considered at this time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an amendment numbered 2137.

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

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

Mr. BROOKE's amendment (No. 2137) is as follows:

On page 1472, line 13, insert immediately after "any insulation" the following: "(including the insulation of furnaces and/or boilers not so equipped, and the ducts and/or steam and hot water piping extending therefrom),".

Mr. BROOKE. Mr. President, the insulation tax credit does not include explicit recognition that it is as important for energy savings to insulate boilers, furnaces, and exposed ducts and pipes, especially those in unoccupied basements. Although under the committee provision, as written, regulations could be written to include insulating the heating system parts, this was not included in the Joint Committee on Taxation's revenue loss estimates. Therefore, I am introducing an amendment to insure that insulation of these items in the home is covered by the tax credit.

Substantial ambient heat losses take place continuously—even in buildings that are insulated—from the warm air, hot water or steam transmission conduits. This includes warm air ducts, steam pipes, and hot water pipes. These losses are especially severe in older, smaller buildings and homes. A large amount of this heat loss occurs in unoccupied basement areas, and the insulation of ducts and/or steam or hot water pipes would substantially lessen these losses, and conserve considerable amounts of energy and fuel.

Further, substantial heat loss from boiler and furnace casings, uninsulated ducts, steam and hot water mains, and steam and hot water piping occurs during the standby period after the thermostate has shut down the heating unit. This standby loss is especially wasteful, as it supplies heat to the basement and living quarters when it is no longer needed, causing continual overrides. Insulation will sharply reduce this standby loss from furnaces, boilers, ducts, steam or hot water mains, and steam or hot water piping.

On the basis of ERDA estimates of duct and pipe insulation alone, not including the furnace or boiler, each home can save the equivalent of 7 to 12 barrels of oil a year. Since the Joint Committee on Taxation estimates that 3,300,000 homes will use this credit for this purpose, the $68 million additional cost over 3 years is more than justified by the $343.2 million in fuel costs families will be spared. Mr. President, I ask unanimous consent that a table displaying the projected energy savings from this insulation activity be included in the RECORD. I hope the distinguished members of the Finance Committee will be able to accept this modification to their excellent bill.

I ask unanimous consent that a table showing energy savings resulting from amendment No. 2137 be printed in the RECORD.

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

ENERGY SAVINGS FROM AMENDMENT NO. 2137

	Savings per unit (ERDA)	Estimated units (in thousands)	Barrel savings (in thousands)	Fiscal year
Duct insulation, oil units	12 bbl per year	220	2.640	1976
		440	5.280	1977
		440	5.280	1978
Duct insulation, gas units	7 bbl per year	440	3.080	1976
		880	6.160	1977
		880	6.160	1978
Total			28.600	

Note: Total at $12 oil equivalent $343,200,000 over life of credit.

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished floor manager and with the Senator from Arizona (Mr. FANNIN), the ranking Republican member of the committee, and it is my understanding that they are willing to accept this amendment.

Mr. LONG. Mr. President, this amendment is consistent with what we are trying to do with this title, and I am willing to accept the amendment and take it to conference.

Mr. BROOKE. I ask unanimous consent that the name of the Senator from

New Hampshire (Mr. McINTYRE) be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. WEICKER). Without objection, it is so ordered. Is all remaining time yielded back?

Mr. BROOKE. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 2137) of the Senator from Massachusetts (Mr. BROOKE).

The amendment was agreed to.

AMENDMENT NO. 1934

Mr. BROOKE. Mr. President, I call up my amendment No. 1934, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an amendment numbered 1934.

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

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

Mr. BROOKE's amendment (No. 1934) is as follows:

On page 1,480, strike out lines 11 through 17, and insert in lieu thereof the following:

(3) QUALIFIED HEAT PUMP EQUIPMENT EXPENDITURES.—The term "qualified heat pump equipment expenditures" means any amount paid or incurred by an individual for any installation which occurs after June 30, 1976, and before January 1, 1979, of heat pump equipment in any dwelling unit located in the United States which is occupied or habitable on May 25, 1976, but only if such installation is in connection with the replacement or supplementation of existing electric resistance space-heating where such space-heating equipment is an integral part of the structure of such dwelling unit and constitutes the principal source of heat for such dwelling unit.

Mr. BROOKE. Mr. President, section 2002 was originally proposed by the distinguished ranking minority member of the Finance Committee, Mr. CURTIS. The Senator's provision, adopted by the Senate Committee on Finance, would provide a refundable income tax credit for the purchase and installation of heat pumps in, or on an existing residence. The amount of the credit is 20 percent of the first $1,000 of qualified expenditures, plus 12½ percent of the next $6,400 for a maximum of $1,000.

The Senator from Nebraska is to be applauded for the initiative that he has shown in seeking to encourage the adoption of energy conservation measures. There is no question that all of our constituents should be given accurate information and every incentive to improve the operating efficiency of their existing heating systems. The projected savings from an effective energy conservation program would make the difference as to whether or not our Nation needs to be dependent on foreign governments for energy. A double benefit derives from the dollar savings that homeowners can enjoy from a reduction in the amount of fuel consumed.

There appears to be no dispute that a heat pump is more efficient than electric resistance space heating. However, when compared with an oil or gas-fired heating system, that is not always the case. In the summary of conclusions section of "Seasonal Fuel Utilization Efficiency of Residential Heating Systems," published April 1975 by the Oak Ridge National Laboratory and jointly supported by FEA and the National Science Foundation, it was reported that:

The efficiency of a "best" heat pump possibly can exceed that of a "best" furnace in a warm climate, whereas the reverse would be true in a cold climate . . .

In the final report, "Evaluation of the Air-to-Air Heat Pump for Residential Space Conditioning," submitted on contract to FEA by Gordian Associates, Inc., April 23, 1976, it was recommended that:

For cold climates, or where no simultaneous requirement for cooling exists, the use of fuel oil or natural gas for space heating new homes should not be abandoned.

Unfortunately, the tax credit provision as it emerged from the Finance Committee would provide an incentive for conversions from not only electric resistance space heating systems, but from oil and gas-fired systems as well. The effect of the provision, as it is presently drawn, would be to provide a Federal incentive for conversions from what would be more efficient systems to less efficient heating systems.

It was because of this that I recently filed an amendment that would limit the availability of the tax credit for heat pumps to existing electric resistance space heating systems. With this limiting amendment, there would be no Federal incentives for homeowners to convert from oil and gas-fired systems to heat pumps.

I have discussed this amendment with Mr. CURTIS, who unfortunately is not in the Senate today, and he has agreed to support this amendment. I have discussed it with the distinguished floor manager and with Mr. FANNIN, the ranking Republican manager of the bill, and it is my understanding that they will accept this amendment.

Mr. President, I ask unanimous consent that Senator PASTORE be added as a cosponsor to amendments Nos. 1934, 2137, and 2136.

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

Mr. LONG. Mr. President, I have no objection to the amendment, and I am not aware of any objection.

Mr. FANNIN. Mr. President, the Senator from Massachusetts is correct. The Senator from Nebraska did agree and in fact was wholeheartedly in agreement with the amendment and felt it was beneficial. The Senator from Arizona also supports the amendment.

Mr. BROOKE. I thank the manager of the bill.

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

The amendment was agreed to.

AMENDMENT NO. 2090

Mr. BUCKLEY. Mr. President, I call up my amendment No. 2090.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. BUCKLEY) proposes amendment No. 2090.

The amendment is as follows:

On page 1517 after line 11, insert the following section:

SEC. 2011. WATERWAY USER TAX.

(a) IN GENERAL.—Part III of subchapter A of chapter 32 of the Internal Revenue Code of 1954 (relating to petroleum products) is amended by adding at the end thereof the following new subpart:

"Subpart D—Waterway User Tax

"Sec. 4105. Imposition of tax.
"Sec. 4106. Definitions.

"SEC. 4105. IMPOSITION OF TAX.

"In addition to the taxes imposed under sections 4041 and 4081, there is hereby imposed a tax of 4 cents a gallon on any fuel sold by any vendor for use by commercial vessels on the inland waterways of the United States.

"SEC. 4106. DEFINITIONS.

"(a) VENDOR.—As used in this subpart, the term 'vendor' includes any refiner, compounder, blender, importer, or distributor of fuel that sells fuel directly to a commercial vessel using the inland waterways of the United States.

"(b) FUEL.—As used in this subpart, the term 'fuel' means gasoline, diesel fuel, or a special motor fuel (within the meaning of section 4041(b)).

"(c) COMMERCIAL VESSEL.—As used in this subpart, the term 'commercial vessel' means a vessel used in a trade or business.".

(b) TECHNICAL AMENDMENT.—The table of subparts for such part is amended by adding at the end theerof the following:

"Subpart D. Waterway User Tax.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to sales in calendar quarters beginning after the date which occurs 90 days after enactment of this Act, or December 31, 1976, whichever is later.

Mr. BUCKLEY. Mr. President, this amendment seeks to create a more equitabel balance among various modes of transportation.

This amendment is a clean-cut one. It imposes a 4-cent-per-gallon tax on the fuel used in the hauling of commercial traffic on our national system of inland waterways. It is estimated that this would raise $40 million a year in revenues.

Adoption of my amendment would offset a fraction of the hundreds of millions of dollars that our Nation spends each year on construction of new inland navigation projects and the maintenance and operation of the existing 25,000-mile system.

The absence of any cost-sharing for the waterways distorts our national transportation policy and the allocation of resources. Underpricing one form of transportation, by a 100-percent Federal subsidy, leads inevitably to inefficiencies and distortions. It will be argued that a waterway user charge will result in higher consumer prices. To a degree, that is correct. But a waterways users tax will also lesson the general tax burden on the public.

Those who oppose a waterways tax should, for consistency, argue that the Federal taxpayer should pay all the cost of our highway system, instead of taxing

the truckers and owners of passenger cars. They should argue that taxpayers should pay all the cost of building and maintaining our railroad network. They should argue that airline passengers should pay nothing toward the construction of airports and operating airways. Such actions would lower transportation costs and thus prices. But such subsidies would lead inevitably to sharply higher general taxes.

Various competing modes of transportation pay registration taxes, route certification fees, State and Federal motor fuel taxes, weight taxes, licensing taxes, mileage taxes, gross receipt taxes, property taxes, landing fees, and a variety of other special taxes, levies, and fees.

What does the waterway industry pay? It pays nothing to the Federal Government and a preceding section of this bill frees commercial barge owners of State and local taxation.

I believe that is wrong and a distortion of our national priorities, and as such an unfair burden on every American family.

Advocacy of a user tax for the inland waterway system is not a new concept. President Ford's 1977 budget recommends such a tax. Every President, beginning with Franklin Roosevelt, has advocated the principle of such a tax. The recent National Water Commission recommended such a tax.

I am offering this amendment because I believe that it is mandated if we are to have equity among transportation modes. Energy conservation mandates this tax. And, in the long run, the viability of a continued program if improvements to the inland waterway network of this Nation mandates such a tax.

We have heard a great deal about the so-called taxpayer revolt across our land. The total insulation of one form of commerce from Federal cost sharing, with competitors repaying a major portion of their Federal cost through use taxes, is the type of distortion and inequity that fosters "revolt."

The Committee on Public Works is now being called on to authorize some $400,000,000 to rebuild locks and dam 26 on the Mississippi River at Alton, Ill. Is it fair that the general taxpayers must pay the full cost of such a mammoth project, while the users of it do not pay a dime? I think not.

Existing Federal policy calls for most identifiable commercial beneficiaries of Federal water resources projects to share in the cost of those benefits. Users of Federal hydroelectric power pay for that power. Users of municipal, industrial, or irrigation water from Federal projects pay for that water. It is also a valid policy that commercial waterway users should pay a modest share of the costs they impose on the public.

And I will stress, Mr. President, that the very small tax that I would have proposed here would reimburse the Treasury with only a tiny fraction of what we will be spending in the coming years on waterways.

It is sometimes argued that the so-called free use of the waterways is an inherent right. If "free" means "open" to all domestic users, then, of course, the waterways must remain "forever free." But if free means the continuation of a perpetual 100-percent taxpayer subsidy, then I must dissent.

The President's 1977 budget included $411,967,000 for expenditure by the Corps of Engineers on inland waterways having a depth of 12 feet or less. Construction spending totals $229,579,000, with operations and maintenance spending at $182,388,000. Those figures were increased substantially by the Congress in the recent Public Works appropriations bill to close to half a billion dollars.

Many ways have been suggested to recover some of these costs from waterway users. There are lockage fees, tonnage charges by river segments, licensing fees, congestion tolls, and so on. A fuel tax, I believe, is the fairest and most equitable approach. It would impose no regional disadvantages. And it will have the associated benefit of encouraging fuel conservation.

Why 4 cents? My amendment sets the tax at 4 cents a gallon for two reasons: A 4-cent tax on fuel used "by commercial vessels on the inland waterways" would set the charge at the same level paid by a competing mode of transportation, namely, the trucking industry. And it would also impose the levy at such a relatively modest level that the industry can easily absorb it without dislocation.

The nature of the inland waterway industry, which is largely exempt from regulation, makes it difficult to provide an exact figure on the revenues to be raised by this amendment. No Federal agency has precise figures upon which to compute income. But the Department of Transportation has estimated that the annual comsumption of fuel by the waterways users is about 1 billion gallons.

On this basis, my amendment would raise $40 million a year.

As noted earlier, a charge set at that level would contribute less than 10 percent of the annual Federal subsidy paid by the general public to build and maintain the inland waterway system. This cannot be considered a burdensome share of the cost when compared with the third to a half of the cost of Federal roadbuilding program contributed by the trucking industry. A 4-cent waterway tax would add only marginally to the operating expenses of the inland waterway industry, which has revenues estimated by the Department of Transportation at close to $1 billion yearly.

Such a tax would establish the important principle that this Nation will not continue to provide a 100 percent subsidy to one mode of transportation, to the detriment of all others.

It may be argued this afternoon that my proposal seeks to retard the development of the waterways industry. That is false. Enactment of this legislation will demonstrate, for the first time, that the waterways users of this Nation are not just along a free ride, that the users are willing to shoulder a portion of the costs that the industry imposes on the general taxpayer. Once they begin to shoulder such costs, I am convinced that the industry will be able to make a stronger and more rational argument for the construction and maintenance of new waterway improvements.

Mr. President, I urge the adoption of my amendment, and call for the yeas and nays.

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

The yeas and nays were ordered.

Mr. LONG. Mr. President, this tax works out the same way as a major toll on waterways. There is no more efficient way to move tonnage than on the waterways. By water, you can move cargo at a much cheaper price than you can by any other method of transportation. It uses far less energy than the railroads or the truck lines.

In this bill we have a provision to try to keep the States from raising the costs of people moving things on the waterways, and we voted for that. This amendment moves in the other direction, to make it more expensive to move cargo on the waterways and to discourage the most efficient way we have of moving cargo.

This issue has been discussed time and again. I do not think the Senate should agree to it. It has been suggested and Congress has turned this suggestion down when times were far more attractive to it than now. We should be trying to encourage people to use the most efficient, economical means of moving cargo, in which one uses less energy rather than another form that uses more energy. It would be a mistake to enact this tax, more so now than in the past, when Congress would not agree to place heavy burdens on the use of our waterways.

I hope the amendment is defeated.

Mr. ALLEN. Mr. President, will the Senator yield me 5 minutes?

Mr. LONG. I yield.

Mr. ALLEN. Mr. President, amendment No. 2090 seeks to impose a "user charge" in the form of a fuel tax on waterborne commerce moving on America's inland waterways. At first glance, such a fuel tax might appear to be in the public interest and therefore desirable. The sponsor, Mr. BUCKLEY, has, in fact, presented all the chief arguments supporting imposition of waterway user charges. These arguments make user charges on inland waterways seem to be entirely reasonable and logical.

The waterway user charge issue, however, is not quite so simplistic. It is a very complex and complicated matter. Far more is involved than just the question of a tax on waterways fuel and its effect on water transportation and competing modes. A waterways tax would have a direct impact on the competitiveness of certain basic industries in key markets, on employment and wages of workers in affected industries, on the productivity of America's farm belt, on regional economic growth, on inflation, on international trade, and so forth.

In other words, Mr. President, it would seem to be impossible to consider adoption of waterway user charges without determining how such charges would affect regional development policy, economic growth policy, national energy policy, agricultural policy, export policy, and natural resources policy as well as transportation policy. These impacts are rather far-ranging, and I would hope

they could be studied in detail before amendment No. 2090 or similar legislation is considered by this body.

With respect to transportation policy, the Congress only 3 months ago enacted legislation subsequently approved by the President which established a 19-member National Transportation Policy Study Commission. It was authorized by section 154 of the Federal-Aid Highway Act of 1976 (Public Law 94-280). The Study Commission was allocated $15 million and given until December 1978 to report its findings and recommendations as to the proper mix of highway, railroad, waterway, pipeline, and air transportation systems to meet anticipated needs, both national and regional, through the year 2000. Also, the Commission was directed to review the existing policies and programs of the Federal Government which affect the development of national transportation systems and to recommend "new policies required to develop balanced national transportation systems which meet projected need."

In all likelihood, the Study Commission will take a hard look at the question of user charges paid—or which should be paid—by the various modes, including waterways, and the effect of such charges on service, rates, competition, and modal equity. I believe the Commission is a proper forum for the examination of the user charge issue in the context of national transportation policy.

In my view, however, waterways are far more important than just another mode of transportation. In many regions, waterway development has helped to revive the entire economy. That was certainly the case in the Tennessee Valley of north Alabama, which President Roosevelt labeled at that time as the Nation's No. 1 economic problem. Conditions have changed a great deal now, and certainly the South presents the No. 1 economic opportunity. Waterway development has also rejuvenated the economy of sections of Appalachia, the Ozarks, and other underdeveloped areas. This economic transformation has come about because of the multiple-purpose development of river valleys—for flood control, hydropower, water supply, recreation, and navigation. Instead of sapping the entire region's economic strength, the river valleys have become great sources of economic vitality.

This is the principal reason, I believe, that Congress has approved river and harbor programs over the years. The Congress acted out of faith that these programs would enhance the regional and national economy and also contribute toward the attainment of other broad public policy objectives. As Prof. Irving K. Fox, formerly of Resources for the Future, Inc., has stated—

> It is evident that water resources development has been viewed as one means of helping to provide the economic opportunity, social security, and personal freedom accepted as among the goals of our democratic society.

Navigation programs, therefore, should be viewed in a much larger context than merely as transportation arteries.

Unlike highways and airways, navigation programs must survive elaborate benefit-cost analysis procedures which usually take many years to complete. Only those projects which promise to return economic benefits to the Nation in excess of the total costs are approved for construction. It should be emphasized that navigation benefits are computed in terms of national economic enhancement—meaning that the national economy is considered to be the principal beneficiary of navigation projects.

Proof that waterway programs serve to generate economic growth is provided by several national surveys. In the Ohio Valley, for instance, the Ohio Valley Improvement Association has been keeping tabs on major capital investment in counties bordering the Ohio River and its navigable tributaries. In the period 1950-74, private investment in new and enlarged plants in the Ohio Valley totaled $50.4 billion. Throughout the Nation, the American Waterways Operators, Inc., reports that 9,368 major waterway-related industrial facilities were built or enlarged between 1952 and 1975 at a cost of $163.4 billion. This figure dramatizes the vital role of Federal waterway programs in encouraging regional development, creation of new jobs and incomes, and stimulation of new business activity—all of which generate new tax revenues for local, State, and Federal Government far exceeding the waterway cost. In other words, the Federal waterway expenditure becomes the "seed money" which serves to attract non-Federal investment and develop the entire area economically.

In the final analysis, the waterway user charge question boils down to, Who really benefits? If the barge and towing company is the primary beneficiary, then most would concede there is merit in a system of waterway user charges. The waterways are public "ways," open to all. Competition is fierce. Some 800 bargelines operate on the Mississippi River system, for example, and keep rates at rockbottom so that the savings in transportation costs are passed on—just as any waterway fuel tax would be—to shippers, processors, wholesalers, and ultimately the consumer. I suggest, therefore, that the real beneficiaries of toll-free waterways are:

The American farmer, who receives large quantities of tractor fuel, fertilizer, and other farm supplies by low-cost water transportation or at water-competitive rail rates and who sells his grain and soybeans at seaport prices minus transportation costs, meaning that any increase in barge rates will come directly out of farmers' pockets. And in 1974, a total of 1.2 billion bushels of grains and soybeans—most of the outbound shipments from the Mississippi Basin—moved in domestic commerce on the inland waterways.

Motorists, who use massive quantities of gasoline and other petroleum products, including antifreeze, moved to both large and small markets by barge. Such movements account for one-third of all inland waterway commerce.

Electric power customers, from Minnesota to Florida, whose electricity is generated from waterborne coal. New York, in fact, often receives peaking power from generating plants on the Ohio River.

Factory workers, particularly at inland industries, whose jobs and livelihoods are dependent on the competitiveness of their products in distant markets. Ironically, imposition of waterway user charges could help foreign steelmakers capture a larger share of gulf coast and Mississippi Valley steel business, costing American workers' jobs.

The housewife and businessman, who would have to pay more for countless products of everyday life—from hairspray and cosmetics to refrigerators and other appliances, cement and building materials. Without doubt, imposition of waterway user charges at cost-recovery levels would feed the fires of inflation, increasing the cost of living and thus penalizing the elderly, the unemployed, and working citizens most of all.

The list, of course, could continue. It is important, however, to note that the beneficiaries of toll-free water transportation are far flung and diverse. In truth, it would be practically impossible to identify them. Yet, they would pay the toll if amendment No. 2090 were adopted. We do not know, as yet, what the impact would be. Perhaps a tax of 4 cents per gallon on waterways fuel would have a minimal effect. On the other hand, it could have a very pronounced impact, in that it would signify an abrupt departure from Federal poilcy in effect since preconstitutional times.

The 4-cent tax is generally viewed as the "opening wedge"—just the initial tax to establish the precedent. Then, with the precedent established, the tax could be periodically increased with the stated objective that "waterway users should pay their fair share." It is this threat of escalation, to higher and higher levels, which is of grave concern to those of us interested in waterway programs. Even at a very low level, a waterway fuel tax would have a chilling effect on waterway-related industrial growth. As the tax increased, I fear that many river valley industries would close up shop and move back to the seacoasts to escape river tolls.

These are the types of unknowns which I believe should be fully explored before serious attention is given to imposition of any waterway user charge. While appealing on the surface, it could set off a veritable volcano of impacts destructive to wide regions of the Nation.

With regard specifically to amendment No. 2090, I wish to make several observations:

"Inland waterways" not defined. Nowhere in amendment No. 2090, nor in the accompanying statement, is there any definition of what is meant by "the inland waterways of the United States." Reference is made in the statement to "the existing 25,000-mile system." The inland waterway system includes at least 1,200 miles of deep-draft channels—the Mississippi River upstream to Baton Rouge, the Houston Ship Channel, the Sacramento River upstream to Sacramento, the Columbia River upstream to the Dalles, the Delaware River upstream to Trenton, the Hudson River upstream to Albany, et cetera. I do not know whether shipping on these deep-draft in-

land waterways would be subject to the 4-cent fuel tax.

Would waterway user charges create a more equitable modal balance? The supporting statement explaining amendment No. 2090 claims that the amendment "will create a more equitable balance among various modes of transportation." The point seems to be that airway and highway users pay user charges while waterway users do not. For reasons I have detailed earlier, I do not believe waterways can be directly compared on a dollar-to-dollar basis with either airways or highways. Neither is evaluated prior to development in terms of national economic benefits. And, if the waterway fuel tax proposal is to be limited to shallow-draft navigation, what about the cost of navigation improvements benefiting deep-draft harbors and channels, including the Great Lakes? Is it equitable to exclude these waterways?

Equity also involves the matter of public support of the transportation modes. Has it been even-handed? It is a fact that airways, railroads, highways, and waterways have all received Federal assistance for years. Since 1824, Federal expenditures for construction, operation and maintenance of shallow-draft waterways has totaled about $4.6 billion. Another $3.8 billion has gone into deep-draft waterways. In subsidy and subsidy-effect programs, U.S. railroads have received much, much more. So have highways and airways. So it seems to me that Federal support of the various modes have been more even-handed than most waterway critics want to admit.

Is there a complete absence of waterway cost-sharing? The statement accompanying amendment No. 2090 states that there is "no cost sharing whatsoever by the direct beneficiaries of that system." This is not correct. A study mandated by the Congress in the Water Resources Development Act of 1974 and conducted last year by the U.S. Water Resources Council found that non-Federal interests pay 7 percent of the construction costs and 8 percent of the operation and maintenance costs of navigation projects. Most of these non-Federal expenditures involve provision of lands, easements and rights-of-way necessary for the construction and maintenance of navigation channels.

In-channel improvements, such as navigation locks and dredged channels, do not automatically create a viable waterway. Before it is usable, considerable non-Federal investment is required for such on-shore installations as wharves, docks, terminals, elevators, cranes, warehouses, fire and sewer services, highway connections, railroad spurs, and so forth. Preliminary studies by the National Waterways Conference, Inc., show that these port-related investments often total 20 to 40 percent of the Federal cost of the navigation project. It is this partnership arrangement between the Federal and non-Federal sectors which has been so successful in developing a thriving inland waterways system.

How could a waterways tax enhance energy conservation? The statement accompanying amendment No. 2090 asserts that "energy conservation mandates such a—waterways and fuel—tax." This statement is not explained, and I do not believe it can be justified. Numerous studies have shown that water transportation is far more energy-efficient than railroad or truck transportation. A much-quoted Rand survey found that waterways require about 500 Btu's per ton-mile while railroads need about 750 Btu's per ton-mile of freight hauled. Deputy Transportation Secretary John W. Barnum expressed the relative energy requirements in a different manner. He said that diesel-powered trucks get 54 ton-miles per gallon of fuel, railroads 178 ton-miles and water carriers 306 ton-miles for each gallon of fuel.

Some waterway critics are trying to play up a University of Illinois report which, using faulty rail-water and route circuity comparisons, found that "rail is from 10 to 23 percent less energy intensive than barge." The report went on to state that "such a factor is inconclusive in view of the large uncertainty associated with the barge fuel consumption data." The finding is also inconclusive because it compared rail energy data for Mississippi Valley and gulf coast shipments with barge energy data for the entire Nation, including numerous congested and tributary waterways. The report also made much of river circuity, which was estimated at 38 percent, while disregarding railroad circuity—the distance over which rail freight actually moves which is in excess of the most direct rail route between origin and destination—which the Interstate Commerce Commission has estimated at 15 percent. The Illinois report has been, I believe, largely discredited. An objective analysis of energy data will prove that barge transportation is far more energy-efficient.

It should be noted that about 60 percent of all inland waterway commerce consists of energy products—coal, petroleum and petroleum products. In no small way, water transportation is contributing to the attainment of national energy self-sufficiency, by moving more commerce with less energy, and by moving energy supplies from refineries, mines and railheads to widely scattered coastal and interior markets.

In addition to encouraging energy conservation, water transportation also promotes numerous environmental advantages and important efficiencies. Barge transportation is less capital intensive than other modes. Barges also require less steel per unit of cargo, thereby conserving raw materials. Barges have an enviable safety record in the movement of hazardous substances. The water transportation system is already in place and does not disrupt land use. In short, water transportation has every right to lay claim as the environmentally superior mode.

Federal cost-sharing policy for water resources projects. The assertion is made in the statement supporting amendment No. 2090 that—

> Existing Federal policy calls for identifiable commercial beneficiaries of Federal water resources projects to share in the cost of providing those benefits.

This is true with respect to municipal and industrial water supply, hydropower and irrigation. But existing Federal law does not provide for beneficiaries of flood control, navigation and water quality programs to share in the cost.

Congress has long taken the view that the benefits of such programs are not confined to identifiable users and beneficiaries but, rather, are bestowed generally throughout the Nation and the economy. By shifting the cost of navigation programs to users to be passed on, in the form of progressively higher and higher charges, the Federal Government would be turning its back on the public-private partnership which has helped to attain numerous public policy objectives, including depressed area rehabilitation, rural renewal, export expansion, energy conservation, and economic stability.

Mr. President, I do not believe that recovery of Federal waterway expenditures is worth this gamble. The Nation is getting its money's worth from inland waterway programs. I urge my colleagues, therefore, to reject amendment No. 2090.

Mr. BAKER. Mr. President, I intend to vote against the amendment offered by my distinguished colleague from New York (Mr. BUCKLEY) to impose a 4-cent per gallon excise tax on fuel used in transportation of cargo on inland waterways.

I would like to make clear, however, my view that some form of user fees is inevitable in the future if this Nation is to achieve a unified transportation policy. I am sympathetic to the view that other modes of transportation have long paid their share of the cost of maintaining facilities and rights of way constructed for their use and that water carriers should not expect to benefit indefinitely from the hundreds of millions of Federal dollars which have been expended on our waterways system without some cost-sharing arrangement.

The question of waterway user charges is not a new one, and it is a complex issue which deserves the careful study of the Congress and the benefit of the hearing process. For this reason, I believe that the matter should be considered, not as a floor amendment, but as a major legislative priority for the appropriate committees of the Senate. I hope that, as a member of the Committee on Public Works, I will have an opportunity to take part in fashioning an equitable system of fees or charges which will meet the future needs of American taxpayers, the water carrier industry, and a balanced transportation system.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, will the Senator yield a couple of minutes?

Mr. LONG. I yield.

Mr. FANNIN. Mr. President, the Senator from New York should be commended for attempting to try to bring some equity into the different areas of the transportation industry. It seems to the Senator from Arizona that we need additional information; we need to know more about this.

I believe that what the Senator from Alabama has said illustrates the tremen-

dous benefits that accrue today from the low-cost transportation that is involved.

I ask this of the Senator from New York: Would this money go into the highway trust fund? I understand that in the bill, it goes into the highway trust fund.

Mr. BUCKLEY. If that is the case, that could be readily amended to have the Federal collections deposited in the general fund. It certainly is my intent that the moneys go into the general fund. I shall make that modification before——

Mr. FANNIN. That was one question the Senator from Arizona had. My second question goes to the equity involved as far as 4 cents a gallon on fuel for inland waterways transportation is concerned that could be vastly different than when we are talking about trucking on the highways. We must consider the tremendous burden that is imposed upon the highways by these heavy trucks and heavy units. If we do not transport on the waterways, in such instances as cement hauling and the types of transportation that perhaps would cause greater trouble if that were transferred from the waterways back onto the highways or onto the entire rail transportation system, then we will create even more problems on our highways. Without having a detailed study, which I think would be very necessary, the Senator from Arizona could not support the amendment, although I do think it is something that should be looked into very thoroughly.

I am not saying that the Senator from New York has not taken adequate time to study this amendment, but I do think there are some problems involved that I do not think should be settled here on the floor. I think it should be in hearings and as a result of further testimony.

Mr. President, I feel that this is something that is not supportable with the information that is available at this time.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. Mr. President, I thank my colleague for his remarks.

First of all, legislation similar to this amendment was put into the hopper back in March. I regret that there has not been a hearing by the Committee on Finance.

We did have hearings on this matter. in the Committee on Public Works. We had testimony on the need and benefits to be derived from a tax of the kind proposed, a tax that would restore some kind of equity.

The Senator from Alabama spoke earlier of the waterways as a bargain. That is correct. Why? Because, uniquely, they do not pay any share of the cost of maintaining the rights of way on which they travel—unlike highways, unlike air, and unlike the railroads.

It is not correct to say that this matter has not been studied. Perhaps it has not been studied by the Committee on Finance, but there have been a number of groups commissioned by the Government of the United States that have gone into the matter in great depth.

For example, they have come out with a positive recommendation that we impose a user charge that would be modest in its impact and not cause any distortions of the sort that the Senator from Arizona fears. This is what the National Water Commission said on the subject in a recent report.

> A change in the policy governing the division of the cost of waterway projects between the public Treasury and those who directly benefit is long overdue. The lack of an equitable costsharing policy is a major weakness of the present waterway program.

With respect to the economic impact on the industry itself, the General Accounting Office, in a study entitled "Factors to be Considered in Setting Future Policy for use of Inland Waterways," dated November 20 of last year, found that—

> Fuel tax of about 7 cents a gallon . . . would have increased (the industry's) total operating cost by about 4 per cent.

They were speaking of a tax nearly twice as high as the one I propose. In other words, the burden of the user tax that my amendment would impose on the inland waterways industry would be about 2 percent of revenues.

What about the charge that taxation would "destroy" the waterways industry? The GAO found that—

> A 5 percent diversion could be expected if a 4-cent-a-gallon fuel tax were imposed.

This is when we confront major new capital costs GAO said:

> The total cost of improvement to the system in the Mississippi, Illinois, and Ohio Rivers to adequately accommodate added growth of the waterway transportation industry is estimated to be at least $6.7 billion.

I would suggest that if a 5 percent diversion occurred, it would result in a better balance among the competing modes of transportation, it would not break this industry and, also, it may delay by a little bit the need to make the huge new capital investment that would be required which, under the present system, would be paid for by all taxpayers.

I make this suggestion to the Senators from Alabama and Louisiana. The taxpayers do not benefit——

The PRESIDING OFFICER. All time of the Senator from New York has expired.

Mr. BUCKLEY. I am suggesting, Mr. President, that there comes a point when the Congress may no longer authorize these huge expenditures without a user tax.

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

Mr. LONG. Mr. President, I believe this matter has been adequately discussed. I yield back the remainder of my time.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. The yeas and nays have already been ordered. The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from North Carolina (Mr. HELMS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 17, nays 71, as follows:

[Rollcall Vote No. 458 Leg.]

YEAS—17

Biden	Laxalt	Roth
Buckley	McClure	Scott, William L.
Domenici	McIntyre	Stafford
Garn	Moss	Stevenson
Goldwater	Percy	Weicker
Hart, Gary	Ribicoff	

NAYS—71

Abourezk	Ford	McGee
Allen	Glenn	Metcalf
Baker	Gravel	Montoya
Bartlett	Griffin	Morgan
Bayh	Hansen	Muskie
Bellmon	Hart, Philip A.	Nelson
Bentsen	Hartke	Nunn
Brock	Haskell	Packwood
Bumpers	Hatfield	Pastore
Burdick	Hathaway	Pearson
Byrd, Harry F., Jr.	Hollings	Pell
	Hruska	Proxmire
Byrd, Robert C.	Huddleston	Randolph
Cannon	Humphrey	Schweiker
Case	Jackson	Scott, Hugh
Chiles	Javits	Sparkman
Church	Johnston	Stennis
Clark	Kennedy	Stevens
Cranston	Leahy	Stone
Culver	Long	Taft
Eagleton	Magnuson	Talmadge
Eastland	Mansfield	Thurmond
Fannin	Mathias	Tower
Fong	McClellan	Williams

NOT VOTING—12

Beall	Durkin	Mondale
Brooke	Helms	Symington
Curtis	Inouye	Tunney
Dole	McGovern	Young

So Mr. BUCKLEY's amendment (No. 2090) was rejected.

AMENDMENT NO. 2036

Mr. LEAHY. Mr. President, I call up my amendment No. 2036.

The PRESIDING OFFICER (Mr. BROCK). The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Vermont (Mr. LEAHY) proposes amendment No. 2036.

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

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

The amendment is as follows:

> At the end of title XX, add a new section as follows:
>
> SEC. . TRADE OR BUSINESS EXPENSE ATTRIBUTABLE TO AUTOMOBILES NOT SATISFYING FUEL ECONOMY STANDARDS.
>
> (a) DISALLOWANCE OF CERTAIN AUTOMOBILE EXPENSES.—Part IX of subchapter B of chapter 1 (relating to items not deductible), as amended by section 601 of this Act, is amended by adding at the end thereof the following new section:
>
> "SEC. 281. DISALLOWNCE OF CERTAIN AUTOMOBILE EXPENSES.
>
> "(a) GENERAL RULE.—Except as provided in subsection (b), no deduction shall be al-

lowable under section 162, 167, 179, or 212 with respect to the depreciation of, or any rental payments for the use of, a passenger automobile if the fuel economy for such automobile is less than the average fuel economy standard, if any, applicable to the model year for such automobile.

"(b) EXCEPTIONS.—

"(1) TRANSPORTATION FOR HIRE.—Subsection (a) shall not apply with respect to any passenger automobile to the extent such automobile is used during a taxable year by the taxpayer in the trade or business of furnishing transportation for hire.

"(2) TRANSPORTATION OF GOODS AND EQUIPMENT.—In accordance with regulations prescribed by the Secretary, subsection (a) shall not apply with respect to a passenger automobile to the extent the use of that automobile during a taxable year by the taxpayer is reasonably required in connection with the taxpayer's trade or business to transport goods for display, delivery, or sale or to transport tools and equipment.

"(3) LESSORS.—In the case of a lessor of a passenger automobile, subsection (a) shall not apply with respect to the automobile which is the subject of the lease. This paragraph shall not apply with respect to any lease between members of an affiliated group (within the meaning of section 1504(a)).

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PASSENGER AUTOMOBILE.—The term 'passenger automobile' has the meaning assigned to such term under section 501(2) of the Motor Vehicle Information and Cost Savings Act.

"(2) FUEL ECONOMY.—The 'fuel economy' for a passenger automobile shall be determined in accordance with section 503(d) of the Motor Vehicle Information and Cost Savings Act.

"(3) AVERAGE FUEL ECONOMY STANDARD.—The term 'average fuel economy standard' means the standard determined under section 502(a) of the Motor Vehicle Information and Cost Savings Act (without regard to the exceptions authorized under section 502 (c) and (d) of such Act) which is applicable to the model year for a passenger automobile.

"(4) MODEL YEAR.—The term 'model year' has the meaning assigned to such term under section 501 (12) of the Motor Vehicle Information and Cost Savings Act.

"(d) COORDINATION WITH INVESTMENT CREDIT.—For purposes of section 48(a)(1), the determination of whether any passenger automobile is treated as property with respect to which depreciation is allowable by reason of the application of subsection (b) shall be made at the time the taxpayer places such automobile in service.".

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"SEC. 281. DISALLOWANCE OF CERTAIN AUTOMOBILE EXPENSES."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to passenger automobiles acquired by a taxpayer after December 31, 1976, and which are manufactured by a manufacturer in any model year after model year 1977.

Mr. LEAHY. Mr. President, in brief, my amendment, with certain exceptions, would require that beginning next year an individual or a corporation could take depreciation, deduct rental payments or utilize the investment tax credit only on an automobile that conforms to the average fuel economy standard for a particular model year established pursuant to the Energy Policy and Conservation Act.

If this amendment is passed, it would by 1980 result in the saving of approximately 80 million gallons of motor gasoline a year and in increased revenues of approximately $138 million in increased revenues, really, is a conservative estimate.

Mr. President, this amendment would not in any way affect the right of an individual or a corporation to depreciate an energy-efficient automobile—as defined by the laws we have already passed in this Congress—used in a business or profession.

It would not in any way affect their eligibility for deducting rental costs of an energy-efficient automobile used in a business or profession.

It would not in any way affect their eligibility for applying the investment tax credit to an energy-efficient automobile used in a business or profession.

It would require that in the future the use of these provisions in the tax laws be limited to automobiles that meet average fuel economy performance standards established for a given year by the Congress in the Energy Policy and Conservation Act enacted last December.

There are three categories of taxpayers that my amendemnt specifically excludes from its provisions. First, those who are in the trade or business of furnishing transportation for hire, such as taxicab owners or operators of limousine rental services. Second, those who reasonably require larger automobiles in connection with their trade or business to transport goods for display, delivery or sale or to transport tools and equipment. This would assure that salesmen, small shopkeepers, and others who legitimately need heavier cars for their work are not penalized. Finally, lessors of automobiles would not be penalized for furnishing heavier automobiles for rent to those who are willing to forgo the present tax deduction.

The way the amendment would operate is simple. The Energy Policy and Conservation Act we have already passed, mandates that the average fuel economy for passenger automobiles manufactured by any manufacturer in any model year after model year 1977 shall not be less than 18 miles per gallon in 1978, 19 miles per gallon in 1979, 20 miles per gallon in 1980, and thereafter as determined, not later than July 1, 1977, by the Secretary of Transportation until 1985 when the average fuel economy standard of 27.5 miles per gallon must be reached.

Using 1978 as the example year, this means that the total automobile fleet built by any one manufacturer must average 18 miles per gallon. In even simpler terms, for every car built by a given manufacturer getting 10 miles to the gallon, one must be built to get 26 miles per gallon or two others each getting 22 miles per gallon, and so on and so forth.

In order to avail themselves of depreciation, the investment credit, or the deductibility provisions of the tax law, individuals or corporations, with the noted exceptions, would have to buy or rent an automobile meeting the average fuel economy standard for that year in which it was purchased.

The amendment is designed to accomplish three goals:

First, to encourage the use of energy-efficient automobiles; second, to at least partially close provisions that have too often constituted flagrant tax loopholes; and third, to raise revenue.

Mr. President, our income tax laws are designed not only to raise revenues but are just as often enacted to achieve desirable social ends. The tax bill now under consideration contains at least 13 energy-related provisions to encourage energy conservation and not necessarily related to increasing tax revenues.

The amendment, while significantly raising revenues, would also achieve the much desired goal of conserving energy—perhaps the most crucial goal toward which the Nation will be striving in coming decades. Last December, Congress mandated that beginning in 1978 automobile manufacturers must begin producing more energy-efficient cars. It seems to me then only logical that our tax laws, as well as all others, should whenever feasible, be structured to complement that mandate.

According to estimates developed in consultation with staff of the Environmental Protection Agency and the Department of Transportation, we can assume that there are approximately 500,000 gas guzzlers now being used for business purposes for which a tax benefit is being taken. Approximately 200,000 of them are being used for purposes exempted from the provisions of the amendment. Let us further assume that 50,000 larger cars will be used by individuals and corporations for business and professional purposes even if the amendment is enacted. That leaves 250,000 cars that can reasonably be expected to shift to economy engines.

Given a gasoline savings of approximately 3 miles per gallon. We can expect to save about 106 gallons of gas per car each year, or 27 million gallons in 1978, 53 million gallons in 1979, and 80 million gallons in 1980 and that amount plus each year thereafter as the standards are gradually increased until they reach 27.5 miles per gallon.

Mr. President, when we consider that the motorists in the State of Vermont in 1975 consumed a total of 240 million gallons of gasoline, we are not talking about an inconsequential amount. By 1980, this amendment could result in an annual saving of gasoline equal to one-third of all the gas consumed in my State in 1 year.

Most important, Congress would be telling the American people that we really mean what we say when we enact legislation to save energy.

Mr. President, at the same time we would be conserving energy, we would with the adoption of this amendment, be increasing tax revenues in a relatively painless manner. The deprivation of these tax benefits for 50,000 automobiles would result in increased revenues of $54 million for model year 1978; $96 million for model year 1979; and $138 million for model year 1980 and thereafter.

Translated into revenue estimates by fiscal year, it would mean $5 million more in fiscal year 1977; $73 million more in fiscal year 1978; $115 million more in fiscal year 1979; and $138 million a year thereafter.

Mr. President, it is clear that the en-

actment of the amendment could save energy and increase tax revenues. It would also plug a glaring tax loophole. while the automobile depreciation and deductibility provisions of the Internal Revenue Service Code have ample justification in our tax system, they have too often been abused for the benefit of a select few.

Too often individuals and corporations in the higher income tax brackets find it expedient to purchase or lease large expensive gas guzzlers knowing that they can take full depreciation on them, or deduct the rental payment or apply the investment tax credit. In essence, the Federal Government is paying for half the cost or more, of the car.

I personally know of several incidents—and I am sure the same is true for many of my colleagues—where tax advisors or consultants have explicitly advised their clients to buy expensive cars just for that purpose. Why not drive a Mercedes, a Cadillac, or Lincoln if Uncle Sam is footing a good share of the bill? Why not drive a $10,000 car if the Federal Treasury is going to pay for at least half of it.

Of course, the average citizen who buys a $5,000 family car pays for all of it out of his or her own pocket. No subsidy for them.

Mr. President, it is unconscionable for a corporation executive, or the owner of a prosperous business, or a financially successful professional to drive huge expensive gas hogs and write a large share of their cost off their income taxes, while the vast majority of Americans are not only denied this privilege but have to make up the lost revenue with their hard earned tax dollars.

If a corporation feels it would diminish the status of its executives to drive in energy-efficient cars, it is free under this amendment to continue to purchase any automobile it wants to. The only difference is, it would no longer be allowed to charge it off to the public.

If individual businessmen or professionals now availing themselves of these tax benefits want to continue driving gasoline guzzlers, no one is stopping them. The only difference is that the full cost would come out of their pockets just as it does for the rest of us.

On the other hand, enactment of this amendment would not affect those who apply available tax benefits to energy-efficient cars. And it would in no way harm those who legitimately require heavier cars for their trade or business.

Mr. President, whenever we raise tax revenues someone's ox is always getting gored, and there are roars of complaints. Here is one area in which we can do so in a painless manner, with little resultant squealing. At the same time we will reassert our commitment to conserve energy, and end a glaring abuse of our income tax laws.

Mr. President, this amendment does not limit anyone's right to own any kind of an automobile he or she wants. It just says that the taxpayers will subsidize only those automobiles that are energy conserving.

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

Mr. LONG. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I have not had an opportunity to study this amendment as closely as I would have liked to. I do share the sentiment expressed by my good friend from Vermont in hoping to achieve some laudable objectives. It occurs to me that this is the sort of an amendment which would be administratively difficult to handle. I think about the responsibility that would be placed upon authorities to determine if a station wagon, as an example, used in a business might very well be identified as a gas guzzler or a gas hog when someone could contend that a smaller car would do the job very well during most of the week. Yet we might find on the weekend that that also happens to be the family car.

Mr. LEAHY. Will the Senator yield on that point?

Mr. HANSEN. Yes.

Mr. LEAHY. We considered that problem in drafting the amendment. The Energy Policy and Conservation Act is already in place. That would state very clearly what fell into the category covered by the amendment and what did not fall into the category. Certainly, any demonstration by shopkeepers who deliver their wares that they have always used station wagons, that it was necessary, would cause them to fall into an exemption. They do not even come under this amendment. The determination of what cars do and do not come under it would not be within this act. It is already determined by a law that Congress passed last year.

Mr. HANSEN. Does the Senator mean under the energy conservation——

Mr. LEAHY. The Energy Policy and Conservation Act. I will tell my good friend from Wyoming that what that does is to have the EPA test the cars and then state whether these cars meet certain mileage figures or not. There would be nothing under this act that would require an administrative determination. The car either does or does not fit into that category. Whether it would be fitted into that category or not would be based upon the provisions of the Energy Policy and Conservation Act.

Mr. HANSEN. I would say in response to my good friend that makes me even more wary of the amendment. I cannot help but be concerned about some bureaucrat here in Washington who would tell some painter up in Vermont what kind of a car he could drive. It would seem to me that the economies that would be effected, the savings in fuel which might be achieved, would be more than offset by the extra bureaucrats who would have to be around making the sort of decisions which could be required on any number of individual cases.

I would just have to say I think there are better ways to accomplish the overall goals we have in this tax reform bill than to seize upon this. I say that with all due appreciation for the good motivations that I know prompt my friend from Vermont to offer the amendment.

Mr. LEAHY. Will the Senator yield for a moment?

Mr. HANSEN. I just have 5 minutes.

Mr. LEAHY. I would point out that the concern about the bureaucracy which the Senator raises, while a laudable one, does not apply here at all. The sign painter or house painter, whatever, just would not fall under the amendment. He falls under the second exception of the amendment.

Mr. HANSEN. Does the Senator mean those reasonably required to have heavy cars in their business?

Mr. LEAHY. He could have any kind of car he wanted. He could have a car that got 1 mile to the gallon, if he wanted. No one could tell him what kind of a car he should have.

Mr. HANSEN. The point I am trying to make concerns the exemptions, as I read them, including No. 2, those reasonably requiring heavier cars for their business. The business might not require the heavier car, but if a guy is not making that much money, and can afford only one car, as I know happens time after time, it would occur to me that the impact of this amendment could very well deny him the benefit of the credit that he would otherwise be entitled to. Yet in the long run, as we have seen all too often, there will be some silly bureaucratic rule that says he has to have two small cars when maybe he has a family of six or seven children, and it makes sense any way we consider it to have a bigger car.

Being on the Interior and Insular Affairs Committee I have seen this kind of nonsense suggested time after time. I think it falls in the area of the kind of a decision that ought to be left to the individual.

Mr. LEAHY. But if a person simply has a car solely for the use of his or her family, they cannot deduct it or depreciate it in any way whatsoever under present law. If that car is used for their family and also for their business, then they fall under certain standards already in the Internal Revenue Code as to what can be used in that business. They are not going to have a small car for a business which needs a larger car. If that is the kind of car needed for that business, they fall immediately into the second exception. We drew it very carefully with that situation in mind. We have a lot of small business owners in the State of Vermont who would fall particularly into that category.

Prior to the time he retired, my father's business would have fallen directly into that category. He is no longer in business so he cannot take a deduction one way or the other. I want to emphasize that for the RECORD.

This second exemption would remove small businessmen, like he was, completely from the provisions of the amendment, and they could have any kind of car they required.

Mr. HANSEN. I believe I understand my friend from Vermont. I am trying to make the point that maybe under number two the kind of care that would suffice for business might not be the heavier car. Yet when a small businessman has one car and he cannot afford two cars, which I think would be the natural thing,

for very good reasons it would seem to me we should not deny him the use of a bigger car on a weekend going to church or to the country, wherever, when he uses that same automobile 5 days of the week pursuing his regular vocation.

I have nothing further, I will say to my chairman.

Mr. LONG. Shall we yield back the remainder of our time?

Mr. LEAHY. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. LEAHY. I inquire of the distinguished chairman if this is an amendment which could or could not be agreed to by the Finance Committee?

Mr. LONG. Mr. President, the amendment simply was not considered in the committee. As far as the Senator from Louisiana is concerned, he has heard arguments on both sides.

I suggest we let the Senate decide what it wants to do about the amendment.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. LEAHY. Mr. President, I understand no one else is seeking time, so I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. STONE). All remaining time having been yielded back, the question is on agreeing to the amendment (No. 2036) of the Senator from Vermont. 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 Virginia (Mr. HARRY F. BYRD, Jr.), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Mississippi (Mr. STENNIS), 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 Virginia (Mr. HARRY F. BYRD, Jr.) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from North Carolina (Mr. HELMS), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to death in the family.

The result was announced—yeas 30, nays 57, as follows:

[Rollcall Vote No. 459 Leg.]

YEAS—30

Abourezk	Culver	Hartke
Bayh	Eagleton	Hatfield
Bumpers	Eastland	Humphrey
Case	Hart, Gary	Jackson
Cranston	Hart, Philip A.	Javits
Kennedy	McIntyre	Ribicoff
Leahy	Metcalf	Stafford
Magnuson	Nelson	Stevenson
Mansfield	Pell	Stone
McGee	Proxmire	Weicker

NAYS—57

Allen	Glenn	Packwood
Baker	Goldwater	Pastore
Bartlett	Gravel	Pearson
Bellmon	Griffin	Percy
Bentsen	Hansen	Randolph
Biden	Haskell	Roth
Brock	Hathaway	Schweiker
Buckley	Hollings	Scott, Hugh
Burdick	Hruska	Scott, William L.
Byrd, Robert C.	Huddleston	Sparkman
Cannon	Johnston	Stevens
Chiles	Laxalt	Taft
Church	Long	Talmadge
Clark	McClellan	Thurmond
Dole	McClure	Tower
Domenici	Montoya	Williams
Fannin	Morgan	Young
Fong	Moss	
Ford	Muskie	
Garn	Nunn	

NOT VOTING—13

Beall	Durkin	Mondale
Brooke	Helms	Stennis
Byrd, Harry F., Jr.	Inouye	Symington
Curtis	Mathias	Tunney
	McGovern	

So Mr. LEAHY's amendment (No. 2036) was rejected.

AMENDMENT NO. 2134

Mr. ABOUREZK. Mr. President, I call up my amendment No. 2134.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 2134.

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

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

The amendment is as follows:

On page 1487, line 1, insert after the comma the word "or".

On page 1487, strike out line 2.

On page 1487, line 3, strike out "(9)" and insert in lieu thereof "(8)".

On page 1487, line 20, strike out "(8), and (9)" and insert in lieu thereof "and (8)".

On page 1494, strike out lines 13 through 17.

On page 1494, line 18, strike out "(10)" and insert in lieu thereof "(9)".

On page 1495, line 1, strike out "(1)" and insert in lieu thereof "(10)".

On page 1495, lines 1 and 2, strike out "(7), (8), and (9)" and insert in lieu thereof "(7) and (8)".

On page 1495, line 3, strike out "(12)" and insert in lieu thereof "(11)".

On page 1495, line 21, strike out "(13)" and insert in lieu thereof "(12)".

On page 1496, line 11, strike out "(14)" and insert in lieu thereof "(13)".

On page 1496, line 21, strike out "(15)" and insert in lieu thereof "(14)".

Mr. ABOUREZK. I shall make two brief points about the amendment.

The first point is it reduces the investment tax credit on coal slurry pipelines from 12 percent back down to 10 percent.

The second point is that the committee has informed me that if it is reduced to 10 percent from 12 percent the resulting reduction in tax expenditure, if that is the way the committee puts it, would be $7 million in fiscal year 1977, $17 million in 1978, and $28 million in 1981.

I hope that the committee will accept this amendment. I see no real reason to try to increase the coal slurry pipeline tax credit up to 12 percent.

I reserve the remainder of my time.

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

Mr. ABOUREZK. I yield.

Mr. HASKELL. I hope the committee will accept that. I also hope that the Senator will not yield the floor until the Senator receives an answer because, if the committee does not accept this amendment. I think it is well worth talking about for some time. If the committee will accept it, that is one thing.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that George Rutger, of my staff, be granted the privilege of the floor.

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

Mr. LONG. Mr. President, so far as the Senator from Louisiana is concerned, he is not particularly concerned about the coal slurry pipeline one way or the other. There may be some here who are very much concerned about the problems of the coal slurry pipelines, and I would be happy to yield them time to discuss it.

Mr. PASTORE. Mr. President, while we are waiting, will the Senator please explain this amendment?

Mr. ABOUREZK. The amendment reduces the investment tax credit on the coal slurry pipelines from 12 percent to 10 percent, a saving in tax expenditures of $7 million in fiscal year 1977, $17 million in 1978, and $28 million by 1981.

Mr. PASTORE. Will the Senator explain why they are not entitled to the 12 percent?

Mr. ABOUREZK. I do not really see any reason to give the coal slurry pipeline people an additional 2 percent over the 10 percent they already have.

Mr. PASTORE. In other words, everybody else has 10 and they have 12?

Mr. ABOUREZK. That is correct.

I might explain, also, while the conference is going on, that a member of my staff contacted the Coal Slurry Transport Association. They were not aware that the additional 2 percent was in this bill. It is news to them. We are unable to find out how the 2 percent was added on.

Mr. LONG. Mr. President, the purpose of the 12 percent was to encourage the use of coal. So far as the Senator from Louisiana is concerned, it is immaterial to me whether we encourage the use of coal by encouraging coal slurry pipelines. In certain situations, railroads get the benefit of the 12 percent, and that is competition, and therefore the 12 percent was proposed. Personally, I have no strong objection to the amendment. So far as I am concerned, if the Senate wishes to take it, it is all right with the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2135

Mr. ABOUREZK. Mr. President, I call up my amendment No. 2135.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 2135.

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

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

The amendment is as follows:

On page 1486, line 25, insert after the comma the word "or".

On page 1487, strike out line 1.

On page 1487, line 2, strike out "(8)" and insert in lieu thereof "(7)".

On page 1487, line 2, strike out the comma and the word "or" and insert a period in lieu thereof.

On page 1487, strike out line 3.

On page 1487, line 20, strike out "(7), (8), and (9)" and insert in lieu thereof "and (7)".

On page 1494, strike out lines 8 through 12.

On page 1494, line 13, strike out "(9)" and insert in lieu thereof "(8)".

On page 1494, strike out lines 18 through 26.

On page 1495, line 1, strike out "(11)" and insert in lieu thereof "(9)".

On page 1495, lines 1 and 2, strike out "(7), (8), and (9)" and insert in lieu thereof "(7) and (8)".

On page 1495, line 3, strike out "(12)" and insert in lieu thereof "(10)".

On page 1495, line 21, strike out "(13)" and insert in lieu thereof "(11)".

On page 1496, line 11, strike out "(14)" and insert in lieu thereof "(12)".

On page 1496, line 21, strike out "(15)" and insert in lieu thereof "(13)".

Mr. ABOUREZK. Mr. President, this amendment also would reduce the investment tax credit from 12 percent to 10 percent for energy-related investments concerning oil shale and coal gasification projects.

At this time, Congress is still considering legislation to encourage development in these areas. I do not think it is prudent to provide encouragement through the tax laws until we have had an opportunity to explore these issues much more thoroughly through the appropriate substantive committees that are dealing with coal gasification and oil shale. If the 12 percent goes though, it will cost the Government more than $20 million in 1981 and more afterward.

I hope the committee will accept this amendment.

Mr. LONG. Mr. President, this provision was in the energy bill passed by the House of Representatives and sent to the Senate. Its purpose was to encourage the development of technology in the gasification of coal and oil derivation from shale.

In view of the fact that the Senate saw fit to reduce the coal slurry pipelines to 10 percent, so far as I am concerned, I have no objection.

Mr. HANSEN. Mr. President, it is my opinion that this amendment has to be questioned. I am not one who is ready to contend that the state of technology with respect to oil shale is sufficiently advanced that we are going to have oil shale on the market tomorrow. I know that we have some problems to work out so far as coal gasification is concerned.

However, I think this is the direction in which this country should be moving. There is no question that we are running out of natural gas. It is a very important fuel for this part of the country; and if there is a way in which we can encourage further work and investment of money in coal gasification, I think it will be clearly in the public interest.

Mr. RIBICOFF. Mr. President, will the Senator yield for a question?

Mr. HANSEN. I yield.

Mr. RIBICOFF. What are the potential reserves in this country for energy from oil shale?

Mr. HANSEN. The figure I have seen—and it is about a year old or more—is approximately 1.6 trillion potentially recoverable barrels of oil in the three-State area of Colorado, Utah, and Wyoming—in oil shale.

Is it not also true that the first alternative to oil will be coal gasification?

Mr. HANSEN. That is my understanding.

Mr. RIBICOFF. So, looking ahead into the future, with the United States running out of oil reserves, should we not be doing everything possible to encourage alternate sources of energy, and coal gasification would be the No. 1 alternative? I think that it would be foolhardy, I think it would be shortsighted, if we do not do everything we can to encourage the gasification of coal.

I see on the floor the distinguished chairman of the Committee on Public Works and Senator BYRD of West Virginia, who probably know something about this, coming from a coal State. We should be encouraging this rather than discouraging it.

Mr. HANSEN. I agree completely with my friend from the State of Connecticut. That is what we should be doing. The fact is that for a long time, there was not very much done on the twin problems of coal gasification and coal liquefaction. The reasons were simple: the price of natural gas was regulated by the Federal Power Commission and it was fixed at around 24 or 25 cents a thousand. It was at such a ridiculously low rate that there was absolutely no incentive for anyone in the coal business to try to work out the technology to make synthetic gas from coal.

Mr. RIBICOFF. Am I correct in assuming that both West Germany and England have done considerable work, with success, in the liquefaction and gasification of coal reserves?

Mr. HANSEN. That is my understanding.

Mr. RIBICOFF. And that the United States is really far behind; with all our technology, we have not developed this technology?

Mr. HANSEN. That is my understanding.

Mr. RIBICOFF. And this technology takes a considerable amount of capital?

Mr. HANSEN. It does indeed.

Mr. RIBICOFF. And in order to encourage capital, we are going to have to have some incentive for them to go into it?

Mr. HANSEN. As a matter of fact, I think ERDA now has four or five powerplants that they are helping fund, partly. I know the Senator from Rhode Island is very knowledgeable in that. We are trying to encourage that.

Mr. PASTORE. If I may have something to say here, I hope that the Senator from South Dakota will withdraw this amendment. This is unlike the previous amendment that we all supported.

The fact of the matter remains that nuclear energy today, which is commercially practicable, is in trouble. We are striving for solar energy. We are striving for thermonuclear energy and certainly, it will be a boon on the day that it becomes practicable and commercialized. The fact remains that we are not there. The best evidence that we have is that it might take 25 years, it might take 30 years. In the meantime, what do we do?

Governor Carter has made the statement that he has certain qualms about the development of nuclear energy, that he would proceed very, very carefully, and he is making a strong pitch for greater use of coal. I think this is one area where we have to have incentive.

I hope that the Senator will not pursue this particular amendment.

Mr. ABOUREZK. Mr. President.

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

Mr. ABOUREZK. Mr. President, in all this talk about incentives for development of oil out of oil shale and natural gas or imitation natural gas out of coal, we are talking about reducing the investment tax credit from 12 percent to 10 percent. We are not talking about stopping the programs that have been discussed here today.

So far as oil shale is concerned, I think the last estimate I heard was that no oil company, no government, nobody could do any development in oil shale feasibly, economically, until we got up to somewhere around $25 a barrel for oil, to make oil shale development feasible.

Mr. PASTORE. And therefore——

Mr. ABOUREZK. Wait, just a minute, I ask the Senator.

Twenty-five dollars a barrel. Now, there is no lousy 2-percent investment tax credit that is going to increase the production or the development of oil shale based upon that lousy 2 percent.

With regard to coal gasification, coal gasification has been a total failure in this country, as the Senator from Connecticut said. There is a German process that has been developed. The Germans have found some reasonable success with theirs. However, most of the coal, most of the new coal, the cheap coal, is out in the West, and coal gasification requires a great deal of water.

We are again talking about a lousy 2-percent differential of an investment tax credit to try to rip all the water out of the West, where we do not have very much, to try to develop coal gasification.

All it really amounts to in both of these areas is not incentives to develop anything, but a tax expenditure, or, in the words of many people, a rip off—a 2-percent giveaway, a windfall, a boondoggle. All it amounts to is a giveaway to these companies that are not going to do anythings additional except put the money in their pockets. That is all it amounts to.

I hope the Senate will accept the amendment.

Mr. KENNEDY. Will the Senator yield?

Mr. ABOUREZK. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. I just wanted to speak with regard to the comment of the Senator from South Dakota because I had intended to offer an amendment relevant to this same section. I would like to raise this point, because the Senator is using a line of argument that I think is very convincing.

It seems to me, as has been pointed out during the course of this discussion and debate, that we are in serious deficiency in terms of new technology in a variety of these areas, whether it is coal slurry, coal gasification, or a number of other items that are raised in these particular areas. On the one hand, we appropriate hundreds of millions of dollars to ERDA, with very, very strict guidelines. That issue has been debated and discussed here on the floor of the U.S. Senate for hours and for days, during recent years.

We also place on ERDA very strict requirements for reporting back to Congress. We have very active committees to oversee where this new technology is possible, and where it is taking place, and what the various costs are going to be in terms of meeting national energy problems and needs.

What we are doing here on the other hand—after we have a very tight system in terms of ERDA—is providing all kinds of incentives in many different areas for technology of which we have very little understanding and comprehension.

We are going to send these incentives out into the commercial area, with the resulting fact that we are going to have hundreds of millions and, I bet, billions of dollars that will be lost as a new tax expenditure. Instead of talking about 5 percent or $10 million, we are going to be wrestling around on this 10 years from now, talking about hundreds of millions or tens of billions of dollars.

Mr. PASTORE. Will the Senator yield?

Mr. KENNEDY, Yes.

Mr. PASTORE. Is this boon being given to develop other sources rather than alternatives to the shortage of oil and petroleum? As I understand the purpose of the 12-percent tax credit, it is to encourage the development of alternatives. If we have another embargo and if we again have long lines at the gas pumps and we do not come up with an alternative and we do not inspire people to get into alternatives, where are we going to be?

Mr. KENNEDY. I could not agree more.

Mr. PASTORE. Everybody talks about $25 or $30 million against a budget that is over $200 billion.

Mr. KENNEDY. If the Senator will permit me, I am all for the development of alternatives. It seems to me that we have debated and discussed within FEA extremely elaborate review procedures by which Congress will be informed, the committees will be informed, where the technology breakthroughs are going to come about in each of these various areas of alternative sources of energy. It seems to me that kind of overview, that kind of oversight, through the appropriation process, is the way to deal with this problem.

In the alternative, what we are doing here is writing into stone, effectively, because we know how, once these various matters get written in in terms of investment credit or other types, they are almost impossible to remove. Sure, they are potential, but there is no now-known technology that is going to justify, I do not believe, the kind of extensive tax expenditures that we are going into. What I understand at least the thrust and the purpose of the Abourezk amendment to be, although I would think that it ought to go further, quite frankly, is to recognize, if Congress is attempting really to deal effectively with alternative sources of energy, we ought to do it through the FEA kind of program—reporting back to the oversight committees of Congress that are dealing in energy areas, appropriating money annually in those areas where particular opportunities for technological breakthroughs are coming, and provide a constant overview and oversight. To write new tax expenditures does not seem to me to be sound policy.

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

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

Mr. RIBICOFF. I am asking for some time on the Senator's time.

Mr. ABOUREZK. Mr. President, I have the floor. I just want to ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, will the Senator yield on Senator LONG's time?

Mr. ABOUREZK. All right.

Mr. RIBICOFF. Mr. President, will the Senator yield to me?

Mr. LONG. How much time?

Mr. RIBICOFF. Five minutes.

Mr. ALLEN. Let us have order.

Mr. RIBICOFF. I think we have here one of the problems facing this country, and it has been posed accidentally by the Senator from Massachusetts. What the Senator from Massachusetts is saying is that this whole question of alternate sources of energy should be in the hands of and should be done by the Government; that ERDA and FEA will supply the money, and let them decide it.

I think what we are trying to determine is, and it always was the plan in setting up ERDA, and I think the Senator from Rhode Island understands it, that they were going to undertake pilot programs. The intention in setting up ERDA always was that, ultimately, the private enterprise system was to do the developing of the alternate sources of energy.

Now, what we are saying is that certainly in the early stages the Federal Treasury will set up the pilot programs, but somewhere along the line private enterprise and private capital should come in and develop the alternate sources of energy.

Now, since the No. 1 alternate source of energy, and the fastest one to come upstream, is the liquefaction and gasification of coal, we should be doing everything we possibly can to encourage the liquefaction and gasification of coal not by the Federal Government but by private enterprise.

Therefore, it is not a lousy 2 percent. Two percent is substantial, and we have got a very grave policy question here of whether all alternate sources of energy and development should be developed by the Federal Government or whether private enterprise should be encouraged into doing it.

I see eye to eye with my friend from Rhode Island, and I think this question is what is bothering him.

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

Mr. RIBICOFF. I will be pleased to yield at this time.

Mr. PASTORE. Not too long ago, the Democratic Policy Committee gave me a job that was not wanted. They gave it to me because I was not there when they assigned it to me [laughter] because if I were there, I would have refused it. The job was to become the chairman of an ad hoc committee to come up with a comprehensive plan on energy. We strove and we strove and we strove. We gave it hour after hour after hour, and we came out with the exact recommendation that the committee has proposed in this bill. Now they are saying here, "We have not reached a technology, so why don't we just forget it."

The point here is if we have not got it, let us go out and get it, and the only way you are ever going to get it is by giving a little bit of incentive.

If you say this is picayune, if you say this technology has not yet been found, then I say the fault is ours, and we had better put up the money.

All this business about what we did with ERDA, sure, we have oversight over ERDA. My committee has that oversight. But the fact still remains that the fulfillment of this dream is a long way off.

I am telling you that unless this country comes up with alternatives, the day will come when we will regret it.

America is on wheels, we need gasoline to run the machinery of this country, and if we do not do something about it, and foreign oil producers ever put on another embargo, and we cannot get the petroleum because we are importing now about 60 percent of what we use in this country, the time is going to come when this country will have to retrogress and not progress, because we are an industrial country, and unless we keep the machinery going we are not going to produce the number of jobs we need to keep our people working, and that is what is in question here.

I know we do not have the answer, but somehow we have to find it, and unless we put up the incentive to find it, I am afraid we are giong to be lost. We are going to be lost in the wilderness of ignorance.

Mr. ABOUREZK addressed the Chair.

Mr. RIBICOFF. I believe I have the floor.

The PRESIDING OFFICER. The Senator from Connecticut still has the floor.

Mr. RIBICOFF. I believe I have the floor.

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

Mr. RIBICOFF. Mr. President, I just want to make one point. In World War II when Hitler was closed off from the supply of oil, he ran the German war machine on the liquefaction and gasification of the coal reserves in Germany. I have always been puzzled as to why, if the Germans could do it—and about 2 years ago I visited——

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

Mr. RIBICOFF. May I have 5 more minutes, Mr. President?

Mr. LONG. I yield 5 more minutes.

Mr. RIBICOFF. I visited in England, and I found they are way ahead of us in the liquefaction and gasification of coal. I would say the 2 percent, the 12 cent, whatever incentives you get, that is a cheap price to encourage American technology instead of spending hundreds of millions of dollars for the Federal Government to do it.

I recall when the Government Operations Committee was setting up ERDA and FEA and going into these hearings, it was always the intention, in establishing ERDA, that ERDA would really be setting up pilot programs. It never was the intention that ERDA was going into the energy business. They were there to encourage all types of alternate sources of energy. Then it came within the orbit of the distinguished Senator from Rhode Island.

Now, suddenly, to hear the remark, "Why do it? Let the Federal Government and the Appropriations Committee decide how much we are going to spend." That was not the intention in setting up ERDA. The basic intention was to get ERDA going with all types of alternate sources, report back to Congress, and to work with private enterprise to do it. We would be foolhardy to stop private enterprise from getting into this field.

Woe to this country if we depend on the Government to develop alternate sources of energy. They cannot do it, and they will not do it.

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

Mr. RIBICOFF. I am pleased to yield.

Mr. FANNIN. I concur with what has been said by the Senator from Connecticut and the Senator from Rhode Island.

The PRESIDING OFFICER. All time of the Senator from South Dakota has expired. The Senator from Louisiana has 8 minutes.

Mr. ABOUREZK. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Was all that time charged to me, the time that Senator RIBICOFF was debating?

The PRESIDING OFFICER. The time of the Senator from Connecticut was charged to the Senator from Louisiana.

Mr. FANNIN. Just a couple of minutes, Mr. President.

Mr. LONG. I yield.

Mr. FANNIN. Just 2 minutes.

I wholeheartedly agree with what the Senator from Connecticut and the Senator from Rhode Island have said. There are both old coal gasification processes as well as new processes being developed. Pilot gas is being developed, they are working on it in the State of Illinois and other States.

What are we talking about? We are talking about plants that will cost $1.25 billion to develop.

These pilot plants are developing new programs, but we must have private industry go forward with it. At first, a coal gasification plant was to cost $650 million. The Southern California Gas Company was going to build one. But now it costs almost twice that amount, and unless we provide this incentive, we are not going to get this job done. It is a small price to pay for making gas available to cities and small towns throughout the United States. In Southern California alone there is over $10 billion of gas equipment that would be idle if gas became unavailable. So we are not just talking about a supply of gas; we are talking about the salvation of the way in which many people are heating their homes, cooking their food, and taking care of the water heating needs throughout the country. It is a small price to pay to have the extra 2 percent investment tax credit which sec. 2003 provides. In fact, if they had doubled that amount it would be more in order.

I feel, Mr. President, that if we pass this amendment, we are going in the wrong direction.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that each side have 5 additional minutes.

Mr. LONG. I object. We have not used that time yet.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. I yield 2 minutes to the Senator from Ohio.

Mr. TAFT. I thank the Senator for yielding. I think there is some information we ought to reflect on.

The idea that coal gasification is not going to work, that it is small, limited to the West, is totally false. ERDA has already acted to start on a $200 million plant in Illinois; they have chosen Ohio for a second location. They have gone ahead with a $65 million project there.

Those projects are not total ERDA projects; they are projects in joint ventures with private enterprise to get private enterprise in here, and then to set up—they are demonstration plants, they are not really pilot plants. They are on a production basis, and they are going to be economic, and I think they will be so within the very near future.

But in order to get private enterprise in this, competing with these plants, using what they proved in those plants, I think we have every reason to go ahead with incentives here.

We will be saving money in the long run. In fact, ERDA is taking, in these contracts is taking, into account that you are taking money out of one pocket and putting it into another. ERDA takes account of the financing, and the joint venture is taken into account. Contracts are not closed at this point, they are still being initiated. But they are going ahead with this $65 million I know about here today as an outlay and to encourage some private investors to go ahead and put their money in, too.

I thank the chairman for yielding to me.

Mr. LONG. Mr. President, I ask the Senator for 4 additional minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ABOUREZK. I yield 2 minutes to the Senator.

Mr. KENNEDY. Mr. President, in response to the comments of the Senator from Connecticut and others about the investment credit, I do not think there was a finer chapter in American foreign policy than the Marshall Plan, our investment in Western Europe.

I do not think there has been any measure more important than the investment credit at 10 percent.

Here we are talking about a basic perversion of that, trying to give to one particular industry.

He says we cannot tell which horse is going to win the race, but we are prepared to give them all the horses in this race at 12 percent.

I wonder where the real competitive system is in this country. It seems to me, in terms of the large amounts of money necessary for the research and development, that ought to be at the Federal expense. But once we develop that technology and it is competitive, it ought to be out in the American competitive system and not be ongoing and continuing as this particular program would make it in terms of 12 percent.

Finally, Mr. President, there are a lot of industries up my way that would like 12 percent, the shoe industry, the textile industry, the fishing industry. I can list all those industries that would like it, too, I think they would make a possibly stronger case in employment impact in local communities than this particular provision.

Let us do it in terms of the moneys necessary for these breakthroughs in research and development, with strong congressional oversight through ERDA, and make sure we have a free competitive system to try to see these various alternative techniques benefit the American system, but not through these extraordinary increases, trying to pick out some and discount others in the energy area.

Mr. LONG. I yield 4 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, to the extent necessary I recall the past.

In 1944, the Congress passed the Synthetic Liquid Fuels Act.

The Senator from Wyoming. Mr. O'Mahoney, and the Senator now speaking, then in the House of Representatives, cosponsored that measure. At the time the law was enacted, submarines were roving up and down the east coast and in the New England waters shutting off energy supplies from abroad. We were beginning to feel the fringes of an energy problem.

The Senator from Rhode Island (Mr. PASTORE) who speaks very realistically will remember, that the German Luftwaffe was actually being fueled with aviation gasoline from coal.

Had the war lasted a little longer, no one knows what would have happened in their continued bombing of Great Britain, including the city of London.

Using the German pilot plant efforts we were not attempting to develop synthetic fuels at a certain price; we were attempting to see if it was feasible with American resources. We began work to convert coal into aviation fuel.

On November 6, 1943, I flew with Arthur Hyde 175 miles from Morgantown, in a single engine aircraft fueled with gasoline produced from West Virginia coal.

Under the Synthetic Liquid Fuels Act of 1944 the Bureau of Mines demonstrated oil shale extraction at Rifle, Colo., between 1944 and 1949. The facility was placed on standby in 1955.

In addition pilot plant studies were undertaken at the Bureau of Mines Petroleum and Oil-shale Experiment Station at Laramie, Wyo., in 1945 and completed in 1947. However, these efforts did not become realities in large part due to economic factors.

Mr. President, on many occasions in this Chamber I have emphasized that what is needed is an acceptance and solid national commitment to meeting our country's energy needs from domestic resources. Failure to act years ago left us unprepared.

In recognition of our omissions in 1974 the Congress created the Energy Research and Development Administration to foster non-nuclear energy alternatives and to assure that such technologies as coal gasification and liquefaction, solar energy, geothermal energy, and oil shale would receive their equitable share of Federal funds for energy research, development, and demonstration.

Mr. President, when this body approved S. 598 last year, in July 1975, the report of the Interior Committee contained these words on the 1976 ERDA authorization bill:

> Greater Federal incentives are needed to cut the Gordian Knot of economics for the first generation of pioneer synthetic fuels plants in this country. The market place does not now provide sufficient incentives or an adequate mechanism for encouragement of the establishment of this industry.

For this reason the United States does not now possess an adequate infrastructure to support the expeditious creation of a domestic synthetic fuels industry. If this is to be achieved in a timely fashion the Congress has recognized that the Federal Government must encourage the commercialization of first generation technologies.

Until very recently Federal tax laws provided an incentive for the exploration of oil and natural gas in their natural form. These incentives extended to overseas activities. These same tax incentives acted as disincentives to the development of nonconventional energy technologies such as oil shale, and coal gasification and liquefaction.

Similarly the Federal Government was providing major funds for the atoms for peace program under which nuclear power was developed. This program provided further disincentives to the development of nonconventional energy technologies.

With the creation of the Energy Research and Development Administration an effort is being made to provide balance to the Federal program so that all new energy technologies can compete on approximately equal terms. It was on this basis, in part, that the Congress abolished the oil depletion allowance.

The tax reform measure before us today continues this policy by providing the same investment tax credit not just to all energy companies but to all industry in the United States.

The amendment of the diligent Senator from South Dakota (Mr. ABOUREZK) would reduce the investment tax credit for just the oil shale industry before it has even become an economically viable industry. Oil shale is viewed as an energy option for the mid term between 1985 and the year 2000. Even under an accelerated program oil shale is not expected to supply the equivalent of more than 500,000 barrels of oil per day before the year 1990. This is less than 2 percent of our anticipated total oil supply.

Mr. President, as a nation we must keep all our energy options open at this point in the development of new energy technologies. The amendment prejudices oil shale before the technology has even been demonstrated as to its economic and technologic feasibility.

I warn the Senate now because this country is in a greater crisis than during World War II. I wish the candidates for the Presidency would discuss our submerged energy crisis more and some other issues less. We are importing more petroleum products than we were at the time of the 1973 OPEC embargo.

But it is difficult to convince people of this crisis, before it surfaces in a way that will open the eyes of many of the Senators, as well as the American public.

I am underscoring that we need to develop all of the coal synthetic technologies. We also need to develop, insofar as possible, the use of oil shale.

We need all of this program, because, very frankly, we act after the fact, rather than before the fact. Thus we often fail to come to grips with problems of this scope.

I am sure the amendment is offered in good conscience by my colleague from South Dakota, but it leads us down a road we should not follow.

Mr. KENNEDY. Will the Senator yield for one question?

Mr. ABOUREZK. On his time.

Mr. KENNEDY. Just a one-word answer. Was that a direct appropriation or a tax expenditure, the legislation?

Mr. RANDOLPH. It was an authorization bill followed by an appropriation.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

The Senator from South Dakota has 2 minutes.

Mr. ABOUREZK. All I can say in response is that they have more water in South Dakota than in Utah.

Mr. President, when we were talking, I thought world war III was going to start almost any time.

But what we are talking about is not providing oil and gas for the next war, for the next oil embargo. What we are talking about is reducing the investment tax credit from a very favored 12 percent to a more equal 10 percent. Like everyone else is getting 10 percent. Like they have been getting.

We are not talking about destroying the United States, or destroying the world, or destroying energy development.

As I pointed out before, there are many ways that we can provide alternate sources. There are many ways we can conserve what we have now, except we are not doing either.

There is a way to prevent an oil embargo. We settle a Middle East war.

There is a way to save on oil and gas, and that is to develop a real conservation measure. That is something we have not done yet.

So far as coal gasification and oil shale are concerned, 2 percent is not going to do it. An extra 2 percent will provide no incentive. All it is is a boondoggle.

We will need a 100 percent tax credit before we can come around to a feasibility process on the development of oil shale and gasification of coal.

The PRESIDING OFFICER. All time has expired.

Mr. PASTORE. Mr. President, I move to table the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. 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 Virginia (Mr. HARRY F. BYRD, JR.), the Senator from New Hampshire (Mr. DURKIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), 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 Minnesota (Mr. HUMPHREY) would vote "nay."

I further announce that, if present and voting, the Senator from Virginia (Mr. HARRY F. BYRD, JR., would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from North Carolina (Mr. HELMS), and the Senator

from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 66, nays 21, as follows:

[Rollcall Vote No. 460 Leg.]

YEAS—66

Allen	Goldwater	Pearson
Baker	Gravel	Pell
Bartlett	Griffin	Percy
Bayh	Hansen	Randolph
Bellmon	Hartke	Ribicoff
Bentsen	Hatfield	Roth
Brock	Hruska	Schweiker
Buckley	Huddleston	Scott, Hugh
Burdick	Jackson	Scott, William L.
Byrd, Robert C.	Javits	Sparkman
Cannon	Johnston	Stafford
Case	Laxalt	Stennis
Chiles	Long	Stevens
Church	Magnuson	Stone
Cranston	McClellan	Taft
Dole	McClure	Talmadge
Domenici	McGee	Thurmond
Eastland	Montoya	Tower
Fannin	Morgan	Weicker
Fong	Muskie	Young
Ford	Nunn	
Garn	Packwood	
Glenn	Pastore	

NAYS—21

Abourezk	Hart, Philip A.	McIntyre
Biden	Haskell	Metcalf
Bumpers	Hathaway	Moss
Clark	Hollings	Nelson
Culver	Kennedy	Proxmire
Eagleton	Leahy	Stevenson
Hart, Gary	Mansfield	Williams

NOT VOTING—13

Beall	Durkin	McGovern
Brooke	Helms	Mondale
Byrd, Harry F., Jr.	Humphrey	Symington
Curtis	Inouye	Tunney
	Mathias	

So the motion to lay on the table Mr. ABOUREZK'S amendment (No. 2135) was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I have been discussing the schedule for the rest of the day with the distinguished senior Senator from Louisiana, the manager of the bill now pending (Mr. LONG).

He would like to continue. The leadership would like to continue, and this is just to inform the Senate, in response to many inquiries, that we will be in until 9, 10 o'clock, or thereabouts tonight.

The Senate is aware we have a heavy schedule covering clean air, the pending business, the Defense appropriation bill, we are going out a week from Wednesday for 10 or 12 days, and then we come back for less than 2 weeks.

We have a very heavy schedule. We have been unable to get much in the way of time agreements on the legislation on the books, and the manager of the bill in this particular instance would like to finish the tax bill this week. I think we have been on it long enough—too long, in my opinion—but there are still some important amendments to attend to, and I think a little sacrifice and cooperation on the part of all of us will stand us in good stead in the weeks ahead.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, under the special order I was given the right to offer a second amendment with 1½ hours allocated to it. I do believe I will offer it, but I will take about 5 minutes and ask for a rollcall vote on it, because I believe my position is the right position, but I do not see any reason to extend the debate any further. This is on the Clean Air Act. That will give you an extra hour and a half.

Mr. MANSFIELD. The distinguished Senator echoes the sentiments of all of us when we offer amendments. I agree with him; not that I will vote with him, but I think he thinks he is right, as all of us think we are right when we offer amendments, and this is as it should be.

UP AMENDMENT NO. 293

Mr. HASKELL. Mr. President, I send a motion to strike to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Santor from Colorado (Mr. HASKELL) proposes an unprinted amendment numbered 293.

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

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

The amendment is as follows:

I move to strike the following:
On page 1486, lines 20–25.
On page 1487, lines 1–3, 10–25.
On page 1488, lines 1–12.
On page 1489, lines 9–25 through page 1495 to line 12.

Mr. HASKELL. Mr. President, what this does is eliminate from section 2003 the extra 2 percent and in the case of solar energy which I believe would get 20 percent, I would eliminate the extra 10 percent in solar energy. It reduces all the energy items back to 10 percent. I believe the Senator from South Dakota talked only about coal and shale. This would cut everything back.

The Senator from South Dakota said that 2 percent was pretty small and he suggested that maybe what certain industries needed was 100-percent investment tax credit. I will merely say to the Senator from South Dakota, if he sticks around about 12 more years, we probably will have about a 100-percent investment tax credit.

Mr. President, if Senators believe that what we need is welfare for the rich, I suppose we need for these coal companies, shale companies, and all these companies that are in the energy field, 12 percent rather than 10 percent. I do not think they happen to need 12 percent. But I think we are kidding ourselves if we think an extra 2 percent is equitable to the American people. I think we are kidding ourselves if we think this is the way to get energy.

With that, Mr. President, I ask for the yeas and nays on this amendment and am willing to go to a vote.

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

The yeas and nays were ordered.

Mr. LONG. Mr. President, I am willing to waive the reading of the amendment, but reluctantly I find that we do not really know what this amendment is. So I suppose the first thing we better do is to ask exactly what the amendment would do.

I ask that the amendment be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) moves to strike the following:
On page 1486, lines 20–25.
On page 1487, lines 1–3, 10–30.
On page 1488, lines 1–12.
On page 1489, lines 9–25 through page 1495 to line 12.

Mr. LONG. If I understand it, Mr. President, what the Senator wants to do is simply to strike from the bill all those proposals that have to do with encouraging the development of solar energy, geothermal energy, waste conversion, organic fuel conversion, railroad equipment, deep mining equipment, coal processing equipment, coal pipeline equipment, and shale oil conversion equipment. Basically, as I understand it, what the Senator is seeking to do here would seek to strike out all the incentives that we would try to provide.

Incidentally, Mr. President, this did not start with the Senate. The House of Representatives sent us incentive proposals for these areas in their energy bill last year. They have been waiting for action on this. But, we thought before we tried to decide what we should recommend in this area that we had to have some answers as to what was going to be done about deregulation of natural gas and production of more energy.

The House of Representatives had recommended incentives in these areas last year. It involves the same thing that we just got through voting on. So the Senator's amendment would strike from the bill what the Senate just got through voting not to strike from the bill, except he goes right further and seeks to strike about everything else we have here to try to provide incentives by way of tax credit to encourage people to produce more energy and to help meet our energy shortage. I do not think the Senate wants to agree with the amendment.

The House of Representatives, as I say, already is a year ahead of us in moving for more energy production than we provide only through some spending by ERDA and FEA, but we put in some tax advantages for people who will be insulating and making better use of the energy that is available to us now and in developing even more energy sources. He would knock out those incentives.

I do not think the amendment should be agreed to, Mr. President, and I really think the Senate just got through answering its views on the amendment when it voted down the Abourezk amendment.

Mr. HASKELL. Mr. President, what the amendment does is not knock out 12 percent; it knocks out the additional 2 percent because, if my understanding is correct, when we knock out the section—I ask the distinguished floor manager to consult with staff—the remaining items would get the normal investment credit, which is 10 percent, and that is my un-

derstanding of what would happen if this amendment were agreed to.

I do not happen to feel that giving an extra handout to someone that we think is in the energy business is automatically going to get us more energy. It may make the guy who takes it richer, but I cannot see that it is going to get us more energy. But I stress that it is my understanding that if this amendment should be agreed to everyone would be in the same boat on investment credit; it would be 10 percent. If that is not the case, I wish to modify my amendment to make it the case.

Mr. McINTYRE. Mr. President, will the Senator from Colorado yield for a question?

Mr. HASKELL. I yield.

Before he questions me, we are not dealing with the section the Senator is interested in, section 2002.

Mr. McINTYRE. We are not dealing with solar energy?

Mr. HASKELL. We are dealing with solar energy in section 2003, not residential solar energy.

Mr. LONG. The Senator asked me a question. The House bill proposed in these areas that there should be a 5-year amortization as well as the 10-percent investment tax credit. We did not provide for the 5-year amortization. We simply said make it a 12-percent investment tax credit. So rather than having a 5-year amortization and a 10-percent investment tax credit, we suggested that it merely be a 12-percent investment tax credit which we thought would be appropriate financially under the circumstances.

What the Senator would seek to do is to say in these energy areas they get no more favorable tax treatment than they would if buying other kinds of equipment.

Mr. HASKELL. The Senator is correct.

Mr. LONG. I understand. If we do not want to provide any additional incentive in this area, we do not have to. The view in the last vote was we should.

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

Mr. LONG. I yield.

Mr. FANNIN. We have a very serious problem on energy facing this Nation. We should give every incentive possible. Let us talk about solar energy equipment, whether commercial or domestic. The big problem is the price. We are trying to get the price down. The way to get the price down is by generating a greater volume of production. Many say: "As soon as they get the price down we will buy." But how are we going to get the price down without a greater volume? So it is exactly as the chicken and the egg. Which comes first? We must provide an incentive so that people will start buying in larger volume so that prices will decrease and make it possible for more individuals to afford this type of energy rather than conventional modes. Perhaps the greatest savings will be in natural gas, and that is the energy that is in extremely short supply. So it seems to me ridiculous not to give every incentive possible for conversion to an energy source that is in great supply, the Sun.

So, Mr. President, I hope that the Senator will either withdraw the amendment or, if he does not see fit to withdraw the amendment, that it be defeated.

Mr. HASKELL. Mr. President, I might ask the Senator, I do not see that equipment for natural gas gets the extra 2 percent. I wonder, Mr. President, whether that was an oversight.

Mr. LONG. No, it is absolutely intentional. If the House of Representatives can provide, in addition to the 10 percent, they get a 5-year amortization, we thought the least we could do would be to provide, without the 5-year amortization, they ought to have an additional 2 percent investment tax credit to encourage and stimulate the development of energy and energy conservation measures that are suggested here in this bill in this title.

Mr. BUMPERS. Mr. President, will the Senator from Colorado yield for some questions?

Mr. HASKELL. I yield.

Mr. BUMPERS. I wish to clarify something in my own mind. I understood the Abourezk amendment would strike 12 and insert 10 or it would delete 2 percent of the investment tax credit for gasification and liquefaction of coal; is that correct?

Mr. HASKELL. This is correct.

Mr. BUMPERS. The Senator's amendment or motion is a striking motion which would do the same thing in all other energy fields, including solar; is that correct?

Mr. HASKELL. The Senator is correct.

Mr. BUMPERS. Let me say this: I supported the Abourezk amendment because I take exception to the way we grandfather people in and make constant exceptions for one kind of industry and another, but I would probably oppose the amendment of the Senator from Colorado because we are going to provide it for one area. I would certainly hate to reduce, for example, in the solar energy field, geothermal, biomass conversion. I certainly hope to except them.

Mr. HASKELL. May I respond?

Mr. BUMPERS. Certainly.

Mr. HASKELL. I would strike the extra 2 percent across the board which would include coal gasification. The Abourezk motion would just sweep one of those extra 2 percents off.

Mr. BUMPERS. I take it the reason the Senator's motion is in order then is because he broadened Senator ABOUREZK's amendment?

Mr. HASKELL. The Senator is correct.

Mr. BUMPERS. I thank the Senator.

Mr. HASKELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

The second asisstant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia, (Mr. HARRY F. BYRD, JR.), the Senator from New Hampshire (Mr. DURKIN), the Senator from Minnesota, (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from Indiana (Mr. HARTKE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia (Mr. HARRY F. BRYD JR.), the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay".

Mr. HUGH SCOTT. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 20, nays 64, as follows:

[Rollcall Vote No. 461 Leg.]

YEAS—20

Abourezk	Haskell	Metcalf
Biden	Hathaway	Montoya
Clark	Hollings	Nelson
Culver	Kennedy	Proxmire
Eagleton	Leahy	Stevenson
Hart, Gary	Mansfield	Weicker
Hart, Philip A.	McIntyre	

NAYS—64

Allen	Garn	Pastore
Baker	Glenn	Pearson
Bartlett	Goldwater	Pell
Bayh	Gravel	Percy
Bellmon	Hansen	Randolph
Bentsen	Hatfield	Ribicoff
Brock	Hruska	Roth
Buckley	Huddleston	Schweiker
Bumpers	Jackson	Scott, Hugh
Burdick	Javits	Scott, William L.
Byrd, Robert C.	Johnston	Sparkman
Cannon	Laxalt	Stafford
Case	Long	Stevens
Chiles	Magnuson	Stone
Church	McClellan	Taft
Cranston	McClure	Talmadge
Dole	McGee	Thurmond
Domenici	Morgan	Tower
Eastland	Moss	Williams
Fannin	Muskie	Young
Fong	Nunn	
Ford	Packwood	

NOT VOTING—16

Beall	Griffin	McGovern
Brooke	Hartke	Mondale
Byrd, Harry F., Jr.	Helms	Stennis
Curtis	Humphrey	Symington
Durkin	Inouye	Tunney
	Mathias	

So Mr. HASKELL's amendment was rejected.

Mr. HASKELL. Mr. President, I do not know whether the Senator from New Hampshire is on the floor. I shall have an amendment to strike section 2002. The Senator from New Hampshire (Mr. McINTYRE) is interested in it. He apparently would be interested on my side, depending upon the language developed in the FEA conference report for direct loans to residential solar energy. He wants to see that language, which is not available now but will be available in the morning.

Mr. President, I should like to have the attention of the floor manager of the bill, if I may. I ask the floor manager of the bill, when we come to vote on title XX this evening, if we could exempt specifically section 2002 so that could be voted on tomorrow, so that the Senator from New Hampshire could be accommodated.

Mr. McINTYRE. Will the Senator from Colorado yield?

Mr. HASKELL. I do.

Mr. McINTYRE. Mr. President, I was absent from the Chamber when the Senator from Colorado started his remarks, but I am sure that what he said I am in total agreement with.

The situation is this: The FEA extension bill, which is now in conference and presently being written, may very well satisfy this Senator insofar as solar energy is concerned. Therefore, I would have no objection tomorrow, or whenever we have definitive language from the FEA conference, to the amendment that I understand will be offered by the Senator from Colorado to delete that portion of the solar energy that would depend upon tax credits.

Mr. BENTSEN. I say to the distinguished Senator from Colorado that we had already agreed to accommodate the Senator from New Hampshire on section 2006. Now he is asking to be accommodated on 2002. If we continue to make these kinds of exceptions, we will never get the bill completed on time.

Mr. HASKELL. If the Senator does not wish to do so, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. 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. BENTSEN. Mr. President, does the Senator from Massachusetts have an amendment on 2003?

Mr. KENNEDY. Yes.

UP AMENDMENT NO. 294

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 294.

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

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

The amendment is as follows:

At the end of section 2003, add the following new subsection:

(e) EFFECTIVE DATE.—Notwithstanding the provisions of subsections (a), (b), (c), and (d), the provisions of this section shall expire on December 31, 1978.

Mr. KENNEDY. Mr. President, this is a very simple amendment. It applies a 2-year time limitation for all the provisions in section 2003 to limit it a 2-year program.

It gives Congress an opportunity to review it after a 2-year period.

A number of the energy provisions already have a 2-year limit. For example, the home insulation credit in section 2001 is 2 years. The business insulation credit in section 2003 is 2 years. Yet some provisions in 2003 have a 5- or 10-year period.

This amendment would treat them all the same. The limit would be 2 years for all section 2003 programs, and give Congress an opportunity to examine these matters.

As this debate brought out earlier, there are some profound and significant implications of a number of these provisions involving increases in the investment credit.

I wonder whether the manager of the bill would be willing to accept a 2-year limit. As I have stated, a number of the provisions already have a 2-year limitation.

It would give us an opportunity to examine these provisions in the new Congress, to get some idea how they were functioning, and require the oversight in Congress which would be very useful and valuable in monitoring this very sizable area of new tax expenditures.

So I hope we can reach a limit. I suggest 2 years so that the Congress will have a chance to examine these various provisions soon.

Mr. BENTSEN. I, frankly, would disagree with that kind of limit for geothermal energy.

It is a situation where we must try to develop these reserves and gear up to do the drilling. If individuals try to get the capital through stock issues, to buy the rigs, go out and get the leases, and then find they have a 2-year limitation, I do not think they are going to be able to capitalize those companies and be able to sell the securities.

I think it is very important under those conditions that we have the same kind of incentives we had originally, or at least sometime back, in the oil and gas business. That gets into the intangible drilling costs and, in turn, the 22-percent depletion on geothermal, and that we be given enough time to accomplish this.

The mere problem of going out, buying the leases, forming the company, raising the capital, takes us beyond that period of time.

Mr. KENNEDY. I want to make it clear, this provision is limited to section 2003. It does not affect the geothermal provisions in section 2004.

Mr. BENTSEN. Just to 2003?

Mr. KENNEDY. Right.

Mr. BENTSEN. If I may reply, if we settle it for 3 years with the idea of giving us time to go into the next Congress after that, at an appropriate time, with that compromise, and I would have to clear that with other members of the committee.

Mr. KENNEDY. That would not be as——

Mr. BENTSEN. That would give us a year.

Mr. KENNEDY. That is not as satisfactory, but I think it is in the spirit of compromise. I think it would be useful.

Mr. FANNIN. Mr. President, the problem is that the time elements in the bill before us were worked out on a schedule according to the type of activity involved.

I think that the way in which we arrived at those figures, from testimony we had, a great deal of thought was given to what would be best for the development of particular energy industries.

Certainly, to tell someone that they have no assurance beyond a certain short period of time, I think would be a disincentive to them as far as further investment is concerned.

It seems to me the provisions of the legislation are very fair and equitable.

Again, this was discussed in the Interior Committee at times, and we have the distinguished chairman of that committee with us here tonight.

This is tremendously important to many of the States of this Nation. I feel it would be very unfair not to abide by the time elements that are provided in the bill.

Mr. KENNEDY. The fact of the matter is that this limit provides more incentive, because it would encourage businesses to take advantage of the subsidy in the 2- or 3-year period, as the Senator from Texas pointed out. So it has an extra incentive for fast action in conservation.

Even if they cannot use the full credit in the 3-year period, they would still have a 7-year carry forward, under the normal investment credit provisions.

But it would give Congress an opportunity to examine the programs within that period and find out what is being achieved.

So I modify my amendment, Mr. President, to 3 years.

Mr. BENTSEN. That would carry it through December 31, 1979. It is that Congress and for a year following the next one.

Mr. KENNEDY. The Senator is correct.

Mr. BENTSEN. And just the 2003?

Mr. KENNEDY. The Senator is correct.

Mr. FANNIN. Does this include (a), (b), and (c)?

Mr. KENNEDY. Yes.

Mr. FANNIN. They cannot even plan a coal gasification plant in the time the Senator is talking about.

The PRESIDING OFFICER. Will the Senator please send that modification to the desk?

The modification is as follows:

Strike "1978" and insert in lieu thereof "1979".

The PRESIDING OFFICER. The amendment will be so modified.

The question is on agreeing to the amendment, as modified.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. HASKELL. Objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the quorum call be dispensed with in order to take up the conference report on the Maritime Ad-

ministration authorization and a Senate concurrent resolution, and that the quorum call be resumed following those two items.

Mr. BENTSEN. I object. I have a unanimous consent request. I ask unanimous consent that the time not be charged to either side of the quorum call.

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

Without objection, the quorum call will be dispensed with.

The Senator from Alaska is recognized.

MARITIME AUTHORIZATION ACT, 1977—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I submit a report of the committee of conference on H.R. 11481 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE). The report will be stated by title.

The assistant legislative clerk read as follows.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11481) to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of July 29, 1976, beginning at p. 24391.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

DIRECTING THE CLERK OF THE HOUSE TO MAKE A CORRECTION IN THE ENROLLMENT OF H.R. 11481

Mr. STEVENS. Mr. President, I send to the desk a concurrent resolution, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

S. CON. RES. 134

That the Clerk of the House of Representatives in the enrollment of the bill (H.R. 11481) to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes, is authorized and directed to make the following correction: strike out "SEC. 4", and insert in lieu thereof "SEC. 3".

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TAX REFORM ACT OF 1976

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

Mr. BENTSEN. Mr. President, I ask unanimous consent that section 2002 be deferred for consideration until tomorrow, and treated as a separate item.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I appreciate the distinguished acting floor manager's request and the unanimous-consent order, and I would like to state that if the Senator from New Hampshire (Mr. McINTYRE) is able to look at the language that affects section 2002 tonight before we get to finishing the title, I would have no objection to taking up the section tonight.

Mr. BENTSEN. I appreciate that statement of the Senator from Colorado.

UP AMENDMENT NO. 294, AS MODIFIED

Mr. KENNEDY. Mr. President, I have modified the amendment for a 2-year limit on section 2003 to make it 3 years, and I hope it will be acceptable.

The Senator from Arizona mentioned particular problems in terms of coal gasification, I believe; am I correct?

Mr. FANNIN. That is correct.

Mr. KENNEDY. And wanted a more extended time for that. I understood it was to go beyond, is that correct?

Firms will be able to get started within this period of time and then be able to carry forward the investment credit for 7 years. Basically we are talking about, if they get started now, a 12- or 14-year period.

Mr. FANNIN. Mr. President, if the Senator will yield, the desire of the Senator from Arizona was to have the provision of the bill apply. It was carefully thought out, we had witnesses and testimony, and the committee members gave consideration to the time elements involved. This is a tremendously important issue, and I feel that if the Senator is willing to let it go as it is provided for in the bill, it would be satisfactory.

Mr. KENNEDY. Mr. President, if I may have the attention of the Chair, I modify my amendment to provide for the 3-year limit on section 2003, with the exception of the areas which have already been designated as 2 years, and to leave the provision of the section unchanged as it applies to coal liquefaction and gasification equipment.

Mr. BENTSEN. Do I understand the Senator is taking the language of the bill on coal gasification?

Mr. FANNIN. And liquefaction?

Mr. KENNEDY. The Senator is correct.

The PRESIDING OFFICER. The further modification as sent to the desk by the Senator from Massachusetts will be received, and the amendment will be so modified.

The modification is as follows:

Strike the proposed language inserted by UP-294 and insert the following:

(e) EFFECTIVE DATE.—Notwithstanding the provisions of subsections (a), (b), (c), and (d), other than the provisions affecting coal liquefaction and coal gasification, the provisions of this section shall expire on December 31, 1979, unless such expiration date in such subsection shall occur earlier.

Mr. BENTSEN. The Senator from Texas, under those conditions, after conferring with the Senator from Arizona and the Senator from Massachusetts, has no disagreement with the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. KENNEDY. I yield back the remainder of my time. Let me inform the manager about the next amendment while we are in the process of modifying this amendment, to expedite matters.

Mr. BENTSEN. To which section is this one addressed?

Mr. KENNEDY. This would be on section 2001.

In this particular section, Mr. President, the bill provides a 30-percent credit up to $750. The amendment which I send to the desk would lower that 30-percent credit to a 20-percent credit. The administration had actually favored a 15-percent credit in its proposals.

Mr. President, we have recently passed the energy conservation legislation, which provided for a 20-percent subsidy for insulation in the area of homes. This amendment to the tax bill would equalize the tax credit and the direct subsidy for a 2-year period. We want to find out which program is going to work. I think this would be instructive and informative to Congress in making its decision two years from now on whether the tax credit or the direct subsidy is the more effective way to encourage the insulation of homes.

The PRESIDING OFFICER. The Chair would ask, is all remaining time yielded back on the amendment which is now pending, the modification having been received?

Mr. BENTSEN. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

UP AMENDMENT NO. 295

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment No. 295:

On page 1470, line 9, delete "30" and insert "20".

On page 1472, line 13, delete "or door".

Mr. KENNEDY. Mr. President, when we had the FEA bill before us, we adopted a provision which I had introduced for myself, Senator HOLLINGS and other Senators, which provided a direct subsidy for the homeowner to initiate a program of home insulation, and for the adoption of solar energy equipment.

That provision is now about to be reported out of the conference as a 2-year demonstration program. We have, under the pending legislation, 30 percent credit, up to $750 for basically the same kind of home insulation, though obviously there are differences between a credit and a subsidy. You have to have the financial resources in order to be able to take full advantage of the credit.

The purpose of this amendment is to try to provide a reasonable period of time for the testing of these two concepts by giving the same level of credit to those who are interested in taking a tax credit for home insulation, and to be able to measure that against the 20 percent subsidy that they would be given if they are able to take advantage of the demontration program in the FEA bill.

The grants program will amount to a total of $200 million over the 2-year period.

I would hope that after 2 years we would have the basis to make some judgment as to how we can best proceed. Beyond that, the amendment provides some savings, $65 million in the first year and $100 million in the second year.

So I hope this amendment can be accepted.

Mr. BENTSEN. Mr. President, as I understand the Senator from Massachusetts is referring to the 20 percent subsidy for low-income groups, a provision of the bill in which he is also interested.

Mr. KENNEDY. No. That is a separate item in terms of the low-income weatherization program that has already been agreed to. This was the amendment that was actually agreed to. It was the Kennedy-Hollings amendment that would provide a direct subsidy for homeowners for insulation, and it provided for a 20 percent subsidy up to $2,000. It had procedures working through FHA and through State administrative agencies to provide protections and safeguards.

That, as I understand, is ready to be reported back from the energy conference. It is as a demonstration program at $200 million for the next 2 years.

My only purpose in offering this is to try to get a true comparison as to which ways are more effective and which are able to do the job so we will be able to proceed more effectively in the future. That really is the purpose of this particular amendment, and it seems to me to be a useful step.

Mr. BENTSEN. I think what the Senator is seeing here in the Finance Committee bill is a reflection of the very high sense of priority in trying to encourage people to install insulation and, in effect, what the Senator is talking about is cutting the tax credit by one-third. The committee is of the opinion that a higher priority should be placed on it. Therefore, the committee strongly supports the 30 percent credit. We have that provision on a trial basis until January 1, 1979.

When we first considered this, we put it in at 20 percent, and we put it in for a larger amount, but then we decided that we wanted to give greater assistance to those with lower incomes and cut it down to the first $750 for a maximum credit of $225, and raised the percentage from 20 percent to 30 percent. So we have been through the decision process and have come to this conclusion. The committee would have to stay in support of the provisions that it submitted in the bill.

Mr. KENNEDY. The point that I make is that I do not know there is any other provision in the code where we go as high as 30 percent. In just about every other area the investment credit is 10 percent. Child care goes to 20. Earned income credit is 10 percent. Even the ESOP program is only adding 1 more percent on it and the home purchase credit 5 percent. We are going a good deal higher than in any other provision in the code, and I am wondering whether it is not going to go to a rather special group. It is going to go primarily to those who have the resources to be able to take it, and it is going to end up that the people who do not have the resources are going to end up paying more for it because they are not going to have the income to be able to take this particular credit.

This program is also costly in terms of translating the costs in dollars and cents per barrel.

Mr. BENTSEN. It will only be a cost if it is very effective in encouraging insulation and a lot of people take advantage of it. One of the things we are trying to protect against is the very thing the Senator is talking about. which is only making it available where it was something that was of great advantage to people with high incomes. We did that by cutting it down to the first $750 and making it a maximum tax credit of $225 instead of going to 20 percent for a very much larger amount on the tax credit.

I have to say that those of us on the committee have supported this position and feel that it would be very instrumental in encouraging people to insulate and to save in the use of oil in this country.

Mr. KENNEDY. Are there any provisions in that section that will protect against the manufacturers themselves simply raising the cost of various insulation equipment so that actually the moneys are only going to be passed on to the manufacturers and not to in this area?

Mr. BENTSEN. This is a very competitive industry.

Mr. KENNEDY. As I understand, in the last year in the home purchase credit aspect we had some rather strict controls to prevent the developers from raising the price. I am wondering whether similar provisions have been put in to provide protections in these areas.

Mr. BENTSEN. A great deal of this work will be done by the individual himself. We see no practical way of, in effect, imposing price controls on insulation material. We feel that competitiveness in the marketplace will hold these prices in line.

Mr. KENNEDY. As I understand, there are only three manufacturers of home insulation.

Mr. BENTSEN. Not to my knowledge. On home insulation?

Mr. KENNEDY. Home insulation. I believe that is so.

Mr. BENTSEN. I do not believe that is correct, frankly.

Mr. KENNEDY. We heard a good deal about the credit for home insulation a year or so ago when the very detailed studies and reviews were done. It became an idea whose time had not yet come because of the very legitimate concern about whether the benefits were actually going to be realized or worth the expenditures. It seems to me that a reasonable credit—20 percent—would be one that I could support, although I do have some serious questions about even a credit itself. It seems to me the sound public policy approach is to try and compare credits to subsidies in order to try and find out which is the most effective way of doing it and to insure that we are going to have adequate protections.

Mr. BENTSEN. I say to the distinguished Senator there are quite a number of means of insulation. We have aluminum foil, rockwall, and vermiculite. We must have hundreds of companies building storm windows. So there are many approaches in trying to insulate homes, saving on the use of energy, and taking advantage of this. When one talks about the difference between a 30-percent credit and a 20-percent credit and the concern about some particular manufacturer trying to raise the price, or several manufacturers trying to do it, they have the same kinds of incentives and disincentives, be it a 20-percent credit or be it a 30-percent credit.

Mr. KENNEDY. Mr. President, what is the cost of this particular program?

Mr. BENTSEN. The cost is $192 million in 1977, $320 million in 1978, and $272 million in 1979. Under the amendment, as the Senator has proposed it, the figures are $110 million in 1977, $190 million in 1978, and $160 million in 1979. But what we have tried to do, to the extent we think feasible, is to provide a bery strong incentive, and we agreed on that because we think the energy problem is that serious.

Mr. KENNEDY. Mr. President, in a minute I will ask for a vote on this particular measure.

The effect of our savings would be approximately $82 million the first year, $130 million the second year, and $112 million the third year. The purpose of offering this particular amendment is because of the concern that I have generally about the use of the credit in this area. I recognize that we ought to provide some opportunity for the period of time which has been outlined in the bill, which is the 2-year period. We ought to try and be able to measure this particular credit against the other ways that the Senate has attempted and which I believe the energy conference will report back in the next day, and to meas-

ure those particular items and do it in a way which is roughly comparable. It seems to me that that is the more desirable way, rather than offering the very substantial provision which is included in section 2001.

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

Mr. BENTSEN. I yield.

Mr. LONG. Is it not true that this applies only to existing homes and drastically reduces the cost of this, the way it is? If you want people to insulate and install storm windows and storm doors in their existing homes, to save energy, you need to make it sufficiently attractive that those people will do that.

Is it not true that if you reduce the 30-percent credit incentive to 20 percent, you are going to drastically reduce the incentive for people to insulate their homes, make it far less attractive to do so?

Mr. BENTSEN. The Senator is correct.

What we are talking about under the insulation tax credit that we have proposed is saving between 50,000 and 100,000 barrels per day by 1979.

In effect, the Kennedy amendment would be cutting this by one-third.

We feel this is such a high priority item that we raised the tax credit to 30 percent to try to significantly encourage insulation.

Mr. KENNEDY. Mr. President, I make a final comment: What the Senator cannot tell us is how much more is going to be insulated with 20 percent than with 30 percent.

Mr. BENTSEN. That is correct.

Mr. KENNEDY. So when he says we are going to save x barrels of oil a day with 30 percent and that with the Kennedy amendment we are going to reduce it by a third, there is little basis for that calculation.

I am convinced that 20 percent is the kind of fair incentive to get people to move in this area. The committee made a judgment that it is 30 percent. I think the additional 10 percent, which is $100 million a year, is an excessive underwriting. Even as valuable and worthwhile as the purpose is, that is an unjustified expenditure in this case. That is one of the reasons.

Second, I feel, as I mentioned earlier, that by having it in a more comparable position with the basic kind of subsidy program for which we have already gone on record, we will have a better idea in a 2-year period which is the more effective way of dealing with it. The additional 10 percent is important, but it is not as important as the $100 million a year which this amendment would cost, in my judgment.

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

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

Mr. BENTSEN. I yield.

Mr. LONG. Is it not true that this is a tax advantage that we hope rank and file people throughout this country—low income, middle income, people in any tax bracket—will take advantage of? We would like to make it attractive enough so that people whose homes are built without proper insulation, without storm windows, without storm doors, will make their homes energy efficient.

Could we not follow the same logic about the Senator's amendment? We could say that if you reduce the tax incentive to 10 percent, people will take advantage of it. It stands to reason that very few people would insulate their homes if we made the tax credit 20 percent. We feel that 30 percent is the correct incentive, and it is limited in how much each person can claim. It is the thought that if we limit this to existing homes with a 30-percent tax credit, it will be an incentive to get a lot of homes insulated.

Mr. BENTSEN. I say to the Senator from Louisiana that we really are trying to aim this at the low-income individual. If someone has a high income, do you think he is going out to buy a home without insulation? Do you think he is going to have a home which is not fully insulated?

What we are talking about is a maximum tax credit of $225. The wealthy individual is already taking care of that, and he is not going to be motivated by the $225. We are trying to take care of the low-income man who buys a house which some builder has put up to give the man some bare housing. He will not have the kind of insulation he needs, and he does not want to pay for the labor that goes into that insulation. This would help the low-income man to buy the insulation, put the battings of wool in, pour in the rockwool, install storm windows, do the job that has to be done, and give him a $225 credit. It will encourage that, and 30 percent is not excessive.

I say to the Senator from Massachusetts that it is a judgment matter, but it is aimed at the individual who will take care of his own installation of that kind of insulation. I think it will save the barrels of oil that have been estimated.

I hope the Senate will support the committee's position.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays, and I ask unanimous consent that it be a 10-minute rollcall vote.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection to the request for a 10-minute rollcall vote? The Chair hears none and a 10-minute rollcall vote is ordered.

The question is on agreeing to the amendment of the Senator from Massachusetts. 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 Virginia (Mr. HARRY F. BYRD, JR.), the Senator from New Hampshire (Mr. DURKIN), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 17, nays 59, as follows:

[Rollcall Vote No. 462 Leg.]

YEAS—17

Abourezk	Eagleton	Kennedy
Biden	Eastland	Percy
Brock	Haskell	Proxmire
Clark	Hathaway	Stevenson
Culver	Hollings	Taft
Dole	Johnston	

NAYS—59

Allen	Goldwater	Nunn
Baker	Gravel	Packwood
Bartlett	Griffin	Pastore
Bayh	Hansen	Pearson
Bellmon	Hart, Gary	Pell
Bentsen	Hatfield	Randolph
Buckley	Hruska	Ribicoff
Bumpers	Huddleston	Roth
Burdick	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott, Hugh
Cannon	Laxalt	Scott, William L.
Case	Leahy	Sparkman
Chiles	Long	Stafford
Church	Magnuson	Stevens
Cranston	McClellan	Stone
Domenici	McGee	Thurmond
Fannin	McIntyre	Tower
Fong	Montoya	Williams
Garn	Morgan	Young
Glenn	Moss	

NOT VOTING—24

Beall	Helms	Muskie
Brooke	Humphrey	Nelson
Byrd, Harry F., Jr.	Inouye	Stennis
Curtis	Mansfield	Symington
Durkin	Mathias	Talmadge
Ford	McClure	Tunney
Hart, Philip A.	McGovern	Weicker
Hartke	Metcalf	
	Mondale	

So Mr. KENNEDY's amendment was rejected.

Mr. PASTORE. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for.

UP AMENDMENT NO. 296

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

On page 1498 beginning with line 1 strike out all through line 13 on page 1502.

Mr. KENNEDY. Mr. President, I shall be glad to agree to a 20-minute limitation on this amendment. I invite the attention of the Members.

It is a very simple principle that is involved. Hopefully, we can dispose of the amendment quickly, if that is agreeable to the floor manager.

The PRESIDING OFFICER. Is there objection to a 20-minute time limitation?

Mr. ALLEN. What is the amendment, first?

Mr. KENNEDY. The amendment is to strike section 2004, which provides a 22-percent depletion allowance for geothermal steam, and an intangible deduction for geothermal steam. It affects only, probably, a handful of firms. But it is a basic commentary on this tax bill that the Senate of the United States is now preparing to offer the depletion allowance to a whole new industry. I think it may very well portend serious tax expenditures during the 1970's and 1980's. The revenue loss for 1977 is $7 million, rising to $21 million by 1981.

Mr. FANNIN. Mr. President, will the Senator yield? It will attract a great number of companies, and do not say that it affects four or five. I can give the Senator a list.

The PRESIDING OFFICER. Is there unanimous consent for 20 minutes?

Mr. FANNIN. No objection.

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

The Senator from Massachusetts.

Mr. KENNEDY. Here is what the Treasury says about this section:

The fact of the matter in geothermal energy is that there is only one known field which produces super-heated steam: the Geysers field in California which is already exploited and in use. Geologists believe there may be one other such field in the United States, but the most likely form of geothermal energy will be underground water heated by rocks which, in turn, have been heated by the earth's core. Such sources of geothermal energy are known to exist, but the technology for dealing with dissolved solids and gases is not yet developed. To provide the permanent tax incentives proposed in the bill would thus assure a windfall to present operators of the Geysers and an uncertain benefit for the research and developmental work yet to be completed in the more likely areas of geothermal potential.

The administration position, the Treasury position, is strongly opposed to the enactment of this particular provision.

We know that in 1975 there were only 38 geothermal wells; in 1976, there are 12, which makes 50 so far. As I indicated, they are by established companies.

It is well understood and known where these geothermal fields are. I think this amendment is providing a very substantial windfall to the established firms that are already drilling in these fields. We know the defects of the depletion allowance from the experience of the Senate, which recognized it was not wise or justified for assisting the oil industry. Yet now we extend it to steam.

The section also contains an intangible drilling deduction for steam which again is modeled after the provisions for the oil industry. This particular amendment offers both of those tax benefits, the 22-percent depletion allowance and the intangible drilling deductions.

So I would hope and urge the Members of the Senate to support the amendment.

Again to quote from the Treasury position, they say:

Ironically, while the bill—

They are talking about this complete bill—

would attempt to limit shelters in oil and gas syndication, it opens up a wholly new area of predictable tax abuse by sanctioning expensing of capital outlays of geothermal resource investment, and by exempting from tax 22 percent of the gross income from such investments.

That is the position of the Treasury Department, and I think that is a sound position on this section.

I withhold the remainder of my time.

Mr. FANNIN. Mr. President, the Senator is correct. The Treasury Department through its administrative decision has been holding back production of geothermal steam, and it is shameful. The U.S. Court of Appeals for the Ninth Circuit held that geothermal steam is entitled to depletion under the law as a mineral resource and not as a water resource. We are talking about abiding by what the Federal court decisions have held decisions which Treasury has not been willing to abide by. Consequently, we have not had adequate development of this great resource.

Mr. President, FEA Project Independence states that geothermal energy could replace 1 million barrels of daily oil production by 1985. We are holding it back by the lack of a firm tax policy. We have a chance to go forward with this development by adopting section 2004. It would be shameful for us not to do so.

Now, when we talk about where it can be developed, the geothermal field at Geysers Field in northern California, near San Francisco, is producing 500 megawatts of electricity. Five hundred megawatts are about half of the electricity used by the city of San Francisco.

The Senator from Massachusetts says this is perhaps the only field in this country. Just over the hill there is a geothermal development which is estimated to produce as much as 3,000 megawatts. So what are we talking about? We are talking about areas in New Mexico, along the coastal line of the gulf of Texas and in Louisiana, and many other areas around the country.

So, Mr. President, when the Senator says there is no potential, there is tremendous potential. San Diego Gas & Electric has invested heavily in geothermal sites in the Imperial Valley in southern California. The potential is great for the production of large amounts of electricity at these Imperial Valley sites.

This provision costs relatively little. In 1976 the estimated cost is only $14.8 million, going up in 1980 to $20 million. I hope it is much more, because I hope for much greater development.

Mr. President, we have an opportunity to hold this in the bill and to make this development possible. Geothermal is a clean energy source which should be encouraged by this Congress. Section 2004 represents such an incentive.

Mr. BENTSEN. The Senator from Texas yields 3 minutes to the Senator from California.

Mr. CRANSTON. I thank the Senator for yielding.

I rise to oppose the amendment. Not only California but at least 11 Western States are States that have an opportunity to provide geothermal energy.

The Geysers field in California alone is providing the equivalent now of enough electricity to provide all the needs for the city of San Francisco.

In the West it is estimated that the output can produce what would match the output of 25 large nuclear reactors or the equivalent of 300 million barrels of crude oil.

Rather obviously this is a very significant, a very important, way to move toward a much better energy situation. This happens to be one form of energy that is about as pure environmentally as any that will ever be available to us, with the possible, probable, exception of solar energy.

It is a very costly field to get into, costly field to develop. Assistance is needed or we will not develop this new form of energy, and without clearly established tax incentives, geothermal is at a competitive disadvantage with other available energy resources which now enjoy tax benefits, such as coal, oil, gas and uranium.

If this amendment is adopted, if we delete this section, we will be voting to place on the back burner one of the best hopes we have to move toward energy independence.

I, therefore, urge rejection of the amendment.

Mr. KENNEDY. Mr. President, as has been mentioned by—how much time do I have?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. KENNEDY. I yield myself 3 minutes.

As has been mentioned by the Senator from California and others, this is already a going industry. The cost of this amendment is $7 million in 1977 which will go mostly to existing companies that are already in operation.

There is no provision, as we adopted in the elimination of the depletion allowance, to limit the benefit to the small producers. One of the beneficiaries is Union Oil Co.

If it does make sense in terms of new exploration, then why do we not have at least a proposal with incentives targeted toward exploration?

The fact of the matter is, as the Senator from California has pointed out, there are already existing companies in the field for whom this benefit will be extremely lucrative, yet they are making a substantial profit.

When this matter was before us in 1975, the Senate did not make any decision. We did not say, "There is a problem, there is a sense of urgency, and we have to provide an additional incentive."

At that time we left it for the courts to make the determination.

Suddenly, in 1976 we are bestowing the loophole we refused to grant in 1975—the 22-percent depletion allowance. And we are also adding the intangible drilling deduction, without any real consideration, without attempting to target the relief where it can do the most good, for the small firms, the new explorers, the new development. Make no mistake about it, the benefit of this amendment is going to established firms already in existence today.

They are going to get the benefit of this new tax subsidy. We should have learned our lesson from the oil depletion allowance over the past 25 years. We are creating what I consider to be that same kind of windfall with this amendment.

Come back to us, show us how it can be shaped or structured efficiently to provide incentives for the new exploration, and then I believe we will be doing the will of the Senate.

But now we are simply providing a windfall for existing companies, including some of the oil companies, to enjoy a windfall at the expense of the taxpayer.

Mr. BENTSEN. The Senator from Texas yields 1 minute to the Senator from California.

Mr. CRANSTON. I say that there is only one field in significantly successful production now, that is the Geyser's Field.

There are other fields where there is great potential, they are not presently being developed. The odds are that most of them will not be developed because they happen to be fields that will be more expensive, unless we provide some incentive, as the present language in the tax bill would provide.

The Union Oil Co. may be a company and there may be some other large ones that have a crack at some of these fields. But there are very many small companies working and hoping to have an opportunity to develop these fields and get into this new energy industry development approach.

If we tighten this opportunity, we will be denying many quite small companies an opportunity to compete effectively in a very important field of energy development.

Mr. FONG. Will the Senator yield me 2 minutes?

Mr. BENTSEN. How much time do I have left?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. BENTSEN. I yield 2 minutes to the Senator from Hawaii.

Mr. FONG. Just the other day, Mr. President, the hole at the volcano of Kilauea was opened and there was 60 feet of steam that was generated.

Hawaii, as we know, has no fossil fuel. It is believed that this steam at Kilauea will be able to take care of the Island of Hawaii with 65,000 people.

We also believe if we were to build on Oahu where 700,000 people live, we may be able to strike geothermal energy to take care of our needs in Hawaii.

I think this is a great incentive for new companies to go into that field.

Mr. BENTSEN. Mr. President, I yield myself 1 minute.

The Senator from California makes a very pertinent point in talking about the geothermal industry as being a relatively new industry with a lot of small companies trying to enter the business.

I went to New Zealand's north island where they develop 14 percent of their power from geothermal sources.

Geologists estimate that we have great reserves of geothermal energy. But there is no way to find out for certain without drilling.

A major company can utilize cost depletion but the small independent producer who really needs cash flow has to have the intangible drilling deduction.

I think it it would be absolutely essential to a small company that goes into this business. I do not think it makes that much difference to the major companies that can use a regular cost depletion approach. The small company just cannot keep going, particularly a new one, unless they can have intangible drilling costs charged off to maintain a cash flow to continue to drill.

Mr. KENNEDY. Mr. President, what time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

The point is, Mr. President, if we were considering a section here that was patterned after what we did on the oil depletion allowance, I would not be offering this amendment.

But this is not a small producer's amendment. Some of the people who are going to be taking advantage of this subsidy are the dentists up in Haverhill, Mass., because it will be opening up new tax shelters in geothermal energy, just like tax shelters in oil.

If we had the kind of limitation provided for the oil depletion allowance for the small producers, the 2,000 barrels a day limit, I would not be offering this amendment.

Instead, we are opening up a very significant loophole for the major oil companies to take advantage of this whole opportunity.

That is where we are going with this section and the tax benefits it provides.

Mr. BENTSEN. May I interrupt?

I would agree with the Senator, the dentists ought to stick to their own drilling and not get involved in geothermal.

Mr. KENNEDY. But they will not, because the tax shelters will be just as attractive in steam as in oil.

We are going to find a lot of people drilling in the Internal Revenue Code under this section, unless this amendment is accepted.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. FANNIN addressed the Chair.

Mr. KENNEDY. Mr. President, I withhold that.

Mr. FANNIN. Mr. President, the Senator from Massachusetts talks about large companies being involved in the energy area. Let us talk about small companies such as Geothermal Kinetics which is very much involved at Geyserville, also in Idaho, and in Utah. Earth Power Corp., Geothermal Resources, Inc., and many others are small companies which have been formed to invest in and develop this new industry.

I have a study from the Pacific-Northwest Laboratories of the Battelle Institute, a highly recognized institute. Battelle is one of the highest recognized research institutes in the Nation.

This study points to the need for special tax incentives for geothermal in order to achieve noticeable development of this new energy industry. .

Mr. President, it seems like a very small provision when we talk about $14.8 million in 1976 and $20 million in 1980.

I think this certainly is money well spent.

Mr. PASTORE. Vote.

Mr. BENTSEN. I am prepared to yield back the remainder of my time.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

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

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

The yeas and nays were ordered.

Mr. BENTSEN. I ask unanimous consent it be a 10-minute rollcall vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered, there will be a 10-minute rollcall vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. 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 Virginia (Mr. HARRY F. BYRD, JR.), the Senator from New Hampshire (Mr. DURKIN), the Senator from Kentucky (Mr. FORD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), the Senator from California (Mr. TUNNEY), the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that if present and voting, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona

(Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 24, nays 50, as follows:

[Rollcall Vote No. 463 Leg.]

YEAS—24

Abourezk	Eagleton	Mansfield
Biden	Hart, Gary	Morgan
Brock	Haskell	Nunn
Buckley	Hathaway	Pell
Bumpers	Hollings	Proxmire
Case	Jackson	Stafford
Clark	Kennedy	Stevenson
Culver	Leahy	Taft

NAYS—50

Allen	Glenn	Muskie
Baker	Gravel	Packwood
Bartlett	Griffin	Pastore
Bellmon	Hansen	Pearson
Bentsen	Hatfield	Percy
Burdick	Hruska	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Cannon	Javits	Roth
Chiles	Johnston	Schweiker
Church	Laxalt	Scott, Hugh
Cranston	Long	Sparkman
Dole	Magnuson	Stone
Domenici	McClellan	Thurmond
Eastland	McGee	Tower
Fannin	McIntyre	Williams
Fong	Montoya	Young
Garn	Moss	

NOT VOTING—26

Bayh	Hartke	Scott,
Beall	Helms	William L.
Brooke	Humphrey	Stennis
Byrd,	Inouye	Stevens
Harry F., Jr.	Mathias	Symington
Curtis	McClure	Talmadge
Durkin	McGovern	Tunney
Ford	Metcalf	Weicker
Goldwater	Mondale	
Hart, Philip A.	Nelson	

So Mr. KENNEDY'S amendment was rejected.

Mr. BENTSEN. Mr. President, the next vote will be the final vote for the evening, and will be on the title of the bill, and we will defer until tomorrow sections 2002 and 2006 to title XX.

The PRESIDING OFFICER. The Senate is not in order. Senators will please take their seats.

Mr. BENTSEN. We will be voting on title XX. I ask unanimous consent that it be a 10-minute rollcall.

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Mr. President, reserving the right to object, did the Senator from Texas say we would be voting on title XX with the exception of section 2002?

The PRESIDING OFFICER. The Senator is correct.

Mr. BENTSEN. That is as stated by the Senator from Texas, that we are not voting on sections 2002 and 2006, and title XX would be voted on as if they were not in it, and they will be voted on tomorrow.

The PRESIDING OFFICER. The question is on agreeing to committee amendment No. 30, which is title XX minus the two sections cited, section 2002 and section 2006.

The question is on agreeing to the amendment.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BARTLETT. Regular order, Mr. President.

The rollcall was concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from New Hampshire (Mr. DURKIN), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator fom Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 73, nays 2, as follows:

[Rollcall Vote No. 464 Leg.]

YEAS—73

Abourezk	Fong	McGee
Allen	Garn	McIntyre
Baker	Glenn	Montoya
Bartlett	Gravel	Morgan
Bellmon	Griffin	Moss
Bentsen	Hansen	Muskie
Brock	Hart, Gary	Nunn
Buckley	Hartke	Packwood
Bumpers	Hatfield	Pastore
Burdick	Hathaway	Pearson
Byrd, Robert C.	Hollings	Pell
Cannon	Hruska	Percy
Case	Huddleston	Proxmire
Chiles	Jackson	Randolph
Church	Javits	Ribicoff
Clark	Johnston	Roth
Cranston	Kennedy	Schweiker
Culver	Laxalt	Scott, Hugh
Dole	Leahy	Sparkman
Domenici	Long	Stafford
Eagleton	Magnuson	Stevenson
Eastland	Mansfield	Stone
Fannin	McClellan	Taft
Thurmond	Williams	Young
Tower		

NAYS—2

Biden	Haskell

NOT VOTING—25

Bayh	Hart, Philip A.	Nelson
Beall	Helms	Scott,
Brooke	Humphrey	William L.
Byrd,	Inouye	Stennis
Harry F., Jr.	Mathias	Stevens
Curtis	McClure	Symington
Durkin	McGovern	Talmadge
Ford	Metcalf	Tunney
Goldwater	Mondale	Weicker

So committee amendment No. 30, title XX, less sections 2002 and 2006, was agreed to.

ADDITIONAL STATEMENT SUBMITTED

Mr. JAVITS. Mr. President, last Friday, July 30, the Department of Labor and the Internal Revenue Service issued proposed regulations to guide the adoption and use of employee stock ownership plans covered under the Employee Retirement Income Security Act and under the Tax Reduction Act of 1975. The Tax Reform Act of 1976 would make permanent and double the present 1-percent investment tax credit-ESOP covered under the proposed regulations. I believe the regulations directly bear upon the amendment which I will call up tomorrow on behalf of myself, Senator HUMPHREY, and Senators PERCY, MUSKIE, PROXMIRE, and KENNEDY.

I ask unanimous consent to have printed in the RECORD, the Wall Street Journal account of the nature and purpose of the ESOP regulations which appeared in yesterday's edition.

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

[From the Wall Street Journal, Aug. 2, 1976]

U.S. AGENCIES PROPOSE RULES TO PREVENT ABUSES IN EMPLOYE STOCK OWNERSHIP PLANS

WASHINGTON.—The government moved to prevent potential abuses of a popular new investment device, the employe stock ownership plan.

Congress encouraged such plans, called ESOPs, in 1974 by exempting them from certain prohibitions in the new federal pension law if they meet certain conditions. Sen. Russell Long (D., La.), chairman of the Senate Finance Committee and a long-time champion of the plans, also has encouraged them through amendments to other federal legislation.

Some companies find the plans attractive because they generate tax advantages to arranging corporate financing and increase employe ownership in company stock. However, the Labor Department and the Internal Revenue Service have been concerned that, instead of providing retirement benefits, some ESOPS may expose workers to unnecessary risks by investing in companies with uncertain futures. They also worry that some owners may design ESOPs mainly to benefit themselves rather than employes.

To cope with such problems, the two agencies Friday published in the Federal Register proposed regulations setting limits on ESOP investments and operations. They asked for public comment by Sept. 30.

SENSITIVE TRANSACTIONS

ESOP transactions are particularly sensitive because they involve dealings in which both employer and employes have a special interest. For example, an ESOP might invest in the employer's securities with proceeds from a loan guaranteed by the employer. Or an employer might sell securities to an ESOP, instead of making a public offering, and

achieve considerable tax savings. The pension law prohibits most pension plans from entering into such transactions, but specifically authorizes the ESOPs to do so.

The proposed regulations seek to assure that employe interests will be protected in such intimate dealings with employers. For example, employer loans, or loan guarantees, to an ESOP would be permitted only if the transactions were arranged and approved by an independent third party acting on behalf of the employe plan.

The regulations also require that any loan made to an ESOP must be primarily for the benefit of the plan participants and beneficiaries rather than merely for the benefit of the employer.

Some ESOP critics have been concerned that retired employes wouldn't find a market for closely held stock they had received during their working years. Therefore, the new regulations propose that after Sept. 30 employes must be assured of a market for such stock for two years after they receive it, usually at retirement. The provision requires that the option to sell provide at least the "fair market value" of the securities.

BUYING BACK SECURITIES

In addition, the proposed regulations would prevent employers from insisting on the right to buy back securities from an ESOP before the securities are offered for sale elsewhere.

Both the two-year sell option and the ban on right-of-first-refusal would reverse interpretations of the 1974 pension law issued last fall by the Labor Department and the IRS.

The agencies also proposed to limit ESOP transactions involving life-insurance proceeds. The regulations would prohibit a company's owner from arranging for an ESOP to purchase life insurance on the owner's life with the proceeds at death to be used to buy the owner's stock.

Other regulations seek to prevent a company from selling to an ESOP stock that is inferior because of reduced dividend rights or limited voting rights.

Mr. JAVITS. The Journal reporter believes that the regulations were issued because "some ESOP's may expose workers to unnecessary risks by investing in companies with uncertain futures." The article goes on to explain the need for caution where ESOP's are used as conduits for loans to companies. In many cases, ESOP's are used because of the tax advantages and financing possibilities they afford to companies. The Labor Department and the Internal Revenue Service have recognized and have attempted to limit the potential for abuse that exists whenever ESOP's are utilized for corporate financing, estate planning, or divestiture purposes.

Such risks to which employees may be exposed were outlined in our "Dear Colleague" letters and in my statement upon introduction of our amendment.

The scope of the regulations indicates that the dangers to the employees are genuine, but I am concerned that this area is too complex and the potentials for abuse of ESOP's are too insidious to be handled by regulations alone. Only after receipt of public comment on these regulations will we be in a position to consider permanent incentives. Indeed, after public comment, we may see the need for broad and supplemental legislation containing new safeguards for employees participating in stock ownership plans.

The regulations affirm that much remains to be learned about the ESOP mechanism and its potential benefits and abuses. We must go forward in studying ESOP and all the other alternatives for broadening employee stock ownership before closing the door with permanent tax provisions. I propose that the relevant committees of Congress use their own expertise to investigate and examine the different vehicles for expanded stock ownership. Only upon conclusion of that examination will comprehensive and permanent legislation be in order.

The wide scope of the regulations indicates also that much work still must be done by Congress before we make permanent incentives for one particular plan. The public has been asked to comment on the proposed regulations by September 30, and of course, no one knows what will surface by that date. In any case, it is apparent that enactment of permanent legislation, such as that contained in the Tax Reform Act, and in the form of an amendment to a tax bill, would be premature and imprudent.

I might add that one of the regulations proposed for Investment Tax Credit ESOP's is particularly germane to our amendment. Some have maintained in support of the permanency provisions of the ESOP tax credit contained in the Tax Reform Act, that companies will not adopt ESOP's unless they can be certain the tax benefit will be continued permanently, since the law requires continuing contributions to such plans. The proposed regulations would permit a company to satisfy the permanency standard as long as it contributes the tax credit proceeds in the years the credit is available and in which the company qualifies for it. The regulations state:

(ii) Permanence. A TRASOP will not fail to be a permanent plan merely because employer contributions are not made for a year for which the 11-percent credit is not available.

This means that a company may establish a tax credit ESOP under our amendment, transfer its allowable amount of tax credit to the plan this year and, if the ESOP tax credit is not extended after 1977, never again have to make another contribution. Certainly, then, the regulations eliminate the reason given by the Finance Committee for immediate, permanent ESOP tax credit extension.

I urge my colleagues to obtain a copy of the Federal Register of Friday, July 30, and to examine the comprehensive regulations that have been proposed.

The proper course available to us at this time, therefore, is to give ESOP the benefit of the doubt, extend the credit for 1 more year at 1 percent, and begin as soon as possible the task of conducting hearings and drafting legislation on employees stock ownership an essential area of national economic policy.

CLEAN AIR AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the Allen amendment to the Randolph amendment to the Clean Air Act, with the understanding that the distinguished Senator from Alabama will modify his amendment, which he intends to do.

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

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

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

The yeas and nays were ordered.

TAX REFORM ACT OF 1976

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

UP AMENDMENT NO. 297

Mr. LONG. Mr. President, I was informed by Senator KENNEDY and those who worked with him on the Kennedy amendment which was agreed to earlier today that the amendment is in need of some technical correction. I ask unanimous consent that the amendment be modified as indicated in the amendment I sent to the desk.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes technical amendments numbered 297.

The amendments are as follows:

On page 1495:
On line 21, strike "1987" and insert "1980".
On page 1476:
On line 3, strike "1987" and insert "1980".
On line 16, strike "1981" and insert "1979".
On line 17, strike "1982" and insert "1980".
On line 17, strike "1986" and insert "1981".
On line 18, strike "1987" and insert "1982".
On line 18, strike "1982" and insert "1980".
On page 1487:
On line 8, strike out "1982" and insert "1980".
On line 11, strike out "1982" and insert "1980".
On line 14, strike out "1987" and insert "1980".
On line 18, strike out "1982" and insert "1980".
On line 17, strike out "and (4)" and insert in lieu thereof ", (4), (5), (6), and (9)".
On line 20, strike out "(5), (6), (7), (8), and (9)" and insert in lieu thereof "(7)".
On line 21, strike out "1987" and insert "1982".

Mr. LONG. Mr. President, my understanding is that Senator KENNEDY wants to modify it that way, and I ask unanimous consent that it be so modified.

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

UP AMENDMENT NO. 298

Mr. HATHAWAY. Mr. President, I ask unanimous consent to reconsider amendment No. 279, an unprinted amendment, and substitute therefor the Stevens-Hathaway amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY), on behalf of Mr. STEVENS, Mr. MUSKIE, Mr. KENNEDY, Mr. MCINTYRE, Mr. DURKIN, and

himself, proposes unprinted amendment No. 298.

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

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

The amendment is as follows:

On page 333, after line 12, strike Sec. 808 (as added by unprinted amendment No. 279) and in lieu thereof the following:

SEC. 808. Small Fishing Vessel Construction Reserves.—In addition to any other vessel which may be deemed an "eligible vessel" and a "qualified vessel" under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), a commercial fishing vessel under five net tons but not under two tons—

(1) which is constructed in the United States and, if reconstructed, is reconstructed in the United States;

(2) which is owned by a citizen of the United States;

(3) which has a home port in the United States, and

(4) which is operated in the commercial fisheries of the United States,

shall be considered to be an "eligible vessel" and a "qualified vessel" for the purposes of such section 607.

Mr. HATHAWAY. This is simply to correct a technical error that was made in the amendment when it was offered and accepted by the Senate last Friday. I have discussed it with the floor manager of the bill, and I believe he is in agreement with it.

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

VETO MESSAGE—S. 2447, TO AMEND TITLE IV OF UNITED STATES CODE

The PRESIDING OFFICER. The Chair lays before the Senate the President's veto message on S. 2447, which the clerk will report, and it will be spread in full upon the Journal.

The legislative clerk read as follows:

Veto message on S. 2447, an act to amend title IV of the United States Code to make it clear that Members of Congress may not, for the purpose of State income tax laws, be treated as residents of any State other than the State from which they were elected.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message remain at the desk pending further action thereon.

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

The message from the President is as follows:

To the Senate of the United States:

I am returning today without my signature S. 2447, which would exempt Members of Congress from certain local income taxes. This bill provides that a Member of Congress need not pay the income tax levied by a state or municipality in which the Member lives for the purpose of attending Congress.

Since Virginia and District of Columbia laws already exempt from payment of their income taxes Members living in such jurisdictions only while attending Congress, S. 2447 would serve principally to prevent Maryland from levying such taxes on Members of Congress. However, it is one thing for a taxing jurisdiction voluntarily to exempt Members of Congress from its income tax laws and quite another for Congress to mandate a Federal exemption on a state income tax system. I believe such Federal interference is particularly objectionable where, as is the case in Maryland, a portion of the income tax is collected on behalf of counties to pay for local public services which all residents use and enjoy. It should also be noted that this bill would in effect freeze the exemptions now provided by Virginia and the District of Columbia, and they would then be powerless to change their tax laws in this regard.

Since this bill benefits a narrow and special class of persons it violates, in my view, the basic concept of equity and fairness by creating a special tax exemption for Members of Congress while other citizens who are required to take up temporary residence in the Washington area—or elsewhere—do not enjoy a similar privilege.

Finally, those who assert that there is a Constitutional infirmity in applying a state income tax to Members while attending Congress may present the issue to the courts for resolution.

As the end of this session of Congress approaches, the American people would be better served if Congress would direct its attention to the important laws that should be passed this year—to cut taxes and spending; to expand catastrophic health care programs; to limit court ordered school busing; to attack crime and drugs; and to address many other important matters of concern to the American people—rather than by enacting legislation such as S. 2447.

For these reasons, I am returning S. 2447 and asking Congress to reconsider this bill.

GERALD R. FORD.

THE WHITE HOUSE, *August 3, 1976.*

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

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

RESOLUTION COMMENDING THE U.S. OLYMPIC TEAM

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 503) commending the United States Olympic team for its excellent record of achievement at the Olympic Games in Montreal.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

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

Mr. KENNEDY. Mr. President, I am extremely pleased to introduce a resolution commending the U.S. Olympic team for its excellent record of achievement at the XXI Olympiad in Montreal.

For the past several weeks the American people were treated to the majesty of Olympic competition in the finest tradition of these ancient games. From each nation came athletes whose commitment to fair competition and sportsmanship transcended national barriers to rekindle the ancient spirit of the Olympiad.

The skill and courage displayed by the U.S. Olympic team brought more to the American people than the 94 medals that were won by our athletes. The U.S. team brought lasting honor to the United States, and their fine performance warrant the commendation of a grateful nation.

Coming from every corner of our country, our competitors displayed the best traditions of the American people. Whether we were in Montreal or here at home, all Americans experienced over and over again the thrill of victory as well as the agony of defeat. And while I cannot do justice in these short paragraphs to the endless stories emerging from Montreal, it is important that we recognized their long record of successes.

We take great pride in the performance of the U.S. men's and women's basketball teams. And while we held greater hopes for our track and field team—they gave their best, and are no less deserving of our appreciation.

In the swimming competition, the names of young American swimmers will remain with us for years to come. Men like Jim Nabor and Jim Montgomery, and all the others who snapped up 27 of 35 available medals leaving a trail of broken world records in their wake.

The list of victories is almost endless. In track, in wrestling, in boxing and gymnastics, in every major event the American team excelled.

From my home State of Massachusetts comes one young man deserving of special recognition. Gymnast Peter Kormann won the bronze medal in the floor exercise with a daring performance that ended a 44 year American individual medal drought in men's gymnastics. I know he will bring additional honor to this sport in the years ahead.

I also take great pride in the record of achievement displayed by young athletes from my State who were on the U.S. Olympic team.

Dorothy Morkas of Raynham won a bronze medal in the equestrian team dressage.

Susan Rojcewicz of Worcester was a member of the outstanding U.S. women's basketball team which won a silver medal in this competition.

Anne Warner of Lexington received a bronze medal as a member of the U.S. women's rowing team of eight.

And from throughout Massachusetts there were others on the U.S. Olympic team. John Everett of South Easton, rowing; David Fellows of Wayland, captain of the U.S. rowing team; Elizabeth Hills of Hingham, and Nancy Storrs, rowing; Gary Piantedosi of Burlington, rowing; William Rodgers of Melrose, who gave his best in the gruelling marathon; and David Weinberg of Newton, rowing.

There were many more who trained in Massachusetts and who went to school in

my home State. They too deserve the commendation of the American people.

But as we take great pride in the record of our entire U.S. Olympic Team, it is fitting that we recall the ancient words of Socrates which serve as an inspiration for the Olympiad even now. Socrates said:

I am a citizen not of Athens, nor of Greece, but of the whole world—the world is my parish.

This universal spirit is truly reflected in the feelings of the athletes themselves toward the Olympic games, and we all have much to learn not only from their sacrifice, but also from the hopes they have for the future of the Olympiad.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 503) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 503

Resolved,

Whereas, the courage, sacrifice, and skill displayed by The United States Olympic Team at the XXI Olympiad in Montreal has brought great pride to our nation, and

Whereas, our nation's gifted athletes displayed the highest degree of sportsmanship—reflecting the time-honored tradition of the ancient Olympiad, and

Whereas, the United States Olympic Team won 94 medals in major events, demonstrating the best athletic heritage of America; and

Whereas, each member of the United States Olympic Team represented the finest spirit of international cooperation and peace in lasting tribute to the Olympic Games and the American people;

Therefore, be it resolved that the Senate of the United States commends the entire United States Olympic Team and the United States Olympic Committee for the outstanding achievements of the American athletes at the XXI Olympiad held in Montreal, Canada

Resolved further, That the Secretary of the Senate be authorized to transmit a copy of this Resolution to the United States Olympic Committee.

SENATE RESOLUTION 504—RESOLUTION RELATING TO THE BIRTHDAY OF PRESIDENT BOURGUIBA OF TUNISIA

Mr. PERCY. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

Mr. PERCY. Mr. President, I ask unanimous consent that reading be dispensed with.

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

Mr. PERCY. Mr. President, I simply would like to report that earlier today, the Committee on Foreign Relations unanimously reported this resolution. In view of the timely nature of it, I very much appreciate the leadership's willingness to have it considered immediately.

Mr. ALLEN. Mr. President, reserving the right to object, what is the resolution?

Mr. PERCY. The resolution, I say to the distinguished Senator from Alabama, concerns the relationship between Tunisia and the United States.

Today is the birthday of President Bourguiba. He is in his fourth term as President of Tunisia. We have had a long and constructive and friendly relationship between the United States and Tunisia. As the distinguished Senator knows, it is considered, in the minds of the Senator from Illinois and the members of the Committee on Foreign Relations, desirable to confirm our long-standing friendship with Tunisia, the desire for peace in the area, and the desire to see Tunisia continue in its sovereign independence in the program that it has embarked upon.

Mr. ALLEN. Mr. President, reserving the right to object—and I do not want to object, I should like to suggest the absence of a quorum in order that I may look at the resolution.

Mr. ROBERT C. BYRD. Will the Senator withdraw the suggestion while we transact some other business and lay this matter aside temporarily?

Mr. ALLEN. Yes.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action on the resolution by Mr. PERCY be temporarily laid aside and that the Senate go into executive session to consider the nomination of Mr. John W. Eden, of Pennsylvania, to be Assistant Secretary of Commerce.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

THE DEPARTMENT OF COMMERCE

The assistant legislative clerk read the nomination of John W. Eden, of Pennsylvania, to be an Assistant Secretary of Commerce.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

REQUEST THAT H.R. 13489 AND H.R. 14580 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 13489, and H.R. 14580 be held at the desk pending further disposition.

Mr. ALLEN. Mr. President, reserving the right to object, what was that request?

Mr. ROBERT C. BYRD. I asked that H.R. 13489 and H.R. 14580 be held at the desk pending further disposition.

Mr. ALLEN. What are those measures?

Mr. ROBERT C. BYRD. These are antitrust bills passed by the other body.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet on August 4 to consider several items of legislation; that the Committee on Armed Services be permitted to meet on August 5 to consider certain nominations; that the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs be authorized to meet on August 6 to authorize the establishment of the Congaree Swamp National Preserve in the State of South Carolina; that the Manpower and Personnel Subcommittee of the Committee on Armed Services be authorized to meet on August 4, 5, 6, and 9 relative to promotions for officers in the armed services and the honor code and overall discipline problems at the Military Academy.

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

The PRESIDING OFFICER. May I ask the Senator from West Virginia if he will include in that unanimous-consent request a meeting of the Subcommittee on African Affairs at 10 o'clock tomorrow morning?

Mr. ALLEN. I object.

The PRESIDING OFFICER. I am told that it has already been entered.

SENATE RESOLUTION 504—RELATING TO THE BIRTHDAY OF PRESIDENT BOURGUIBA OF TUNISIA

The Senate continued with the consideration of the resolution (S. Res. 504) expressing the sense of the Senate regarding U.S. relations with Tunisia on the occasion of the birthday of President Bourguiba.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 504) expressing the sense of the Senate regarding United States relations with Tunisia on the occasion of the birthday of President Bourguiba.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. PERCY. Mr. President, to the knowledge of the Senator from Illinois, there is no objection to the immediate consideration of the resolution that is pending at the desk now.

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

Mr. PERCY. Mr. President, on the occasion of the birthday of President Habib Bourguiba of Tunisia, and in recognition of the constructive and friendly relationship between the United States and Tunisia, I am at this time offering a concurrent resolution expressing the sense of Congress regarding U.S. relations with Tunisia. I am pleased to share the sponsorship of this resolution with the

distinguished Senator from Minnesota (Mr. HUMPHREY).

President Bourguiba is well known to the U.S. Government and to the American people as a responsible leader of his country which has played a constructive international role while pursuing a domestic policy of progress in the economic and social spheres. Recently, on a private visit to Tunisia, I met with President Bourguiba and was favorably impressed with his determination to build, improve and defend his country.

I find of special interest two farsighted policies of the Tunisian Government. Since achieving independence in 1956, the country has devoted 35 percent of its national budget to education. And the first law passed by the new Tunisian Government provided equal rights for women.

Tunisia also pursues its economic development with a view to the future well being of its citizens. During the fourth economic plan period, 1973–76, an average annual growth rate of 6.2 percent has been attained. Now, looking toward the fifth economic plan period, 1977–81, a growth rate of 7.5 percent has been targeted.

Among projects foreseen for the fifth plan period are the development of manufacturing facilities for phosphates and nitrogen fertilizers, natural gas production, increases in iron smelting and metallurgy, the building of cement plants, and improvement in the agricultural infrastructure, the transportation system and educational and health facilities.

The Tunisian Government projects that the fifth plan will require 28.5 percent foreign funding, and I am sure that the United States will wish to contribute appropriate amounts of assistance, as we always have, recognizing that Tunisian stability has been beneficial to peace in North Africa and that economic and social progress in Tunisia are important ingredients of Tunisian stability.

On President Bourguiba's birthday, we congratulate him on the progress already achieved in his country and assure him of our continuing interest in Tunisia's development. We are very pleased with the healthy state of Tunisian-American relations.

Mr. President, the Senate Foreign Relations Committee earlier today voted out unanimously this resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 504) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 504

Whereas August 3 marks the birthday of Habib Bourguiba, who has served as President of his country since independence in 1956 and is now in his fourth constitutionally elected term of office;

Whereas the years of President Bourguiba's tenure have been characterized by peaceful relations with neighboring states and by a close and friendly relationship with the United States;

Whereas the President and people of Tunisia share with the United States the ideals and goals of peace and undisturbed economic progress in an atmosphere of freedom;

Whereas Tunisia under President Bourguiba has achieved a commendable measure of peaceful economic development through the effective combined use of domestic and international resources: Now, therefore, be it

Resolved, That it is the sense of the Senate that for these reasons President Bourguiba should be honored for his wise and courageous leadership of Tunisia through nearly two decades.

SEC. 2. It is the sense of the Senate that the continuation of Tunisia's economic and social development in circumstances of peace, liberty, and independent sovereignty is important for the stability of the Mediterranean area and for the interest of the United States.

SEC. 3. It is the sense of the Senate that the United States should continue to contribute to the maintenance of peace and the economic and social development of Tunisia through the provision of appropriate levels of economic and military assistance.

SEC. 4. The Secretary of the Senate is directed to transmit a copy of this resolution to the Secretary of State for appropriate transmission.

Mr. PERCY. I thank my distinguished colleague. I thank the leadership for its consideration.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

REPORT OF THE FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am transmitting herewith the Annual Report of the Federal Council on Aging, together with two studies undertaken by the Council as required by sections 205(f–h) of the Older Americans Act (P.L. 93–29).

Last year I indicated that I was looking forward to receiving then two studies from the Federal Council on Aging. The Council recognized its responsibilities and undertook the task in a forthright manner. I appreciate the fine work that the Council has done, particularly with the severe time constraints imposed upon it.

The Council's report and studies provide documentation, from the viewpoint of our elderly citizens, which support the need for legislation along the lines of my proposed Financial Assistance for Health Care Act and the Income Assistance Simplification Act which I will be proposing shortly. My proposals would permit both Federal and State programs to be simplified and integrated into a coordinated system that would best meet the needs of our citizens.

COUNCIL RECOMMENDATIONS

With respect to the Supplemental Security Income (SSI) program, the Council has recommended in its program report that legislation be passed that mandates continuance of a specific State supplementation for certain recipients. The Federal Government took over this program from the States on January 1, 1974, and provided a basic payment level to recipients. For those individuals who received benefits under the State programs in December 1973 that were larger than the basic Federal payment level, and who continue to be eligible for SSI, States are required to supplement the basic Federal payment up to the level of the December 1973 payment to such recipients. The requirement does not apply to new recipients who become eligible after December 1973. The Council's legislative proposal would require that the size of the State supplementation to recipients carried over from the State programs on January 1, 1974, could not be reduced. Thus, whenever the basic Federal payment level is increased, this proposal would allow States to continue to maintain a disparity in the benefits for the carried-over recipients versus those recipients who came on the rolls after December 1973—a disparity equal to the amount of the original State supplementation.

Adoption of this recommendation would have two effects. First, it would dictate to the States how they should spend the taxes they assess on their residents. Such action would distort the original concept of the program of separate but complementary roles of the States and the Federal Government. Second, it would require the States to maintain payments to people based on the date they started receiving assistance, even though other residents of the States may have equivalent needs and incomes.

The Council also recommends that the Veterans' Administration (VA) be directed to study the problem of benefit reduction rates caused by simultaneous receipt of benefits from pensions for veterans with nonservice-connected disabilities and other Federal programs. We share the concern of the Council. This problem is being studied by the Veterans' Administration within the context of total reform of the veterans' pension program. The Agency has discussed pension reform with both the House and Senate Veterans' Affairs Committees, and is committed to continuing these discussions with Congress this year. The relationship of veterans' pensions to other Federal benefits can best be addressed in the course of these discussions.

To assess the tax burden on the elderly, the Older Americans Act also required the Council to undertake a study of the combined impact of all taxes on the elderly. Since many of the tax recom-

mendations of the Council are directed toward State and local government, consistent with the enabling authority I am also transmitting this study to the Governors and legislatures of the States for their consideration.

In recognition of the Bicentennial and the many contributions made by older Americans to the welfare of the Nation, the Council's annual report requests the promulgation of a Bicentennial Charter for Older Americans. I have asked Secretary Mathews of the Department of Health, Education, and Welfare, in consultation with the Administration on Aging, to promote discussion of these vital matters at forums of older persons organized by Advisory Committees to the Area Agencies on Aging.

The Federal Council on Aging Annual Report and attendant studies reflect an earnest effort to deal with the lack of equity and efficiency in the present patchwork of income security programs. This unfortunate situation, which has developed over the years, presents problems not only to the elderly and other population groups, but to the taxpayer who must pay the added costs resulting from such inefficiency. My legislative proposals reflect careful consideration of how best to resolve these issues, and I urge prompt action on them by the Congress.

Additional mention should be made of the substantial contribution of the two studies undertaken by the Federal Council on Aging. The efforts of those that participated in the studies will contribute to our effort to provide necessary income and services to our less fortunate elderly citizens in an efficient manner.

These reports will be sent for review and analysis to those Federal agencies serving older persons. After this review, decisions on the recommendations contained in the Council's report will be reflected in future legislative proposals and administrative actions of this Administration.

GERALD R. FORD.

THE WHITE HOUSE, *August 3, 1976.*

PROPOSED FOREIGN PAYMENTS DISCLOSURE ACT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce:

To the Congress of the United States:

Certain improper activities abroad undertaken by some American corporations have resulted in an erosion of confidence in the responsibility of many of our important business enterprises. In a more general way, these disclosures tend to destroy confidence in our free enterprise institutions.

With this in view, I established the Task Force on Questionable Corporate Payments Abroad on March 31, 1976, and directed it to undertake a sweeping policy review of approaches to deal with the questionable payments problem. On June 14, after reviewing an interim report of the Task Force, I directed the Task Force to develop, as quickly as possible, a specific legislative initiative calling for a system of reporting and disclosure to deter improper payments.

Today, I am transmitting to the Congress my specific proposal for a Foreign Payments Disclosure Act. This proposal will contribute significantly to the deterrence of future improper practices and to the restoration of confidence in American business standards.

This legislation represents a measured but effective approach to the problem of questionable corporate payments abroad:

—It will help deter improper payments in international commerce by American corporations and their officers.

—It will help reverse the trend toward allegations or assumptions of guilt-by-association impugning the integrity of American business generally.

—It will help deter would-be foreign extorters from seeking improper payments from American businessmen.

—It will allow the United States to set a forceful example to our trading partners and competitors regarding the imperative need to end improper business practices.

—It does not attempt to apply directly United States criminal statutes in foreign states and thus does not promise more than can be enforced.

—Finally, it will help restore the confidence of the American people and our trading partners in the ethical standards of the American business community.

The legislation will require reporting to the Secretary of Commerce of certain classes of payments made by U.S. businesses and their foreign subsidiaries and affiliates in relation to business with foreign governments. The reporting requirement covers a broad range of payments relative to government transactions as well as political contributions and payments made directly to foreign public officials. By requiring reporting of all significant payments, whether proper or improper, made in connection with business with foreign governments, the legislation will avoid the difficult problems of definition and proof that arise in the context of enforcement of legislation that seeks to deal specifically with bribery or extortion abroad.

The Secretary of Commerce will, by regulation, further define the scope of reporting required. Small or routine payments will be excluded, as will certain clearly *bona fide* payments such as taxes. Reports will include the names of recipients.

Reports will be made available to the Departments of State and Justice as well as to the Internal Revenue Service and the Securities and Exchange Commission. The Department of Justice and the State Department will, in appropriate instances, relay reported information to authorities in foreign jurisdictions to assist them in the enforcement of their own laws.

Reports also will be made available to appropriate congressional committees. All reports would be made available to the public 1 year from the date of their filing, except in cases where a specific written determination is made by the Secretary of State or the Attorney General that considerations of foreign policy or judicial process dictate against disclosure.

This proposed legislation is intended to complement and supplement existing laws and regulations which can affect questionable corporate payments abroad.

In this regard, I wish to recognize and build upon the fine record of the Securities and Exchange Commission. The Commission already has taken prompt and vigorous action to discover questionable or illegal corporate payments and to require public disclosure of material facts relating to them. Moreover, as the Commission has noted, public disclosure of matters of this kind generally leads to their cessation. In virtually all the cases reported to the Commission, companies discovering payments of this kind have taken effective steps to stop them and to assure that similar payments do not recur in the future.

A principal emphasis of the Commission's activities in this area has been to prompt the private sector to take actions that would restore the integrity of the existing system of corporate governance and accountability. I applaud this approach and expect the Secretary of Commerce to follow the same spirit in administering this new legislation.

However, not all firms engaged in international commerce are regulated under the securities laws and are subject to the disclosure requirements of the Commission. The Commission requires disclosure of payments only when necessary or appropriate for the protection of investors. Further, it has not generally required reporting of the name of a recipient, a requirement which I believe can be an important deterrent to extorters. In addition, the Commission's system of disclosure—focusing as it does primarily on the interests of the investing public—is not designed to respond to some of the broader public policy and foreign policy interests related to the questionable payments problem.

Accordingly, the legislation which I am proposing deals with *all* U.S. participants in foreign commerce—not just firms subject to Commission regulatory requirements—and it calls for the active involvement of the Secretaries of State and Commerce and the Attorney General in administering a system which addresses the full range of public policy interests inherently involved in the questionable payments problem.

The Secretary of Commerce will take every feasible step to minimize the reporting burdens under this new legislation. The legislation directs the Secretary to consult with other federal agencies to eliminate duplicative reporting. Where appropriate, agencies are authorized to combine reporting and recordkeeping in single forms.

In this regard, I also wish to recognize and build upon the Securities and Exchange Commission's acknowledged expertise in financing reporting. Persons subject to the Commission's jurisdiction must maintain books and records that

are sufficient to provide data the Commission believes should be disclosed. The requirement that persons subject to SEC jurisdiction maintain adequate books and records is now implicit in existing law; the legislation recommended by the Commission, which the Task Force and I support, would make that requirement explicit. It is contemplated that the Commission will take further steps to assure that companies it regulates maintain adequate systems of internal accounting controls. Thus, it may well be unnecessary for the Secretary of Commerce to impose additional recordkeeping requirements on companies regulated by the Commission to enable compliance with the proposed legislation.

We remain mindful that the questionable payments problem is an international problem which cannot be corrected by the United States acting alone. Consequently, we are continuing our efforts to secure an international agreement which will establish a mutually acceptable framework for international cooperation in eliminating improper business practices.

The legislation I am proposing today can contribute in an important way to the restoration of confidence in America's vital business institutions. I urge its prompt consideration and enactment by the Congress.

GERALD R. FORD.

THE WHITE HOUSE, *August 3, 1976.*

MESSAGES FROM THE HOUSE

At 12:25 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed without amendment the following bills:

S. 537. An act to improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes; and

S. 1526. An act to make additional funds available for purposes of certain public lands in northern Minnesota, and for other purposes.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 13297. An act to amend title 5, United States Code, to provide for the application of city withholding taxes to Federal employees who are residents of such city;

H.R. 13489. An act to amend the Antitrust Civil Process Act to increase the effectiveness of discovery in civil antitrust investigations, and for other purposes; and

H.R. 14469. An act to permit agreement providing special pay to physicians and dentists in the Veterans' Administration to be entered into until October 1, 1977.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 3589. An act to designate the Federal office building located in Manchester, New Hampshire, as the "Norris Cotton Building."

The enrolled bill was subsequently signed by the President pro tempore.

At 1:10 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House had passed the following bills in which it requests the concurrence of the Senate:

H.R. 5161. An act to amend section 451 of the Internal Revenue Code of 1954 to provide for a special rule for the inclusion in income of magazine sales for display purposes;

H.R. 10101. An act to amend the Internal Revenue Code of 1954 to exempt certain aircraft museums from Federal fuel taxes and the Federal tax on the use of civil aircraft, and for other purposes;

H.R. 13676. An act to establish in the Energy Research and Development Administration an Energy Extension Service to oversee the development and administration of State plans for the development, demonstration, and analysis of energy conservation opportunities, and the development of programs to encourage the acceptance and adoption of energy conservation opportunities by energy consumers; and

H.R. 14360. An act to amend the John F. Kennedy Center Act to authorize funds for repair, reconstruction, and for other purposes.

At 3:05 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (H.R. 14580) to amend the Clayton Act to provide for premerger notification and waiting requirements, and for other purposes, in which it requests the concurrence of the Senate.

At 4:36 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14234) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 10, 36, and 40 concurs therein; and that the House recedes from its disagreement with the amendments of the Senate numbered 3, 7, 12, 26, 27, and 61, and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator of Federal Energy transmitting, pursuant to law, a report on the Crude Supply Alternatives for the Northern Tier States (with an accompanying report); to the Committee on Appropriations.

PROPOSED LEGISLATION BY THE SMALL BUSINESS ADMINISTRATION

A letter from the Administrator of Small Business transmitting a draft of proposed legislation to amend the Small Business Act (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator of Federal Energy transmitting, pursuant to law, a report entitled "The Exploration, Development, and Production of Naval Petroleum Reserve Number 4" (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED RESEARCH PROJECTS BY THE DEPARTMENT OF THE INTERIOR

Two letters from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, two proposed contracts for certain research projects (with accompanying papers); to the Committee on Interior and Insular Affairs.

ORDERS OF THE IMMIGRATION AND NATURALIZATION SERVICE

Two letters from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders suspending deportation and a list of the persons involved (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE COURT OF CLAIMS

A letter from the Chief Commissioner of the Court of Claims transmitting, pursuant to law, a report on the case of Edward White Rawlins v. U.S. (with accompanying report); to the Committee on the Judiciary.

REPORT OF THE NATIONAL COMMISSION FOR MANPOWER POLICY

A letter from the Chairman of the National Commission for Manpower Policy transmitting, pursuant to law, the Third Interim Report entitled "Addressing Continuing High Levels of Unemployment" (with an accompanying report); to the Committee on Labor and Public Welfare.

FEDERAL COAL LEASING AMENDMENTS ACT

A letter from the Secretary of the Interior relating to the proposed legislation (S. 391) the Federal Coal Leasing Amendments Act of 1975; ordered to lie on the table.

PROPOSED REGULATIONS OF THE FEDERAL ELECTION COMMISSION

A letter from the Chairman of the Federal Election Commission transmitting, pursuant to law, a set of proposed regulations (with accompanying papers); to the Committee on Rules and Administration.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

A resolution relating to Federal payments for public land adopted by the Board of County Supervisors of Prince William County, Virginia; to the Committee on Interior and Insular Affairs.

Resolutions adopted by the Western Conference of the Council of State Governments as follows:

(1) relating to water pollution control; to the Committee on Public Works.

(2) relating to the local impact of energy resource development; to the Committee on Finance.

(3) relating to in-lieu tax payments; to the Committee on Interior and Insular Affairs.

(4) relating to the saline water program; to the Committee on Interior and Insular Affairs.

(5) relating to weather modification; to the Committee on Interior and Insular Affairs.

(6) relating to western regional energy policy; to the Committee on Interior and Insular Affairs.

(7) relating to vehicle number identification inspection; to the Committee on Commerce.

(8) relating to reduction of red tape for small Federal aid highway contracts; to the Committee on Public Works.

(9) relating to 55 mph speed limit; to the Committee on Finance.

(10) relating to school bus safety; to the Committee on the Judiciary.

(11 and 12) relating to intermediate care facilities for the mentally retarded; to the Committee on Labor and Public Welfare.

(13) relating to dependent children of unemployed fathers; to the Committee on Finance.

(14) relating to Federal supplemental security income assistance; to the Committee on Finance.

(15) relating to the Federal Coal Mineral Leasing Act; laid on the table.

(16) relating to the role of the Western Conference; laid on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on the District of Columbia, without amendment:

H.R. 13121. An Act to direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplement V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter (Rept. No. 94-1059).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

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

Robert L. Hardesty, of Texas, and

Hung Wai Ching, of Hawaii, to be governors of the U.S. Postal Service.

(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. SPARKMAN, from the Committee on Foreign Relations:

Ignacio E. Lozano, Jr., of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to El Salvador.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Ignacio E. Lozano, Jr.

Contributions:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nancy V. Rawls, of Georgia, to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

POLITICAL CONTRIBUTIONS STATEMENT OF NANCY V. RAWLS

A. Self: none.

B. Parents—Mr. and Mrs. Eugene L. Rawls, Atlanta, Ga.: none

C. Brother—Mr. Eugene L. Rawls, Jr., Johnson City, Tenn.: none.

D. Mrs. Eugene L. Rawls, Jr. (Joanne Wexler Rawls), Johnson City, Tenn.: none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Stephen Low, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Stephen Low

Post: Lusaka, Zambia.

Contributions: contributer, amount ($), date, and donee.

Self, $50, May 5, 1974, Greg Wolfe; $200, September 10, 1974, Willis D. Gradison.

Spouse, Helen C. Low, $25, January 29, 1976, Morris Udall.

Son (SCL), Stuart C. Low, $25, March 3, 1976, Morris Udall.

Son (RML), Rodman M. Low, $20, May 28, 1976, Morris Udall.

Brother (MLL), Martin L. Low, under $200 per year, Federal, State and local Democratic Party.

Brother (RJL), Robert J. Low, Died in 1976—no way of tracing contributions.

Mother, Margaret F. Low, $25, December 10, 1975, Bella Abzug; $25, July 3, 1975, Jimmy Carter; $25, September 30, 1975, Jimmy Carter; $10, October 21, 1974, Ramsey Clark; $25, December 10, 1975, Ramsey Clark; $25, April 24, 1976, Ramsey Clark; $10, July 26, 1974, Thomas Eagleton; $15, September 30, 1974, Judy Green; $25, September 30, 1975, Fred Harris; $15, October 2, 1974, Lowenstein; $200, April 24, 1972, George McGovern; $16, September 21, 1972, George McGovern; $10, August 7, 1974, Maya Miller; $25, January 5, 1972, Edmond Muskie; $25, December 4, 1973, Proxmire & Metcalf; $185, from May 20, 1975 to May 20, 1976, Morris Udall.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

(The foregoing nominations from the Committee on Foreign Relations 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. WILLIAMS, from the Committee on Labor and Public Welfare:

John A. Penello, of Maryland, to be a member of the National Labor Relations Board.

(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.)

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 13297. An act to amend title 5, United States Code, to provide for the application of city withholding taxes to Federal employees who are residents of such city; to the Committee on Post Office and Civil Service.

H.R. 13489. An act to amend the Antitrust Civil Process Act to increase the effectiveness of discovery in civil antitrust investigations, and for other purposes; to the Committee on the Judiciary.

H.R. 14469. An act to permit agreements providing special pay to physicians and dentists in the Veterans' Administration to be entered into until October 1, 1977; to the Committee on Veterans' Affairs.

H.R. 5161. An act to amend section 451 of the Internal Revenue Code of 1954 to provide for a special rule for the inclusion in income of magazine sales for display purposes; to the Committee on Finance.

H.R. 10101. An act to amend the Internal Revenue Code of 1954 to exempt certain aircraft museums from Federal fuel taxes and the Federal tax on the use of civil aircraft, and for other purposes; to the Committee on Finance.

H.R. 13676. An act to establish in the Energy Research and Development Administration an Energy Extension Service to oversee the development and administration of State plans for the development, demonstration, and analysis of energy conservation opportunities, and the development of programs to encourage the acceptance and adoption of energy conservation opportunities by energy consumers; to the Committee on Interior and Insular Affairs.

H.R. 14360. An act to amend the John F. Kennedy Center Act to authorize funds for repair, reconstruction, and for other purposes; to the Committee on Public Works.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, August 3, 1976, he presented to the President of the United States the enrolled bill (S. 3589) to designate the Federal office building located in Manchester, N.H., as the "Norris Cotton Building."

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. BARTLETT (for himself, Mr. McCLURE, and Mr. FANNIN):

S. 3716. A bill to amend section 35 of the Mineral Lands Leasing Act, as amended, with respect to the payment of moneys received from sales, bonuses, royalties, and rentals of public lands to States. Referred to the Committee on Interior and Insular Affairs.

By Mr. EASTLAND (for himself and Mr. STENNIS):

S. 3717. A bill to amend title II of the Social Security Act so as to add the State of Mississippi to that list of States which are authorized to modify their social security coverage agreements so as to provide coverage thereunder for individuals in certain policemen's or firemen's positions. Referred to the Committee on Finance.

By Mr. BENTSEN:

S. 3718. A bill for the relief of Dr. Juan Fidel Viola, Helen de Guzman, Viola, Mariquit de Guzman Viola and Mark Winston de Guzman Viola. Referred to the Committee on the Judiciary.

By Mr. HARTKE (for himself and Mr. EAGLETON):

S. 3719. A bill to amend title XVIII of the Social Security Act to provide that podiatrists shall be treated as "physicians" for certification and related purposes under the medicare program, and to provide coverage under the supplementary medical insurance program for the cutting and removal of warts; to amend title XIX of the Social Security Act to include podiatrists' services as physicians' services for the purposes of the medical assistance program authorized by that title. Referred to the Committee on Finance.

By Mr. CHILES (for himself, Mr. LONG, Mr. BENTSEN, Mr. TOWER, Mr. STONE, Mr. ALLEN, Mr. SPARKMAN, Mr. EASTLAND, Mr. THURMOND, and Mr. JOHNSTON):

S. 3720. A bill to amend the Tariff Schedules of the United States to impose a duty on imports of shrimp, to limit the quantity of shrimp which may be imported into the United States during any calendar year, and for other purposes. Referred to the Committee on Finance.

By Mr. CHILES (for himself and Mr. STONE):

S. 3721. A bill to authorize payments in lieu of taxes on account of lands acquired for the national park system, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAKER:

S. 3722. A bill to amend title 5, United States Code, to remove the restriction that survivor compensation to any widow or widower will be terminated if such widow or widower remarries. Referred to the Committee on Post Office and Civil Service.

By Mr. HELMS:

S. 3723. A bill to provide for high levels of employment, stable prices and economic growth by reform of Federal economic policy, revision of Congressional spending practices, stabilization of the United States monetary system, the limitation of artificial barriers to employment, and for other purposes. Referred to the Committee on the Budget, the Committee on Banking, Housing and Urban Affairs, and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARTKE (for himself and Mr. EAGLETON):

S. 3719. A bill to amend title XVIII of the Social Security Act to provide that podiatrists shall be treated as "physicians" for certification and related purposes under the medicare program, and to provide coverage under the supplementary medical insurance program for the cutting and removal of warts; to amend title XIX of the Social Security Act to include podiatrists' services as physicians' services for the purposes of the medical assistance program authorized by that title. Referred to the Committee on Finance.

Mr. HARTKE. Mr. President, with regard to S. 3205, the Medicare and Medicaid Administrative and Reimbursement Reform Act, about which the Senate Finance Committee's health subcommittee held hearings last week, Senator EAGLETON and I are introducing today legislation which, we are confident, complements the objectives of that very proposal.

We applaud the constructive solutions S. 3205 advances to bring improved efficiency and quality to both medicare and medicaid. Now we must responsibly and expeditiously act to effect these needed improvements, or our remaining recourse might well be a reduction in the scope and quality of medical care services available to the programs' beneficiaries. This we can and must avoid at all costs.

The legislation Senator EAGLETON and I introduce today addresses three specific problem areas which, if corrected, would bring about additional improvements to both titles XVIII and XIX. Our proposal seeks: The removal of "warts" from medicare's excluded benefit list—section 1862(13)(c); the elimination of extraneous language from medicare's "physician" definition as it relates to podiatrists' services—section 1861(r)(3); and the addition of the doctor of podiatric medicine to title XIX's definition of physician—section 1905(a)(5).

MEDICARE: WARTS

The treatment of "warts" when they affect areas of the body other than the foot is considered a covered medicare benefit. When they affect the foot, they are not. This inconsistent application of the law is deserving of the remedy we have proposed. We are also pleased to note that others in the Congress, as well as the American Podiatry Association and the American Academy of Dermatology, have already acknowledged this inconsistency and do support an appropriate remedy for it.

MEDICARE: PHYSICIAN DEFINITION IMPROVEMENT

It is our further recommendation that improvements to medicare's "physician" definition, section 1861(r)(3), are both needed and justified. I specifically refer to deleting from this section the following language in italics:

except for the purposes of Section 1914(a) Section 1835, and subsections (j), (k), (m) and (o) of this section, a doctor of podiatry or surgical chiropody, but *(unless clause (1) of this section also applies to him)* only with respect to functions which he is legally authorized to perform as such by the state in which he performs them.

Although not underscored in the above definition, the words "or surgical chiropody" could also be removed since their significance is fully embraced by "doctor of podiatry."

Having carefully evaluated this recommendation, it is our considered judgment that its adoption would cause no substantive change in either medicare's administration or its projected cost. This is true since the net effect of the recommendation would merely be to authorize the podiatrist as a "physician" under medicare for the following purposes: certifying or recertifying a patient's need for inpatient hospital, skilled nursing facility or home health care; and serving as a "physician" member of a hospital or skilled nursing facility utilization review committee. Whether a podiatrist can or should serve as a medicare "physician" for these purposes is a decision which should be made by participating hospitals, skilled nursing facilities, and home health agencies. Such a restriction serves no useful purpose in Federal law, the primary reason for which we offer this recommendation.

MEDICAID: PHYSICIAN DEFINITION IMPROVEMENT

The third and final issue addressed in our proposal refers to the limited definition given the term "physician" in title XIX. Unlike medicare, whose physician definition includes the podiatrist, medicaid limits the term to medical doctors and osteopaths. This lack of consistency in defining an important statutory term has unnecessarily produced serious problems over the years for carriers, administrators and program beneficiaries. We are hopeful this obstacle can and will be overcome in the foreseeable future.

The principal reason given for limiting title XIX's physician definition has been to help curb program costs. With regard to podiatric medicine, this argument is questionable for at least two reasons:

Nearly 40 State medicaid plans have opted to include the podiatrist within their title XIX benefits. So adding the podiatrist to medicaid's physician definition would not represent a major change in public policy.

More importantly, it should be noted that the medical and surgical care of the foot has always been and remains a required medicaid benefit in every State plan. So adding the podiatrist to medicaid's physician definition does not increase the program's benefit structure, but it does make available additional professional manpower to deal with an already covered service.

When the subject of program costs is considered, an important analogy should be borne in mind. I refer to podiatry's experience with the various States' Blue Shield plans, 48 of which, plus the District of Columbia, have, since 1950, been amended to cover podiatrists' services. Interestingly, only two of these State plans—Illinois and Massachusetts—found it initially necessary to increase their subscribers' premiums for this added benefit. And after brief experiences with this surcharge, each State decided to remove it as an unnecessary assessment. Though not a direct parallel to medicaid, this experience is a meaningful one.

In conclusion, Mr. President, it is important to recall the important health benefits which have accrued to our older and deprived citizens during the past decade. Medicare and medicaid have been blessings for countless Americans. However, both programs have considerable room for genuine improvement. It is with this thought in mind that Senator EAGLETON and I offer this measure and urge its early enactment.

By Mr. CHILES (for himself, Mr. LONG, Mr. BENTSEN, Mr. TOWER, Mr. STONE, Mr. ALLEN, Mr. SPARKMAN, Mr. EASTLAND, Mr. THURMOND, and Mr. JOHNSTON):

S. 3720. A bill to amend the Tariff Schedules of the United States to impose a duty on imports of shrimp, to limit the quantity of shrimp which may be imported into the United States durng any calendar year, and for other purposes. Referred to the Committee on Finance.

Mr. CHILES. Mr. President, I introduce on behalf of myself and Senators LONG, BENTSEN, TOWER, STONE, ALLEN, SPARKMAN, EASTLAND, JOHNSTON, and THURMOND, a bill which I will refer to as the "shrimp import bill of 1976."

Very briefly, Mr. President, this bill would provide an annual quota on the amount of foreign shrimp that may be imported into the United States. The quota would be established by taking the average of the imports from a particular country during the years 1971, 1972, and

1973. I believe this is to be a fair method of determining the quota inasmuch as 1972 was a relatively high year for shrimp imports into the United States.

A country-by-country quota seems most appropriate in that it tracks the previous import record as established by those countries.

Further, this bill would permit a monthly breakdown of that annual quota allotted to that particular country. This would avoid the typical means of circumventing our import quotas by dumping the entire annual quota in a short period of time.

Further, the bill would provide for a small ad valorem duty of 5½ percent—that duty is certainly small when you recognize that around the world other countries impose higher ad valorem duties on shrimp—Japan has a duty on shrimp ranging from 5 to 12 percent: The Common Market countries have a duty ranging from 18 to 20 percent: and India, the second largest exporter of shrimp to the United States has a duty on shrimp coming into that country of 60 percent.

The bill also establishes a mechanism by which countries that limit the shrimp production of U.S. vessels in their resource areas will incur concomitant percentage reductions in their imports to the United States. Under this provision whatever limitation there is of U.S. production from a foreign fishery resource will be met with a parallel reduction in imports.

Mr. President, for many months now in both Houses of this Congress, we have debated both in committee and on the floor the neglect of America's first industry—the fishing industry—how we have undertaken every means to insure adequate protection, preservation, and conservation of other resources and industries in our great country, and have done little, if anything, to protect America's fishermen.

As a result of that lengthy debate and strenuous effort, we have on our books today the Fishery Conservation and Management Act of 1976.

This bill provides for a 200-mile economic zone around the United States intended for the protection of America's fishermen. That protection, however, is of little value if we provide no protection whatever against the manipulation and potential destruction of the marketplace in which the fisherman sells his product.

The United States is the strongest seafood market in the world, yet the producing fishermen, operating under the American flag, have little, if any, control over that market. This is especially true in the shrimp industry where there has never been any other form of control exercised over the rampant importation of shrimp such as we witnessed during 1973 and 1974.

During that period we saw shrimp imports in certain months exceed the total amount of shrimp consumed in this entire country, while the U.S. shrimp fishermen who offloaded their production at dockside were faced with such overwhelming competition that they were forced to literally give their catch away at whatever price they could beg.

The shrimp industry, faced with this dilemma, utilized the 1974 Trade Act and petitioned the International Trade Commission—ITC—for relief. After extensive hearings throughout the United States, the ITC, in a 3 to 2 decision, determined that the American shrimp producer had, in fact, received serious injury by the large quantities of foreign shrimp imported into the United States. Unfortunately, they did not heed completely the pleadings of the American shrimp producer, who told them that dollars alone did not answer his needs.

He needed some form of control over the imported shrimp coming into this country. Unfortunately, the ITC sought to provide him dollars, not controls. Their decision stated his remedy should be adjustment assistance.

The industry will undertake every effort to take advantage of this opportunity. However, they are faced with the same dilemma as flood victims who move back into a flooded area after the waters have receded, recognizing that they have been furnished funds to rebuild, but no water control mechanisms whatever to prevent future flooding—and thus they are as vulnerable today as they were the day before the flood, to being totally wiped out at any future time by events over which they have no control.

This, Mr. President, I do not believe should be the fate of America's finest fishery and the fishing industry's greatest dollar producer, the American shrimp industry. For that reason among many, I am introducing this legislation.

I would also like to recognize one other factor that bears mightily upon my decision. Since the beginning of this country, and the early beginnings of our neighbor to the south, Mexico, fishermen of both countries have utilized the gulf. The gulf fishery moves in cycles and for that reason it is essential that our fishermen move from time to time in order to maintain a steady production and to keep our processing plants in full employment.

While we have recognized a 12-mile limit off the United States for fishing purposes, our fleets have historically fished up to 12 miles of the Mexican baseline, and Mexican vessels have done likewise off certain points of the United States.

Mexico recently declared a 200-mile limit to go into effect July 27, 1976. We have declared a 200-mile economic zone which will become effective March 1, 1977. Inasmuch as it is the stated position of the U.S. Government that U.S. shrimp fleet catches off Mexico have historically been from the surplus of shrimp over and above the Mexican fleet's actual catch records, it is a resource which should be readily available to continued fishing by U.S.-flag vessels.

This is especially significant in light of the fact that shrimp has a 1-year life span and after approximately 12 to 14 months will die a natural death if not harvested. Our distant water fleets have historically taken upward of 10 million pounds of shrimp off those fishing grounds, and these 10 million pounds have been an important factor in maintaining level and continuing employment in our processing plants.

Furthermore, Mexico, who has a desire to expand its fishing fleets, has had an opportunity to fish up to 12 miles of our baseline, and, under the statutory provisions of our 200-mile economic fishing zone would be permitted to continue doing so for such fish stocks where surpluses exist. In addition, our country represents a market for approximately $200 million worth of shrimp each year from Mexican production, and the bulk of all Mexican seafood production comes into our markets. However, in recent talks with Mexican officials, our Government and its industry representatives have been faced with an unsympathetic neighbor who has displayed no concern for our interest and needs, or the fact that a resource will waste. They have merely pointed to mathematical projections as justification for denying our fleets access to these fishery grounds where we have traditionally fished. They have ignored statesmanlike offers by U.S. industry representatives and have quoted our 200-mile economic zone provisions when beneficial to their cause, and ignored it when it tended to conflict with their interest.

Further, they have indicated a belief that the United States lacks the will and determination to enforce each and every aspect of that law—most notably those provisions which require embargoing seafood products from countries which refuse to negotiate in good conscience to provide access to fishery surpluses.

I know not what other Members of this body believe to be the proper course of our Government. For myself, I believe any law we have on our books, such as the 200-mile economic zone provision, must be enforced against all parties. It was intended as a Fisherman's Protective Act. If it is not honored, if it is not to be enforced, it is worthless and a fraud on the fishermen. I for one opposed that legislation, but I also support the laws of these United States. Now that it is law, I will undertake every effort to see that it is fully implemented and enforced.

I take this opportunity to indicate to the Senate, to the President, and to the Department of State that I expect them to look upon this law in the same vein. I might also at this point state that in many instances in the past I, and other Members of this body, have been critical—I believe justifiably so—for what appeared to be an ineffective effort of the State Department to represent our interest in dealing with foreign countries. In this particular instance, however, I would like to state for the RECORD that every report I have received from American fishing representatives present in Mexico City during recent negotiations has indicated our Ambassador in those negotiations, and her staff, performed admirably.

Their comments have been commendable in every instance, and have emphasized the fortitude and professionalism with which their interests were represented, and I would like to add my commendation to the State Department officials involved.

I would, however, issue an invitation to all of my colleagues in the Senate to join with me in stating unequivocably to the President, and to all segments of the executive branch affected by this law,

that we expect and will demand that every aspect of it be fully and adequately implemented and effectively enforced, and I point with particular emphasis to the so-called embargo provision.

Further, I believe that we have a valuable fishery in the shrimp industry—the No. 1 dollar producer of our fishing industry—and it justifies our interest, our support, and our protection in areas where they are incapable of protecting themselves from foreign influence and manipulation such as in the marketplace. I believe this bill will do this.

I believe we should establish appropriate controls to insure that no country will manipulate, abuse, or damage that market or take advantage of it without paying its fair share in the form of a relatively low import duty.

Mr. President, I ask unanimous consent that the text of the bill I am introducing be printed in the RECORD.

Mr. President, I also ask unanimous consent that a recent article that appeared in the Wall Street Journal concerning the problems of American shrimpers be printed in the RECORD.

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

S. 3720

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 "Shrimp Import Act of 1976".

SEC. 2. FINDINGS.

The Congress finds that erratic changes in the volume of shrimp imported into the United States which have resulted in unstable prices for shrimp on the domestic market have injured and will continue to injure the American shrimp industry. In order to maintain stable prices for shrimp in the domestic market essential to promote the growth of the American shrimp industry, it is the policy of the Congress to stabilize the quantity of shrimp imported into the United States.

SEC. 3. IMPOSITION OF DUTY ON SHRIMP.

(a) IN GENERAL.—Subpart E of part III of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 114.40 the following new item:

." 114. 42 Shrimp_ 5½% ad val. 5½% ad val".

(b) STATUS OF RATE.—The rate of duty prescribed in rate column numbered one of the Tariff Schedules of the United States, as amended by this section, shall be considered to have been proclaimed by the President as necessary or appropriate to trade agreements to which the United States is a party, not as a statutory provision enacted by the Congress.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after December 31, 1976.

SEC. 4. IMPOSITION OF QUANTITATIVE RESTRICTION.

(a) IN GENERAL.—No quantity of shrimp, specified in item 114.42 of the Tariff Schedules of the United States, from a foreign country may be entered, or withdrawn from warehouse, for consumption after December 31, 1976, in excess of the base period quantity for that country, as determined by the Secretary of Commerce under subsections (b) and (c) and certified to the Secretary of the Treasury.

(b) BASE PERIOD QUANTITY.—Except as provided in subsection (c), the term "base period quantity" means the average annual quantity of shrimp imported from a foreign country into the United States computed over the calendar years 1971, 1972, and 1973, as determined by the Secretary of Commerce.

(c) SPECIAL RULES.—Notwithstanding subsection (b)—

(1) If shrimp was imported into the United States from a foreign country during one or two, but not during all three, of the calendar years 1971, 1972, and 1973, then the Secretary of Commerce shall determine the base period quantity for such country on the basis of the most recent representative 3-calendar-year period during which shrimp was imported into the United States from such country. For purposes of such determination, the Secretary shall use information for each of the calendar years 1971, 1972, and 1973 during which shrimp was imported into the United States from such country.

(2) If shrimp was imported into the United States from a foreign country before calendar year 1971 and no shrimp was imported into the United States from such country during calendar years 1971, 1972, and 1973, then the base period quantity for such country shall be the largest quantity of shrimp imported into the United States from such country during any calendar year before calendar year 1971, as determined by the Secretary of Commerce.

(3) If no shrimp was imported into the United States from a foreign country during any calendar year before calendar year 1974, then the base period quantity for such country shall be 50,000 pounds.

(d) LIMITATIONS.—

(1) TEN PERCENT PER MONTH.—No quantity of shrimp from a foreign country may be entered, or withdrawn from warehouse, for consumption during any 30-day period in excess of 10 percent of such country's base period quantity, as determined under subsections (b) and (c).

(2) NUMBER OF HEADLESS SHRIMP PER POUND.—The number of headless shrimp per pound from a foreign country entered, or withdrawn from warehouse, for consumption may not exceed 110 percent of the average number of headless shrimp per pound imported from such country into the United States computed over the base period. For purposes of this paragraph, the term "base period" means the period of time over which the base period quantity for such country is determined under subsection (b) or (c) or, in the case of a foreign country the base period quantity of which is determined under subsection (c)(3), the most recent representative period.

(d) ADJUSTMENT OF QUANTITATIVE RESTRICTIONS.—

(1) INCREASES.—If the Secretary of Commerce determines that total shrimp supplies are inadequate to meet consumer demand the Secretary may, upon individual petition of each foreign country, increase such country's quantity of imports by not more than 10 percent of the quantitative restriction which, but for this paragraph, would apply to that country.

(2) DECREASES.—Whenever the Secretary of Commerce determines that a foreign country, by agreement with the United States or through other action of the government of such country, causes a reduction in the annual volume of shrimp harvested by United States vessels from waters over which such country asserts jurisdiction, the quantitative restriction which, but for this paragraph, would apply to that country shall be reduced by an amount which bears the same ratio to such restriction as the amount of the annual reduction bears to the annual volume of shrimp harvested by such vessels from such waters prior to such agreement or action.

SEC. 5. SHRIMP CONSIDERED TO BE DOMESTIC SHRIMP.

For purposes of this Act and item 114.42 of the Tariff Schedule of the United States, domestically produced shrimp shall be considered to include shrimp caught by a vessel which is registered in the United States without regard to the location from which such shrimp is shipped when it is entered into the customs territory of the United States.

SEC. 6. SHRIMP MARKETING, RESEARCH, AND FOOD ASSISTANCE FUND.

(a) ESTABLISHMENT.—There is established on the books of the Treasury an account to be known as the Shrimp Marketing, Research, and Food Assistance Fund (hereafter referred to as the "fund").

(b) APPROPRIATION.—There are appropriated to the fund amounts equal to the amounts collected under item 114.42 of the Tariff Schedules of the United States (relating to shrimp). Such amounts shall remain available without fiscal year limitation.

(c) SHRIMP MARKETING AND RESEARCH.—There are authorized to be appropriated from time to time to the Secretary of Commerce one-half of the amounts in the fund solely for the purposes of—

(1) conducting marketing studies with respect to the sale of domestic shrimp in the United States and in foreign countries,

(2) research to develop better methods for catching and processing shrimp, and

(3) promoting increased sales of domestic shrimp in the United States and in foreign countries.

(d) SHRIMP FOOD ASSISTANCE ACCOUNT.—

(1) IN GENERAL.—There are authorized to be appropriated from time to time to the Secretary of Agriculture one-half of the amounts in the fund solely for the purpose of purchasing surplus domestic shrimp products to help carry out programs described in clause (3) of the first sentence of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) and other food assistance programs administered by the Secretary of Agriculture.

(2) CONDITION.—No amount may be obligated for the purposes of paragraph (1) unless there is in effect a determination that the supply of domestic shrimp exceeds the demand for such shrimp to such an extent that the stability of the market for domestic shrimp is threatened, as determined by the Secretary of Commerce and certified to the Secretary of Agriculture.

Any determination made under this paragraph shall remain in effect for the 90-day period beginning on the date on which such determination is certified to the Secretary of Agriculture. A firm or its representative may petition the Secretary of Commerce (hereafter in this paragraph referred to as the "Secretary") to make a determination under this paragraph. Upon the receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation. If the petitioner, or any other person, organization, or group found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under the preceding sentence a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard. A determination shall be made by the Secretary for purposes of this paragraph not later than 60 days after the date on which a petition is filed under this paragraph. For purposes of this paragraph, the term "firm" includes an individual proprietorship, partnership, joint venture, association, corporation, business trust, or cooperative engaged in the business of catching, processing, or selling domestic shrimp.

[From the Wall Street Journal, July 28, 1976]

FISHING-BOAT BLUES: DESPITE HIGHER PRICES, SHRIMPERS' PROFITS ARE HURT BY RISING EXPENSES AND IMPORTS

(By Karen L. Arrington)

FREEPORT, TEX.—Two years ago, depressed prices, rising costs and import competition rocked the U.S. shrimp-fishing industry, sending many single-boat operators into dry dock.

Today, retail shrimp prices have rebounded sharply, up about 50% from a year ago in some cases and more than doubled since 1973, but the folks who net the seafood delicacies are still struggling to make ends meet.

To be sure, shrimpers aren't bemoaning the higher prices and their return to marginal profitability, but they do feel they have a long way to go and several problems to overcome before once again becoming a healthy industry. "Prices are satisfactory, and shrimpers have been showing a small profit since about mid-1975," says George Snow, executive director of the Louisiana Shrimp Association. "But this is only allowing most shrimpers to recoup their losses of two years ago."

A combination of factors is preventing domestic shrimpers from fully enjoying increased profits that should follow higher prices and strong demand for their catches. Skyrocketing operating costs and a further influx of lower-priced imported shrimp continue to plague U.S. shrimp fishermen. In addition, poor weather and a political hassle over territorial fishing rights in the Gulf of Mexico threaten U.S. shrimpers along the Gulf Coast, the source of this country's most productive and valuable shrimp beds.

GULF COAST CONCENTRATION

Shrimping accounts for more than a quarter of the production and annual sales of U.S. seafood industry. Last year, more than half of the 208 million pounds of shrimp and 79% of its $206 million value came from catches concentrated between Brownsville, Texas, and Key West, Fla. (The Pacific Northwest ranks second, with 39% of the country's shrimp volume, mostly from Alaskan catches.) Nearly 8,100 boats, or three-quarters of the total U.S. shrimp fleet, work out of Gulf ports, employing more than 20,000 crewmen.

There isn't any estimate of how many shrimp-boat operators were squeezed out of business two years ago, but even those who survived had a scare. "Shrimp prices went down when everything else was going up, and it almost put me out of business," says Eugene Vandergrifft, a Freeport shrimper and president of the Texas Shrimp Association. "In 1974, when the price here was $2.10 a pound, it was costing us $2.40 a pound to produce."

Imported shrimp depressed domestic shrimp prices at a time when operating costs were on the rise. As a result, shrimpers showed an average loss of nearly $10,000 a boat in 1974, according to data submitted to the Commerce Department. Last year, their profit was a slim $600 a boat or about 2% of sales, far below the 14% average profit for the three years prior to 1974.

Along the Gulf Coast today, shrimp is retailing for as much as $5.40 a pound, with prices hitting $6 or more a pound in New York and $7 in Washington, D.C. "For us to survive we need the price of shrimp to be up there," contends Julius Collins, a Brownsville shrimp-boat operator.

And, although shrimp is rapidly becoming a luxury item on most menus, consumers appear willing to pay the higher prices. Whether fresh, frozen, canned, breaded, boiled, fried or in cocktails, gumbo or jambalaya, Americans are eating more shrimp and resisting any shift to less-expensive substitutes, industry studies show.

Still, the average shrimp-boat operator is finding it difficult to pay his bills. Shrimpers typically are small operators, with half of all U.S. shrimp boats being captain-owned. Larger operators may own several boats. All shrimpers say their operating costs have tripled in the last three years. Wright Gore Jr., vice president of Western Seafood Co., a Freeport wholesaler and operator of 10 boats, says, "Our operating costs have jumped to $20,000 a boat annually from $7,500 in just two years."

Fuel costs, for example, now account for a third of a shrimper's operating expenses, compared with only one-tenth three years ago. The price of diesel fuel along the Southeast coast averages 35 cents a gallon, up from 10 cents in 1973 (an average shrimp boat uses 400 to 500 gallons of fuel a day). This expense alone, shrimpers say, has forced them to trawl shorter distances, shrimp fewer days and just keep the boat moored during lean months.

Rising insurance rates and crew wages are also taking an increased share of a boat's revenues. Average yearly insurance premiums have doubled in two years to about $5,000 a boat. Inexperienced crewmen are demanding $4 an hour, up from $2 an hour two years ago. (An average shrimp boat carries a crew of three, including the captain, although larger corporate-owned boats may have five to 10 with each man earning between $8,000 to $10,000 a year.)

Shrimpers complain too that imported shrimp is undercutting domestic prices. Fuel and labor costs alone for U.S. shrimpers are up to four times greater than those of their international counterparts—principally Mexico, India, Pakistan and some South American countries. This enables foreign shrimpers to sell their catches here at prices below those of domestic shrimp, depending on size and quality.

DUMPING HAS HURT

Shrimp-industry spokesmen agree that the country needs imported shrimp to help supply the U.S. market, "but dumping (selling the shrimp at below fair market value) in the past by Mexico and India has hurt us," says Western Seafood's Mr. Gore. Increased imports during a good domestic season force U.S. prices down. In 1974, shrimp imports totaled 252 million pounds, up 20% from a year earlier and comfortably more than the 224 million pounds landed by U.S. shrimpers that year. (Shrimp are weighed after their reads have been pinched off, and all weights refer to heads-off weight.)

Earlier this year, the U.S. International Trade Commission found that shrimp imports were entering the country in large enough quantities to be "a substantial cause of injury" to the U.S. shrimp industry. Soon afterwards, President Ford ordered trade-adjustment assistance for the industry and its employees, offering low-interest loans to those shrimpers who bailed out during the recent slump.

But that won't solve the present problems of Gulf Coast shrimpers. Above-average rainfall and unseasonably cold weather in the last two years have contributed to reduced supplies. "Fresh water from heavy rains and unusually low temperatures in April and May killed many of the susceptible young shrimp maturing in the estuaries," says Gary Graham, a marine fisheries specialist with the Texas Agricultural Extension Service.

Some shrimp-boat captains along the Gulf Coast also stand to lose one of their prime fishing areas. The U.S. and Mexico are continuing negotiations over fishing rights off the Mexican coast. Beginning next month, Mexico proposes to prohibit all but its own boats from fishing within 200 miles of its coast. If that proposal takes effect, U.S. shrimpers will lose about 10 million pounds of shrimp annually, some sources estimate.

PRICES COULD GO HIGHER

In addition, if the 600 boats that normally fish the Mexican waters are forced to compete for supplies inside the Gulf waters from Texas to Florida, prices of these supplies will probably go even higher. If this country is denied rights to Mexican waters, legislation sponsored by Texas Democratic Sen. Lloyd Bentsen, and passed earlier this year, would prohibit Mexico from exporting 80 million pounds of shrimp annually to the U.S. (Shrimp is Mexico's third largest export, and the U.S. is its principal market.)

"If they (Mexico) can push us out and if our government doesn't put a high tariff on Mexican shrimp, then we don't have much of a government left," says J. W. Beatty, a Cameron, La., shrimp boat owner-operator.

For different reasons, shrimpers in Maine, New Hampshire and Massachusetts have had their coasts closed off to them since April. "There just aren't any shrimp," says Jack Mahoney with the National Marine Fisheries Service in Gloucester, Mass. "All fish supplies are in a depletive state here, especially shrimp." Too much fishing shrunk the supplies, officials say. State biologists say they will monitor shrimp breeding this fall, but no date has been set to reopen shrimping in New England.

Mr. TOWER. Mr. President, I want to thank my friend, Senator CHILES, for introducing this legislation to revise the tariff structure relating to shrimp imports, and to take this opportunity to express my wholehearted support for this much-needed bill.

I would further like to associate myself with his remarks, and those of my very able colleague and good friend, Senator LONG, whose knowledge and expertise on the tax structure of this country is unmatched. The senior Senator from Louisiana likewise has long been recognized as a friend and supporter of the gulf coast shrimp industry, which my State of Texas shares with Louisiana, Mississippi, Alabama, and Florida.

Mr. President, during the recess just past, I had the opportunity to visit with shrimp producers in Brownsville, Tex., and to discuss with them the problems they face. Shrimping in Texas has always accounted for a dominant share of our total fisheries industry, and so many of the citizens in Texas depend on that industry for related jobs and income. I might add, with all due respect to my colleagues from other States, that Texas-caught shrimp always are far superior in taste and texture to those of the rest of the world.

But while I am extremely proud of the contribution which Texas shrimpers make to our State's economy, I am quite concerned that forces beyond their control threaten their very livelihoods, and in the process, the future viability of their industry.

One of the key problems which they face is the large importation of shrimp into this country, particularly from Mexico, which in the past has provided a great deal of competition. Now, with the decision of Mexico to impose a 200-mile limit and to shut off historical shrimping area to our fishermen, the threat of import domination of the market is greater than ever.

I believe, along with Senators CHILES and LONG, that the bill introduced here today, which I am pleased to cosponsor, will ameliorate somewhat the situation, without threatening the domestic supply of shrimp available to consumers.

However, the bill will not solve the basic dilemma facing our shrimpers from south of our border. There is need, Mr. President, for serious, and good-faith, negotiations between the United States and Mexico, for if there are not, I believe it may be necessary to trigger those provisions of law which were recently passed as part of the law establishing an American 200-mile limit, and which would penalize those countries which seek to advance their own economic interests at the expense of this country.

I had hoped that recent talks between the United States and Mexico might be fruitful in reaching a solution to the question of American access to shrimp beds in Mexico's now-claimed waters.

Unfortunately, this was not the case, and there is strong feeling that there is a lack of cooperation on the part of the Mexican interests represented in these negotiations. This is regrettable. We do not need a trade war with Mexico, and neither do they with this country. However, it is clear that there will eventually reach a point at which the anger of this body and this Congress is provoked because of the absence of good-faith negotiations with Mexico.

Mr. President, we should take this step, in enacting this legislation, to rectify an inequitable situation. As I said, it will help. And at the same time, we must look at the total picture to understand the ramifications of these problems on the American shrimping industry. They are complicated, and they must be solved to insure the stability and continued viability of the industry. Part of the problem can be resolved here, but much of it cannot. I would ask only that, in supporting this bill, my colleagues do not overlook that which remains to be done.

Mr. STONE. Mr. President, recently the Senate Select Committee on Small Business held hearings on the economic problems confronting the American fishing industry. The object of these hearings was to find out why the U.S. commercial fishing industry has declined over the last 30 years to the extent that it is now ranked only 17th in the world.

The last few years have been particularly devastating for American fishing interests. When the energy crisis occurred in 1973, fuel costs for fishing boats increased nearly threefold. The shrimp industry was hit the hardest. The price of shrimp declined dramatically in 1974. For example, gulf fishermen received only 93 cents per pound for 36–40 count shrimp in September 1974, compared to $1.98 per pound a year earlier.

The report prepared by the Small Business Committee contains the following statement:

Although there are many reasons for the difficulties which the shellfish (shrimp, crab, lobster) section of the fisheries industry is suffering, testimony received indicated that the three main problems were:

(1) the lack of long-term, low-interest loans to help finance the purchase of new boats, or the repair of used boats and new or used shoreside facilities;

(2) the dumping of foreign imports on the American markets; and

(3) the spiraling cost of fuel to the smaller fishing operations.

Senator HATHAWAY has introduced legislation to take care of the first problem cited in the report, by providing for incentive loans to the commercial fisheries industry. I have cosponsored this bill, which I believe will do much to ease the financial condition of the industry. And today I am happy to join my colleague from Florida, Senator CHILES, by cosponsoring his bill, the Shrimp Import Act of 1976, which seeks to solve the second problem as it relates to the shrimp industry.

Senator CHILES' bill would impose an annual quota on imported shrimp. The quota would be based on the average amount of shrimp that a foreign country sent to the United States during 1971–73. Thus, the quota will be responsive to each foreign nation's needs and should not unduly restrict their shrimp exports to this country. Additionally, each foreign country is required to distribute their quota evenly throughout the year. To prevent sudden flooding of the American market with foreign shrimp—which in the past has resulted in greatly depressed prices for American shrimp—a country may not send more than 10 percent of its quota during any 30 day period.

The bill would also establish a 5½ percent ad valorem duty on imported shrimp. Currently, no duty is imposed. This modest charge on imported shrimp will be used not only to provide some protection for American shrimpers, but also to help fund a marketing program to increase the sale of domestic shrimp.

Mr. President, the American fishing industry needs help. I believe that the Shrimp Import Act of 1976 will go a long way toward stabilizing an uncertain market and insuring that domestic shrimp can compete effectively with imported shrimp.

Mr. BENTSEN. Mr. President, I am delighted to join with my gulf coast colleagues in cosponsoring the legislation being introduced today to establish a quota on shrimp imports. Shrimping is a very important industry in my State of Texas and I am concerned over its continued well-being in view of an alarming trend toward rising imports of foreign shrimp. For example, in 1971, imports of shrimp totaled 193 million pounds, increasing to 216 million pounds in 1975. In 1974 alone, imports were 252 million pounds, 14 percent above the previous year, and the highest level in history. At the same time, imported shrimp is being sold at sharply declining prices, by as much as 30 percent in 1974.

These lower prices have had a depressant effect on the price of domestically produced shrimp. As a direct result of the influx of cheap foreign shrimp, domestic production by U.S. shrimpers has decreased by as much as 10 percent in recent months with resulting serious unemployment in the gulf coast shrimping industry.

The U.S. shrimp industry is an industry which does not have at present, nor has it ever had, any form of benefit from import duties, restrictions, or quotas. It is, therefore, an excellent example of what disasters can befall a viable industry which has no form of protection from foreign products, produced at exceptionally low labor costs, and at minimum capital investment on the part of the producing countries—either because such products are produced with primitive equipment and cheap labor methods, or because they are produced with modern methods and technology, fully financed by exceptionally low cost loans furnished, in many instances, by the U.S. Government or U.S. Government supported organizations.

The U.S. shrimp industry is America's No. 1 dollar-producing fishery and has been for decades. It is one of the most modern, and efficiently run fisheries in the United States, and has been financed over the years by substantial private investment. The wisdom of such private investment was readily recognized in the form of economic returns to the investors, to the industry, and to the Nation's gross national product. In the past few years, however, this gem of the U.S. fishing industry has been brought virtually to its knees. While there are several factors involved in the economic hardship with which they are presently faced, one of the largest of those factors is the totally unrestrained or unregulated importation of cheap, foreign shrimp.

There is a desperate need for some form of regulation of the imported shrimp entering this country each year, if the U.S. shrimp industry which we have known is to survive and recover.

Mr. President, I urge the Senate's support of this legislation.

By Mr. CHILES (for himself and Mr. STONE):

S. 3721. A bill to authorize payments in lieu of taxes on account of lands acquired for the national park system, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. CHILES. Mr. President, I am today introducing legislation, along with Senator STONE, which will authorize the Secretary of the Interior to provide compensation for tax losses sustained as a result of any acquisition by the United States, subsequent to the approval of this act, of privately owned real property for any unit of the National Park System. These payments shall be made by the Secretary of the Interior to the State wherein the property lies for distribution to those affected areas according to the following schedule:

For the year of acquisition, the amount paid shall be equal to the full amount of annual taxes last assessed on that property, less any amount previously paid for that period; for each of the 4 succeeding years, the amount paid shall be equal to the full assessed value, less 20, 40, 60, and 80 percent, respectively.

The importance of this bill may be seen when one realizes the potentially harmful effects suffered by a local government as a result of Federal acquisi-

tion of land within that jurisdiction. Local governments have few sources of tax revenue on which to rely in providing necessary services to its residents. The single most important of these has been, increasingly, the real estate tax. When this key resource is diminished, both the quantity and the quality of the provided services are put into jeopardy. It is not only a question of whether a given number of services can be maintained, but whether the quality of these services can be improved.

When the national government, in the process of acquiring privately owned land for the park system, takes large tracts of land off the local tax rolls, a great burden is placed upon these local governments. An example of this type of situation may be seen in Collier County, Fla., where 32 percent of the county is being placed in a tax-exempt status as a result of the purchase of the big cypress watershed.

Although approximately only 5 percent of the county's tax revenue—estimated between $600,000 and $800,000—is derived from this area, it is still a significant figure when viewed in the light of the possible consequences—a drop in public services by the county. As long as people continue to reside in the area, the county has a responsibility to provide services to them.

This measure is a phased program designed to lessen the impact of the tax loss and permit the county to plan for alternative sources of revenue. It involves a 5-year transition period of steadily decreasing Federal payments based on the total tax revenues lost to the affected area. During this period the development of the park will slowly bring the new benefits of increased tourism and rising property values to the surrounding area. However, these benefits will not be felt for a period of years; in the meantime, public services must be maintained at an undiminished level, in a time when households are already heavily burdened by rising tax rates.

The Big Cypress acquisition is an example of the National Government removing a source of revenue to which the county would ordinarily be entitled. The people of Florida believe that when the National Government deprives a locality of revenue by removing land from its tax rolls, there exists a responsibility on the part of the National Government to ease, to some degree, the harsher effects of the loss. We are not proposing a program of indefinite or permanent assistance, but one which will allow affected areas to phase in new sources of revenue without placing an unfair burden upon its residents.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

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

S. 3721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide compensation for tax losses sustained as a result of any acquisition by the United States, subsequent to the approval of this Act, of privately owned real property for any unit of the national park system, the Secretary of the Interior shall make payments to an officer designated for such purpose by the Governor of the State in which such property is situated for distribution to the county, township, district, or other local body which assessed taxes on the property immediately prior to its acquisition by the United States, in accordance with the following schedule:

(1) For the fiscal year in which the real property is acquired the amount paid shall be an amount equal to the full amount of annual taxes last assessed and levied on the property by public taxing bodies, less any amount, to be determined by the Secretary of the Interior, which may have been paid on account of taxes during such period; and

(2) For each of the four (4) succeeding fiscal years there shall be paid an amount equal to the full amount of taxes referred to in paragraph (1), less 20, 40, 60, and 80 percent, respectively, of such full amount for each fiscal year, including the year for which the payment is to be made.

Sec. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. HELMS:

S. 3723. A bill to provide for high levels of employment, stable prices and economic growth by reform of Federal economic policy, revision of congressional spending practices, stabilization of the U.S. monetary system, the limitation of artificial barriers to employment, and for other purposes. Referred to the Committee on the Budget, the Committee on Banking, Housing and Urban Affairs, and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

JOB OPPORTUNITIES AND ECONOMIC REFORM ACT OF 1976

Mr. HELMS. Mr. President, today I am introducing a bill which would provide for comprehensive reform of Government economic policy. It would affect Government's declared responsibilities, spending policies, our monetary system, and the problems the unemployed find in obtaining jobs. Because if enacted, the bill would allow increased economic output, and high levels of employment, it has been titled, "The Job Opportunities and Economic Reform Act of 1976."

Since this is a major piece of legislation, I approached the problem deliberately. I have looked at where we are economically, and I have come to some inescapable conclusions.

First, the status of our economy is bad. We have not experienced "just another recession." We have had a recession with record inflation and we are entering a period of growth with record unemployment. What preceded the mid-recession high unemployment and the newly diagnosed recovery was a period of inflation of unparalleled depth and duration. Prior to that inflation, we witnessed Government intervention in the economy unprecedented in peacetime. And, we witnessed Government-spending practices which must be termed both reckless and irresponsible.

What does this add up to? It adds up to Government intervention in the economy with evidently little private regard, and almost no public regard to the consequences.

Recent economic history of the United States is exemplified by a series of Government interventions of great magnitude. The most obvious was the Great Society guns-and-butter budgets, when even the most orthodox Keynesian economists in the administration at that time warned of overstimulation via Government spending. This was followed by the problems of the Nixon administration during which we saw wage and price controls clamped onto the economy at the same time the Federal Reserve Board seemed to take off all controls on money supply expansion. The suppressed inflation of the interminable phases I through III, soon pushed price increase rates into the teens during 1973. The concomitant recession that followed the required monetary contraction, then, resulted in record high unemployment levels; levels which have only declined a few points from their record highs.

The low point of this past recession included inflation at about 6 percent, or about twice the low point for the previous recession. The high point of price rise rates in the previous boom was about 13 percent, or about twice the previous boom's high. Unemployment was not quite double previous levels, but if present trends continue, it is likely to remain at double the low point in the previous boom.

It is not, therefore, unreasonable to suppose that if all things remain the same, inflation next time may get to the 20's. We may see that boom followed by double-digit unemployment, and a recession accompanied by inflation that could effectively thwart any significant recovery.

But, of course, conditions in the future will not be identical to those in the past. Government does not appear to be willing to start spending less to allow business to invest for the future. In fact, we are threatened with programs like $100 billion compulsory health insurance, a $40 billion make-work program under the Humphrey-Hawkins bill, and other big spending proposals.

Such a program for the future—more spending, more government, more controls, less growth, less economic freedom, and less investment means what might be called the Britainization of America. It is a sad prospect.

THE BRITAINIZATION OF AMERICA

How did the most prosperous nation in the world get into a position where it threatens to stagnate itself? It takes some going back. It has to do with the economics of Sir John Maynard Keynes, author of "The General Theory of Employment, Interest, and Money," perhaps the most important economic tract since Adam Smith's "Wealth of Nations." In it, Keynes points out that government can stimulate the economy from time to time by artificially creating demand. Such demand is created by issuing money, and the people with money will spend it.

Keynes also pointed out the pitfalls of continued stimulation of this nature; runaway inflation.

After the war, the Government of Great Britain adopted a law which provided that the Government had full re-

sponsibilty to see that high rates of employment would be maintained. It was with similar motivation, that the Employment Act of 1946 was passed in the United States. This act provided that the Federal Government has the responsibility to "promote maximum employment, production, and purchasing power."

The act in effect gave the Federal Government a positive responsibility to take action when only refraining from action will accomplish the desired goals. It is as if we demand that a doctor treat a malady that can be best left alone to cure itself. It is saying that Government must act to get involved in employment programs when in fact those things that can really provide for employment are promoted when Government does not get involved. No doubt, the symptom of unemployment can be treated on occasion, but the more Government tries to treat symptoms, the less effective the treatment and the more costly it becomes. A point is reached when the treatment causes more harm than good.

And so what do we have with the Employment Act of 1946? A bill that most people have come to accept because it sounds good. We all want high levels of employment. But, do we all want inflation? Do we all want Government growth that stifles economic freedom, stifles economic growth, and do we all want Government controls that can threaten the roots of our free society?

Such side effects are the costs of "full" employment, and these costs should be discussed in greater detail.

INFLATIONARY MAKE-WORK

Every Member of the Senate has heard repeatedly the argument put forward that a given bill will help employment by providing for a specific project, or a specific allocation of resources, or a specific tax benefit. But let us look closely at that argument. Are we saying that by providing a certain number of jobs that there will be more jobs overall? That seems to be what the advocates say. In effect, are we saying that the income that certain people will receive on a Federal project would not have been received by anyone if that project was not done? That is the logical conclusion. And does this mean that somehow by Federal action, this productive effort was made with no cost to anyone else? If so, we have found Rumplestiltskin.

The opposite is true, of course. If taxes were raised to pay for the Federal make-work jobs, then the money came out of someone's income. That someone was not able to spend his money as he saw fit. The Government usurped that person's economic freedom—the freedom to decide what to do with a segment of his or her income. Certainly the money was not spent or saved—two actions that create employment. If the Government spent money it did not have for the project, what happened? Well, it probably issued a Treasury bill.

In other words, savings went to buy the Treasury bill, savings that would have gone for another investment perhaps—in jobs-creating business investment, or in other securities. Finally, the end result is that in an effort to hold down the interest rates forced up by the competition of new Treasury bills being sold, the Federal Reserve Board increased the money supply. This would have brought about inflation, and that would have meant that everyone's dollar was worth less. It meant that a certain degree of economic freedom was taken away because the dollar would not purchase as many things as it had previously. There is no economic difference, in the end, in a tax that takes 3 cents out of the dollar on payday, or inflation which takes 3 cents out in higher prices.

But, on the other hand, there is a political difference. An income tax must be legislated: approved by both Houses of Congress and either signed by the President or enacted over his veto. Inflation is a creature of stealth. Its victims are never mentioned in the inflationary spending bills passed by Congress. Its effects come at times removed from the commission of the acts that cause them. And, the effects of inflation are usually blamed on third parties: business, labor, imports, oil or farm prices.

Perhaps that is what makes inflation more of a problem to decry than to do something about.

But inflation is just one side effect of the masses of spending bills Congress approved. Surely, few bills are ever passed that have as their only justification an antirecessionary or anti-inflationary effect. Usually the bills have another salutary purpose. For example, tax bills will provide incentives or disincentives to people. Some of these tax incentives I personally support, but all tax incentives are allocations of resources—limited, finite resources—outside of the marketplace. As such the Government-allocated capital goes for things of questionable, politically determined economic worth. Yet, it is the marketplace, not Washington, that can decide such worth. The U.S. Congress cannot determine marginal economic worth. It can only determine marginal political worth. Politics can only foul the marketplace.

Most of the bills, as I said, are passed with altruistic purposes in mind. It comes from a politician's natural desire to do good or at least do something. It comes in large part, from an unfortunate belief that Government can make proper decisions about the use of the Nation's resources to achieve all sorts of desirable ends—that Government can indeed bring about heaven on earth. In the process of achieving the desirable ends, we find that the means become burdensome. The allegedly necessary schemes become more and more expensive and more bureaucrats are required to write rules, administer them, and enforce them. If the Government goal is in fact impossible to achieve, then one could expend an infinite amount of resources and still not achieve it. That is what I am afraid is happening in many cases in our Federal Government today.

There are those who accept the argument that if the government spends more than it takes in, then the economy will be simulated and more people will be employed and more people will pay taxes and somehow government deficits will go away. If that is the case, then it isn't so very bad to have bad programs as long as the motives are good. Money must be spent somewhere to stimulate the economy.

BUREAUCRATIC REFORM VIA BALANCED BUDGETS

But, what if things are different? What if priorities had to be set? What if leaders were to become serious about setting those priorities? What would happen to marginal programs? They would start to fall by the wayside. If Congress had to choose between taxing for programs and eliminating programs, not just a lot of fat would be trimmed. Tons of blubber would be hacked away.

The effects of such a happening would be entirely salutary. Resources would not be grabbed away by the government, the Federal employment would tend to stabilize. One set of government regulations would remain in effect long enough for people to understand them.

There would be some additional unemployment created by the elimination of Federal make-work jobs, and the Federal jobs administering the make-work jobs. But, if we are to make a serious attack on the unemployment situation, it will take a concerted look at what has caused unemployment: First, economic instability. There is a reduced incentive for investment, reduced predictability and as a result, fewer new jobs in industry. Second, there is government intervention in creating barriers to employment. Barriers place a legal impediment to people coming to mutually agreeable economic arguments. Third, there are incentives for not working: High levels of benefits for the unemployed, and penalties on social security recipients who seek employment are just two incentives that come to mind. What is clear that we have unemployment caused by government. It is foolish to talk about unemployment and how to cure it without discussing the causes of unemployment.

With these assumptions, how should one approach the problem of growth, government and unemployment? My bill, the Job Opportunities and Economic Reform Act, has four titles.

ECONOMIC POLICY REFORM

Title 1 establishes goals for the Federal Government to reduce intervention in the Nation's economy and avoid it whenever possible. This is a major shift in Federal policy. For years, it has been the accepted wisdom in Washington that it is the Federal Government that has the ability and the full responsibility to see to it that the economy grows or doesn't grow, inflates or does not inflate, according to the wishes of Washington economists and central bankers.

My critique of this position is two-pronged. First, it is not only highly unlikely, but impossible to suppose that a small number of men can know what the perfect economy is. It is not within finite abilities of men or machines to decide the condition of the American economy that will be the best set of circumstances for all. Any goal, set of goals, or parameters set by a group or groups of politi-

cians is by definition, subjective and reflective only of those various individuals' personal viewpoints.

What economic fine-tuners propose to do is change the tax system, change the monetary system, or change Federal spending policies to conform with their goals. It is just as though the rules of the game are changed so that the desired outcome would be achieved. However, changing the rules has an awesome effect on the players—the average American, the businessman, the person planning a career or retirement. Changing the rules of the game means that everyone loses.

My second criticism of such economic intervention is that the size and magnitude of the American economy is such that the only regulator can be the marketplace. The only participants should be individuals acting in their personal behalf. The only responsibility of government must be to provide a stable framework and to prevent nonmarket forces from making market decisions. In other words, Government must not only keep its role to a minimum in the marketplace, but it must serve as policeman to see that other groups do not do the same sort of things that the Government now is doing. The chief difference in effect between Government economic manipulation and private manipulation of the marketplace, is that government intervenes with altruistic motives while private individuals and groups engage in monopolies and restraints of trade which most often are not altruistic.

Government intervention in the economy for purposes of the manipulation of economic conditions assumes that all participants will act as predicted. The experts have to rely on computers and past history. They do not know what effect a new set of conditions or combination of conditions will have. For example when Congress enacted the income tax surcharge in 1972, the Federal Reserve Board expected the American people to cut back their spending dramatically. So, in order to counteract the effects of Congress' action, the Federal Reserve Board took action to pump in money. Well, Americans did not cut back their spending when the surcharge came into effect, they cut their savings. This action, coupled with the inflationary stimulation provided by the Federal Reserve Board, meant that massive price increases were just down the road. We saw them: 14 to 15 percent per year increases in many cases.

My bill would amend the Employment Act of 1946 to state that the Federal Government should avoid and reduce whenever possible intervention in the economy, "recognizing that fiscal and monetary policies, when used for purposes of regulating the economy, tend to be counterproductive, and that the absence of such intervention tends to foster and promote free competitive enterprise; the general welfare; conditions which promote balanced growth; and useful employment opportunities . . ."

I believe that this change in policy means a gradual reduction in Federal Government intervention. I would oppose any radical change in Government programs. Because many Americans have grown dependent on certain programs and Federal actions, I advocate gradual implementation of this new policy.

FISCAL POLICY REFORM

The second title of the bill contains a statement of findings which indict Federal deficits and attribute many of our current economic ills to Federal deficits. The achievement of reform in this area would be via congressional acceptance of Congress' role in causing recessions and inflations by deficit spending, and most importantly a congressional pledge that change will be effected by a gradual return to balanced budgets.

This provision of the bill was a particularly difficult one for me to develop. There is no practical way that Congress can be prevented from spending more than it takes in except perhaps by Constitutional amendment. But such an amendment would presumably take a two-thirds vote of each House before the various States would have an opportunity to consider it. Not only is this unlikely, but there has not to my knowledge been a constitutional amendment drafted on this topic that is completely satisfactory. Second, in times of national emergency, there may be an instance when flexibility of the speedy enactment of a law will be necessary for our national well-being.

My bill, therefore, amends sections 202, 203, 204, 301, 304, and 310 of the Congressional Budget Act of 1974 to provide that Congress will gradually adopt over a period of years a budget which would balance Federal outlays with Federal income. This concept was originally introduced by my able colleague from Oklahoma, Senator BARTLETT. The only change I made was that my bill would provide a phased-in balanced budget. On advice of counsel I included this provision, as it is generally felt in economic circles that an abrupt reduction in the rate of Federal spending or an abrupt increase in Federal taxes would have massive destabilizing economic effects. I believe we should avoid such effects, and I believe we should allow people who have come to expect Federal largess in certain areas to make adjustments.

MONETARY REFORM

The third title of the bill would phase out the political power of the Federal Government to manipulate the value of money. This is a most significant relinquishment of power. It would provide for a limitation upon the Federal Government for inflating the currency by restoring the marketplace as the determining force of the value of the monetary system. It would do this by providing for a gradual adoption of the market price for the free sale and purchase of gold. It would, in effect, remove from the Federal Reserve Board, the freedom to destroy the purchasing power of the dollar. It would provide for the gradual assumption of a standard gold price for the dollar over a period of years. It would be phased in by initially offering U.S. gold for sale at a price above the market, and offering to purchase gold at a price below the market. Over time, the purchase time offered and the selling price would be brought together and fixed. From that time, unless Congress acted, the dollar would have a fixed relationship with gold.

Why gold? The best reason is that it works. People throughout history have chosen gold as a monetary standard. Why not politicians, as the determiners of monetary values? The answer is that politicans have failed. The dollar has been inflated for a variety of reasons and as a result, our economy has been beaten and battered. We have exported inflation to our allies and their economies are in tragic conditions.

At worst, gold will do as well as the politicians in the Federal Reserve Board. At best, it will usher in a new era of economic growth and stability; an era of prolonged growth and minimum price level changes. From 1879 to 1914, the United States averaged 3.6 percent real levels that varied no more than 2 percent per year.

Americans have grown used to inflation and its unpredictability. They are able to grow used to price stability and an economic future they can rely upon. It will take adjustments of significant proportions in an number of areas and I do not wish to ignore them. Labor-management negotiations will have a new framework of reference, for inflation will not cover over excessive pay increases or provide, artificially, a sense of achievement in wage increases. But, I believe we have already passed the day when union officials and members will ignore inflation.

There will also be changes in areas of investment. Inflation has the effect of subsidizing debtors and penalizing creditors. It has the effect of discouraging savings and encouraging indebtedness. It promotes certain kinds of business and hinders others. These effects have cost our economy dearly in improperly allocating resources. Change would cause some difficulty but the difficulties will not compare with the great benefits the economy will reap.

In proposing that the Federal Government adopt a fixed price for gold, and a fixed measurement for the dollar in gold, I am proposing nothing less than the depoliticization of the monetary system. Such a proposal would mean that if the Federal Reserve Board chose to inflate the dollar for whatever reason, dollars would soon be turned into the Treasury for gold. This would indicate that people did not trust the dollars, and that they sought refuge from inflation in gold. Depletion of our gold supplies would place pressure on the Government to reverse its policies. A refusal would eventually result in the voluntary or compulsory devaluation of the dollar. This would be an action to be avoided for it would destroy future credibility in our currency, and lead to greater speculation against the dollar. Eventually it would lead to the kind of international monetary chaos we have today. Prices change daily. Trade is a refined form of currency speculation. Capital flows are stagnated.

We cannot view money as an instrument of national policy. Such a view has led to the Keynesian excesses of which we have witnessed. It can lead to the Britainization of America.

Economic reform must therefore be a recognition that money cannot be used to cover up foolish fiscal policies. It cannot be used to accomplish utopian social goals. Money is the means of economic activity and politicization of money can only lead to the disruption of economic activity.

I propose restoring freedom to individuals to engage in economic activity without having to guess how the political manipulation of the currency will effect their economic position. I propose shifting the burden from the individual to the Government by forcing Government to conform with monetary constraints and freeing individuals by removing capricious Government manipulation.

EMPLOYMENT BARRIERS

The fourth title of my bill would establish a Federal Commission on Barriers to Employment. The Commission would be devoted to the investigation and deliniation of the costs and effects of impediments to employment. By this I do not mean the sociological and psychological theories dreamed up by highly paid professors at Harvard or bureaucrats in the Department of Health, Education, and Welfare. By impediments, I mean what keeps the jobs available and the unemployed apart.

The Commission would have among its responsibilities, a full assessment of the affects of Government incentives to individuals to stay out of the job market. It would provide an assessment of the Government-imposed costs to starting new business, expanding businesses, and of even maintaining present levels of business operations. The Commission would analyze the effects of the tax code on employment practices. And, it would analyze the powers Government has bestowed on certain groups to reduce or restrict employment opportunities. There are some economists who state that in a truly free market, there is no such thing as unemployment. They say that if individuals are free to bargain then all who seek jobs would find them. I do not think that we can or would want to eliminate all disincentives or barriers to employment, but we should recognize that Government restrictions and regulations are some of the greatest causes of unemployment. We should know just what the exact causes and effects are. Then we can propose remedies.

THE START OF A DIALOG ON MAJOR ECONOMIC REFORM

The bill I am proposing is a major one. I acknowledge that there are provisions which must be studied at great length before Congress adopts them. We must make sure that any hardships which may result from these changes are minimized. I am convinced, however, that on the whole, the reforms in this proposal are good ones. Indeed, they are necessary ones.

I submit the Job Opportunities and Economic Reform Act of 1976 so that Congress can begin a serious debate on real economic reform. We have passed the time when we can throw money at the Nation's economic problems and expect more good results than bad. We have passed the time when we can afford something like the "guaranteed" jobs bill which attempts to treat symptoms and not causes.

In full recognition of the political tone of the day. I do not expect approval of this bill in the near future. The U.S. Congress is far more likely, unfortunately, to adopt bills which provide for "more of the same." We will, unless the American people begin to demand meaningful reform, continue down the road to big government; to centralized decision-making; to economic intervention; to the Britainization of America.

I introduce the Job Opportunities and Economic Reform Act of 1976 simply to begin the debate. After 30 years of Keynesian economics we must assess the results and the Keynesians must defend them. The Job Opportunity and Economic Reform Act of 1976 is a comprehensive reply to the economic policies of the past. It is comprehensive because we cannot attack any single one of our economic difficulties separately. Money, unemployment, growth, and stability are integral and they must be looked at in the same context.

I look forward to reviews, comments, and criticism on this proposal. It has been so long since Keynesian economics has held sway that critics of it are looked upon as being either fools or knaves. But, I hope that the Keynesians will recognize this proposal as a serious and comprehensive critique of their potlicies. I hope those who are sincere in their regard for this Nation will look twice and consider these specific provisions. I hope that businessmen, economists, and political leaders from all sides will comment on this bill and contribute to the debate. It is a debate on the most important domestic issue our Nation has faced since the Civil War. It is a debate on whether we have an economy that can provide resources for our children, for their betterment and for the accomplishment of national goals, or whether we will go the way of some nations and stagnate our productive enterprise in government coersion, economic disruption, and the relinquishment of our freedoms.

Mr. President, I ask unanimous consent that my proposal, the Jobs Opportunities and Economic Reform Act of 1976, be printed in the RECORD.

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

S. 3723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act and the following table of contents may be cited as the "Job Opportunities and Economic Reform Act of 1976".

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GENERAL FINDINGS

SEC. 2. (a) The Congress finds that the nation has suffered substantial economic disruption including inflation, unemployment and underemployment, the underutilization of productive capacity and the misallocation of resources, over prolonged periods of time, imposing numerous economic and social costs. Such costs include the following:

(1) The monetary system has ceased to serve as a standard of value.

(2) Individual income taxes have increased faster than real income.

(3) The disadvantaged and the elderly and those on fixed incomes are deprived of purchasing power.

(4) The nation is deprived of the full supply of goods and services, the full utilization of labor and capital resources, and the related increase in individual income and well-being that would exist under stable economic conditions.

(5) Insufficient production is available to meet pressing national priorities.

(6) Workers are deprived of job security, income, skill development, and productivity necessary to maintain and advance their standards of living.

(7) Business and industry are deprived of a stable economic environment and consequently have lost production, sales, capital flow and productivity necessary to maintain adequate profits, create jobs, and contribute to meeting society's economic needs.

(8) The nation's citizens are exposed to social costs and traumas, including disruption of family life, loss of individual dignity and self-respect, drug addiction, crime and social conflict.

(9) Federal, State and local government activity is disrupted as government revenues decline in periods of economic contraction.

(b) The Congress further finds that—

(1) inflation increases unemployment by reducing the confidence of the consumer in the economy, it disrupts the individual's and businessman's ability to predict economic activity, and inflation thus reduces the productivity of capital, and tends to increase demands for remedies such as wage and price controls, restrictions on international commerce, subsidy programs, allocations, and economic regulations which tend to reduce the market's ability to economically allocate resources and adjust to the inflation, thus, increasing the costs of inflationary disruption to the entire economy;

(2) although a stable, non-inflationary economic growth is impossible without proper monetary and fiscal policies, high levels of employment, the maximum rate of economic growth, and increased per capita income cannot be achieved without concerted efforts to reduce private and public barriers to job and capital markets, and such barriers have not been lowered, in part because this goal has not been established and implemented by the President and the Congress;

(3) federal deficits result in economic disruption and impose great costs on the American people and the nation's economy by providing incentives for the Federal Reserve System to increase the money supply, and by displacing private investment by causing interest rates to be higher than those which would otherwise prevail;

(4) the Federal Reserve Board, when it creates money to finance federal deficits, debases the currency resulting in inflation and its concomitant dislocations;

(5) inflation, thus used to finance federal expenditures, places inequitable burdens on Americans and, further, disrupts productive enterprise so as to reduce the real and potential output of the nation's economy, thus, reducing the average income of all Americans;

(6) when money is created to finance federal deficits, the full effects of inflation are felt throughout the economy a considerable period of time after the deficits occur, thus giving rise to public misinterpretations of the real cause of inflation; and

(7) a sound and effective program for the nation's economic well-being should be based on minimum government interference in the economy.

TITLE I—ESTABLISHMENT OF GOALS AND GENERAL ECONOMIC POLICIES

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this Act to provide a stable economic environment under which individuals and groups can act with maximum freedom, to minimize disruptive Government intervention in the economy, to provide a framework for a sound and fiscal policy and to provide for a monetary system exemplified by stable values and minimum fluctuations.

DECLARATION OF POLICY

SEC. 102. Section 2 of the Employment Act of 1946 is amended to read as follows:

"DECLARATION OF POLICY

"SEC. 2. (a) The Congress declares that it is the continuing policy and responsibility of the Federal Government to avoid and reduce whenever possible intervention in the economy, recognizing that fiscal and monetary policies when used for purposes of regulating the economy tend to be counterproductive, and that the absence of such intervention tends to foster and promote free competitive enterprise; the general welfare; conditions which promote balanced growth and useful employment opportunities, including self-employment, for those able, willing and seeking to work and to foster and promote high levels of employment, increased production and increased standards of living for all.

"(b) The Congress declares that all adult Americans able, willing, and seeking work should not be restricted from obtaining jobs because of Government regulations which impede the freedom of employee and employer to enter into mutually satisfactory agreements.

"(c) The Congress further declares that inflation results and has resulted from the creation of excessive quantities of money by the Federal Reserve System in its attempts to control interest rates, minimize the adverse effects of fiscal policy, and generally regulate the Nation's economy; and that such efforts have caused greater disruption and resulted in greater costs to the Nation than the conditions those efforts are intended to remedy."

TITLE II—BALANCED BUDGETS AND ECONOMIC STABILITY

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 201. The Congress finds and declares that—

(1) the American economy has been adversely affected by Federal deficits which have resulted in inflation, misallocation of resources, and other hardships caused by economic instability, and in the imposition of inequitable burdens on individuals for the cost of Federal programs;

(2) the Federal Government must balance its revenues with outlays to avoid disruptive effects on the economy; and

(3) the chief responsibility for determining Federal revenues and outlays rests with the Congress in accordance with article I of the Constitution.

CONGRESSIONAL BUDGET ACT AMENDMENTS TO REDUCE DEFICITS

SEC. 202. (a) Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new sentence: "For the fiscal year beginning on October 1, 1977, the appropriate level of total budget outlays shall not exceed the recommended level of Federal revenues by more than 7 percent; for the fiscal year beginning on October 1, 1978, the appropriate level of total budget outlays shall not exceed the recommended level of Federal revenues by more than 4 percent; and for the fiscal year beginning on October 1, 1979, and each fiscal year thereafter, the appropriate level of total budget outlays shall not exceed the recommended level of Federal revenues.".

(b) Section 304 of such Act is amended by adding at the end thereof the following new sentence: "No such concurrent resolution on the budget shall set forth an appropriate level of total budget outlays which exceeds the amount permissible under the last sentence of section 301(a).".

(c) Section 310(a) of such Act is amended by inserting after the first sentence thereof the following new sentence: "No such concurrent resolution on the budget shall set forth an appropriate level of total budget outlays which exceeds the amount permissible under the last sentence of section 301 (a).".

CONGRESSIONAL BUDGET ACT AMENDMENTS TO BALANCE BUDGET

SEC. 203. Effective with respect to the fiscal year beginning on October 1, 1979, and succeeding fiscal years—

(1) section 301(a)(3) of the Congressional Budget Act of 1974 is amended by striking out "or the deficit";

(2) section 301(a)(5) of such Act is amended by striking out "increased or";

(3) section 301(d)(6) of such Act is amended by striking out "or deficit";

(4) section 303(a)(3) of such Act is amended by striking out "an increase or" and inserting in lieu thereof "a"; and

(5) section 202(f)(1) of such Act is amended by striking out "and deficits".

EMERGENCY PROVISIONS

SEC. 204. The provisions of section 904 of the Congressional Budget Act of 1974 shall apply with respect to amendments made by sections 202 and 203 (other than the amendment made by section 203(5)) of this Act.

TITLE III—SOUND CURRENCY

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 301. The Congress finds and declares that—

(1) without a sound monetary system, the United States will suffer economic, political and social consequences of unacceptable severity;

(2) the present monetary system has lead to abuse and has resulted in inflation, economic instability, and unemployment;

(3) a sound money system cannot be dependent on the individual judgments of small numbers of individuals;

(4) a sound money system must have the trust and support of the American people;

(5) the American people view inflation as the single most important problem facing our Nation; and

(6) money redeemable in gold meets the vital needs of the United States in the foreseeable future.

U.S. TREASURY SALE AND PURCHASE OF GOLD

SEC. 302. During the fiscal year beginning on October 1, 1980, the Secretary of the Treasury shall offer for sale gold from United States gold stocks at the price of $185 per troy ounce (hereinafter referred to as the "selling price").

ADJUSTMENTS IN SALE AND PURCHASE PRICES OF GOLD

SEC. 303. (a) During each of the fiscal years beginning on October 1, 1981, 1982, 1983, and 1984, the Secretary of the Treasury shall offer to sell and purchase gold at selling and purchase prices successively adjusted in accordance with subsection (b).

(b)(1) The selling price during each such fiscal year shall be determined as the selling price during the most recent fiscal year during which purchases and sales under this title were made, reduced by the product of $25 ($10 for the fiscal year beginning on October 1, 1984) and a fraction, the numerator of which is the difference between the world market price (determined under subsection (c)) and the selling price which was in effect during the most recent fiscal year during which purchases and sales under this title were made, and the denominator of which is the difference between the selling price and the purchase price, as in effect during that most recent fiscal year.

(2) The purchase price during such fiscal year shall be determined as the purchase price during the most recent fiscal year during which purchases and sales under this title were made, plus the product of $25 ($10 for the fiscal year beginning on October 1, 1984) and a fraction, the numerator of which is the difference between the world market price (determined under subsection (c)) and the purchase price during the most recent fiscal year during which purchases and sales under this title were made, and the denominator of which is the difference between the selling price and the purchase price, as in effect during that most recent fiscal year.

(c) The world market price shall be determined by the Secretary of the Treasury as the average market price of gold at major international markets (1) during the 10-month period beginning on October 1, 1980, for fiscal year 1981, and (2) during the 12-month periods beginning on August 1, 1981, 1982, and 1983, for the fiscal years beginning October 1, 1982, 1983, and 1984, respectively.

EXTENSION OF TRANSITION PERIOD

SEC. 304. Notwithstanding any other provision of this title, the President may extend for not to exceed 1 year any purchase price or selling price established in under section 302 or 303—

(1) if he determined that the market price of gold has been manipulated in order to affect the actions of the Secretary of the Treasury under this title,

(2) if he reports such determination to the Congress, and

(3) if neither the Senate nor the House of Representatives agrees, within 30 days after receipt of the report, to a resolution stating in substance that the purchase price or selling price as established under the provisions of this title should be put into effect.

TITLE VI—FEDERAL COMMISSION ON BARRIERS TO EMPLOYMENT

APPOINTMENT OF COMMISSION

SEC. 401. (a) There is established a Federal Commission on Barriers to Employment (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President at the time of appointment to serve as Chairman of the Commisison.

DEFINITIONS AND PARAMETERS OF STUDY

SEC. 402. The Commission shall undertake a comprehensive study and investigation of the costs of various barriers to the employment of individuals to businesses, to the economy, and to the Government. For the purpose of its study, the Commission shall treat any law, regulation, or judicial decree or consent agreement which prevents or tends to prevent individuals or businesses from offering or filling positions of employment, as barriers to employment.

SOURCES OF INFORMATION

SEC. 403. In carrying out its study, the Commission shall solicit and receive information on barriers to employment from private organizations, individuals, and Government agencies.

CONGRESSIONAL REPORTS

SEC. 404. The Commission shall report to the Congress at least semiannually on the following matters:

(1) Government incentives to individuals to stay out of job markets;

(2) laws or regulations which increase the cost of starting a business enterprise and thereby reduce job opportunities;

(3) laws or regulations which increase the cost of expanding business enterprises, thereby reducing employment opportunities;

(4) laws or regulations which increase the cost of operating or maintaining a business enterprise, thereby reducing job opportunities;

(5) provisions contained in the Internal Revenue Code of 1954 which have an influence on or which constitute a determining factor with respect to business practices affecting employment; and

(6) laws or regulations which confer special rights or powers to any group or individual thereby enabling that group or individual to reduce or restrict employment opportunities.

COMPENSATION OF COMMISSION MEMBERS

SEC. 405. (a) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

(b) Members of the Commission, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the actual performance of the duties vested in the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

ADMINISTRATIVE PROVISIONS

SEC. 406. (a) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule under section 5332 of such title.

(b) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission but not in excess of $100 per day, including travel time. While away from his or her home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistance, as authorized by section 5703(b) of title 5, United States Code, for persons in Government service employed intermittently.

(c) Each department, agency, and instrumentality of the United States is authorized to furnish to the Commission, upon request made by the Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this Act.

(d) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold hearings, take testimony, and administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or member thereof.

AUTHORIZATION

SEC. 407. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier by the distinguished Senator from North Carolina (Mr. HELMS) be referred jointly to the Committee on the Budget, the Committee on Banking, Housing and Urban Affairs, and the Committee on Labor and Public Welfare.

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

ADDITIONAL COSPONSORS

S. 2910

At the request of Mr. SCHWEIKER, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2910, to establish the National Diabetes Advisory Board.

S. 3182

At the request of Mr. TAFT, the Senator from Montana (Mr. METCALF) was added as a cosponsor of S. 3182, a bill to amend the Occupational Safety and Health Act of 1970.

S. 3205

At the request of Mr. TALMADGE, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 3205, to provide for reform of administrative and reimbursement procedures under Medicare and Medicaid.

S. 3339

At the request of Mr. RIBICOFF, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 3339, to establish a Department of Energy and Natural Resources.

S. 3554 AND S. 3555

At his own request, Mr. HUGH SCOTT was added as a cosponsor of S. 3554, the National Neighborhood Policy Act; and S. 3555, the Voluntary Standards and Certification Act of 1976.

S. 3624

At the request of Mr. HATHAWAY, the Senator from Maine (Mr. MUSKIE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Massachusetts (Mr. BROOKE) were added as cosponsors of S. 3624, to provide for incentive loans to the commercial fisheries industry.

S. 3652

At the request of Mr. GARN, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3652, to amend the Consumer Credit Protection Act.

S. 3697

At the request of Mr. ABOUREZK, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 3697, to assist farmers and ranchers to replace foundation herds of cattle forced to be sold as a result of natural disasters.

SENATE CONCURRENT RESOLUTION 118

At the request of Mr. JACKSON, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of Senate Concurrent Resolution 118, relating to religious freedom in the Soviet Union.

SENATE JOINT RESOLUTION 101

Mr. BURDICK. Mr. President, I request that the Senator from Maine (Mr. MUSKIE) be added as a cosponsor of Senate Joint Resolution 101, to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

Mr. President, I would like the record to show that Senator MUSKIE was a strong supporter of my National Family Week proposal. It was an oversight that his name was not added as a cosponsor back in June when the measure was introduced. Just so the record can be made clear, I ask that his name be added as a cosponsor now.

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

SENATE RESOLUTION 502—SUBMISSION OF A RESOLUTION OF DISAPPROVAL OF BUDGET AUTHORITY FOR THE NATIONAL RAILROAD PASSENGER CORPORATION

(Ordered held at the desk.)

Mr. HARTKE (for himself, Mr. BAYH, Mr. BEALL, Mr. BUCKLEY, Mr. CASE, Mr. KENNEDY, Mr. MAGNUSON, Mr. PASTORE, Mr. WEICKER, and Mr. WILLIAMS) submitted the following resolution:

S. RES. 502

Resolved, That the Senate disapproves the deferral of budget authority for operating grants to the National Railroad Passenger Corporation as reported by the Comptroller General of the United States to the President of the Senate and the Speaker of the House of Representatives in his letter dated July 29, 1976, under section 1015(a) of the Impoundment Control Act of 1974.

Mr. HARTKE. Mr. President, I send to the desk a resolution of disapproval of a deferral of budget authority and ask unanimous consent that it be held at the desk.

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

Mr. HARTKE. Mr. President, I am submitting, on behalf of myself and Senators MAGNUSON, PASTORE, WEICKER, BEALL, BAYH, CASE, KENNEDY, WILLIAMS, and

BUCKLEY, a resolution of disapproval of a deferral of budget authority. The Comptroller General has submitted to the President of the Senate and the Speaker of the House of Representatives a report of deferral of budget authority on the 29th of July because the President has failed to send a deferral message as required by the Impoundment Control Act of 1974. Since April, the Department of Transportation has been illegally withholding authorized and appropriated funds for the use of the National Railroad Passenger Corporation in an attempt to coerce Amtrak and the Consolidated Rail Corporation to rescind a legal agreement by which ConRail sold the properties of the Northeast corridor to Amtrak. Congress specifically provided for the possibility of just such a sale, if the appropriate parties—Amtrak and ConRail—could agree to it. Unfortunately, the Department of Transportation was not interested in following the law and tried to force the parties to renegotiate this sale agreement by illegally impounding funds. It is unfortunate that so much time needs to be spent in restraining the counterproductive policies of the Department of Transportation. I am sure that many of my colleagues here in the Senate will be pleased to vote for this resolution in order to end the delaying tactics of DOT. Already the public will be forced to bear the costs of delay that the DOT has caused, and I am most interested in seeing to it that no further delay is permitted.

AMENDMENTS SUBMITTED FOR PRINTING

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2147

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment intended to be proposed by him to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2148

(Ordered to be printed and to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENTS NOS. 2150 AND 2151

(Ordered to be printed and to lie on the table.)

Mr. HASKELL submitted two amendments intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENTS NOS. 2152 AND 2153

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2154

(Ordered to be printed and to lie on the table.)

Mr. HRUSKA submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 2149

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (S. 3219) to amend the Clean Air Act, as amended.

ADDITIONAL STATEMENTS

CONFERENCE ON THE LAW OF THE SEA

Mr. WEICKER. Mr. President, the Third United Nations Conference on the Law of the Sea convenes this week and will again attempt to reach some accord on provisions of the so-called single negotiating text. Many speculate that this will be the do-or-die session for any Law of the Sea Treaty. Several nations are preparing to mine the incredibly rich mineral fields of the ocean floor, and without a reasonable treaty, a lawless free-for-all for mining rights could ensue.

The single negotiating text of the Law of the Sea Conference addresses the problems of unilateral exploitation of the world's ocean resources, and it is my hope that the conferees in New York today and throughout the next 6 weeks will work in a spirit of peace and unity toward our mutual goal of a reasonable, fair treaty.

I am concerned, however, that the tedium of years of negotiations with little solid results mixed with the political jealousies of many of the participating nations, will push the conferees to adopt an inferior treaty. Such a treaty may be worse than no treaty at all.

We must take care that the United States, for one, not be placed at the mercy of an international "authority" which lacks proper guidelines to assure fair dealings with all ocean interests.

IS CONGRESS SPENDING TOO MUCH MONEY?

Mr. HUMPHREY. Mr. President, recently Senator JOSEPH M. MONTOYA published a compact statement concerning congressional spending and the economy in the Advocate, a publication of the Association of Retail Clerks.

Our colleague's statement clearly indicates some of the misconceptions which are common today concerning the economy and its relationship to Federal spending. He has attempted to explain to the average citizen the real story about the way Congress appropriates funds and the reasons why he believes that jobs and career education programs are vitally important in order to put both the national economy and individual Government budgets on a firmer footing. I ask unanimous consent that Senator MONTOYA's article be printed in the RECORD.

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

IS CONGRESS SPENDING TOO MUCH MONEY?

(By Senator JOSEPH MONTOYA)

(New Mexico Senator Joseph Montoya is chairman of the Subcommittee on General Government of the Appropriations Committee. As such, he has an excellent oversight view of government spending. The problem, he suggests, is not in the total amounts or even in the particular programs, but rather is in the failure to match revenues with expenditures, a problem caused basically by the high unemployment rate. According to Senator Montoya, the key to the solution is jobs and career education programs to develop a full employment economy.)

For eight years the Congress of the United States has been under attack for spending too much money. There has been a thinly veiled effort by the Administration to blame Congress for the wild fluctuations of our economy, with both inflation and unemployment keeping us on a roller coaster for most of the last few years. As the recession deepened, and unemployment rose at the same time that inflation raged, the Administration looked for a scapegoat—and found Congress.

They began with the myth that Congress was creating the economic problems by spending more than was needed on federal programs. They attempted to blame Congress by attacking each federal program which Congress funded as "wasteful" and by claiming that the federal budget was out of control.

Of course, there was one other scapegoat for the inflation—working men and women. High wages—that was another cause of inflation, according to the Administration. The way to cure inflation, they claimed, was with a little benign unemployment. They almost made you feel guilty—and unpatriotic—if you had a job, or got a raise.

What are the real facts about Congressional spending? Is it true that the federal budget is out of bounds? Is it true that Congress has been profligate with the taxpayers money?

In order to understand the true facts about federal spending, it is necessary to consider how our budget process works—and how it is related to our total economy.

In January of each year the Congress receives a budget request from the President, explaining in detail what he expects from the Congress for the following fiscal year, and what he needs to run government programs. Since we have had the Office of Management and Budget assisting the President, that budget request is followed by a "justification" explaining the Administration request for each section of the budget, and the reasons for any changes which the President recommends.

In spite of White House accusations of "overspending" by the Congress, the fact is that the Congress has appropriated less money than the President requested every year since 1969 when the Nixon Administration took office. The problem has not been in the total amount which the Congress appropriated. The screams of anguish we have all heard from the Administration have concerned specific programs which the President did not want to fund, or wanted to reduce, and about other programs which he wanted to increase in size and spending.

The real quarrel between the Administration and the Congress has not been about total amounts to be spent by the federal government—but about what we should spend our money to buy. Since 1969 the Congress has appropriated $39 billion dollars less than the President has requested in his total budgets—but we have not always appropriated money for the programs he wanted to support, and we have often appropriated

money for programs he wanted to cut down or do away with.

Last year the Congress established a new budget process, through which we will set our own budget ceilings early in each year, and will consider each spending bill within the framework of a budget resolution which Congress must pass. This is the first official year of that budget process. We will all know more about how well our new system will work at the end of this year.

However, the key to federal spending problems—and the key to most of our other problems, too—is not the total amount spent or even the squabbles we have over what we should spend our money for. The real key lies in something much more serious: how do our tax revenues match up to our spending? Our federal revenues from tax dollars have quadrupled over the last twenty years, but the percentage which comes from corporate income taxes has gone steadily down while the percentage which comes from individual income taxes and from social security taxes has gone steadily up.

When unemployment began to rise dramatically during the current recession, revenues went down of course. Men and women who are not working don't pay taxes. Expenditures for unemployment insurance and welfare went up in direct proportion—so that the deficit grew. The cost to the federal government for every one percent of unemployment is estimated to be about $13 billion in tax receipts not collected and about $5 billion in spending for unemployment and welfare.

Or we can think about this problem another way. If we had had an unemployment rate of three percent in the years since 1970 instead of the rate we did have, we would have had a surplus instead of a deficit in every year except 1975—and the deficit that year would have been much less than it was.

The real answer to our economic problems in government and in the private economy is the same: jobs. That is why I believe that we must continue to support job programs and career education programs. We must find the right way to put people to work at a decent wage. That will mean, as it always has in the past, that our whole economic picture is healthy. Without jobs, no amount of economic tinkering, and no amount of rhetoric from the Administration is going to work.

When we put people to work, they produce the things we need, they can afford to care for their families, and they can afford to pay for things which they expect government to do for all of us.

Once that happens, I believe we will stop hearing the accusations of overspending by the Congress—and we will be back on the road to a common sense approach to our representative government. I hope that will begin to happen this year.

THE KGB IN PARIS

Mr. HELMS. Mr. President, the operations of the Soviet secret services—KGB—in the West have grown rapidly in recent years. According to a report in a French magazine, there are more than 600,000 KGB operatives in the nations of the free world and more than 20,000 in France alone. Our antisubversion agencies have attempted to bring the threatening presence of Soviet intelligence and subversive agents in our midst to the attention of our public, but the real danger has not yet been fully understood or evaluated.

The report to which I referred, which appeared in a recent issue of the magazine Paris Match on July 7, 1976, makes very informative reading. The article describes in detail several of the routes through which the KGB has worked in France to implant its agents into the business and governmental affairs of the nation. The report concludes with the frightening comparison between the direction which the KGB is taking in France today and the events in Prague in 1968. Perhaps we should also consider whether there is anything to prevent the KGB's arrogant actions in France from being duplicated in the United States.

Mr. President, I ask unanimous consent that a translation of this article be printed in the RECORD.

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

THE KGB IN PARIS

The most powerful and skillful of all intelligence services of the world made the French capital its headquarters for Western Europe and Africa. The Soviet representation in France is employing 241 agents positively identified by the special police forces. This is what is known today about the Russian intelligence set-up in our country:

Two iron gates protect its mystery. Similar to the doors of a gigantic safe, they bar access to mysterious quarters in this huge quadrangle of concrete, built in "colossal" style, which is the new Soviet embassy in Paris, on Boulevard Lannes, between Porte Dauphine and Porte d'Auteuil. In reality, while we have there an embassy, at the same time it is also a fortress protecting some of the most up-to-date spying techniques. Spying in the James Bond style "made in the U.S.S.R.", it is provided with an interception center for the purpose of catching both local emissions as well as hertzian radio waves. In the reception rooms a secret device permits photographing of the visitors as well as the taping of their conversation even when it is in a low voice.

At a time when the police or rather the D.S.T. (Surveillance du Territoire or Territorial Supervision) is uncovering or dismantling every day or almost every day networks of spies or terrorist supporters, one is tempted to believe that this simile of a concrete fortress, the Soviet Embassy well worthy of the Maginot line, will become the top secret and mysterious general headquarters of a formidable intelligence establishment. The heads of the majority of these networks still remain unknown.

Modern espionage can be compared to a screen with a multitude of folds, behind which there is always someone who pulls all the strings, a foreign power whose aim is to organize intelligence gathering by individuals, teams or interposed networks. This is good war-making. This practice has a tradition since our world began—since Philip "the Fair", Richelieu, Metternich or Talleyrand. Today, however, intelligence gathering has become more than a handicraft for diplomats or counter-intelligence officers. It is now a quasi-industrial enterprise with a sales office, studying and ensuring penetration into a "market" which is the environment of the adversary.

The Russians have always been champions in this field. It seems however that this time with their new Embassy in Paris they want to build their enterprise to dimensions unequaled in the past where techniques and gadgets employed as well as the personnel are concerned. They are also very adept in covering their tracks. The press has recently accused a certain Henri Curiel, a staunch Stalinist with mysterious sources of income, of being the head of a network of supporters of terrorists. However the D.S.T. was never successful, in the face of his denials, in bringing proof sufficient to inculpate him.

Until present days, the U.S.S.R. Embassy was in the building of the former Embassy of Imperial Russia, a town mansion at 79 Rue de Grenelle, not long ago the residence of the Duke of the Tsars. The staff of this Embassy comprises 143 persons. If one considers what is accepted in a so-called normal embassy, one could assume the presence of one spy, or, to put it more elegantly, one intelligence agent, for every 100 employees. Experience, however, proves that in Soviet embassies, conversely there are, say, 99 intelligence agents and only one authentic officer of the Ministry of Foreign Affairs per 100 employees. It is even being said that the Ambassador is not necessarily the most important person in a Soviet embassy abroad, but sometimes it is his chauffeur or the door-keeper. This would be the important member of the State Security Committee (KGB).

Actually the personnel who are entrusted with the interests of a power such as the Soviet Union in France are of particular importance. The Russians are not stingy. At the present time the employees who are representing the Soviet Union number 225. This is a record number which includs not only the career diplomats and the presumable ones of the U.S.S.R. Embassy, but also the employees of the connected services such as the Consulate General (14 Place Malesherbes) which numbers 19 members, the Military Mission (131 Rue de Longchamp) with its 22 employees, the Commercial Mission (49 Rue de la Faisanderie)—95 strong, the Consulate in Marseille whose temporary staff comprises 22 people, the TASS Agency with its 25 journalists and not counting the Soviet Information Office (Rue de Prony), professors on exchange programs, Soviet students, and others. The French offices have noticed that the number of these exchange professors, visitors or occasional officials has recently increased considerably. Applications for visas for Soviet nationals number into hundreds for periods of staff which vary considerable. As a matter of fact, Soviet diplomats and officials on their post of duty abroad come and go as they please. They vanish without letting anyone know about it. They cross our border at a date which is at great variance with the real date of their depature and the official announcement which is made by their superiors, often in a very casual way. Actually the Embassy of the U.S.S.R. is returning the residence permits (carte de sejour) of the person in question only a long time after the departure. Or, conversely, the same Embassy surrenders carefully the mentioned document while its recipient remains in France for some time, eluding all control, since it is assumed that he has departed. The importance of this type of abuse should be put in proper perspective if one realizes that these incidents numbered over 100 in 1973 and doubled during 1975 alone.

In that connection, the question should be asked—why not impose on all Soviet citizens leaving the French territory the obligation to surrender their residence permits at the point of crossing our frontier. It seems that in view of being unable to answer this question, the French diplomacy has reasons which are unknown to the D.S.T. Actually a distinction must be made between those officials who belong to the Soviet diplomatic services and therefore are persona grata enjoying diplomatic immunity and those who operate in the export-import field, or those who visit our country as engineers, students, exchange scholars, and others. It is the number of these exchange scholars which at this moment increases by leaps and bounds. In short the total of all Soviet representatives in France, including the Embassy, actually surpasses 800 persons.

Now then, out of those, 241 are identified in a formal way as being officials of the K.B. B. or the G.R. U. K.G.B. stands for Komitet Gosudarstvennoy Bezopasnosti—State Security Committee. The G.R.U. is Glabnoye Razvedyvateinoye Upravlenye—Main Administration of Intelligence, which is the "service" of the Red Army.

To the above, one has to add the representatives of the East European countries, satellites of the U.S.S.R. Among Poland's 70 diplomats or various officials, some 45% are here on behalf of special services. For Romania which has 37 diplomats and 31 officials this percentage amounts to 40%, while for Czechoslovakia it is 42%, for Bugaria—40%, East Germany 50% and Hungary 40%.

But this is only one aspect of the problem, a small tip of the iceberg floating in the troubled waters of intelligence. The Soviet penetration in a country like ours is being done through the intermediary of various banking and commercial supports. That list is quite long. To start, let us cite the Eurobank, or the Banque Commerciale pour l'Europe du Nord (79–81) Boulevard Haussman, Paris 8) which is controlled up to 99% by the Gosudarstvennyy Bank (State Bank) and the Rost Kommertsiya Bank (Bank for Foreign Commerce); this enterprise is directed by the Soviet citizen Vladimir Fedorovich Mikhailov and assisted, at least until 1975, by a Frenchman, Guy Boysson, former Secretary of the Jeunesses Communistes (Communist Youths). The Banque Commerciale pour l'Europe du Nord is also the bank of the French Communist Party and of the C.G.T. The same bank is also being used by the U.S.S.R. for their transactions from France with their satellites, including Cuba. The Vice President of the Eurobank is Georgii Leonidovich Trussevich, a well known member of the K.G.B.

The Black Sea and Baltic Insurance Company Ltd. (30 Boulevard Haussman, Paris 9), insures, in her capacity as an insurance company, all Western automobilists going to the U.S.S.R. Its role consists mainly in culling economic information from international registers to which the company has access due to its functions as an insurance agent.

Let us also mention the Morflot which represents the Soviet Merchant Marine and which shelters two probable members of special services, Vladimir Petrovich Kaznachev and Yuriy Georgyevich Luchikov. The Stanko France or Stanko Import which specializes in purchasing machine-tools of all kinds is, despite its cover of a composite Franco-Soviet company, the exclusive representative in France of the "Main Office (Central Office). In the vernacular of special services the "Main Office" cannot be anything elseelse but the management of the famous K.G.B. The novelists and fanciers of criminal novels are constantly using this expression. This company has as its representative in Paris—the Consortium Francais de Machines-Outils C.O.F.M.O.—C.F.F., (18 Rue Philippe Lalouette in Drancy) which shelters the Stanko Import Moscow; and the Societe des Etablissements P.-L. Martin (42 Rue Saint-Maur in Paris 11), which shelters the Stanko Import Martin. Let us add to it the "Sorice", export-import company of industrial installations (50 Rue Croix-des-Petits-Champs, Paris 1), which shelters Stanko France. Among the personnel of these companies two intelligence agents have been identified: Mikhail Yegorov and Erik Kassinov.

Let us be brief because the list is long and cite briefly the company Activ-Auto—its director general Komonov is a KGB agent; the S.A. Rusbols sheltering the intelligence agents Oleg Pergat and Portseveski; and the S.O.G.O. et Cie, representing Soyuzkhimexport, a company manufacturing chemical products, who among its employees has several agents of the G.R.U. and of the K.G.B.

The penetration with the aid of these perfectly "frenchified" agents who have no "James Bond" traits (they are much too refined for it) takes place also in the provinces in the form of "secondary residences". This is why the USSR Embassy went out to buy, 50 kilometers from Paris on National Highway 4, an old house which was converted to some sort of French-style "dacha". In Deauville the Embassy purchased a large country house, "Albatross" on the ocean, at the corner of the Boulevard Eugene Cornuche and Rue de Gheest. This house is open for all members of the Embassy who can stay there with their wives and children during their vacation and over the weekends. Actually with the laws now in force Soviet citizens have the right to acquire and to build secondary residences or professional premises of their choice anywhere on French territory. If some of these purchases are known, others conversely remain very difficult to identify, because very often they have been negotiated under assumed names with no contact being even made with the Communist Party. In short, it is often difficult to find the origin of the buyers.

Therefore there is a great difference between the facilities extended to the Soviets in France and the restrictions imposed upon French and Western diplomats in the Soviet Union. A Soviet agent can easily cross our border and make use of innumerable deceptions and covers which are difficult to identify. If everybody in this world is spying on everybody else, we as well as the Russians or the Americans, one must, if one is professional in this business, take off his hat to the agent of the Soviet intelligence service. Not only is its infiltration policy remarkable but if it uses foreign agents you have also to admit that they apply know-how and high-class knowledge in all the contacts which are available in a consumer society such as ours. In short, they are swimming like fish in water. They enter, they leave, they come, they go, they accomplish their business with hardly any delays and without or almost without impunity. And very often they are contemptuous. "Your country is finished," said a man who was recently intercepted by the management of the D.S.T., the French Counter-espionage service. The man, an agent of the K.G.B., crossed our border in order to intimidate a Soviet writer, Andrej Sinyavski, a friend of Solzhenitsyn, who took refuge in our country. This arrogant individual entered our country openly with a visa valid for 10 days. This example, almost trivial by itself, has been picked from a number of routine happenings which occur almost daily.

Thus, whether we consider the diplomatic personnel, the engineers, or various technicians visiting in France or secret agents traveling under some fictitious names, the presence of Soviet official and obscure services on our territory permits us to make this first statement: Moscow broadly exploits the liberties and respect for the individual which Western democracies extend equally to all foreigners without distinction as well as to their own citizens.

In fact, in our modern world, a world which pretends to be quiet and seems to be peaceful, a clandestine war is being waged every day. There is a constant state of tension. Crimes of secret agents, those from the Soviet Union and from other countries are known to all governments. But for obvious political reasons everybody agrees not to publicize the strains, not to mention worse facts, all for the sake of good international relations.

All of a sudden Paris became the primary meeting place for international intelligence due to the events in Angola. This happened because, on one side, the Embassy of the United States in Paris has become the command post in African affairs. The game of checkers which only yesterday was played at Bern or Geneva is now being played in Paris, according to spy novels and reports of Western and Soviet intelligence services. On the other hand, the Soviet services in France just plainly accelerated their activities. It is estimated that the total of their agents of various origin and importance now numbers 20,000 in France, and it is true. In fact the K.G.B. and the G.R.U. comprises a total of some 600,000 agents throughout the whole world. In the face of this invasion, the Western governments and particularly those of Europe, strive to remain vigilant and to control, contain, and curb if need be the illegal activities of agents who sometimes have an official cover and sometimes work in great secrecy. Incidentally, the Soviets do not hesitate to send to France agents who are well-known to our services. In that connection let us cite the case of Zhrokin, Counselor of the Soviet Embassy during the 1950–54 period. When he returned to his country he was immediately decorated with the Order of Lenin for "exceptional services". This is a euphemism. He is well known to all our special services. It was a case of espionage pure and simple. Zhrokin has been promoted to the rank of general and reappeared in Paris in 1966 as a counselor with the title of Minister. Proven guilty of espionage he was expelled. That was in 1971. As of now, nobody has seen him.

Rather than linger over such tame cases, the question which has to be considered now is what would be the situation in France or in any other Western country in a case when its Prime Minister or the Minister of Interior was favorable to the Soviet ideology and for that reason would not have the desire or the capability to react against the placement of Soviet agents. This is how the 1968 operation was executed in Prague.

FARM PROGRAMS

Mr. HUDDLESTON. Mr. President, last December I introduced a bill, S. 2823, designed to assist small farmers in upgrading their farming operations. This legislation would amend title V of the Rural Development Act of 1972 to reinforce the commitment of Congress toward preserving the small farm by amending section 502(c) of the Rural Development Act to provide for small farm extension, research and development programs.

The programs provided for in S. 2823 would consist of the following:

First. A comprehensive study and survey to identify small farmers, and to determine their resources, abilities, education, and experience.

Second. A program designed by the USDA and the Cooperative Extension Services for improving operations of small farmers.

Third. Procedures for providing for regular updating of the study, survey, and program.

Fourth. Research and development with respect to measures for upgrading small farmer operations.

Fifth. The Secretary of Agriculture is required to submit an annual report on his stewardship of this program.

Mr. President, many experts within the USDA argue that there is no point in trying to help those farmers who are operating farm units which are too small to sustain a family entirely. I take exception with this view and would like to bring to my colleagues' attention a research effort at the University of Ken-

tucky regarding limited-resource farms that has recently been completed by Dr. Fred J. Stewart of the Natural Resource Economic Division of USDA-ERS and Dr. Harry H. Hall and Dr. Eldon D. Smith of the University of Kentucky Department of Agricultural Economics.

This work points out the value research and extension can be in assisting limited-resource farmers increase their net incomes. An article entitled "Brighter Options for Appalachia" which recaps the Stewart, Hall, Smith work appeared in the July issue of the Farm Index. I recommend this article to my colleagues and to the members of their staffs who are responsible for agricultural policy, and I ask unanimous consent that it be printed in the RECORD.

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

BRIGHTER OPTIONS FOR APPALACHIA

Rural areas in general, and farm families in particular, have more than their share of poverty, statistics show. But what the numbers don't tell are some ways poor families can improve their income picture.

In a study of the potential for improving net incomes from farming in a limited resource area, economists focused on Appalachia—where poverty is more prevalent than in some other rural areas—and surveyed farms in four counties in eastern Kentucky.

Results held out some hope for these farmers, whose incomes are low for a number of reasons. For one thing, farms are small, averaging 114 acres in 1969. Also, much of the farmland consists of steep hillsides which are either wooded or badly eroded from past cultivation, providing only marginal pasture land at best. Even if existing resources on these farms were used at maximum efficiency, at prevailing prices, incomes would still be small compared with other farming areas.

In 1970, for example, more than 40 percent of the commercial farm operators in the four-county study area grossed less than $5,000 in farm sales. Over half of the family incomes were below the poverty level, and off-farm jobs were very limited.

HARD CHOICES

Outside of public assistance, area families had three options for improving their incomes; migrate to greener pastures, seek off-farm employment, or boost income from existing farm resources.

Many, especially the younger and better educated residents, have already migrated to larger metropolitan areas in search of employment. Others, despite the area's high unemployment rates, have sought off-farm jobs. However, researchers noted that some migrants would probably like to return to the area, even at a financial sacrifice, if some minimal income were possible.

Those remaining on the farm tended to be older, less educated farmers with little or no management experience in many of the more profitable farm enterprises for the area. Their principal viable option was to use their production resources more effectively.

Most of their farm income was derived from crops, with tobacco the most important money-earner. Other crops included hay, corn, and small acreages of cucumbers and peppers. The farms had very few livestock, mostly beef cows and some sows.

MULES VS. TRACTORS

Two types of farms emerged from the survey of 102 farms—those that mainly used tractors for draft power (43 farms) and those that mainly used mules (59 farms). On the average, animal-power farms were smaller than the tractor-power farms (89 vs. 127 acres), and their agricultural production, measured either in quantity or value, was also smaller. Operators of animal-power farms were generally older, had higher disability rates, and fewer children for family labor.

Net income, while low for a representative farm of either type, was only $1,621 for an animal-power farm, compared with $2,662 for a tractor-power farm.

In reviewing ways to boost these incomes, researchers focused on the effects of changes in enterprise mix and improvements in the technology employed.

They used a linear programming model to come up with alternative enterprise combinations under existing and improved farming practices. But they cautioned that while the model pointed out more profitable enterprises, it assumed the same relative local prices and demand for the goods produced regardless of the number of farmers who adopted the optimum mix. If all farmers in the four counties made the same changes, they might have trouble marketing their products. Certainly, prices would not remain constant.

UNRESTRICTED CAPITAL BORROWING

If farmers could borrow any amount of capital, incomes for both types of farms would rise substantially even with no change in technology.

The tractor-power farm could increase its net income about 70 percent—from $2,662 to $4,562—by growing more profitable crops and substituting dairy cows for beef cows. With similar enterprise changes, the animal-power farm could more than double its net income—jumping from $1,621 to $3,486. In both cases, crop changes included increases in tobacco, cucumber, and pepper acreages. Boosting tobacco production would require leasing-in a sufficient tobacco allotment to fill existing curing-barn space.

Adopting improved technology as well as more profitable enterprises would increase net incomes even more—to $6,571 on the tractor-power farm and to $5,248 on the animal-power farm. In this case feeder pigs would replace dairy cows, and most of the feed corn would be purchased rather than grown. Maximum net income would be higher for the tractor-power farm largely because it had more land.

BACK TO REALITY

Despite the apparent gain from leasing in additional tobacco allotment, very little was reported in the survey. And the optimal acreages for cucumbers and peppers also turned out to be considerably larger than what farmers had actually planted.

Many of the indicated enterprise changes, researchers noted, were more labor-intensive, and would increase hired labor requirements at different times of the year. Capital requirements for farm operations, buying animals, and building facilities would also rise dramatically if feeder pigs were added to the mix. Whether farmers would be willing to make these changes remained an unanswered question. But where capital was concerned, economists figured ability to borrow could be more of a limitation than farmers' willingness to change.

RESTRICTED CAPITAL BORROWING

To determine the effects of restricted capital borrowing, researchers limited total capital to $3,000 for the tractor-power farm and $2,000 for the animal-power farm.

With existing technology, both types of farms would again emphasize tobacco, cucumbers, and peppers, but would reduce the number of dairy cows. Since pasture requirements would be shaved accordingly, the farms would increase the amount of hay harvested and sold from pasture land.

If the tractor-power farm could borrow as much as $3,000, its net income would decline only negligibly from the unlimited borrowing situation. But if no more than $1,000 could be borrowed, dairy cows would disappear completely and net income of approximately $4,600 would be reduced by 20 percent.

Net income for the animal-power farm would be largely unaffected by limitations of either $1,000 or $2,000 on borrowed capital.

If improved technology were employed, both farms would still focus on crops and reduce the number of livestock—in this case, feeder pigs. But net incomes would be affected more severely by capital limitations, shrinking by as much as 16 percent for the tractor-power farm and 13 percent for the animal-power farm when no more than $1,000 was borrowed. The drop would be largely due to the declining number of feeder pigs, which are far more profitable under improved technology than under existing practices.

LEASING TOBACCO ALLOTMENTS

Tobacco production is an important means to improving small-farm incomes in Appalachian Kentucky. Leasing of burley tobacco allotments by the pound has been permitted since 1971, but such leases may not exceed 5 years, and the leassor and leassee must be residents of the same county.

If these leasing restrictions were removed, some allotments *might* move from counties where labor is scarce and relatively expensive to counties such as those in Appalachia, where labor is frequently more plentiful and less costly.

Assuming modifications were made in the tobacco program, and unlimited capital borrowing were possible, net incomes would raise sharply for both types of farms, under both existing and improved technology.

At a lease price of 20 cents a pound, for example, income of approximately $4,600 for the tractor-power farm would jump by roughly 20 percent using existing technology. Tobacco would be strongly emphasized over other enterprises, and as a result, more labor would be required for harvesting.

With improved technology, tobacco would still take precedence over livestock and other crops, and net income of approximately $6,600 would rise by nearly 14 percent.

Enterprise combinations on the animal-power farm would look much the same as on its tractor-power counterpart. Using existing technology, income would increase by about 39 percent (from $3,486 to $4,839) and under improved technology by 21 percent (from $5,248 to $6,356).

ADVERSE POSSIBILITIES

However, modifying the tobacco allotment program could have undesirable effects on small farms as well. If the within-county leasing restriction were lifted, for example, allotments could tend to move to large-scale farms in other tobacco-growing areas, rather than to the small-scale farms in Appalachian counties. This might be particularly true if tobacco harvesting becomes further mechanized.

Under these circumstances, if Appalachian farmers leased out their tobacco allotments to other growers—eliminating their own production—incomes would plunge downward for both animal and tractor-power farms.

Assuming no share leasing and limited capital borrowing, net income for the tractor-power farm would be $3,544 under existing technology and $5,123 under improved technology. For the animal-power farm, net incomes would be $2,645 and $3,950 using existing and improved practices, respectively.

These results emphasize the importance of tobacco to low-income farms in eastern Kentucky. Without tobacco, farmers would increase the number of livestock and boost cucumber and pepper acreages. But while these crops can substitute for tobacco to some extent, they are substantially less profitable. Moreover, they are riskier ventures

in that their production technologies are not as widely nor as well known, their markets aren't as well established, and their prices are subject to wider fluctuations.

GLIMMER OF HOPE

Overall, however, the study provided a ray of hope for small farmers in Appalachian Kentucky, showing that they can increase their incomes even with no technological improvements. Of course, by some standards, even the largest of these potential incomes would still be low. The median family income in Kentucky was $7,439 back in 1969. But since they represented substantial gains over the current financial picture, researchers wondered why farmers apparently were not making changes that would be advantageous.

Some additional survey results partially answered this question. Each farm operator had been asked what enterprises he would be interested in pursuing if he were to expand his operation, and the responses were not always the most profitable ones. For instance, beef cows scored a higher preference than either feeder pigs, dairy cows, or leasing additional tobacco allotments, even though beef cows appeared in none of the researchers' proposed solutions.

Operators had not been told the relative profitability of various enterprises, and they may not have known. It was also possible, researchers figured, that many operators could have an aversion to certain enterprises. In either case, some educational effort would probably be required to inform farmers and aid them in adopting different techniques if they wanted to do so.

EDUCATIONAL CONSIDERATIONS

But researchers cautioned that if such a program was to be effective, several findings should be kept in mind:

The average educational level of the operators interviewed was only 6½ years, and some could have difficulty reading or handling mathematical calculations.

Many of the farmers weren't in contact with established educational organizations, such as county extension agents.

With the exception of tobacco, the level of technology employed in many enterprises was low.

Some changes in enterprises and technology cannot be fully exploited without additional capital. Consequently, if educational efforts are to be successful, they may have to be accompanied by programs providing more borrowing power.

It is important to remember, however, that the Kentucky study concentrated on finding ways to make farming more profitable, and not on outside jobs, which might be combined with some farm operations. For those who could find them—and if they were available—off-farm jobs might yield more income than tobacco, dairying, or other farm enterprises with high labor requirements. This question was not studied.

[Based on the manuscript, "Potential for Increasing Net Incomes on Limited-Resource Farms in a 4-County Area in Eastern Kentucky," by Fred J. Stewart, Natural Resource Economics Division, and Harry H. Hall and Eldon D. Smith, University of Kentucky.]

SUCCESS OF THE DA VINCI BALLOON SERIES

Mr. DOMENICI. Mr. President, New Mexico has long been noted for the vital and extensive research that its scientific and technical communities have been engaged in for the advancement of our Nation. Just recently, it has once more participated in a scientific endeavor carried out under the supervision of Sandia Laboratories, of Albuquerque, N. Mex. The project, designated as Da Vinci III, was the nautral successor of two earlier projects, Da Vinci I and Da Vinci II. As I indicated 2 years ago in remarks before this body, Da Vinci I involved a balloon which sailed from Las Cruces, N. Mex. to Wagon Mound, N. Mex., in November, 1974. It established the feasibility of using a manned helium balloon as an atmospheric research platform at low altitudes. It also provided an integrated study of aerosol and gaseous pollutant characteristics and of related atmospheric properties in a clean environment.

Da Vinci II was also a highly successful 24-hour flight from St. Louis, Mo., to Griffiin, Ind. on June 8 through June 9, 1976. Data gathered from Da Vinci II established that a plume, which is a floating parcel of air pollutants, remained relatively intact throughout the flight.

Like the two previous Da Vinci projects, Da Vinci III is a joint effort by the Energy Research and Development Administration, its Sandia Laboratories; Los Alamos Scientific Laboratory, of Los Alamos, N. Mex.; the U.S. Army Atmospheric Science Laboratory, at White Sands Missile Range, N. Mex., the National Geographic Society, the National Oceanic and Atmospheric Administration, the Environmental Protection Agency and many other organizations.

St. Louis was selected as the site of the balloon lift-off because it has been the subject of a report compiled by the Environmental Protection Agency's Regional Air Pollution Study, which has been in progress since 1974. As a result of this extensive gathering of scientific data relating to the environmental impact of pollutants upon the upper atmosphere, its industry, and its major power production facilities, have been well characterized.

The helium-filled and heavily instrumented balloon was launched August 24 for the flight which lasted for about 24 hours.

From its point of origin near St. Louis, the balloon and its four-man crew were carried along, with the pollutants understudy, at altitudes from 1,000 to 3,000 feet, to its destination near Moorehead, Ky.

A principal objective of the Da Vinci III project was to determine the physical and chemical changes which air pollutants undergo as they travel over distances of several hundred miles from their source. Some pollutants can have an impact upon air quality far from their source. To cite an example, sulfur dioxide, as it travels through the atmosphere, chemically changes to become sulfuric acid and other noxious sulfates, which ultimately affect environmental quality.

In order for the researchers aboard the balloon to observe the complex changes as they occurred, they conducted more than 20 experiments using a variety of instruments to study the moving parcel of urban air pollutants. This investigation provided a detailed picture of what happens to a particular plume of polluted air in the lower atmosphere as it slowly traveled along the balloon's path. This information will contribute immeasurably to the development of improved air pollution control measures.

Thus, Da Vinci III has begun to provide an insight into how the chemical and physical changes of the pollutants occur so that scientists can develop appropriate control measures to limit the harmful health effects and property damage that can result from these "age" pollutants.

In closing, I would like to pay a special tribute to the New Mexico-based Sandia Laboratories for the most remarkable progress they have made thus far in the remarkable Da Vinci series.

At this time in our Nation's history when such a large quantity of research and effort is being expended upon the maintenance of our environment, I feel most confident that the New Mexico-directed and organized Da Vinci III project has made a memorable and lasting contribution to that effort.

UNITED NATIONS DEVELOPMENT PROGRAM

Mr. McGEE. Mr. President, in recent years the United Nations Development Program has been the target of some criticism within the Congress. The criticism has been aimed, more often than not, at management aspects of the UNDP program. Little attention has been paid to the substantive role of UNDP in meeting urgent development needs globally.

Therefore, it was with considerable interest that I read of the role UNDP has played in developing the timber industry of Honduras in an effort to not only enhance the quality of timber resource management in that richly endowed country, but to also move Honduras away from such a heavy reliance upon one export commodity—bananas.

In an article written by Donald J. Casey for the July–August 1976 issue of "Action UNDP" the Honduras experience with a very important UNDP effort was outlined. As noted by the author:

> The rich pine forests of Olancho, Honduras, which have survived countless fires, a devastating bark beetle attack, careless exploitation by sawmill owners and continuous cutting by farmers for cultivation and firewood, have become the site for a recently approved $415 million investment in a pulp and paper industry which when completed will be the largest of its kind in Central America.
>
> Behind the announcement of the details of the project by the Inter-American Development Bank (IDB) in Cancun, Mexico in May 1976, lies a history of 25 years of struggle by the Government of Honduras, bilateral donors and international agencies to conserve the forests and provide for their rational exploitation for industrial purposes.

The story of UNDP involvement in this effort is both intriguing and a compliment to this highly important multilateral development agency. Among the perplexing problems to be overcome before the Olancho project could get off the ground included the development of a forest policies management and con-

servation scheme for Honduras, the training of engineers, rangers and guards to properly care for Honduran forests, the establishment of an ownership policy and numerous other details which needed to be carefully worked out before the actual capital inputs for development of a pulp and paper industry could be forthcoming.

The Honduras project is an example of what we call preinvestment technical assistance. It involved a wide variety of experts in forest management, investment, and national legislation required for the establishment of a national forest policy for Honduras. Therefore, I urge my colleagues to devote their attention to this example of UNDP development efforts. It serves to enhance our understanding over what UNDP is all about.

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

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

THE MAKING OF A FOREST INDUSTRY

(By Donald J. Casey)

The rich pine forests of Olancho, Honduras, which have survived counties fires, a devastating bark beetle attack, careless exploitation by sawmill owners and continuous cutting by farmers for cultivation and firewood, have become the site for a recently approved $415 million investment in a pulp and paper industry which when completed will be the largest of its kind in Central America.

Behind the announcement of the details of the project by the Inter-American Development Bank (IDB) in Cancún, Mexico, in May 1976, lies a history of 25 years of struggle by the Government of Honduras, bilateral donors and international agencies to conserve the forests and provide for their rational exploitation for industrial purposes.

The events of those years tell the story of a development project which grew slowly and organically—one stage maturing before the next one started. Before any substantial investment could become a reality the Honduran Government had to establish forestry policy and legislation; survey its forestry resources; train technicians to run a national forest service; determine who owned the land on which the forests stood; control fires and natural plagues; and secure the best possible terms from foreign investment proposals.

In 1951, when the Government requested technical assistance from the United Nations, it had a rudimentary forest service, ineffective forest legislation and only a general knowledge of its forestry resources. The first FAO/UNDP analysis of the forests in 1952 said that "there was no effective control of exploitation methods . . . no consistent effort at management, no fire protection or regeneration possible because there existed no government services."

That report and subsequent ones predicted that a serious deterioration of the nation's abundant forest resources would occur unless new policies were implemented. Honduras had much to lose. Over 65 per cent of its mountainous terrain is covered with forests. Palm and mangrove forests thrive around the swamps in the eastern part of the country. Further inland and in the western highlands, pine forests such as those of Olancho cover the rugged landscape and form 40 percent of the total forested area. In the mountains and valleys toward the north coast, mahogany, Spanish cedar, balsa, rosewood and other species of trees grow.

But from the early 1950s it was the pine forests and their potential for a pulp and paper industry that provided the impetus for many forestry projects. Honduras is an agricultural country that receives most of its foreign exchange from the export of bananas. The development of an integrated forest industry that exported timber, pulp and manufactured lineboard for boxes used to ship bananas, could provide work for rural peoples and secure foreign exchange vital to improve the economy.

Providing employment and food for its three million citizens is a serious problem for Honduras. About 70 per cent of its population live in the rural areas and cultivate small plots of land that produce little food. Ninety per cent of Hondurans under the age of five suffer from malnutrition. Few have clean drinking water so that 14 per cent of all deaths are caused by diseases of the digestive system.

Many Hondurans are landless. Before the agrarian reform law was promulgated in January 1975, three per cent of the rural population owned about 27 per cent of the cultivatable land. Poor farmers with small land holding burned woodland and stubble to clear and fertilize land for corn, rice and beans. These fires and others destroy 650,000 cubic meters of wood each year. "If that wood had been sold, it would have brought $5.5 million every year," an FAO/UNDP report stated.

"EL GORGOJO"

But while fires pose the greatest danger for the large pine forests of Olancho, there are other threats. In 1963, a bark beetle epidemic began in the Department of Olancho and spread to the other pine forests destroying 20 per cent of the pine trees in Honduras. The bark beetle, called in Spanish "El Gorgojo," is a natural inhabitant of the tropical pine forest whose attacks are usually controlled by natural forces. Why the epidemic raged from 1963–1965 no one is certain, but some individuals feel that earlier fires and a lack of rain during those years had weakened the trees and allowed the beetles to cause the growth of "hongo azul," a blue fungus which kills.

The Government enlisted the help of USAID, UNDP/FAO and other donors in a "Campaign for the Defense of the Pine Tree" to cut sanitary zones several kilometres wide to separate the infested zones and to fell the stricken trees. But there was not sufficient manpower to do this effectively and the plague eventually worked itself out.

But nature is not the only destroyer of pine forests. Timber is a major export item for Honduras, traditionally the third greatest foreign exchange earner after bananas and coffee. Since 1951, sawmills have proliferated, increasing from 64 sawmills in 1952 to 143 mills in 1974. Many of these mills are wasteful, cutting only the best wood and not replanting deforested areas. As a FAO/UNDP report put it, "at least 25 per cent of the total usable production is wasted." In 1974, only 21 sawmills in the country had bandsaws. The remainder had circular saws that are notoriously wasteful. Better sawmills could increase timber production by an estimated 5 per cent a year.

Reckless exploitation, fires and insect epidemics were the visible signs that the forests of Honduras were in trouble. But there existed less tangible problems that affected the future of those forests more seriously. The first FAO/UNDP reports stated that existing forest legislation was outdated and did not provide the proper protection for the forests. Moreover there was no long-range policy for forest development and the existing Government forest service did not have sufficient technicians to cope with the problems.

"There is a need for a clearly stated forest policy," the first FAO report stated. "This policy must provide the basis for overhauling existing fragmentary laws and formulating and enacting comprehensive forest legislation." The Government acted on this recommendation and much of the technical cooperation supplied by FAO/UNDP in the following 20 years helped to evolve such a policy. In January 1974 Honduras approved a new law that set forth a comprehensive forestry policy and established the corporacion Hondureña de Desarrollo Forestal (COHDEFOR), an agency responsible for the conservation and management of forests, the extracting of timber and the processing and selling of timber products.

One thing the new law settled was the question of ownership of land in forests such as Olancho, an issue that had to be clarified before companies would invest in forest industries in the area. COHDEFOR became the administrative center for forestry development in Honduras, and its "Committee to Promote the Establishment of a Pulp and Paper Industry" worked together with the IDB and the Venezuelan Government to create the Olancho project.

When COHDEFOR was established the international agencies working in forestry projects in Honduras met to re-orientate their activities to help strengthen the new agency's capabilities. Already an impressive number of COHDEFOR's 700 employees had received training in a forestry school in Siguatepeque. The establishment of such a centre in Honduras was among the early recommendations made to the Government and in 1968 the UNDP Governing Council approved a Honduran request to establish the school. (A study indicates that for the next 10 years a total of 50 forest engineers, rangers and guards must be trained each year to properly care for Honduran forests).

The Siguatepeque school, which had initial difficulties with a first year drop-out rate of 66 per cent and an inability to keep skilled teachers, graduated its first students in 1972—14 forest experts and 30 guards. One of the major goals of the school was to prepare technicians to collaborate with any pulp and paper industry that would be set up in Olancho. The school benefitted from scholarships offered by the Federal Republic of Germany and USAID, and has reached such a degree of competency that plans have been completed for its continuing operation as a regional training centre for Latin America.

Besides matters that related directly to Honduran forests and forest industries, a series of political and natural crises hindered the ability of Honduras to turn its full attention to the forestry sector.

In July 1969, Honduras was involved in a five-day war with El Salvador, a conflict that grew out of a combination of factors including disputes about national borders and the emigration of Salvadorean workers to Honduras. This war slowed down the Honduran economy considerably and disrupted economic co-operation within the Central American Common Market.

Hurricane "Fifi" in September 1974 claimed 5,000 lives; destroyed more than half of the country's productive capacity and caused an estimated $400 million in damages disrupting economic plans and development projects.

The Department of Olancho itself was the scene of a bitter conflict between organized rural workers and large landowners. Honduras passed a land reform measure in January 1975 to deal with a situation where 74 per cent of the rural population owned only 12 per cent of the total land. In May, campesino groups, impatient that the details of the law had not been worked out, took over 108 haciendas. Conflict broke out between both groups. A peasant training centre was attacked, and following a hunger march by the campesino groups, six Honduran farmers and two priests were found dead at the bottom of a well in Olancho.

But the political crisis that attracted most attention was one related to both the banana industry and the pulp and paper industry. Honduras, Costa Rica, Guatemala, Panama

and Colombia formed the Union of Banana Exporting Countries (UBEC) in 1974 to increase their income from bananas and to gain greater participation in a banana industry controlled by United Brands, Standard Fruit and Del Monte. One of the first actions of the group was to impose a tax on each carton of bananas to be exported.

As a result the "banana war" broke out in Central America with the transnational banana companies refusing to ship bananas from Honduras and other countries. This increased the tension between the Government and the transnational companies which had participated in an earlier effort to start a pulp and paper industry in Olancho. United Brands and Standard Fruit were partial stockholders (7.5 per cent each) in a venture started by the International Paper Company (IPC) and the Honduran Government. COPINO (Compañia Pino Celulosa de Centroamérica) was created to establish a pulp and paper industry in Olancho that would produce the linerboard and corrugated material needed to make the cartons in which bananas are shipped.

In the late 1960s, there were 18 plants manufacturing banana boxes in Central America. They imported over 200,000 tons of the containerboard used to make the cartons. United Brands and Standard Fruit either owned or were the major customers of over 85 per cent of these plants. COPINO then proposed that the banana companies buy their linerboard from the new plant, instead of importing it.

But the plant was never built. IPC insisted on maintaining its 51 per cent interest in the proposed industry, and other factors eventually caused a breakdown in negotiations. Later in 1971, the Government of Honduras bought IPC's interest in COPINO; then Honduras requested UNDP/FAO to assess the future of such a project. A forestry expert who had participated in previous projects in Honduras, went there and summed up the conclusions of 20 years of study—the forests of Honduras were the richest untapped resources of their kind in Latin America and were indeed suitable for a major integrated pulp and paper industry. The Honduran Government then proceeded to contact the IDB to finance the venture.

Four years later, on 15 May, 1976, in Cancun, Mexico, the Government of Honduras, the Venezuelan Investment Fund and the IDB agreed to finance an integrated programme of forestry development in Olancho costing about $415 million which would have as its goal the establishment of a pulp and paper plant in Honduras.

The project consists of a pulp and paper plant that will produce 203,000 tons of linerboard and 28,000 tons of corrugated paper a year for the manufacture of banana cartons. There will be a principal sawmill with an annual capacity of 213,000 cubic metres of sawn wood and two satellite sawmills each with an annual capacity of 127,400 cubic metres.

The financing of the project includes assistance to COHDEFOR offered by the Canadian International Development Agency (CIDA) to continue COHDEFOR's efforts at forest conservation and development. A port will be built at Puerto Castilla, about 40 kms from Corocito, the site of the plant. A network of roads will connect the plant, the sawmills and the port. Financing for the projects will be in stages starting in 1976 and concluding with the construction of the pulp and paper plant, as now scheduled, in 1979.

Barring unforeseen difficulties Honduras could have a new major industry by the early 1980s that would lessen its dependence on bananas as its major export and provide much needed employment in an isolated part of the country. But bananas will still play a major part in the economy and in the development of the pulp and paper plant. Earlier market studies indicated that such a plant could not be economically feasible if its products were not bought by the major market, the banana companies.

What arrangements will be worked out by Honduras and the other members of the banana association, UBEC, with the transnational banana companies could determine how significant the new industry will be.

On May 16, 1976, the New York Times reported from Cancúm, Mexico, that the Government of Honduras, the Inter-American Development Bank and the Venezuelan Investment Fund had formed a multinational project to invest $400 million to establish a pulp and paper industry in the Olancho pine forests in Honduras. This new investment project brings to a successful conclusion 24 years of work by Honduras to benefit from its rich pine forests.

1954–56: FAO study recommends that pulp and paper industry be established in the pine forests of Olancho.

1958: Government begins negotiations with National Bulk Carriers and Crown Zellerback Corporation to set up industry in Olancho. (1960, negotiations break off).

1961: International Finance Corporation requested by Honduras to help find suitable investors to develop Olancho area.

1963: Parsons and Whitmore Company makes offer to set up pulp and paper plant in Trujillo, port town on Caribbean coast. No agreement reached.

1965: Government receives $594,000 loan from Central American Bank for Economic Integration to finance feasibility studies for pulp and paper industry.

1967: ADELATEC finishes studies and Government commissions ADELA as financial agent for Olancho project to find suitable technical partner for Honduras and to suggest company for construction and operation of integrated pulp and paper complex in Olancho.

1968: Honduras signs general agreement with International Paper Company (IPC) which was chosen as technical partner for project. IPC carries out own studies on Olancho and obtains a 51 per cent share in pilot company, Compañia Pino Celulosa de Centroamérica (COPINO) to develop Olancho.

1969: COPINO, headquartered in Tegucigalpa with capital fund of $1 million, further develops plans for pulp and paper industry, modifying previous ADELATEC studies.

1971: Government negotiates withdrawal of IPC from project and buys IPC's interest in COPINO. Government requests UNDP/FAO to help assess future of pulp and paper industry in Olancho.

1972: Government seeks financial aid from Inter-American Development Bank (IDB) to establish Olancho industry. IDB mission visits Honduras.

1973: Group of IDP/FAO/UNDP/Honduras experts visits Olancho area and confirms previous studies about potential for integrated pulp and paper industry. IDB approves grant to ready proposal for major investment in Olancho.

1974: IDB, FAO, UNDP and Honduran officials hold meetings to co-ordinate and revise forestry programmes in light of new developments in Olancho and the establishment of new state corporation for forestry administration and marketing, COHDEFOR.

1975: IDB and the Honduran and Venebuelan Governments work to form multinational project to bring together investment needed for Olancho project. Negotiate with several large paper companies to find one that will supervise project and provide management and technical advice.

1976: Announcement made in Cancún, Mexico, at IDB annual meeting that IDB and Venezuelan Investment Fund would provide capital to realize the Olancho pulp and paper industry.

Since 1951, when the Government of Honduras requested technical assistance, FAO and UNDP have sponsored the work of forestry experts in a series of projects that have surveyed Honduran forestry resources; trained personnel to manage and protect forests; conducted feasibility studies on forest industries and evolved forestry legislation and policy.

1952: Forest Legislation and Protection: Major survey urges protection and development of forestry resources through a Comprehensive Forestry Act to replace existing fragmentary laws. Establishment of trained forestry service suggested.

1953: The Resin Industries: Research reveals that 300,000 pine trees die each year because of poor methods of resin extraction or through overtapping; series of steps suggested to improve resin industries' production methods.

1954: Inventory of Forestry Resources. Detailed report on location and type of forestry resources given to Government.

1957: Protection and Preservation of Forests: Analysis of forest industries urges Government to control exploitation of forest resources by ever-increasing number of sawmills that use wasteful methods and fail to develop forests for the future.

1962–65: Major Survey of Pine Forests: 21,500 square kilometres of pine forests in five of the nation's departments, including Olancho, surveyed, representing 80 per cent of the nation's total pine resources area.

1968: Forestry School: UNDP Governing Council approves Honduran request to establish school to train forestry experts. Siguatepeque chosen as school site.

1965–68: Implementing Forestry Programmes: Forestry expert assists Government develop forest policy based on previous analyses and intensify efforts to start pulp and paper industry.

1970: Major Strategy Outlined: Integrated programme for forestry resources proposed.

1971: Pulp and Paper Analysis: UNDP/FAO expert makes major recommendations for establishment of pulp and paper industry.

1972: Forestry Administration: Five-year programme to elaborate national forestry plan and develop forest industries begins.

1973: Inefficient Sawmills: Study of 125 sawmills indicates many operate with low efficiency and much wastage. Programme begun to improve efficiency of sawmill industries and product quality.

1974: New Laws and a New State Industry: Incorporating suggestions of previous studies and reports, Government establishes semi-autonomous agency, Corporacion Hondureña de Desarrollo Forestral COHDEFOR), to oversee forest policy. Project Adjustments: Existing technical co-operation programmes revised to assist COHDEFOR develop needed expertise. Scope of Siguatepeque forestry school expanded.

Olancho Pulp and Paper: Experts from ongoing project cooperate with IDB and Government in study of Olancho area.

1975: New Training Project: Trains Hondurans in all skills needed for correct forestry management, conservation, protection, selection for cutting, sawmilling and quality maintenance of timber products.

Regional Forestry School: Suggested that Siguatepeque forestry school become a regional centre.

1976: Wood Processing Industries: Programme proposed to develop quality standards and methods for small furniture and joinery plants.

CONSERVATION OVERSIGHT

Mr. DOLE. Mr. President, I am pleased to report that the Committee on Agriculture and Forestry has recently initiated a major project of oversight and evaluation pertaining to Federal soil and water conservation programs.

Existing Federal conservation programs have made significant gains in preserving and restoring our soil and water resources. Agrciultural productivity has been greatly enhanced by the implementation of sound conservation practices through Federal programs. But the time has now come to consider whether these programs could be made even more effective.

Unlike past oversight efforts which usually focused on a single program or agency, the committee intends to look at all conservation-related programs administered by the Department of Agriculture and determine how well they interface with similar programs in other Federal Departments and with State and local efforts. In this way we hope to assess the efficacy of USDA conservation programs in the total context of national conservation policy and needs.

On May 24, Senator HERMAN E. TALMADGE and I wrote to Secretary Butz informing him of our oversight plans and expressing several of our major concerns. We indicated that:

> Farming has changed in many ways since the first major conservation programs were instituted during the Great Depression, and we wonder if practices have changed so much that the conservation programs we purchase each year with the taxpayers' money are still the best buy.

We further indicated to the Secretary that "the agricultural and forestry communities are being required by legislation, and by the courts, to take serious steps to avoid practices which might cause environmental degradation. Some of these environmental requirements are likely to have a costly effect on food and fiber production. We wonder if present programs are adaptable to these changes."

Mr. President, now that our oversight project is well underway, I would like to describe our efforts in greater detail.

EFFICIENCY AND EFFECTIVENESS

Since 1935, when the Federal Government initiated its first major soil conservation program, the Department of Agriculture has expended increasing sums of money for the protection and enhancement of the Nation's soil and water resources. During fiscal year 1976 alone, eight agencies of the Department will spend more than $1 billion through 43 individual conservation-related programs.

Mr. President, I ask unanimous consent that a list of these agencies and programs be printed in the RECORD at this point.

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

USDA CONSERVATION-RELATED PROGRAMS LISTED BY AGENCY

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Agricultural Conservation program.
Appalachian Regional Development Program.
Rural Environmental Conservation Program.
Administrative Support (ACP and Appalachia).
Water Bank Program.
Greenspan Program.
Cropland Adjustment Program.
Cropland Conversion Program.
Conservation Reserve Program.
Emergency Conservation Measures.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Pest Management Program.

AGRICULTURAL RESEARCH SERVICE

Research on Conservation and use of land and water Resources and Protecting Environmental Quality.
Research on watershed development.

ECONOMIC RESEARCH SERVICE

Economic Research and Analysis of Environmental Quality Issues.
Economic Research and Analysis of the the Use and Development of Natural Resources.

EXTENSION SERVICE

Support for Extension Education for Pest Management.
Support for Extension Education Assistance in Community Resource Development.

FARMERS HOME ADMINISTRATION

Flood Prevention Loan Program.
Watershed Works of Improvement Loan Program.
Recreation Association Loan Program.
Recreation Loans to Individuals.
Water and Waste Disposal Loan and Development Grant Program.
Water and Waste Disposal Planning Grants Program.
Resource Conservation and Development Loan Program.
Soil and Water Conservation Loans to Individuals.
Soil and Water Conservation Loans to Associations.

FOREST SERVICE

National Forest Soil and Water Program.
Pollution Abatement Program.
Rangeland Management Program.
Minerals Management Program.
Land Aquisition Program.
Forest Watershed Management Research Program.
Surface, Environment and Mining Program.

SOIL CONSERVATION SERVICE

Conservation Technical Assistance.
Watershed Works of Improvement (P.L. 566 Program).
Watershed Planning Program.
Flood Prevention Program.
Great Plains Conservation Program.
Soil Surveys.
Snow Surveys and Water Supply Forecasting.
River Basin Survey Program.
Conservation Plant Minerals Centers.
Resource Conservation and Development Project Operations.

Mr. DOLE. Mr. President, the committee wants to know whether these programs are working efficiently and effectively toward compatible goals with a minimum of overlap and duplication. We intend to ask some tough and pointed questions: Are programs focused on a clearly defined problem or goal? Are older programs addressing problems which are still pertinent or valid? Are programs promoting up-to-date conservation practices and techniques? Are program resources directed toward areas where the needs are greatest and where the problems are remediable? Can paperwork requirements be streamlined and reduced? Is progress toward goals being periodically measured in quantitative terms? Could goals be better achieved through the private sector or at a different level of government? Would more efficient management afford identical results at a lower level of public funding? Could similar programs be merged in order to lessen administrative costs?

AN INDEPENDENT PERSPECTIVE

Our purpose is not simply to promote efficiency and realize economies. The committee is also concerned with taking a closer look at agricultural conservation and soil erosion problems, and determining what levels of public and private effort are required to get the job done. Earlier this year, the committee sent to the Senate the Land and Water Conservation Act of 1976. If this measure becomes law, it will lay a foundation for ongoing oversight by establishing a mechanism for the appraisal of national soil and water resources and requiring a report of the findings to Congress.

In the meantime, our work will include hearings both in Washington and in the field; technical conferences which we hope can be organized in cooperation with USDA agencies; management studies, where applicable; and considerable data collection. We expect to complete our oversight and draft legislation by March 1977.

Our task is ambitious and requires a good deal of outside assistance. But we have gotten off to an excellent start. The Congressional Research Service and the General Accounting Office have already assigned personnel to work with the committee staff, and Secretary Butz has pledged his full cooperation. Several nongovernmental organizations have agreed to provide us with an independent perspective. The Council for Agricultural Science and Technology has already gathered a task force of distinguished agronomists and conservationists at our request. The National Association of Conservation Districts, the National Water Resources Association, and the Soil Conservation Society of America will also give us their insights in the weeks ahead.

BASIC CONCERNS

Mr. President, I take this opportunity to express some of my own concerns about soil and water conservation and its meaning for agriculture. The Nation has now entered an era of all-out farm production. The markets for American food and fiber have expanded both at home and abroad. Agricultural exports are running at $22 billion a year and have now become the single largest category in our export inventory. American farmers and ranchers have responded admirably to the challenge of increased production by making maximum and efficient use of technology while using a minimum of labor inputs.

But fence row to fence row cultivation has also placed an enormous burden on our soil and water resources. Fragile grasslands have been put under the plow, windbreaks have been chopped down, and water tables are declining as a result of increased irrigation. The ancient but effective practice of crop rotation is giving way to continuous single cropping and double cropping, and farmers are becoming increasingly dependent on chemicals to replenish the soil. In some cases, hillside terraces have been broken down to make room for larger farm machinery. The problem is compounded throughout large portions of the Great

Plains where a new cycle of drought caused serious wind erosion which damaged more than 6 million acres this year.

Ten years ago, when the Soil Conservation Service published the Conservation Needs Inventory, it appeared that we were making slow but steady progress in protecting or restoring agricultural land. But in the last 2 years we have suffered critical losses. The Soil Conservation Service now estimates that the annual rate of soil loss through erosion is increasing. At the present rate, we are losing as much as 1-inch of rich topsoil on sloping farmland in the Corn and Wheat Belts every 10 to 12 years. Clearly, a more effective conservation effort is needed if we are to sustain our high level of agricultural production.

WISER INVESTMENT OF CURRENT RESOURCES

I suspect, however, that what is needed is not more Federal programs addressing individual problems areas, but a wiser investment of current resources and better direction and coordination among the programs we already have.

Earlier this year, for instance, I introduced legislation to redirect the agricultural conservation program—ACP. Dating from the Dust Bowl days the ACP is one of the earliest nationwide efforts at promoting good conservation practices on agricultural land. Unfortunately, the ACP has not kept pace with changing conservation needs. Every President since Harry Truman has called for statutory reform, but Congress has been slow to respond. My bill, S. 3299, would redirect the ACP toward an emphasis on long-term enduring-type practices.

It would encourage greater use of long-term agreements which provide for a total conservation plan on an individual farm and which are tailored to the farmer's particular problems and capabilities. This is one way to use our limited public funds with maximum effectiveness.

ACP cost sharing funds, and other Federal conservation incentives, should be used to encourage those enduring and comprehensive projects that landowners are reluctant or unable to undertake on their own. Incentives should not be used merely to subsidize short-term, production-oriented practices that landowners would implement in any case.

FEDERAL POLICIES NOT CONSISTENT

Federal incentives and policies should also be consistent with one another and with current conservation needs. At the present time, however, this is not always the case. The General Accounting Office reports that Federal loan programs are subsidizing construction on unprotected flood plains and are encouraging suburban sprawl on prime agricultural land. Another GAO report states that the Bureau of Reclamation has unwittingly encouraged the overirrigation of farm lands thereby contributing to the increasingly serious problem of groundwater depletion.

I am also troubled by the detrimental impact of some recent environmental standards on existing conservation programs. A case in point concerns the Public Law 566 watershed development program administered by the Soil Conservation Service. This program has proved a highly successful means of containing flooding in the Nation's smaller watersheds.

Yet, the Public Law 566 program is far behind schedule and faces a 10-year backlog of uncompleted projects. Some of this delay is the result of paperwork and other complications necessitated by the passage of the National Environmental Policy Act of 1969 and the court decision, 3 years later, to make that measure retroactive. The Soil Conservation Service has now begun to integrate NEPA into its watershed planning process, but one can only guess at what the delay has already cost in terms of damaged crops and livestock, the loss of irreplaceable topsoil, and the silting of waterways.

The sad example of the Public Law 566 program should serve as a warning of similar problems that loom ahead. In September, the Army Corps of Engineers will implement phase II of the dredge and fill permit program authorized by section 404 of the Water Pollution Control Act (Public Law 92-500). Farmers and ranchers are already faced with the complex and ambiguous requirements for point source and nonpoint source pollution control as mandated by the Environmental Protection Agency's section 402 permit program and the section 208 planning mechanism. Like the "dredge and fill" program, sections 402 and 208 are being implemented by timetable, and I understand that stricter requirements will soon be phased-in.

I urge the Water Resources Council to exercise its statutory authority and take a more active part in assuring that new environmental restrictions are implemented with the least possible disruption to existing programs and to private farm operations.

Mr. President, I conclude these remarks by stating my conviction that while the Federal Government has a legitimate and vital role in conserving the Nation's soil and water resources, the ultimate responsibility lies with the individual landowner. The strength of our present conservation efforts is based on our recognition of this fact. Agricultural conservation and erosion control measures are not imposed on landowners, as they are in most other nations, but are carried out voluntarily and in cooperation with local conservation districts or locally elected ACP county committees.

This is as it should be since farmers and ranchers have proven to be the best conservationists. If Government provides the necessary assistance, we can be certain that the farmers and ranchers will get the job done.

THE GENOCIDE CONVENTION AND DOMESTIC SOVEREIGNTY

Mr. PROXMIRE. Mr. President, there are those who believe that the Genocide Convention poses a double-edged threat to the U.S. Government. First, they maintain that the convention would entitle foreign governments to determine and act upon incidents of possible genocide occurring within the borders of the United States. This, in their view, would be a violation of sovereignty. Second, these critics are wary of any treaty which might require the United States to take similar punitive action in the internal affairs of a foreign state.

Certainly, these fears are legitimate, but they are unjustifiably aroused by the articles of the Genocide Treaty. For this treaty, endorsed by the United Nations and ratified by an overwhelming number of member nations, quite explicitly safeguards these nations against such difficulties. No action is unilateral. Rather, contracting countries employ appropriate agencies of the U.N. according to the provisions of the charter, to intervene in instances of obvious violations of the convention's articles. Questionable situations are presented before an international tribunal acceptable to the parties concerned. Finally, all subsequent actions of the tribunal, including powers of extradition, must be consistent with the existing contradiction treaties and constitutions of the nations involved.

In reality, those who remains skeptical of the convention need only to realize that no foreign State can intervene directly or indirectly in American domestic affairs. Only international organizations can mediate or arbitrate disputes, and the protections guaranteed by the U.S. Constitution and existing treaties cannot be superseded or abrogated.

The Genocide Convention represents a tangible commitment to peace and human dignity. Therefore, I call upon my colleagues in the Senate to act now to ratify this treaty without further delay.

LONG-RANGE PLAN TO COMBAT DIABETES

Mr. HUGH SCOTT. Mr. President, in setting our priorities we must give special attention to the health of all Americans. We must realize that many Americans do not have the good fortune of good health. As a cosponsor, I am pleased to see that earlier this session the Senate, with my active support, passed S. 1664, a bill to amend the Lead-Based Paint Poisoning Prevention Act. This is certainly a step forward on the road to a healthier United States of America.

There is another important health matter that merits our immediate attention—diabetes. Diabetes can cause blindness, stroke, heart attack, kidney failure, and complications during pregnancy and childbirth. It is unique in producing severe complications in many different organs. Unless a method of prevention is found, the average American born today has more than a 1 in 5 chance of developing diabetes. It is estimated that the number of people with diabetes will double every 15 years.

The National Commission on Diabetes was established by the 93d Congress to develop a "Long-Range Plan to Combat Diabetes." On December 10, 1975, the Commission, in its report to Congress, recommended a long-range plan that called for more basic research, better training of skilled manpower, and more efficient use of existing agencies for the care of patients who have diabetes or who may develop diabetes before a cure is found. The fourth component of the plan is the establishment of the National

Diabetes Advisory Board. This Board would "review, evaluate, and advise" the Government and the public with respect to the implementation of all components of the plan. Presently the many widely dispersed diabetes programs and resources fall within the scope of at least seven institutes. The National Diabetes Advisory Board would provide an organizational focus for coordinating these programs and resources.

The National Diabetes Advisory Board Act, S. 2910, which I am cosponsoring, is now pending before the Senate. It is important that we give this legislation our prompt attention. The establishment of this Board is essential to the effective implementation of the long-range plan. I quote Oscar B. Crofford, M.D., Chairman of the National Commission on Diabetes:

> It is my firm conviction that if S. 2910 should fail, the entire plan will fail because the Diabetes Plan was built with four interlocking parts and—quite simply—this is the fourth and final part.

Mr. President, I urge the Senate to act favorably on this vital piece of legislation without delay. Legislation such as this, which looks toward the future of our health care system, deserves our attention. Let us make life a little better for those who are less fortunate, and hope that someday soon a cure for diabetes can be found.

I would also like to take this opportunity to urge that the Senate act on S. 1619 to extend and revise programs for sickle-cell anemia. This legislation, which I am cosponsoring, is long overdue. There is still much research to be done in the area of sickle-cell anemia. Those inflicted with this disease are in need of attention. This is another health matter which cannot be properly dealt with without our support.

ARTHUR BARRIAULT—FRIEND

Mr. MANSFIELD. Mr. President, during the July 4 recess, a long-time friend, Arthur Barriault, of NBC News, died suddenly of a heart attack. It is my understanding that at the time this occurred, he was taping a TV program at the NBC studios in Washington with his friend, Robert McCormick, the well-known TV and radio commentator.

I have known Arthur Barriault since he came to Washington and I looked upon him as one of the great reporters of his time. He was factual, candid, impartial and a man of integrity and a deep sense of responsibility. It was a joy always to be with Arthur, to be the beneficiary of his wit and wisdom and to be aware of his interpretation of events as they occurred. He was probably the most popular reporter on the Hill and he was esteemed by all Members of the Senate and by all of us was looked upon as a friend.

It is with a deep sense of sadness that I make these remarks because I feel a sense of personal loss in the passing of this great reporter, this man of conscious and integrity, this man whom I was proud to call friend.

Maureen and I wish to extend our deepest condolences and heartfelt sympathy to his wife, Wanda, and their children, Anne and Greer. May his soul rest in peace.

Mr. President, I ask unanimous consent to print at this point in the RECORD a tribute paid to Arthur Barriault by his long-time friend, Robert McCormick of NBC, under date of August 2, 1976.

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

TRIBUTE PAID TO ARTHUR BARRIAULT

During the July Fourth recess, with most Members of the Senate away, Congress lost a news correspondent outstanding for his integrity, his knowledge and his fairness. Arthur Barriault of NBC News, died suddenly of a heart attack while taping a television program at the NBC studios in Washington.

Barriault had covered Washington since 1945 and his experience included a period as White House correspondent during the Truman administration as Pentagon correspondent, and later as State Department correspondent. But it was during his 15 years as a reporter covering Congress that he made the most friends and the most enduring reputation.

He was a native of Fall River, Mass., a 1936 graduate of the University of Pennsylvania, and a reporter for the New Bedford, Mass., Standard-Times and the Providence, Rhode Island, Journal and Bulletin, before he began five years World War II Army service with anti-aircraft and intelligence units. He came to NBC in 1945, where he served as editor of the News of the World radio program before going to the field.

He also served his country for several years, in the early 1960's, as a liaison officer between the broadcasting industry, and the White House Office of Emergency Planning.

He is remembered by most of us as a friend who was respected for his accuracy, his honest reporting and his skill in interpreting the sometimes confusing machinations of our deliberations.

He died July 7, at the age of 61. He is survived by his wife, the former Wanda Greer; a daughter, Anne, and a son, Greer. He lived at 6703 Hazel Lane, McLean, Va.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census approximations, the total population of the United States as of August 1, 1976, reached 215,779,915. This represents an increase of 1,549,781 since August 1 of last year. It also represents an increase of 124,182 since July 1 of this year, that is, in just 1 short month.

Thus, in this last year, we have added enough additional people to our population to more than fill the combined cities of Phoenix, Ariz., Cincinnati, Ohio, and Denver, Colo. And in 1 month our population has grown enough to more than fill two cities the size of Oshkosh, Wis. and Santa Barbara, Calif.

AGPLANE RESEARCH REQUESTED OF NASA

Mr. MOSS. Mr. President, we are all aware that one of the most critical problems that we face today is the production of food and fiber to feed and clothe the growing world population. As this growth has taken place, especially since the end of World War II, we have been fortunate to see a corollary growth in food production, not so much by the increase in tillable land, but by an enormous increase in productivity due to greater mechanization, increased use of fertilizer and pesticides, and, more recently, the so-called green revolution.

We may hope to see these productivity trends continue. Scientists, through research, will continue to develop new plant strains, new fertilizers, new pesticides, new procedures, and new tools. One of the fastest growing and most promising of these new tools is the agplane, which is really an old tool—the crop duster—that is being put to new uses.

Agplanes not only dust crops now; they can weed, fertilize, and sow. In fact, they can sow a second crop, such as soybeans, in a standing field of an unharvested crop, such as wheat, in a new procedure called "double cropping". This procedure can substantially raise the output of the field in a single growing season.

Ground vehicles can cause as much as a 20-percent reduction in usable land because of ground compaction, widespread rows, and the need for maneuvering room. This 20 percent can obviously be gained with the use of agplanes. Another advantage of the agplane is that it can do in minutes what it takes ground vehicles hours to do and on only one-tenth to one-sixth the fuel.

No wonder the market for U.S. agplanes is growing; 1,200 were sold last year for more than $45 million, approximately 30 percent for export. However, of the estimated 17,000 agplanes in the world today, 13,000 are in Russia and the United States, indicating that prospects for exporting these aircraft are promising indeed. But the United States is not the main supplier of agplanes for world markets. Believe it or not, this honor goes to Poland, primarily because it is the only country in the world still manufacturing a small but powerful radial air-cooled engine that is ideal for agplanes. Such engines have been out of production in the United States for many years, and American airframe manufacturers who want these engines are going to have to buy them from the Poles.

Even in this country, while greater and more versatile uses for agplanes have been developed, no significant change has occurred in agplane technology in 30 years. This is not because agplanes are perfect, in fact, they have some nagging drawbacks. Let me list a few:

First. They are not maneuverable enough to treat sloping or irregular plots.

Second. Current chemical dispersal systems cannot be controlled accurately.

Third. Spray droplet size is not uniform enough. Smaller droplets tend to evaporate before settling.

Fourth. Some droplets do not settle in the desired area and are blown away by winds.

Fifth. It is difficult to fly swaths without either overlapping too much or leaving gaps. The former is wasteful of chemicals while the latter supplies insufficient spray.

Sixth. Flying close to the ground and in and around obstacles is dangerous, and although the fatality rate is low,

and accident rate for agplanes is higher than for normal general aviation aircraft.

In spite of these acknowledged shortcomings, there has as yet been no systematic and integrated efforts to improve agplane technology. I have therefore asked the National Aeronautics and Space Administration to prepare a comprehensive plan for a systems oriented research program in this field.

Mr. President, I ask unanimous consent that my letter to Dr. James C. Fletcher, Administrator of NASA, and his reply to me be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. MOSS. Mr. President, I am happy to report that NASA studies showed the possibilities for major benefits in this area, and that they are now reviewing all of the elements of this program with the idea of preparing the comprehensive plan that I requested.

Encouraged by the response from NASA, I wrote a letter to each Governor in order to assess the feelings at the State level for the potential improvement of agplanes.

One of the first replies I received was from the Honorable Sherman W. Tribbitt, Governor of Delaware. He says Delaware is now using such aircraft extensively and that there are "tremendous potentials for further use." He concludes as follows:

> I believe your proposed program development by NASA has considerable merit and would greatly benefit agriculture in Delaware.

Mr. President, as these replies come in, I will bring them to the attention of the Senate. In the meantime, I ask unanimous consent that my letter to the Governors and Governor Tribbitt's reply be printed in the RECORD.

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

(See exhibit 2.)

EXHIBIT 1

MAY 21, 1975.

Dr. JAMES C. FLETCHER,
Administrator, National Aeronautics and Space Administration, Washington, D.C.

DEAR DR. FLETCHER: The Senate Committee on Aeronautical and Space Sciences would like to determine the value to our Nation of a NASA research program on aerial applications technology. It has come to our attention that agricultural aircraft are playing an important role in this Nation's agricultural production and that NASA studies indicate the potential of significant technology improvements in such aircraft.

To permit an adequate evaluation of such technology, we request that NASA develop a comprehensive plan for a research program on aerial applications technology. Emphasis should be placed on an innovative systems approach, and the size and configuration of American farms should be considered.

It would appear desirable that the potential program be developed in consultation and cooperation with appropriate representatives of agriculture, the aircraft industry, research institutions, and related government agencies. Major subprograms, relationships to existing activities, milestones, costs, and goals should be specified. An economic analysis which considers agricultural productivity and benefits to the Nation should be included. Specific attention should also be given to protection of the environment, safety, and the conservation of natural resources.

The Committee will utilize the plan and economic studies and other information to determine the desirability of including it within authorized appropriations.

Sincerely,

FRANK E. MOSS,
Chairman.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., July 6, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds further to your May 21, 1976, letter requesting NASA to develop a comprehensive plan for a research program on technology for the aerial application of agricultural chemicals.

NASA recently completed a study of the potential benefits of research into the agricultural uses of aircraft. The results of this study show the possibilities for major benefits to the U.S. if certain key problems in the accuracy of application and the control of chemical drift can be overcome. A preliminary description of these conclusions was presented in the briefing to your staff on May 6, 1976.

NASA is continuing studies to better define research needs in this important area. Steps are underway to review our activities with all elements involved in the aerial application of chemicals in agriculture so that we assure that our studies are directed to the real needs. In response to your specific request for a comprehensive plan, the in-depth analysis required will take some time to complete. However, we are prepared, if you desire, to brief you and/or your staff during the month of July on the details of our studies related to aerial application.

We appreciate your interest in this matter.

Sincerely,

JAMES C. FLETCHER,
Administrator.

EXHIBIT 2

U.S. SENATE,
COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES,
Washington, D.C., June 4, 1976.

DEAR GOVERNOR: The Senate Committee on Aeronautical and Space Sciences has requested that the National Aeronautics and Space Administration (NASA) develop for the Senate's consideration an aerial applications technology program for improvements in agricultural aircraft.

Aircraft are now performing operations such as seeding, fertilizing, and pest and weed control on millions of acres of crops, range and forest lands. However, I am told that only a limited portion of suitable land is being treated by aircraft. It has been suggested that the increase in agricultural production could be many billions of dollars annually if all suitable land were treated aerially by a vehicle designed to utilize improved related technology.

NASA is optimistic that they can achieve technology improvements that could make the use of agricultural aircraft more financially attractive to farm operators and more environmentally acceptable.

I would very much appreciate receiving your opinion on the merits of such a program and its desirability in terms of agricultural productivity in your State.

Sincerely,

FRANK E. MOSS,
Chairman.

STATE OF DELAWARE,
EXECUTIVE DEPARTMENT,
Dover, June 14, 1976.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: Thank you for your letter of June 4 requesting my opinion on an aerial applications technology program for improvements in agricultural aircraft, which your Committee has requested that NASA develop.

Delaware agriculture is presently using aircraft extensively for pesticide application, weed control, seeding and fertilization. I feel that there are tremendous potentials for further use of aircraft in agriculture, as well as more efficient use to make it more environmentally acceptable.

I believe your proposed program development by NASA has considerable merit and would greatly benefit agriculture in Delaware.

Sincerely,

SHERMAN W. TRIBBITT,
Governor.

DR. DAVID MATHEWS' WISE POLICY AT HEW

Mr. ALLEN. Mr. President, widespread criticism of the executive branch of the Federal Government has been that although Congress may pass legislation that has been carefully considered and fully debated, the bureaucracy often makes interpretations that not only distort the intent of Congress, but also which make little distinction between the reality of public wishes and planners dreams.

This has been particularly true in burgeoning agencies of Government, such as the Department of Health, Education, and Welfare, where decisions and interpretations touch almost every man, woman, and child in this country.

So it was with considerable interest that I read an editorial entitled "Strange Words From HEW" which appeared in the Wednesday, July 28, 1976, edition of the Montgomery Advertiser in Montgomery, Ala. The editorial writer, as do I, takes hope from a recent statement by Dr. David Mathews, Secretary of HEW, that from now on no major policy decision will be made by HEW affecting the people of this country until after the people have had an opportunity to express themselves on the issue or issues involved. Dr. Mathews, who is demonstrating an innovative approach to public service, also indicates that he intends to conduct public meetings throughout the Nation, to speak at civic meetings and to use other open methods to test the public's reactions to proposed major HEW policy changes before they are instituted.

Mr. President, I find it most refreshing for a top Federal official not only to admit that his department can make a judgment error, but also one who publicly states his intentions to remedy such errors and to seek to prevent their occurrence in the future.

My hope is that Dr. Mathews will be able to get his message down into the burrows of HEW where faceless and nameless bureaucrats make so many of the decisions which he finds—and which the American people find—so objectionable.

Mr. President, in the interest of making Dr. Mathews' message broadly known, I ask unanimous consent that the editorial be printed in the RECORD.

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

STRANGE WORDS FROM HEW

All too frequently people who write laws and regulations that govern our lives tend to do so in such a manner as to make their work easier.

That these edicts may complicate the lives of millions in order to make work easier for a few, seems to make little difference to those creating the rules.

In one segment of the federal government this may soon end. Or, we can hope that the problem may be a mite alleviated.

Over the years the public has become increasingly put out over the petty rules and red tape that entangle it in a morass of frustrations, aggravations and unanswered complaints.

In dealing with the federal government, the buck never seems to stop, it just passes from one bureaucrat to another until the citizen finally surrenders to the system.

It's little wonder that presidential candidate Jimmy Carter has found much voter acceptance of his bureaucracy-taming statements—even though they may be more talk than action.

Nonetheless, the electorate is fed up with "the system" and wants a change.

And from the same Southland that gave us Mr. Carter, comes our own David Mathews, who says he is going to do something about the "evils" in the regulatory process in his bailiwick, the Department of Health, Education and Welfare.

On Sunday he announced that the procedure for manufacturing red tape in that domain would be reversed—somewhat.

From now on those of us whose lives will be touched by HEW rules and guidelines will be asked to give HEW our two-cents worth.

Says Dr. Mathews, to a silent chorus of amens:

"For far to long HEW has gone to the public . . . only to tell (it) what it intends to do. From now on our first step will be to ask the people of this country what they think we should do."

In this almost unprecedented reversal of governmental procedures, Mathews promises that his office "will not put forward a major proposal until the people affected by it have had their say."

To carry out this welcome change he intends to hold town hall-type meetings, advertise, present the proposed changes at civic meetings and utilize a host of other devices to test the public's reactions to HEW changes.

One of the changes we like best is Mathews' decision to hold training sessions for his regulation writers and teach them to write in plain, understandable English—not governmentese.

He also plans to review existing regulations to see if they're doing what they were intended to do.

In all, it sounds like a laudable, if not lofty, enterprise.

If Dr. Mathews' change in HEW operations succeeeds, it can be the best thing that has happened to the average citizen in years.

No longer will he have to shrug his shoulders and resign himself to the persecutions of an impersonal Big Government.

In a sense, we are returning to the spirit that has made this Nation great, a spirit that was beginning to be submerged in bureaucratic indifference.

At HEW, we may see the return of a government of the people, by the people and for the people.

PROGRESS SLOW ON ESTABLISHING INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

Mr. HUMPHREY. Mr. President, I wish to share with my colleagues an article by Ann Crittenden in the August 2 edition of the New York Times entitled "World Food Fund Short of Target."

Officials of the World Food Council, established to implement the recommendations of the World Food Conference of late 1974, indicate their hope that the target of $1 billion for the IFAD can be met by the end of September and put into operation by the end of this year. If the financial goals are not met, the fund will be started with whatever money it has available.

In spite of the delays in getting the fund organized and underway, it has been one of the more successful initiatives of the World Food Conference. Other targets such as world food reserve have not yet been accomplished, and there is no certainty as to when agreement might be reached.

The world food situation has improved for many of the food-deficit nations with some experts expecting a growth in the world food stocks by as much as 40 million tons by the end of the current crop year.

The grain harvest in Southeast Asia has been outstanding so that India has been able to build up a 15 million-ton buffer stock, and the country now faces grain-storage problems.

In spite of these hopeful signs, the World Food Council concludes that "the basic world food situation remains insecure, with long-run food production trends in the developing countries still inadequate to meet their rising needs."

Clearly, this will remain a problem which will require our devoted attention over the years to come. We will need to play an effective part in terms of developing more effective policies and also in providing our fair share of food assistance for the food-deficit nations.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

WORLD FOOD FUND SHORT OF TARGET

(By Ann Crittenden)

More than two years after it was proposed, the International Fund for Agricultural Development, which it was hoped would help to increase food production in the chronic food-deficit countries, is still $63 million short of its $1 billion target.

Officials of the World Food Council, the executive body established to implement the recommendations of the World Food Conference held in Rome, hope that the goal can be met by the end of September and that the fund can be put into operation by the end of this year. If not, its financial goals will have to be lowered and it will be started with whatever money it has.

Ironically, the fund "is the only World Food Conference initiative that has gotten off the ground at all," John Hannah, executive director of the Rome-based council, said in a recent interview. According to documents prepared for the second annual meeting of the council in June, "there has been no significant progress" on what Dr. Hannah calls the most important food issue, the evolution of a dependable system of food security and food reserves.

THREE RECOMMENDATIONS

Little action has been taken on any of the council's three recommended food security measures: the establishment of an international reserve of 500,000 tons for emergencies, the earmarking of a fixed portion of the stocks of major grain producers for food aid (to better assure aid continuity) or the building of a stockpile of 15 million to 20 million tons of grain to stabilize world grain prices.

To be sure, the council report noted that there has "been a distinct improvement in the immediate food situation of many developing countries, except some in Africa following bumper cereal crops in 1975, particularly rice in Asia."

As a result, world cereal stocks are expected to reverse a three-year decline and grow about 10 percent this year, according to Larry Minear, a consultant on hunger for the Church World Service and Lutheran World Relief. The World Food Council estimates that stocks will grow by as much as 40 million tons by the end of the 1976–77 crop year.

BUFFER FOR INDIA

A record grain harvest of 118 million tons, for example, has enabled India to build up a 15-million-ton buffer stock. The country is now faced with grain storage problems.

Significant progress in food aid has also occurred since 1974. Worldwide food-aid pledges this year of 9.2 million tons, including 6 million tons from the United States, are ahead of last year's total of 8.4 million tons but are still short of the 10-million-ton target set at the World Food Conference.

The increased food aid will be needed, however. Despite better harvests, the import requirements of the poorest nations for the 1975–76 crop year will apparently be the same as last year.

Assistance to agriculture in developing countries has risen 65 percent in real terms since 1972, according to Mr. Minear, with loans to agriculture by the World Bank more than tripling to $1.8 billion in 1975.

American development assistance to agriculture amounted to $530 million in fiscal 1976, up from $331 million in 1974. This is not counting the $200 million American contribution to the International Fund for Agricultural Development—which, according to Dr. Hannah, stimulated other developed nations to also contribute, although some have been especially reluctant to do so. As late as last month, France had contributed only $25 million and Switzerland only $8 million, in comparison with $29 million, for example, from Nigeria, and $400 million from the member nations of the Organization of Petroleum Exporting Countries.

Nevertheless, the council report concludes that the "basic world food situation remains insecure," with "long-run food production trends in the developing countries still inadequate to meet their rising needs." The average annual food production increase in the developing countries for the last five years has been 2.5 percent, just under the 2.6 percent annual increase in population and well below their 2.9 percent average annual increase in the 1960's.

Until recently many experts indicate, poor nations concentrated more on increasing food aid rather than improving their own agricultural productive capacity and providing incentives to their own farmers.

Also, the Soviet Union and China have been unwilling either to contribute to the fund or to provide the international community with information on their output.

China maintains it has no accurate crop reporting service, and the Soviet Union has been reluctant to acknowledge that its crops have been poor in recent years, although unexpected Soviet purchases have disrupted world grain markets in the past.

"It is difficult to have an internationally managed food policy," Dr. Hannah said, "when countries don't even have national food policies."

THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. STONE. Mr. President, on April 29, 1976, when the Senate adopted Senate Resolution 104 granting limited legislative jurisdiction to the Select Committee on Small Business, I was unavoidably absent from Washington and therefore unable to cast my vote. As one of the cosponsors of Senate Resolution 104 I want to take this opportunity to express my continuing support for Senate Resolution 104 and my praise for the work of the Small Business Committee.

In 1975 the Small Business Committee held 63 days of public hearings looking into the special problems that small businesses are faced with. Problems such as Federal procurement, competitive disadvantages in the drug industry, and EPA regulations on farmers were examined from the point of view of the small businessman. The findings of this extensive investigation are already reflected in legislative proposals which recognize some of the concerns of small business including estate tax reform and simplified reporting requirements.

The record of the Small Business Committee proves that it is able and willing to focus its efforts on the problems that are the concern of small business in today's complex economy. Granting this committee legislative jurisdiction over Small Business Administration matters is a wise step toward insuring a strong and healthy small business community in America.

THE 1-PERCENT KICKER

Mr. MORGAN. Mr. President, for weeks now my mail has been heavy concerning the proposed repeal of the "so-called 1-percent kicker in Federal retirees' pay. In order that my position may be public I desire to speak briefly on the matter. The 1-percent kicker, as it is called, is an extra cost-of-living increase Congress granted retired Federal workers, back in 1969. And it is the reason Federal retirement pay has gone up faster than the cost of living since then. There is now a bill in the House which would do away with it.

But let me go back and give the history of the kicker. The problem was, the Federal retirees were given a periodic cost-of-living increase, on an automatic basis.

But there turned out to be a time lag, between the time the cost-of-living raise went into effect, and the time it showed up in the retiree's check. So the law passed in 1969 gave the retiree an additional 1-percent increase, with the intention of compensating him for the lag.

But now the General Accounting Office has studied the matter, and this week released its recommendation that the kicker be done away with. It is in effect an increase on an increase, and it has had a snowballing effect.

According to the GAO, the cost of living has gone up 56 percent over 1969, but Federal retirement pay rates have gone up 72 percent. The extra cost of that 1-percent ad-on has created a $5 million deficit in the civil service retirement fund.

Let us take the case of a Federal worker who retired in 1969 with a pension of $10,000. That is not unusual, because Federal salaries are high and the Federal pension plan is generous. In order to keep up with the cost of living, that person would be entitled to more than $15,000 today.

But because of the 1-percent kicker, his pension has actually increased to over $17,000.

If the kicker were not included, the pension would have been just about right, following the formula of the cost-of-living increase by itself.

Now, that GAO report pointed out one important fact. An automatic cost-of-living increase of any sort is extremely rare for people outside the Government, and any such thing as an extra bonus on top of that is unheard of.

In private industry, workers cannot hope for that. In fact, only 4 percent of private retirement plans have a cost-of-living provision to begin with.

It is true that civil servants contribute 7 percent of their salary to the pension fund, but on the average they get that back within 18 months of retirement. So we are talking about the taxpayers' money making up the difference.

There are over 2 million retired Federal employees, including military personnel, and the cost of extra retirement pay is beginning to have a great impact on the budget. In the case of military retirees, pension costs have increased 600 percent since 1964, and it is going up more than $1 billion a year.

It is good to be generous, but we cannot afford to be ruined by our own generosity. Nobody is arguing for the end of a cost-of-living increase for retired military people or any other Federal employee. But there is no point in having a cost-of-living increase that is more than the cost of living actually goes up.

Congressman DAVID HENDERSON of North Carolina is sponsoring a bill which would revise the way cost-of-living increases are passed on. Instead of having to wait for the cost of living index to go up and stay up for 3 months, the increase could go out as soon as that index makes a 3-percent jump in 1 month.

That ought to remove the reason for the kicker, and bring Federal retirement more in line with the cost of living.

Congressman HENDERSON's bill deserves to pass, but it is being heavily lobbied against. It behooves any taxpayer who wants to be generous—but not generous to a fault—to make his voice heard as well.

HAWAII'S SUCCESSFUL GEOTHERMAL VOLCANO WELL

Mr. FONG. Mr. President, on July 22, the first geothermal volcano well in the United States was capped on the Big Island of Hawaii on the side of Kilauea. Drilling for this well started in December of 1975, and the first geyser of steam was reported on July 2 of this year. The well, which was 6,400 feet in depth, spewed steam measuring 617° F to a height of 80 feet.

This is an important first step in the possible development of potential geothermal energy that could ultimately provide many of our Island citizens with electrical power from a source of energy other than oil.

This project was jointly funded by the State of Hawaii, the County of Hawaii, the National Science Foundation, and the U.S. Energy Research and Development Administration. Dr. John Shupe of the University of Hawaii was the project coordinator.

I am a strong supporter of geothermal energy research to develop alternative energy sources for resource-poor states like Hawaii which have no oil or coal deposits whatsoever. Hawaii is almost 100 percent dependent on oil for energy, and every drop of oil must be imported into our Islands.

This successful effort makes Hawaii a leader in our nation's drive to create viable alternative forms of energy. Other important potential sources of energy available in Hawaii for future research and development include ocean thermal energy conversion, wind energy, wave energy, and solar energy.

Mr. President, I ask unanimous consent that the entire Star-Bulletin news article regarding our geothermal volcano be printed in the RECORD.

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

WELL'S FLASHING TEST A SUCCESS—GEOTHERMAL STEAM ROARS

(By Dave Shapiro, Big Island Bureau Chief)

PAHOA, HAWAII.—The Big Island yesterday took a giant step toward future geothermal power production with a successful four-hour "flashing" of the State's first geothermal test well.

The well, drilled 6,400 feet into Kilauea Volcano's east rift zone three miles south of Pahoa, emitted prolific volumes of clean steam throughout the test, sending a white cloud several hundred feet into the air.

John Shupe, director of the Hawaii geothermal project, estimated the well could produce 5 to 10 megawatts of electrical power, enough to serve up to 10,000 persons on the Big Island.

He said the test seems to prove the well can recharge itself and produce steam over extended periods without burning out.

More than 100 residents watched project engineers flash the well for the third time since drilling was completed earlier this year.

The process involves regulating the pressure within the well to vaporize the hot water within, which has been measured at 617 degrees Fahrenheit at the bottom.

As the steam gushed through a short vertical pipe at the speed of sound, a roar measured at 120 decibels—louder than a 747 at takeoff—inundated the area. Most of the onlookers left because of the deafening sound.

The earlier flashes, designed to test the procedure, lasted only minutes.

Yesterday's exercise was aimed at determining whether the well has sufficient rock permeability and fluid storage to recharge it-

self, a question that had concerned scientists working on the project.

Shupe said the test indicates there is recharging ability since the main reservoir would have emptied within 15 minutes if there were no reserve fluids to continue feeding into the main channel.

He said the test does not prove conclusively that the well is a potential power producer but is encouraging enough to warrant further tests.

"We are quite pleased with the results we got today," he said. "The volume was much greater than we expected. And the steam seemed relatively clean although further tests will be needed to determine if there are potentially polluting elements.

"But we are very optimistic that we have a well which can be converted to energy."

Shupe said the next step will be a four- to six-week flash within the next two months to gather more information on recharging capabilities.

He said at least two more comparative test wells probably will be drilled before a prototype power plant is built to convert the steam to electrical energy.

He said there could be "power on the line" within four years if the project proceeds on schedule.

More than $3 million already has been committed to the project from State, County, National Science Foundation and U.S. Energy Research and Development Administration funds, with another $300,000 being requested to complete the current testing phase.

Most of the research has been done by the University of Hawaii, with assistance from the New Zealand consulting firm of Kingston, Reynolds, Tom and Allardice Ltd. New Zealand is one of the world's forerunners in geothermal power production.

Despite the initial success of the project, which started as a vague concept only four years ago, it will be many years before the dream of cheaper electricity in Hawaii is fulfilled.

In addition to the technical problems that must be solved to make geothermal power production cost-efficient, there are numerous legal problems to be resolved, such as ownership and regulation of the resource.

There is also the problem of protecting the wells from future earthquakes and volcanic eruptions.

Such potential side benefits as direct heating, agricultural and industrial uses must also be explored.

The existing well may never be used for commercial power production. Project officials may recommend that it be retained as a research prototype for worldwide studies of geothermal energy.

WRONG TO DEAL WITH CASTRO

Mr. STONE. Mr. President, on July 22, 1976, the International Trade and Commerce Subcommittee of the House International Relations Committee held hearings on the question of whether American businesses desire or in fact actually carry on economic relations with Cuba. As you may remember, last year the President through Executive order allowed American companies with offices abroad to trade with Cuba through those offices. These hearings were held to monitor the extent of business activity which has resulted from the President's Executive order.

The Miami News has written a thoughtful editorial expressing concern with the concept of American businesses resuming trade ties with Cuba in face of Castro's uncompensated confiscation of U.S. business and property, Cuba's military intervention in Angola, and the manifestly inhuman situation existing in Castro's political prisons. I respectfully urge all of my colleagues to review this editorial. I ask unanimous consent 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 Miami News, Monday, July 26, 1976]

WRONG TO DEAL WITH CASTRO

A congressional committee has been listening to testimony about American businesses wanting to resume trade ties with Communist Cuba. We find it hard to believe Americans would want to deal with this Latin version of Idi Amin and wonder if there is any limit to the gullibility of U.S. businessmen.

Obviously they learned no lesson when Fidel Castro confiscated U.S. businesses and property in the early sixties.

Obviously, Castro's military intervention in Angola hasn't convinced them that Communist Cuba is not minding its own business.

Obviously, they seem unconcerned that Americans and thousands of Cubans are rotting in Castro's political prisons.

And, obviously, it matters not one bit to them that Castro is trying to foment troubles between the United States and the Commonwealth of Puerto Rico despite the fact that the people of Puerto Rico voted for such an arrangement, which is more than we can say for the people of Cuba. Their election was at the end of a gunsight.

To those who would have business dealings with the Communist Cubans, we ask them to take their heads out of the sand and see Castro for what he is. To the elected officials of the U.S. Congress, we would ask that they remember the confiscations, the political prisoners, Angola, Puerto Rico and the outright belligerence of this man Castro.

Not until Castro satisfies all the concerns of U.S. interests and the hundreds of thousands of exiles in this country should we offer Castro anything more than a phone call when a hurricane is approaching his island.

THE U.S. ARMY BAND

Mr. TOWER. Mr. President, in this, the 200th anniversary of the United States, it is only fitting to honor the foremost musical organization of the U.S. Army the world famous U.S. Army Band. It is also my pleasure to note that the current leader and commanding officer is Lt. Col. Eugene W. Allen, from the great State of Texas.

Colonel Allen received his master of arts degree in music education from Teachers College, Columbia University, and has received advanced instruction in orchestral conducting from Hugo Fiorato of the New York City ballet.

During his Army service, Colonel Allen has been assigned every type of duty in the Army Band program, from instrumentalist to commander. On March 16, 1976, Colonel Allen assumed the position of leader and commanding officer of the U.S. Army Band—Pershing's own. His military decorations include the Meritorious Service Medal and three awards of the Army Commendation Medal.

The U.S. Army, which is only 1 year older than our country, is represented by the most qualified musicians in America. These ladies and gentlemen make up the world famous U.S. Army Band.

As the senior band of the senior armed service, it led President Coolidge's inaugural parade in 1923, initiating a tradition which has been continued for every President since that date. The Army Band was the only Washington based military band ever to be ordered overseas to participate in a theater of combat operations.

The U.S. Army Band is the official band for most diplomatic and state functions in the Nation's Capital and performs musical honors for the arrival in Washington of foreign chiefs of state, diplomats and high ranking military officers. It also conducts numerous other performances.

The U.S. Army Chorus, originally organized from members of the U.S. Army Band, was established as a separate unit in January 1956. The chorus has earned an enviable reputation in the worlds of serious and popular music.

Other elements of the Army's fine musical organization include the Herald Trumpets, the Blues, the Strings, the Chamber Orchestra, and the Brass Quintet.

The many contributions made by the U.S. Army Band during the past few months for heads of state visiting the United States are tremendous. Our July 4th celebration at the Washington Monument is the climax to the years of planning for our birthday. The U.S. Army Band and Lt. Col. Eugene W. Allen are to be congratulated for a job well done.

THE FUTURE OF AMERICA'S UPSTREAM WATERSHED PROGRAM

Mr. FONG. Mr. President, in late June, the National Watershed Congress held their annual meeting in Biloxi, Miss. A topic of prime importance to this group was the challenges faced by the small watershed program (Public Law 566) administered by the Soil Conservation Service, USDA.

In recent years, the great value and contributions of the watershed program have been overshadowed by the increasing constraints of the Federal budget and environmental protection legislation.

We have addressed these very issues in the recent enactment of the Agriculture and Related Agencies Appropriation Act for Fiscal Year 1977 and our current consideration of amendments to the Federal Water Pollution Control Act.

The distinguished senior Senator from the State of Mississippi (Mr. EASTLAND) made the opening address to the National Watershed Congress. His speech titled, "The Future of America's Upstream Watershed Program" is a clear and forthright statement on where we have been, where we are, and where we must go in America's watershed program.

The Senator's leadership and insight in the establishment and success of our Nation's small watershed program are unparalleled and I believe the thoughts he has expressed for the future of this effort are instructive to us all.

I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks

were ordered to be printed in the RECORD, as follows:

THE FUTURE OF AMERICA'S UPSTREAM WATERSHED PROGRAM

I am delighted to welcome you to Mississippi. It is appropriate that you hold your National Watershed Congress here in Mississippi, a state with great need, and opportunity, for watershed protection and development. I will discuss the legislative viewpoint with you, including where we've been, and where we're going in watershed programs.

To date, there have been nearly 2,900 applications for watershed assistance. Out of that 2,900 about 1,720 have been approved by the Soil Conservation Service for planning assistance. A total of 1,145 projects have been approved for operations with about 70 additional plans to be completed this fiscal year. Over 900 projects have started construction, of which about 440 have all structural measures completed. An estimate made several years ago showed a potential of almost 9,000 feasible and needed projects. We have made a good start, but there is still a great backlog of urgently needed watershed development.

I recall that a few years ago, as many as a hundred new watershed work plans were being processed in one year. Sponsors and local people, at least my constituents, were very enthusiastic about the program. They had a new and unique tool available to stimulate the total conservation effort. The program expanded by leaps and bounds. The Soil Conservation Service at one time projected a goal of completing 200 plans a year so that all the feasible projects could be completed within 50 years. That was somewhat optimistic. That rate of completion has not been achieved. The Congress and urban oriented administrations promised more than they have delivered.

The slowdown started back about 1969 or 1970. Contributing factors were the fiscal situation, inflation, and the sentiment that was building towards the preservation of natural areas. Suddenly, some of the projects were accused of exploiting flood plains. Quality of streams and lakes were temporarily degraded, and more people considered this a problem. The so-called "degradation crisis" was given wide publicity. Projects were blamed, often unjustly, and without full information.

The public is becoming more interested, and more concerned, about protecting our cultural heritage, protecting endangered species (both plant and animal), and showing a stronger desire to preserve the natural scenic beauty of the landscape. This is indicated in a number of ways. Recommendations were made in the National Water Commission Report which affected almost all aspects of water resources problems; a number of wild and scenic rivers were designated; wilderness areas were designated; the Uniform Relocation and Real Property Acquisition Policies Act was passed; and in 1969 the National Environmental Policy Act, with its environmental impact statement requirements, was enacted.

The water resource planning procedures have been changed to conform to the Water Resources Council's new Principles and Standards. Most recently, enactment of the Archeological and Historical Preservation Act of 1974 requires investigations and salvage of significant cultural values by the National Park Service without providing adequate funds to do it. Since the National Park Service does not have sufficient funds available, it and other archeological and historic interests are looking at watershed construction funds for salvage and recovery of cultural values. If the funding aspects of this law are not resolved, and watershed construction funds are used for salvage, the effectiveness of the watershed program could be reduced by 10–20 percent.

These shifts in public views with comparable changes in public policies over the past 20 years were well meant, but the fact remains that there were many projects in the planning stage or nearing construction completion that suffered delays and caused frustrations to the local sponsors.

These delays have caused the Soil Conservation Service to stop, back up, and retrace their steps in the planning process. In many cases, environmental impact statements have had to be prepared, and archeologists demanded to dig extensive test pits. In other words, it is a catch-up ball game in order to fulfill some of the new requirements retroactively placed upon the watershed program. I'm told that the Soil Conservation Service still must prepare environmental impact statements on about 365 older projects with an estimated average cost of about $40,000 each. As new project areas are planned, the environmental assessments and preparation of environmental impact statements become an integral part of the planning process. This should not create the extended delays that have been inherent over the past few years on the older projects.

In the future, the progress of the watershed program must accelerate, but it will not achieve the old rate. It costs more to plan, it costs more to collect data and prepare environmental impact statements. An impact statement can cost up to $100,000. The projects themselves will be more attuned to the environment, will have greater public involvement, and will identify both beneficial and adverse effects. No longer will the environmental group be isolated from the planning group, but to the contrary, they will work very closely together. This assures that the watershed program will be responsive to the public's needs.

A watershed project can be likened to a case of acute appendicitis. Before the operation, the patient is in severe pain. After diagnosis, there must be an incision to correct the problem. In the case of a watershed, there is the pain of erosion, gullying, sediments and debris choking streams, flooding of potentially productive cropland, and rural and urban, private and public property damage, and occasionally the loss of human life. In the treatment or surgery, there must be some disturbance in the ground surface cover. There is some bleeding from the wounds, or in the case of the project, some sediment produced during construction. But, like the appendectomy, the watershed heals quickly, the surface is restored, and the watershed problem is reduced or eliminated. In a short time, both are healthy and in better shape than before.

It can also be likened to remodeling an old house to strengthen its structure, improve its appearance, and increase its livability and comfort.

The Soil Conservation Service has been a leader in trying to combine the watershed work plan and environmental impact statement into a single document which helps to avoid repetition. This concept, I understand, is now being implemented by other agencies. This allows the impact statement along with the plan to be effective decisionmaking tools. That was the intent of NEPA. In my judgment, this is a very worthwhile goal. Such a document can provide concise and accurate information needed by the sponsors to make their decisions and to outline for the public and for the Congress why they chose a particular alternative to improve the resource and the environment. It allows us in our deliberations to understand the tradeoffs between the various possibilities available to the sponsors, to have a better idea as to why certain decisions were made, and why certain project proposals are before us for consideration.

Looking at the backlog of unfunded construction work, it becomes obvious that a better program balance is needed. It is evident that the number of projects being planned should be correlated with the number of projects completed. This should *not* be accomplished by a further reduction in planning, but in accelerating financing for construction. Protected and improved soil and water resources are essential to increase food production to meet present day and future domestic and export requirements. Food is essential to life, and more food must be produced.

In 1975, the Soil Conservation Service began construction on 41 projects, but were able to complete only 17. This kind of imbalance through the years has resulted in an accumulated backlog of unfunded construction in PL 566 projects in excess of $800 million, of which over $60 million is in Mississippi. I enlist the support of all of you, and your organizations, to work together to accelerate funding for the many projects already planned, but not constructed. With your support, a better program balance can be achieved.

In recent months, much has been said about permits required under Section 404 of the Water Pollution Control Act amendments of 1972, about the definition of navigable waters, the role of the Corps of Engineers in the permitting procedure, and the role of EPA. With all the rhetoric on the subject, my judgment is the final resolution on the problem must be made by the Congress in further defining terminology and clarifying its intent.

Similar problems exist in relation to the permit provisions under Section 402. Once again the definitions are excessively broad as to what point sources are. It seems that the language and legislative history of the act does not make it clear that the law was aimed at pollution sources which can be dealt with by treatment at the end of a pipe. The Congress will have to make its intent clear by providing further amendments to Public Law 92–500.

There is no question that quality of the environment is a prime concern to all persons in the United States. We know there is serious interest in such matters as air pollution, water pollution, and even noise pollution. These problems are not limited just to metropolitan areas or to specific streams or lakes. Essentially, the entire United States is involved. Recognizing these problems, we must be urgently about the task of solving them. But, to burden ourselves with unrealistic definitions, unrealistic permit programs, unrealistic restrictions, and unwieldly bureaucracies, will not lead to judicious and timely settlement of such grave problems.

There are many available sources of assistance in improving the quality of our environment. Conservation districts across the country have been in the front ranks in administering programs aimed at solving pollution problems, whether they arise from the land or directly affect the land. However, to do the best job, districts and local units of government must have your increasing support so that they can properly sponsor watershed projects, sediment control programs, pollution control programs, flood plain management programs, and other related activities. I commend all of you who are affiliated with the National Watershed Congress for your past efforts in conserving our natural resources. You must actively petition the Congress, and Administration, to support local initiative in these areas. With that support and concern, and with Congressional and Administrative action, we will see the day when many of our pressing problems of food and fiber production, unique value preservation, and depleting resources are resolved. We must not be shortsighted in our goal of attaining our objective of high quality in our environment and for human life. We must depend on local leadership rather than a massive federal establishment to accomplish these things. This can be accomplished with federal participation, to the extent of pro-

viding some of the technical assistance and providing cost sharing without making it into a federal program.

The watershed projects that have been approved and constructed over the years have varied in orientation from highly rural in most cases to very urbanized in a few. They provide protection to rural areas, cropland, pastureland, and forests. Also, they protect urban areas and rural or agricultural communities.

Many other purposes have been included in these watershed projects. Badly needed irrigation water has been provided. Urgently needed recreational facilities have been and can be built in for small county parks, city parks, and regional parks that are coordinated with the master recreation plans of many states. Large areas of fish and wildlife habitat have been improved.

Land treatment has also been a major part of all watershed projects. Land treatment measures have produced magnificent improvements to the landscape, especially here in Mississippi. I have seen many areas covered with raw, unsightly gullies restored to grass or forests through the application of proper land treatment practices. These areas, once so sickening to view, are now productive with the soil held in place and not polluting downstream rivers or reservoirs.

Research, information and applied conservation to our productive natural resources have contributed greatly to our economy and standard of living. I have seen pastureland that took 10 acres to support an animal unit improved to support one on one acre. I have seen land that took five acres to produce a bale of cotton produce two bales on one acre. This could not have happened without the combination of the conservation district support, financial assistance through the ACP, and technical assistance from the Forest Service and Soil Conservation Service.

One of the requirements in watershed projects is that 50 percent of all the land above each reservoir be under conservation agreement. The landowner must have agreed that he will practice and apply proper conservation measures to prevent or reduce erosion from his land. Farmers who depend on their land for their living recognize the validity of good conservation and are more than willing to participate. They cannot always do so by themselves. It is individuals, local groups, local units of government, and state governments working with the Federal Government that has accomplished so much over the 22 years since the inception of the watershed program. Benefits, both monetary and nonmonetary, achieved through the watershed program have far exceeded the costs.

Looking ahead, there is much that must be done. Recently, further stress has been placed on what are called nonstructural measures to prevent future flood damages. I am referring to the provisions of Public Law 93-251, which provide for consideration of and cost sharing for nonstructural measures such as land acquisition, flood proofing, or flood warning systems. To date, such measures have been at a disadvantage in being included in many watershed projects. Cost sharing for these kinds of measures has not been allowed by the Administration. It is my hope that existing water resource legislation will make cost sharing for such measures consistent with the cost sharing requirements for structural measures and thereby allow the development of projects to more fully satisfy the needs and requirements of the local watershed residents.

In summary, great accomplishments have been achieved in the watershed program. See some of them on the ground before you leave Mississippi. But, only five percent of the potential projects are done, with only another eight percent under construction. Planning starts have begun on less than 20 percent of the total needed projects. It is essential that basic capital investments be made to assure our future food supplies, to ensure a viable agriculture, and to protect our most valuable natural resources, land and water. I recognize the need to control federal outlays, but I feel that the distribution of available funds should be such that watershed construction be strongly supported. Your encouragement to Congress and Congress' favorable response will be in the public interest. With your support, I see a great future for a responsive, responsible, innovative watershed program. The Eighty-Third Congress had such in mind, I know I did, when we passed the Watershed Protection and Flood Prevention Act in 1954.

ENERGY CONSERVATION

Mr. TOWER. Mr. President, earlier this summer my good friend and colleague from New Mexico, PETE DOMENICI, addressed a meeting of the World Congress on Thermal Insulation and Acoustics in Stresa, Italy. In attendance were individuals from all over the world who are involved in the insulation business.

On many occasions, I have worked closely with Senator DOMENICI on energy-related legislative matters, and I know him to be a strong and active supporter of energy production and conservation programs. In his comments before the World Congress, Senator DOMENICI stressed the need for increased awareness of the energy problem on a worldwide basis, and suggested several examples of energy conservation techniques.

I would like to commend this fine statement to the attention of my colleagues here in the Senate, and I ask unanimous consent that it be printed in the RECORD. In addition, I ask unanimous consent that a letter regarding Senator DOMENICI's statement from Mr. W. Robert Murfin of Houston, Tex., be printed in the RECORD.

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

Senator DOMENICI. I am honored to be here today to discuss with you a problem of over-riding international importance. First, I wish to read to you a letter of greetings sent to this Congress by the President of the United States, President Gerald Ford.

I was delighted to learn that you will be attending the World Congress on Thermal Insulation and Acoustics, meeting in Stresa, Italy.

This convention comes at a time of grave international concern over the problems of energy shortage, degradation of the environment and the need to control noise pollution.

This international Congress will provide the guidance necessary for the expansion of improved methods in thermal insulation, energy conservation and noise abatement as applied to building technology. Some of the most critical challenges of tomorrow will be among the topics on its important agenda. The concern of the delegates for the future of their industry and of its vital role in the world community will be emphasized and addressed. People the world over look to these deliberations for new ideas and initiative.

I wholeheartedly applaud this fine and farsighted effort and hope you will convey my very best wishes to all who attend for a productive and highly rewarding meeting.

Sincerely,

JERRY FORD

I would remind you all that President Ford has put energy conservation and a truly international energy stability as one of the highest priority items for his administration. His diligence in attempting to solve this problem, and his courage in pushing for action at the international level, merit high praise from all who are concerned about the future of the world.

The issue we address at this convention is international in scope. But, the industrialized nations bear the biggest burden, for they are the greatest users of energy. And, among the industrialized nations, America has an even greater burden because she uses such a large percentage of all the energy consumed in the world.

Because America occupies this pivotal position, my remarks today will focus on the attitude in my nation and the actions of the Congress of which I am a member. However, some of the problems of apathy I will outline also apply to other nations.

In America, I fear, conservation consciousness is dropping to pre-oil embargo levels, threatening the free world's attempts to achieve energy self-sufficiency and pointing to world-wide oil shortage in the not so distant future.

This distressing fact—evidenced by the purchase of larger autos by Americans, polls that show that the energy crisis seems far from the minds of most of my neighbors, and a large increase in energy consumption in recent months—is especially disheartening because we now have new facts that indicate that the world's oil supplies are less prevalent than we had originally thought.

For example, most conservative estimates of the oil supply in America indicate that our petroleum reserves will be exhausted within a half century at best and perhaps as soon as 25 years from now. Production rates, demand for oil and the discovery of new oil reserves are calculated to determine when oil will run out in the Mideast and elsewhere. Based on proven reserves, and I should stress that word, "proven," oil supplies in Kuwait will be gone in 75 years. Saudi Arabia's supplies will last only another 60 years at present consumption rates. Abu Dhabi has 55 years of proven reserves left, Iraq 50 years, Libya 45, Iran 40, Indonesia 28, Nigeria 25, Algeria 20, and Venezuela 16 years. Even allowing for new discoveries and significant improvements in second and tertiary recovery techniques, it becomes apparent to geology experts that the age of petroleum will come to an end in the next century.

This means that we have, conservatively, about 50 years of time left before the world has to switch to other energy sources for the vast majority of its power needs. Each year beyond the 50 that we can gain through conservation is another year to perfect the energy generating methods of the future. Each year we lose through waste, means a tighter timetable and greater chances for error.

In light of this theory—that we will use our petroleum resources efficiently to gain time for the world—we must all be particularly dismayed by the low level of energy consciousness too many citizens in the world display. In my nation, immense savings through proper use of industrial and residential insulation are being wasted because the American people have been lulled into complacency by a short-term-glut of petroleum products.

Indeed, most recent studies, some of them still in the draft stage prior to publication, indicate that about 20 percent of all energy used in America is either wasted or the result of excess use. This translates into 30 million barrels of oil a day down the drain.

We who are concerned about energy consumption and the problems wasteful practices cause for the industrial world were en-

couraged by the drop in energy use in America in 1974, the first such drop in 22 years. Since Americans consistently use more energy per capita than any other industrialized population, and since the unprecedented industrial power of the United States has been built on this energy use, it is critical that America lead the way in energy conservation.

Sadly, most recent statistics show that energy consumption in America is rising dramatically once again. The American people have been misled by what I believe is a wholly temporary surplus of petroleum products. This misconception, if not cleared up by experts in the field such as yourselves, will lead to catastrophic dependence on foreign sources of oil for the entire free, industrialized world. Conservation, after all, in any form in the free world depends not upon government stricture of laws, but upon the cooperation and individual action of businesses and citizens. All the research in the world, all the hopes for more intelligent energy use, will go unfulfilled without a new ethic of conservation.

In 1974 alone, America could have saved millions of barrels of oil through conservation practices that are completely within the state-of-the-art. Stringent conservation practices that are encouraged by federal regulations and legislation, and bolstered by the active support of the American people, could virtually wipe out excess petroleum use and be one of the most important single steps toward improving the economic health of the free world's economy. As in other realms of life, if I may paraphrase, no nation is a land unto itself, apart from all others. Americans, Europeans, citizens of all nations, have become tied together in an energy web that is terribly fragile. Every tremor is communicated almost instantly from nation to nation. Every mis-use must show up somewhere as a shortage, whether temporary or permanent. It is in this spirit of interdependence that all of us in this room must preach the conservation sermon to our countrymen.

I think it fair to point out that both President Ford and the American Congress have shown a high degree of interest in energy conservation. The Congress has passed laws encouraging conservation. I expect further legislation. But, the basic decision rests with the people. We have the technology, both in America and in the rest of the industrialized world. We have the scientific how-how. The question is whether we have the will to free our nations from the specter of an economic disaster that we can prevent by intelligent planning now.

We must remember that scarcity is the mother of invention. We cannot expect the necessary investment in alternate sources of energy, development of new engines, use of optimum conservation practices until we instill a "scarcity atmosphere" in the industrialized world. If we operate with full knowledge of the limitation of our resources, we will find that solutions will be far quicker in coming.

One of the most disturbing things to me is the lack of energy discussion except among experts. In times not too long past we can all recall that the newspapers in the industrialized world headlined every day of the energy crisis. We saw in-depth stories. We saw politicians of every persuasion addressing the issue in every kind of forum. We saw, in sum, a focus on the inter-relation of our energy problems and our economic future. It is now safe to say that we see no such headlines. We see no highly-publicized forums of a national character. We see no more investigative articles. In the political campaigns in my nation, energy is not a big issue. Indeed, energy seems to be treated merely as a fad issue. And it is not.

I am pleased to see the large number of people at this conference because you are in the vanguard of the conservation effort. You know first-hand just how much energy, in the form of heat loss, excess noise, and other by-products, is lost in the industrial sector.

I have been most interested in research that indicates that about 33 percent of heat loss in American industry could be eliminated by installing the economic thickness of insulation over current thickness used.

In the petrochemical industry, one study indicates, this reduction of heat loss could amount to 34 percent. That translates into 87.2 million barrels of oil through the year 1990. In the petroleum refining industry, some 36.9 million barrels of oil a day could be saved by most economic use of insulation. Process industries could improve insulation and save some 243 million barrels of oil. And utilities could save 73.8 million barrels of oil through the year 1990 with best use of insulation against heat loss.

In the residential housing construction sector of the American economy, great savings could occur with proper insulation and use of storm doors and windows, as well as other conservation devices. The fact is that insulation is a true conservation method at use point, as well as source point. This fact opens new vistas for your companies and for policymakers.

I would be remiss if I didn't discuss briefly one more aspect of conservation, and that is the much-talked-about, but often ignored, topic of re-use and re-cycling. Studies indicate that great savings could occur in the industrial world if we embarked on a re-use and re-cycling strategy of large proportions. Such esoteric areas as conversion of animal and human waste for generation of electricity, and the re-use and re-refining of waste petroleum products, should achieve a higher priority. The savings from these areas, used to their fullest, would just about close the gap between American production and American demand.

And, if America closes that gap, as the nation that uses more than one-third of all the energy consumed in the world, that means that the industrialized world begins to close the energy needs gap. Our past spendthrift ways have caused havoc not just in our nation, but in the world. It has been argued that America's immense use of energy has contributed greatly to the world's economic strength. No doubt, this is true. But, by the same token, America's more efficient use of energy will contribute just as much to a world economic future free from the peaks and valleys of the past three years.

I assure you that the world's economists and the world's leaders are most aware of the grave dangers the energy crisis poses. You, as experts in the field, are acquainted first-hand with the possibilities for better use of energy that will reduce these dangers. Now, we must all join together in an unprecedented international education effort to persuade citizens throughout the world that every bit of savings in the energy field means a better world ahead. We must remind everyone that economic disruptions that will eventually harm every country in the world will come from a failure to act in the energy field now. The consequences of social unrest caused by economic chaos are well-known to everyone in this room. It would be a tragedy of the first order, and a tragedy well within our power to prevent, if through complacency or resignation those of us with knowledge and authority failed to make the strongest case possible for energy conservation.

I thank you again for asking me to address you and I hope my "view from America" will help you as you consider the problems of energy conservation during this Congress.

IB AND B INSULATION, INC.,
Houston, Tex., June 15, 1976.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMENICI: Thank you for your excellent presentation at the World Insulation Congress in Stresa, Italy. Your talk and understanding of the energy conservation potential both in the United States and in the industrial world impressed both the United States delegation and our European colleagues.

The success of a technical congress such as this is dependent not only upon the quality of papers presented, but also upon the intellectual level at which they are understood. Your speech emphasized a world view of the energy problem which assisted the delegates in looking beyond national differences in technology and technique.

The penetration of your remarks combined with your mission of investigating the earthquake damage in northeast Italy could not help but have a strengthening effect on our American-Italian and American-European ties.

Again, Senator Domenici, it was an honor both for the American delegation and all members of the World Congress to have had you joint us.

I hope to have the opportunity of working with you in the future.

Yours very truly,

W. ROBERT MURFIN,
President.

LAW OF THE SEA NEGOTIATIONS

Mr. HOLLINGS. Mr. President, the Law of the Sea Conference reconvened yesterday in New York. Control of the resources of the deep seabed, an area that has been called the common heritage of mankind, is the basic bone of contention in the conference.

These resources are immensely valuable to the United States. The projected worth to our country of the mineral resources alone is supposed to be in the neighborhood of $19 billion by the year 2000. Ignoring possible oil and gas reserves for the moment, development of the manganese nodules could have a tremendous effect upon this Nation, turning us into exporters, instead of importers, of nickle and copper—elements which are vital to our industrial well-being. This, then, is what is at stake in these Law of the Sea negotiations.

The United States has been seeking to reach agreement on some kind of process for dealing with these deep seabed minerals. In fact, Law of the Sea negotiations on this matter have been proceeding on one basis or another for some 7 years now. During the last session of the conference, which concluded in May, Secretary Kissinger proposed setting up an international authority that resembles a mini-United Nations in structure. According to this proposal, two tracts could be applied for, with the mining company receiving rights to mine one of them and the authority retaining the other to be mined for the benefit of the undeveloped nations. A second part of this proposal suggests a world commodity agreement to protect vested mining interests in the undeveloped nations from disruption of their markets by regulating the amount of deep seabed minerals that could be mined.

A flexible dispute settlement procedure has been advanced that would allow nations to choose one, several, or all of the four settlement procedures that have been agreed upon. Other facets of this design remain fuzzy, however, and along with the concrete aspects, raise some troublesome questions.

How will the voting work under this proposed international authority? The United States and other industrialized countries are heavily outnumbered under a U.N.-type of arrangement. Under these circumstances, being outvoted would be a matter of course.

Should the United States accept what is in essence a monopoly on both production and price? This appears to lend itself to another OPEC/cartel situation.

Should the United States support and accept a huge United Nations kind of bureaucracy that will manage the international authority? In light of the fact that we will be footing most of the bill, we could end up supporting a monopoly that is not, to say the least, sympathetic to the needs of our own country. And this would be in addition to the burden we already carry in being the financial mainstay of the United Nations.

State Department officials are finally admitting what many of us knew was true some time ago—that no treaty will be forthcoming from this session. In fact, some nations are projecting the need for 3 more years to reach a solution to this deep seabed mining issue.

Perhaps it is time we seriously considered the other options that are available to us. Several U.S.-based companies possess the technological know-how to begin mining operations. As a matter of fact, it has been reported that Japan has already begun mining for manganese nodules on a small scale. There are no domestic or international legal constraints to keep firms from jumping into the business in a big way. So with no treaty seemingly forthcoming in the near future, and no action needed by Congress, operations could begin immediately.

There is another option, however, that offers some promise: We can take national action in the form of properly—devised, reasonable, and responsible legislation. This could carry the same proviso that the Fishery Conservation and Management Act of 1976 contains—that the legislation could be set aside upon acceptance and approval of a Law of the Sea Treaty. It could very well be that in the long run, such action could serve to better define international law. It is certainly a matter we will have to come to grips with during the new Congress.

Mr. President, I ask unanimous consent that two articles from the Washington Post describing the internal problems of our Law of the Sea team and issues surrounding the deep seabed mining issue be printed in the RECORD.

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

AMERICAN TEAM ON SEA TREATY SAID IN TURMOIL

(By George C. Wilson)

The American delegation that will resume efforts next week to negotiate an international treaty for dividing up the riches of the ocean is in "a first class mess," according to the Pentagon executive who used to work on national ocean policy.

What is needed, Deputy Defense Secretary William P. Clements Jr. said in an interview, is a general housecleaning of the bureaucrats "who have literally made a career" out of traveling around the world to Law of the Sea conferences.

Those conferences, under United Nations auspices, are designed to get nations of the world to agree on how the deep seas shall be used and exploited—including mining for minerals.

The next Law of the Sea Conference is scheduled to be held in New York City from Aug. 2 to Sept. 17. Secretary of State Henry A. Kissinger has called the Law of Sea negotiations one of the most important that have ever taken place.

Kissinger has warned that if the Law of the Sea negotiations "are not completed this year, the world will have lost its best chance to achieve a treaty in this generation."

While not disagreeing with the importance of negotiating a treaty for developing the deep ocean, other American officials involved in the negotiations predicted in interviews that no agreement will be reached in 1976.

Instead, they said, the best that can be hoped for until after the November U.S. elections is a narrowing of remaining differences on Law of the Sea questions—with the central question how the seabed should be mined and the money made on the minerals there should be divided among nations.

In what Kissinger said was President Ford's attempt to underline the importance of next week's Law of the Sea talks, Kissinger was told by the President to head the delegation.

Clements and others interviewed said that Kissinger will be taking over a delegation which has been torn with dissension since T. Vincent Learson succeeded John R. Stevenson as chairman on Dec. 15, 1975. (Carlyle E. Maw, under secretary of state for security assistance, chaired the delegation between Stevenson's departure and Learson's appointment.)

"All this behind-the-scenes knifing, backbiting and so forth didn't start until after he was appointed," Clements said of Learson without mentioning his name.

"I think it's a first class mess," Clements said when asked how the negotiations are being handled now. American Law of the Sea policymaking "hasn't had the direction and management that it should have had," he said.

Clements served on the under secretaries committee on Law of the Sea policy from Jan. 30, 1973, when he became deputy secretary of defense, until Sept. 17, 1975, when he withdrew from the committee because of his concern about conflict of interest.

"Over the past several months," Clements wrote Robert S. Ingersoll, deputy secretary of state, "I have become increasingly concerned that it might be perceived that a conflict of interest might exist with respect to my participation on the under secretaries committee with Law of the Sea matters . . ."

He did not elaborate in his letter on the conflict of interest concern but said in an interview that as soon as he learned that his former firm—SEDCO of Dallas—planned to go into seabed mining, he withdrew from Law of the Sea discussions.

Clements acknowledged that before resigning from the under secretaries committee he had reviewed the seabed mining rules the U.S. delegation planned to offer at the Law of the Sea conference in Caracas in 1974.

He said that the proposed rules were so easy on the seabed mining companies which would have leased great tracts of ocean that he and two other under secretaries "hit the roof."

As a result of their protests, Clements said, the seabed mining rules were tightened at a time the bureaucrats who had drafted the rules were "getting ready to give away the store."

Another possible appearance of conflict-of-interest came earlier this year when Clements' son, B. Gill Clements, was nominated to become a member of the advisory committee to the Law of the Sea delegation. The younger Clements has succeeded his father as chief executive officer of SEDCO, which drills wells on land and under the ocean for oil companies and nations.

Another challenge to the current leadership of the Law of the Sea delegation came last week from John Norton Moore, who last year was chairman of the National Security Council Task Force on the Law of the Sea.

Moore said in an interview that Kissinger "has paid only minimal attention to Law of the Sea negotiations" and tolerated a "leadership vacuum" on the delegation for more than a year.

Moore's complaint about a leadership vacuum was directed at Learson, former board chairman of IBM, but he did not mention him by name.

Learson could not be reached yesterday to respond to the criticism about his leadership. A government executive who works closely with Learson, but declined to be named, said that Learson is lending forceful leadership to the delegation and has mastered the issues since taking over.

If the negotiations fail to bring a Law of the Sea treaty, Congress may act to give mining companies exclusive rights to specific tracts of the seabed.

Sens. Ernest F. Hollings (D-S.C.), chairman of the Oceans and Atmosphere Subcommittee of the Commerce Committee, and Warren G. Magnuson (D-Wash.), chairman of the Commerce Committee, predicted in interviews that Congress would move quickly to pass seabed mining bills in 1977 if a treaty remains out of reach.

THE LAST FRONTIER SHARING THE WEALTH UNDER THE SEA

(By George C. Wilson)

The great Indian warrior Tecumseh was incredulous when white speculators tried to buy up the land of his people after the Revolutionary War.

"Sell the country?" he cried. "Why not sell the air, the clouds, the great sea?"

Tecumseh tried to hold the land for the Indians who revered it. He was killed while commanding Indian braves fighting alongside the British in the War of 1812—a war he saw as the last chance to stop the march of the white settlers.

The Indians did lose their land—with many of them unaware of what was happening. And today, 163 years after Tecumseh's death, "the great sea" he talked about is up for sale—again with many people unaware of what is happening.

Delegates from countries around the world will gather at the United Nations building in New York from tomorrow through Sept. 17 to try for the fifth time to agree on how the great sea—the last frontier—should be divided up.

This last frontier—taking up 70 per cent of the earth's surface—dwarfs the one Tecumseh lost. And it contains riches that are expected to trigger a new kind of Gold Rush before this century is out.

Already American mining companies are pushing for exclusive rights to mine vast tracts of the ocean bed for nickel, copper and other minerals. One nation's mining claims could be jumped by another country in this rush to exploit the last frontier.

Statistics can provide a dim perception of the riches out there:

The whole North American continent of 9,390,000 square miles would sink out of sight in just one corner of the Pacific Ocean, which takes up 64,186,300 square miles of the unexploited frontier. Add in the Arctic,

Atlantic and Indian oceans and the frontier grows to 131,062,500 square miles—or 14 times the area of North America.

The value of the ocean riches to the United States alone will be $45 billion by the year 2000—with oil, gas and manganese nodules accounting for about $19 billion of that total and fish $4 billion, according to estimates made by Robert R. Nathan Associates for the Senate Commerce Committee.

The nickel and copper extracted from manganese nodules lying on the ocean bottom could transform the United States from an importer of these minerals to an exporter, according to the Interior Department's Ocean Mining Administration—a change that would shake up the economies of many countries.

"Today it is the oceans which suddenly are accessible to new technology and alluring to exploration," Secretary of State Henry A. Kissinger told the Foreign Policy Association in April. "Their promise may be even greater than the untapped lands of the century past. So too is their potential for conflict. The decision will be ours."

Kissinger said the United States does not want to see nations climbing all over each other in an international Gold Rush.

"The nations of the world cannot afford to indulge in another round of unrestrained struggle for the wealth of our planet when the globe is already burdened by ideological strife and thermonuclear weapons," he argued.

The delegates gathered around tables at the United Nations tomorrow are supposed to find a way to avoid that "unrestrained struggle" by writing a treaty for harvesting the riches of the ocean without leaving the sea bottom ravaged like an underwater Appalachia; for sharing the wealth among all the world's nations; for using the oceans like a world "commons."

The purpose of the Law of the Sea session, said T. Vincent Learson, the former IBM board chairman who is chairman of the American delegation, "is to bring law and order to the use of the oceans and therefore to avoid conflicts so we don't have to have battleships running around to keep peace in the world."

"Eighty per cent of of the nations really want to see a treaty concluded," Learson added, predicting that differences will be narrowed in this next meeting so that a final treaty can be agreed to by the Law of the Sea Conference next year.

But the Ocean Education Project, a nonprofit, privately funded group trying to educate the public on what is at stake as diplomats divide up the wealth of the oceans, contends the people of the world have already lost much of their frontier without knowing it.

"The vision of the oceans as 'the common heritage of mankind' whose wealth—chiefly in oil—should be used to narrow the gap between rich and poor nations has largely faded," said the Ocean Education Project in assessing what has happened to date.

STAKING CLAIMS

Instead of sharing the 1967 vision of former Ambassador Arvid Pardo of Malta, who saw the ocean riches as common property for all the world's peoples, the United States and other coastal nations have staked out claims to all these riches from the beach to a line 200 miles out to sea.

"The oil boys got what they want," said Samuel R. Levering, a lobbyist for the privately financed U.S. Committee for the Oceans, in referring to the 200-mile economic zone now established in the draft treaty. Most of the untapped oil is believed within this 200-mile zone.

Wide agreement also has been reached among Law of the Sea delegates to consider the band extending 12 miles from shore as territorial waters. But, under language already drafted, coastal nations would allow other countries to sail into territorial waters and through straits as long as these trips constituted innocent passage.

"In the territorial sea," states one article in the draft treaty which shows the emphasis on innocent passage, "submarines and other underwater vehicles are required to navigate on the surface and to show their flag."

Since the 200-mile economic zone is virtually established worldwide and there is also agreement on rules for navigation and pollution, the big question facing diplomats in tomorrow's and future Law of the Sea sessions is how the frontier more than 200 miles from shore should be apportioned among nations of the world.

The United States hopes to avoid a "might makes right" grab of this seabed, which has billions of dollars worth of manganese nodules lying on the bottom. The U.S. government has proposed establishing a mini-United Nations to control the exploitation of this deep seabed.

DUAL CONTROL PLAN

But American officials fear in making this proposal that the less-developed nations would outvote the United States and other industrial powers capable of mining the seabed if the voting was a straight one-country, one-vote arrangement. Said Kissinger on this dilemma:

"The United States understands the concern that the riches of the seas not be the exclusive preserve of only the most powerful and technologically advanced nations . . . What the United States cannot accept is that the right of access to seabed minerals be given exclusively to an international authority, or be so severely restricted as effectively to deny access to the firms of any individual nation including our own."

The Kissinger proposal—to be debated at the conference this week—calls for the have and have-not nations to share the wealth of the deep seabed by mining it under both international and industrial control. A mining company under his proposal would apply to an international authority for the right to mine two tracts of the seabed. The authority would keep one of the two requested tracts to develop for undeveloped nations and let the private company mine the other one on its own.

Another American offer—designed to reassure countries with economies based on selling the metals they still extract from the ground—is to enter into a world commodity agreement to control the pace of mining of the seabed to keep markets from being disrupted. Some critics have attacked this scheme as madness, since the United States would be inviting an OPEC-type cartel run by the Third World.

Despite optimistic predictions of Learson, Kissinger and other American officials about the prospects of reaching final agreement on a treaty text by next year, other members of the Law of the Sea delegation warn that the issues are so tough that resolving them may take another three years.

How should the voting within a new international seabed authority be distributed between the developed and undeveloped countries and the coastal and landlocked nations? How should the money coming out of the "common heritage" of the seabed be shared? How should disputes be settled as claims are jumped or the seabed is stripped like a West Virginia coal mine with no regard to environmental rules?

The American Mining Congress is at the forefront of organizations pressuring Congress to let American mining companies start mining the seabed without waiting for the world to agree on an international treaty. U.S. negotiators regard the pending bills to allow this go-it-alone mining as valuable leverage for them. But there is a real danger that this negotiating game may get out of hand next year as Congress runs out of patience and passes the seabed mining bills.

Leigh S. Ratiner, the administrator of the Interior Department's Ocean Mining Administration and the U.S. negotiator for the seabed mining part of the Law of the Sea treaty, "is playing such a byzantine game with this threat of congressional legislation that we're losing our credibility with the other delegates," said one of Ratiner's critics involved with Law of the Sea diplomacy. Ratiner also has drawn fire from Deputy Defense Secretary William P. Clements, who said the negotiator should have been fired long ago"—an indication that the Ford Administration is not going into this new round solidly behind its negotiating team. Ratiner himself has declined to comment.

Clements reviewed the administration's proposed seabed mining rules when he was a member of the Under Secretaries Committee on Law of the Sea issues. He is still a major stockholder in SEDCO, a Dallas firm which has drilled wells on land and sea for international oil companies and foreign nations. SEDCO last fall entered into a consortium to mine the seabed—a venture which Clements said prompted him to resign from the Under Secretaries Committee for fear of giving the appearance of having a conflict of interest.

"We've got plenty of time to negotiate a treaty," Clements said in warning against rushing to mine the seabed. "We in the United States are way out ahead of the rest of the world in this technology." The former drilling contractor said it is not generally realized that Japan is not waiting for the treaty, however, but is already mining the seabed on a small scale.

WEARING TWO HATS

U.S. mining companies, under bills pending in Congress, want the Federal Government to grant them exclusive rights to mine tracts of the seabed and come to their aid if other nations try to interfere. If a mining company invested money in deep seabed mining and then lost it because of an international treaty coming into being, the U.S. government under pending legislation would make up the loss.

American mining executives are both sponsoring such go-it-alone legislation for the seabed and sitting in as advisers to the Law of the Sea delegation. There is no Tecumseh—in the form a a militant consumer organization or citizens group—sitting alongside industry representatives who watch the Law of the Sea deliberations on how the wealth of the ocean should be shared.

"The Law of the Sea operations," said one international lawyer who serves as an adviser to the delegation, "is a classic example of Galbraith's thesis that the real power in the industrialized United States flows from the corporations to government rather than the other way around." (He was referring to economist John Kenneth Galbraith.)

Learson is the former board chairman of IBM; Caryle E. Maw, under secretary of state for security assistance and deeply involved in Law of the Sea policy, came from the New York law firm of Cravath, Swaine and Moore, where he served as Kissinger's personal lawyer; and the advisory committee to the Law of Sea delegation is dominated by industry executives and international lawyers.

This establishment dominance of the advisory committee seems to be at odds with the State Department charter for the group, which states that the chairman of the U.S. Law of the Sea task force "will, after consultation with other members of the National Security Council Interagency Law of the Sea Task Force, name as public members selected individuals who can provide adequate representation of the diverse interests."

Asked why the general public is not more fully represented on the advisory group as the U.S. government decides how this last frontier shall be exploited, a State Depart-

ment executive replied: "We would look with sympathy upon such applications."

THE WALL STREET JOURNAL EDITORIALIZES AGAINST A NUCLEAR COPOUT

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial from yesterday's Wall Street Journal urging the United States to develop a serious policy for checking the proliferation of nuclear weapons through nuclear exports.

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

A NUCLEAR COP-OUT?

President Ford has just announced a full-scale White House review of nuclear export policy, and we hope the President and his aides recognize the full importance of their own review. They confront not some kind of public relations problem, but a vastly important policy wildly out of control.

This review will go far toward determining how many additional nations will acquire nuclear weapons over the next decade or two. Nuclear power reactors have now spread to some 45 nations. More importantly, we have just witnessed the first purchases of reprocessing technology, which extracts plutonium from spent power-reactor fuel; the plutonium ostensibly is for use as further reactor fuel but can be converted almost at a moment's notice into nuclear bombs. Thus unless a decision is made almost immediately, we will lose our last chance to erect meaningful barriers to the spread of nuclear weapons.

A decision will be easy to postpone, since even the most important matters of 15 years hence tend to get lost in the rush of government, not to mention the rush of a presidential campaign. Then too, U.S. companies have not been allowed to sell reprocessing technology; the immediate problems are sales by West Germany to Brazil and by France to Pakistan. A school of thought, further, would solve the problem by internationalizing it, oblivious of the fact that the International Atomic Energy Agency approved "safeguards" for the Pakistan plant even though it makes sense only as an eventual bomb factory. There are endless temptations for the White House to cop out.

Yet in fact the U.S. has been instrumental in creating the international atmosphere that leads our allies to play such dangerous games for fleeting commercial advantages, and encourages the feebleness at the IAEA. For the U.S. has never really been serious about proliferation dangers in nuclear exports, and if the leading nuclear nation is not serious, why should the others be?

Consider the case of India, which actually did build a nuclear bomb with materials and technologies supplied for peaceful purposes. It happened that the Indians used a Canadian reactor to make plutonium for its bomb, but the reactor employed U.S. heavy water, like nuclear fuel a "special nuclear material" limited by treaty to peaceful uses. Indian compliance with this provision consisted of labeling their nuclear explosion a "peaceful" one.

The Canadian reaction was to halt work on two power reactors in India, demand tough new safeguards, and when these were not forthcoming to halt all sales and shipments of nuclear materials for India. The U.S. State Department's reaction has been to make excuses for the Indians.

The U.S. did announce that shipments to India would be suspended pending agreement that henceforth "peaceful uses" would not include explosions. In fact, even this wrist-slap was not carried through; a shipment of nuclear fuel for American-built reactors in India went out a month after the explosion. Then State asked the Nuclear Regulatory Commission to expedite licensing of new shipments to India on the grounds that the American-built reactors were running out of fuel. Persistent questioning determined that the reactors had a two-year fuel supply on hand.

State even accepted the Indian argument that its reactor leaked heavy water at the rate of 10% a year, and that since the U.S. heavy water had been supplied more than 10 years ago it was not actually used. The 10% leakage is almost certainly a lie to begin with, but even if it were true it would not have exhausted the U.S. heavy water—unless, as one witness put it, the heavy water molecules in an Indian reactor do not follow the laws of physics but a caste system under which only American-supplied molecules are allowed to leak.

The NRC has granted one of two pending licenses for exports to India, under State Department warnings that, as it and presumably the Indians read the treaty, interrupting fuel supplies would be a U.S. violation freeing the Indians to use all the spent fuel for bombs. Under pressure from the NRC and others, State has agreed to approach the Indians about returning the spent fuel to the U.S. These negotiations will probably be handled the way past ones have been.

With leadership like this, little wonder the State Department has had little success in persuading the West Germans and French to limit their own nuclear sales. It will be quite a different matter if the new White House review comes up with a policy concentrating on a few fundamentals: That the U.S. will control any reprocessing of spent fuel from American-built reactors; that in any event reprocessing remains economically dubious at this stage; that the U.S. will not supply nuclear materials to any nation that holds open the option of a weapons program; that the first step in implementation must be following the Canadian example on India.

Making anti-proliferation policy truly effective will of course require similar policies from other exporters. But such agreement will be far easier to achieve if the U.S. refuses to cop out, if it comes up with a serious policy befitting a serious nation.

Mr. CRANSTON. Mr. President, this statement by the leading newspaper of the American business world should be read by all those who work in the nuclear industry. It urges the United States Government to decide—now—to control the reprocessing of spent fuel from American built reactors, and to decide—now—that we will not supply nuclear materials to any nation that holds open the option of a weapons program.

Several Members of Congress have been proposing serious legislation to reach these goals in recent months. One significant piece of legislation has already been passed this year, and we're on the threshold of considering others. It is no accident that the White House recently got around to announcing a full scale review of nuclear export policy. I fear that this is simply a delaying tactic, a public relations gambit, rather than a belated but sincere effort to bring our nuclear export policy under control. Certainly the study by the administration should not be allowed to undermine present legislative efforts to act in this area.

Mr. President, I would call to the attention of my colleagues important legislation in this field that will shortly come before us. We have already passed, and the President has signed into law the Symington bill—section 669 of the Foreign Assistance Act—which requires the termination of economic and military assistance to any country supplying or receiving nuclear enrichment equipment, materials or technology, unless certain safeguard requirements are met. In a few weeks the Senate will have before it the Export Administration Act, which will afford another opportunity to legislate restrictions on nuclear exports; Representatives ZABLOCKI and FINDLEY have introduced important amendments to this legislation in the House. Finally, Senators RIBICOFF and GLENN have proposed a large number of measures incorporated in the Export Reorganization Act designed to reorganize the executive branch of the American Government so as to effectively integrate into a coherent policy the disparate bureaucratic interests that influence nuclear exports.

Nuclear power for potential weapons use is on the loose in the world. We must do all that we can to bring it under control—and eventually eliminate this menace to civilized life on this planet.

WOMEN'S CHRISTIAN TEMPERANCE UNION

Mr. MOSS. Mr. President, I am pleased to present to the Senate a resolution of the Women's Christian Temperance Union and ask unanimous consent that it be printed in the RECORD for the benefit of the Senate.

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

Whereas: *First*, tobacco is recognized by the U.S. Surgeon-General as a dangerous habit-forming poison;

Second, the U.S. Commission on Drug Abuse has recognized that alcohol is the number one drug problem;

Third, Dr. Melvin H. Knisely, of the Medical University of South Carolina, has proved that even small amounts of alcohol cause irreversible brain damage; therefore:

We, the undersigned, hereby petition our legislators to follow the example of Norway, Iceland, and other nations and enact laws stopping all advertising of alcohol and tobacco throughout the United States.

Barbara E. Fisher, Long Meadow, Mass.
Lenna Burgess, Cambridge, Mass.
Virginia Q. Jarrett, Richmond, Va.
Harriet H. Slade, Ware, Mass.
Melvina Marshall, Holyoke, Mass.
Madeline Moor, Mansfield, Mass.
Marian B. S. Crymes, Washington, D.C.

TANKS—DO THEY HAVE A PLACE IN MODERN WARFARE?

Mr. LEAHY. Mr. President, the heavy tank losses incurred by all sides in the 1973 Middle East war prompted a debate on the tactics of tank warfare and the future of the main battle tank as the centerpiece of the Army. In fact, the continued use of several of the weapons systems developed for use in World War II, including the tank, the manned bomber, and the large aircraft carrier, is now being challenged by new weapons development and modern weapons technologies.

An excellent analysis of the debate on

the future of the tank and the questions involved in that debate appeared in the August 2, 1976, edition of the Washington Star in an article written by Henry S. Bradsher. As the Senate will probably be faced with a request for funds for procurement of a new main battle tank in the fiscal year 1978 defense budget, I commend this article to my colleagues.

Mr. President, I ask unanimous consent that Mr. Bradsher's article be printed in the RECORD.

There being on objection, the article was ordered to be printed in the RECORD, as follows:

TANKS—DO THEY HAVE A PLACE IN MODERN WARFARE?

(By Henry S. Bradsher)

There is a growing belief that new military technology is producing another turning point in the history of land warfare.

A military analyst at a suburban Washington "think tank," Philip A. Karber, has suggested that it is like the unseating of knights in feudal armor from their padded horses by Swiss pikemen in 1339. That "established the defense superiority of light infantry over the shock action of mobile and heavily armored forces."

Frederick W. Young, a Brookings Institution expert, says the use of machine guns and massed artillery in World War I stopped the infantry. But then the development of tanks and armored vehicles "again placed the emphasis of land warfare on massive offensive operations.

"Now," Young thinks, "the development of precision-guided antitank weapons is making tanks and armored vehicles more vulnerable—seemingly shifting the advantage back toward the defense."

In World War II it was almost impossible to hit a moving tank from a mile away; combat was usually at a range of about a third of a mile. The improved tank guns and aiming systems now give about a 20 percent chance of a hit at 2½ kilometers (1½ miles). But an infantry weapon, the TOW antitank missile, is claimed by the U.S. Army to have an 80 or 90 percent chance of a hit at that distance or farther—up to 3 kilometers (2 miles).

At the same time, new artillery munitions make it possible to lay minefields quickly enough to stop tanks, making them sitting targets.

Some experts suggest that this makes tanks obsolete and there is no sense in spending so much money on them, especially not to buy a new improved type that the Army is developing. The General Accounting Office has raised questions about rushing into a new tank-building program.

The Army argues that, just as machine guns did not eliminate the need for infantry, so the new weapons do not mean the disappearance of tanks from the battlefield. It still wants a new XM1 tank in either a Chrysler or General Motors version (the two are now being evaluated), with a new type of armor that it claims can withstand infantrymen's missiles.

The Soviet Army seems even more worried. Its whole style of warfare is based upon massive tank attacks.

The State Department wonders if changes in "the nature of land warfare" will have any effect on the sleepy negotiations in Vienna to reduce armed forces in central Europe, especially the 19,000 Communist tanks which loom over the West's 7,000. Maybe that wide gap does not make so much difference any more.

The Air Force has worries, too. The impact of new weaponry is wider than tank warfare; the Army is not the only service whose future role is in doubt. The Air Force, which has already lost much of its bombing mission to missiles, could lose more.

Small hand-held missiles give infantrymen the capability of bringing down aircraft with a high degree of dependability. Battlefield use of tactical air power might be disappearing—ironically, just when the Soviet Union is finally beginning to match U.S. Air Force tactics of close combat support.

These trends were beginning to become apparent in 1972 during the last big battles fought by American soldiers in Vietnam. Antitank missiles checked the first significant North Vietnamese tank offensives of that war, while the appearance of Soviet-made SA7 antiaircraft missiles in the hands of North Vietnamese soldiers began to change aerial warfare.

U.S. planes were forced into more cautious tactics by the missiles, and the use of helicopters became more difficult. By the time the war ended in 1975, South Vietnamese pilots had lost most of their ground attack effectiveness because fear of SA7s kept them too high to hit targets accurately.

One precision-guided weapons development late in the Vietnam war enhanced the value of air power in places where it can get through the more threatening ground defenses, however. This was the "smart bomb." Repeated attacks used to be required to knock out small targets such as bridges; now bombs can be guided into them with television devices or laser beams.

If the Vietnam war began to show the potency of the new technology, it was the 1973 "Yom Kippur war" that brought home the change with literally a lot of bangs. In a recent article in the British journal Survival, Karber compared the 14th century Swiss pikemen's success at Laupen to that war "when an Arab infantry force armed with antitank weapons met and halted an Israeli tank offensive."

The most recent Middle East war has been extensively studied by soldiers around the world. They noted the heavy tank losses in short, intensive battles, the inability of Israeli air power to have much more than a marginal effect in the face of missiles and Soviet-made clusters of four 23-millimeter antiaircraft guns, and such related innovations as the jamming of Israeli communications by Arab armies.

The quick conclusions in the West were that the apparent advantage of tank numbers in Europe might no longer be so important for Soviet-led Warsaw Pact armies and that lots of relatively cheap armored vehicles carrying missiles and infantrymen could replace expensive tanks.

It alarms the Army. Here it is finally about to choose the best, most sophisticated, most expensive new tank that it has ever had and a lot of analysts come along and tell it tanks are out of date.

Not so, the Army contends, for a lot of reasons. Take visibility, for instance. In the deserts around Israel, it is possible to see and shoot at a tank at those long ranges where the new missiles perform most spectacularly. But in central Europe the hills, woods, villages and morning mists cut down targeting distances, bringing tank guns into effective range before missiles ever have a long-range chance.

There will always be a job for the tank in combination with light armored vehicles, infantrymen, missiles and artillery, the Army argues. Only tanks can operate in the face of artillery—the Soviets believe in massive use of artillery and rockets—to screen the other elements during the necessary movement of either offensive or defensive fighting.

While missiles can theoretically keep tanks beyond the effective range of tank guns, in the confusion of battle on rolling, dust-obscured terrain the tank can move in close and fire 10 rounds for each missile that infantrymen can get off.

The XM1 tank now under development will have armor made of layers of steel, other material like toughened nylon, and air spaces. This is harder to penetrate than just a slab of steel. It might make the new tanks relatively immune to infantrymen's missiles, although not to higher-powered 122 millimeter Soviet tank guns.

This immunity plus the need for mobility under fire make the Army think the XM1 is both necessary and sensible. But it will be expensive. The program to build them, underway since 1963, is supposed to produce 3,312 tanks by 1989 at a cost currently estimated at $710,000 each.

The Army recently postponed a choice between the General Motors and Chrysler versions of the XM1 and ordered the companies to try to standardize such basic components as guns, engines, transmissions and tracks with the new West German Leopard-2 tank. This is a partial recognition of the theory that both the United States and West Germany would make whichever country's new tank proved best in competition.

The number of XM1s to be ordered was fixed years ago, before revisions in the U.S. troop commitment in Europe which might raise it and before the high attrition in 1973 indicated a greater need for reserves. But the Army has avoided the public argument over raising the number, perhaps to keep from raising the more basic question of whether so many really should be built.

A number of observers, from Brookings' Young to the General Accounting Office's anonymous analysts, have pointed out the need for lots of light armored vehicles. At the same cost as a few XM1s, a cluster of vehicles could offer greater maneuverability with some protection for missile-firing infantrymen.

Right now U.S. soldiers must expose themselves to hostile fire for the 15 to 20 seconds it takes to guide a missile to its target, while Soviet antitank missiles can be fired from armored vehicles. Faster missiles will reduce this time, and a quick fix is being made on armored personnel carriers to give some protection while better vehicles are developed.

"We believe," the GAO said in a recent analysis, "that previous Army studies have insufficiently considered the potential of a force having a greater number of tanks consisting of cheaper tanks in addition to XM1s." It said Congress should consider whether to encourage the Pentagon to develop cheaper tanks than the XM1 monsters and to consider related questions like the choice of gun on the XM1. Others have suggested that not even tanks but smaller vehicles deserve more consideration.

The effect of all this might be to make their massed tanks less important to the Soviets and therefore increase their willingness to bargain some of them away in the Vienna troops reduction negotions. The negotiations are known in the West as the MBFR talks for "mutual and balanced force reduction," but the presently numerically-predominant Warsaw Pact refuses to accept the idea of achieving something closer to a military balance in central Europe as a result of bargained cuts.

There has not, in fact, so far been any sign of greater Soviet willingness in Vienna. The talks appear stalemated to all except diplomats, who can always manage to discover some trace of encouraging fluidity in the most immobile of situations.

Soviet generals might be uncertain what attitude to adopt toward the Vienna talks. Karber, who is director of strategic studies at The BDM Corp. in Vienna, has traced an intensive debate in Soviet military writing over implications of the new technology for the long-standard reliance on massive tank offensives.

Karber discerned three groups in the debate. One argues for using tactical nuclear weapons early in a conflict as a way of overcoming antitank defenses, but this "seems to have been ruled out by both political and operational considerations."

A second contends that massive use of conventional artillery on the armored and self-propelled tracks now replacing separate field guns in Warsaw Pact armies can destroy defenses and open the way for the traditional use of tanks.

But the tank men argue that the answer is to hit hard and fast with overpowering numbers of tanks that can saturate defenses. This leads to the idea that surprise attacks are the best. Early this year a senior officer in the North Atlantic Treaty Organization alarmed a lot of people in Western Europe by perceiving the danger of a surprise Communist offensive which could carry to the Rhine River before effective resistance might be offered.

This danger would seem to heighten the importance of a high degree of preparedness by American and allied soldiers in Western Europe. Recent GAO reports have found that there is a considerable measure of unpreparedness in weapons to meet an attack. The Pentagon insists that the problems are old ones which have been recognized and are being corrected.

SPEAKING FOR THE NEIGHBORHOODS

Mr. PERCY. Mr. President, over the last few years, the Congress and the administration have been working together in many ways to shift Federal strategy for alleviating urban problems from Washington to State and local governments. Revenue Sharing and the community development block grant program created by the Housing and Community Development Act of 1974 are the two major examples of this change in direction, which gives these units of Government greater flexibility in choosing among the options available to meet the needs of the people they serve.

I am encouraged by the success of these programs. They have fostered more creativity among local governments and have nurtured increased awareness in the community of the need and desirability of citizen participation in designing plans for creative government at the grassroots level.

One of the developments stemming from this intensified local activity in an appreciation of the neighborhood as a unique depository of the various cultural and economic traditions our cities are heir to and as a fertile ground for the cultivation of the new activities needed to revitalize our declining urban centers. This is a good sign. The cities people thought dying are showing sparks of life and we need to give these efforts our support.

I was pleased therefore when HUD Secretary Carla Hills announced the formation of the President's Committee on Urban Development and Neighborhood Revitalization, a major initiative aimed at focusing the efforts of all Federal agencies on the problems of the neighborhoods and their hope for the future.

Mr. President, I ask unanimous consent that an article by Secretary Hills, entitled "Speaking for the Neighborhoods," that appeared in this morning's Washington Post be printed in the RECORD. It describes the administration's interest in revitalizing our neighborhoods and outlines the agenda of the President's committee. I believe it will be of interest to all Senators.

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

SPEAKING FOR THE NEIGHBORHOODS

(By Carla A. Hills)

An article in The Post by Msgr. Geno C. Baroni and Dr. Arthur Naparstek on June 30 speaks of the declining neighborhoods of our older cities. "Neighborhoods," they said, "are the key to the problems of the cities. If the neighborhoods die, the cities die. . . ."

I could not agree more fully.

I cannot, however, agree with the assertion that "no one is speaking for the neighborhoods."

The same day the Baroni-Naparstek article appeared, I met with the U.S. Conference of Mayors in Milwaukee and reviewed actions taken by the Department of Housing and Urban Development in the past year to reverse the trend toward deterioration of our neighborhoods. During that meeting, I announced the establishment of the President's Committee on Urban Development and Neighborhood Revitalization—a major initiative aimed at focusing the efforts of all federal agencies on neighborhood problems.

The President has long been concerned about the difficulties besetting many of our cities and the neighborhoods from which the cities draw their vitality and stability. He is particularly concerned that federal efforts have not had the degree of impact that is both desirable and necessary on the problems of the cities despite the many federal programs which are intended to meet urban needs and despite the substantial amount of federal funds channeled to the nation's cities. He is convinced that by better using the resources currently available the federal government can be a more effective partner with state and local governments in resolving urban problems.

The President is creating this committee to analyze these problems and to develop proposals for greater cooperation and coordination among the federal agencies administering programs which have an impact on cities and their neighborhoods.

As chairperson of the committee, which includes eight Cabinet members as well as other top federal officials with responsibilities in the urban field, I will (1) coordinate a comprehensive review of all federal programs having an impact on the cities and their neighborhoods; (2) seek the perspective of local officials and neighborhood groups on federal programs which affect them; and (3) develop recommendations to the President and the Congress for changes in federal policies and programs affecting neighborhoods in order to place maximum decision-making at the local level, remove legal and administrative obstacles to the exercise of that authority, and provide for better coordination and delivery of federal programs.

A good start already has been made toward creating the conditions necessary for declining neighborhoods to begin to live again:

The Community Development Block Grant program, by placing responsibility on local officials, has promoted local achievement and cut red tape.

Some 23 cities are participating in the Urban Homesteading Demonstration Program, through which HUD-owned structurally sound dwellings are conveyed to communities for sale at nominal cost to individuals who promise to rehabilitate and live in them.

Abandoned single-family properties are being restored to active use at lower cost than new public housing construction.

The Urban Reinvestment Task Force, jointly sponsored by HUD and the bank regulatory agencies, is bringing together local residents, city officials, and local lenders in a commitment to a coordinated strategy for reinvestment.

We have increased three-fold the amount of grants funded for neighborhood preservation.

Urban housing has been upgraded through HUD's program of rental subsidies for lower-income families.

A massive study of the future role of the Federal Housing Administration, including its role in neighborhood revitalization, is nearing completion.

A new policy of temporarily taking over mortgages to help homeowners threatened with foreclosure because of temporray income loss has been adopted.

And we supported a recently passed law aimed at requiring banks to disclose where they place their loans.

The task of reversing the trend toward neighborhood decline is immense. One role HUD can play is to return the housing stock it has inherited to neighborhood residents who will transform "unfriendly neighbors" into much-needed homes.

In pursuit of that objective, we reduced in June the inventory of HUD-held single-family homes by 3,241—a 42-year record for a single month. For the fiscal year ending June 30, 1976, we sold 57,901 units while acquiring 37,563 for a net inventory reduction of 20,338—another record.

Through continued cooperation between all levels of government and local neighborhood associations, we anticipate similar happy statistics in the future.

We surely are engaged in a war for the preservation of our cities. It will be a costly war, yet one that money alone will not win. It is a war that will not be won unless skillfully directed and supported on the local level with enlightened state and federal assistance.

LEGISLATIVE STRATEGY TARGETING DRUG TRAFFIC KINGPINS

Mr. BAYH. Mr. President, last week the Subcommittee to Investigate Juvenile Delinquency began its assessment of President Ford's April 27, 1976, drug abuse message to the Congress and the accompanying proposal for fighting drug abuse, the Narcotic Sentencing and Seizure Act of 1976, S. 3411, which was introduced on May 11, 1976, by Senators HRUSKA, EASTLAND, HUGH SCOTT, THURMOND, and BUCKLEY.

Since this Presidential proposal was introduced in mid-May, other committee business, and my illness coupled with recent recesses made immediate hearings impossible. We are especially appreciative that Majority Leader MANSFIELD and Minority Leader SCOTT permitted us to proceed with these vital hearings late in the session.

We intend to give specific attention to the stark reality that many who sustain the flow of heroin and equally dangerous drugs such as barbiturates, do so while on bail and that when convicted only a few spend substantial time in custody. To add insult to injury these same high-level traffickers manage to avoid the tax collector while law-abiding citizens carry their share of the tax burden. It is intended that these hearings will help refocus national concern and stimulate fair, but firm Federal response to those who profit from the havoc wrought by drug traffic.

Last week we heard impressive and

alarming testimony about our Nation's inability to even focus our drug law enforcement apparatus and our criminal justice resources on these "kingpin" profiteers. While I am especially concerned that the constitutional rights of criminal defendants are fully secured, I am likewise concerned that within such a framework our citizens are fully protected. We must reallocate our resources and sharpen our prosecutorial tools and strengthen our criminal justice system so that it deters, disrupts, and detains these criminals.

Since the passage of the Comprehensive Drug Abuse Prevention and Control Act—Public Law 91-513—in 1970, our subcommittee to investigate juvenile delinquency, which developed this measure, has monitored its implementation and sought to assure that the Federal agencies responsible for its enforcement acted appropriately to curb the illegal importation, manufacture, and distribution of controlled drugs.

The 1970 act also established a comprehensive scheme for the regulation and control of dangerous drugs manufactured for legitimate purposes. It was to more specifically address this facet of the 1970 act—the Controlled Substances Act and the Controlled Substances Transport and Export Act—that the constitutional cornerstone became the commerce clause rather than the taxing authority. In any case, regarding illegal traffic in natural opiates—heroin, morphine—whether under the tax authority approach or the commerce clause it is difficult to hypothesize a case with no interstate aspect.

Regarding the dimension and abuse of domestic legally manufactured controlled substances we have made considerable progress in the last several years. We have obtained a drastic, but necessary, 95-percent reduction in domestic amphetamine production. We have secured more appropriate control over our production and distribution of other drugs with high abuse potential, including the barbiturates and methaqualone. And to prevent illegal traffic and abuse of methadone we have obtained stricter controls over its storage and distribution. In short, these and similar important steps have effectively helped to reduce illicit traffic and clandestine manufacture of controlled drugs.

Our efforts aimed at curbing illegal traffic in illegal drugs have not experienced the same degree of success.

The subject of extensive hearings by the subcommittee last year on the effectiveness of the Nation's drug control laws—the opium poppy—is not of domestic origin, but its byproducts, or at least one of them—heroin—is certainly familiar to every American.

Indeed, we are all too familiar with the devastating effects of heroin on the individual addict, their families, and society at large. We know that heroin abuse has destructive physiological consequences, debilitating the health of the abuser and impairing an addict's ability to lead a normal productive life. The social consequences are equally devastating. In order to support a habit, the addict is driven to engage in criminal activities which threaten the safety and well-being of all our citizens. The costs in human and economic terms are enormous:

Billions of dollars are expended each year to protect our citizens from drug-related crime;

Billions of dollars of merchandise are stolen each year to support heroin habits;

Billions of dollars are invested annually in drug prevention, treatment, and rehabilitation programs;

Many innocent people are physically assaulted and even killed in the course of drug-related crime; and

Hundreds of thousands of otherwise productive lives are lost to the destructive and often endless cycle of heroin addiction.

We have learned—and through the course of our recent hearings are still learning—from bitter experience that there are no simple solutions to the epidemic of narcotic addiction nor to the ever-escalating levels of illegal narcotic traffic. There are no panaceas—no magic wands.

In fact, opium control presents especially difficult and complex considerations. The plant which spawns heroin to which our citizens succumb likewise issues drugs to ease the misery of the terminal cancer patient and, ironically, provides us with the antagonist medication necessary to treat those suffering acute narcotic overdose. There is little doubt that the opium poppy is a double-edged sword, life threatening and life saving.

We have made some progress in curbing narcotic traffic and addiction, but we must be forever vigilant that rhetoric about "the light at the end of the tunnel" or "turning the corner" on any problem not delude us into believing that we have actually accomplished our objectives.

One thing that we established through our hearings last year was that the White House was less than candid with Congress and the American people regarding their assessment of the importance of the Turkish ban on the cultivation of opium poppies in the effort to curb heroin traffic and addiction.

Former Presidential assistants with special responsibilities in the area of drug control and abuse told the subcommittee that in October 1971 shortly after the Turkish Government announced the ban, that the plan was ill-conceived.

Dr. Jerome Jaffe, former Director of the White House Special Action Office testified that he never believed that a ban on the growth of opium poppies would be effective in stopping the spread of heroin in the United States.

Mr. Walter Minnick, former White House Staff Assistant to the President for Domestic Affairs and Staff Coordinator for the Cabinet Committee on International Narcotics Control, told the subcommittee, quite candidly, that:

> The Congress and the American people were led to believe that the ban was an indispensable part of getting on top of heroin addiction.

Throughout 1972 the White House produced release after release, heralding the Turkish ban as a major breakthrough in the fight against heroin addiction and as clear evidence that the battle was well on its way to being won. This "hoopla" about the ban stepped up markedly during the fall of that year.

Apparently the Nixon administration was more concerned in 1972 with the reelection campaign than they were about controlling poppy production and solving the heroin problem.

The record developed to date by the subcommittee leaves little doubt that the Nixon administration not only created a misimpression about the ban and the policy of eradication, but that it had little time, if any, to heed the caution and advice of medical experts and others who warned that such policies could have long-term damaging ramifications including possible shortages and the emergence of a strong, viable Mexican connection along our southwestern border.

Even prior to former President Nixon's message to the Congress in June 1971, which set out the duel objectives of a ban on poppies and the development of synthetic alternatives to opiates, agencies experts in a confidential memorandum had alerted the White House to these likely ramifications.

Testimony presented to the subcommittee, however, revealed that White House advisers including Mr. John Ehrlichman, reportedly had decided that the poppy ban was "good politics" in that it would provide a high-profile, simple, ostensible answer to the crime problem with which heroin addiction and traffic are so intimately associated.

Even in late 1972 and 1973 when the prospect of an opiate shortage was rapidly becoming a reality, the White House ignored warnings by the medical community and others that White House "poppy politics" was responsible for the shortage as well as the failure to effectively focus on heroin traffic.

In a very short period of time Mexico had become the primary supplier of heroin to the United States, and although the Turkey ban did cause a shortage of heroin it was, as General Accounting Office investigators told the subcommittee, limited to major cities in the East and "a temporary thing at best."

The heroin problem now is worse than it was before the ban.

The American people are sick and tired of being sold a bill of goods.

As a Member of Congress who has, likewise, relied on less than candid representations at the highest levels of the executive branch in recent years, I know we were sold a bill of goods in this instance.

We are interested in developing a full and complete understanding of these issues so that sound national policies in the area can be substituted for past mistakes.

As late as February 21, 1974, President Nixon concluded his drug abuse in America message to the Congress by saying in part:

Drug abuse is a problem that we are solving in America. We have already turned the corner on heroin.

Now, even White House officials, as they announce that all the indicators of heroin abuse are up again, are cautioning others about claiming victory in the war against the poppy and heroin. In fact, on March 5, 1975, Dr. Robert Dupont then Director of the White House Special Action Office on Drug Abuse Prevention, told the subcommittee that "we can no longer talk about having turned the corner on heroin anywhere."

Similar discouraging observations were contained in the recently released National Institute on Drug Abuse publication "Heroin Indicators Trend Report." Director Dupont reiterated the mistake that was made in interpreting what proved to be a regional, temporary downtrend in usage in 1973 as a turning point in the national antidrug fight and revealed that the evidence is now clear that since 1973 the heroin use problem in the United States had deteriorated.

Maps provided for the subcommittee use in December 1974 by GAO graphically illustrate the source of what Dr. Dupont termed the deteriorating heroin problem: Mexico.

Mexico has become a significant supplier of the heroin reaching United States markets for illicit distribution. DEA statistics show that in the year ending June 30, 1972, 8 percent of the heroin seized in the United States was Mexican. By June 30, 1973, the amount of seized heroin from Mexico had more than quadrupled and accounted for 37.2 percent of all heroin seized in the United States. In March of 1975 DEA informed the subcommittee that 65 percent of the heroin reaching the United States comes from Mexican peoples.

By last fall Mexico had taken over as the dominant or nearly exclusive source for illegal heroin throughout the Nation, overshadowing Europe, the Near East, and Southeast Asia. According to a special October 19, 1975, DEA report to the subcommittee during the first months of 1975, 90 percent of 305 heroin samples confiscated in 13 major cities by the DEA were Mexican processed.

The special DEA report confirms the view that the route that brought French-processed Turkish heroin has been effectively blocked. Less than 2 percent of the confiscated heroin analyzed between January and June 1975, came from Europe or the Near East. In 1972, 44 percent of the sample came from those areas. During the period, Turkey halted the growing of the opium poppy from which heroin is made. Earlier last year, Turkey resumed cultivation. Let us hope that the use of the poppy-straw process of harvesting the opium will effectively prevent resurrection of the infamous "French Connection".

Thus I am extremely concerned that all necessary steps be taken to prevent the diversion and traffic in Turkish opium that has formerly contributed so heavily to the destruction of so many thousands of lives and was so intimately linked to the ever-escalating levels of violent crime.

The Turkish Government claims that it will prevent the new opium crop from getting into criminal channels. The resort to the poppy straw method of processing will help to assure the desired objective, but much more is necessary. To date slightly more than 300 agents are reportedly available to monitor 50,000 acres of poppies being cultivated in small plots. The jeeps necessary to reach remote areas as I understand it have not yet arrived. To get the job done will require a dedicated and committed effort by the Turkish Government.

I urge the President to monitor the harvesting and processing of the new crop very carefully, so that if necessary he can take appropriate action under the Foreign Assistance Act to suspend economic and military aid.

When drastic action was taken to rescue American seamen seized by Cambodia, the President stressed the importance of showing that the United States intends to remain strong. If and when the lives of thousands are threatened by diverted Turkish opium, I hope that the President is at least equally committed and willing to show the strength of the United States.

Already the Turkish decision to again cultivate the poppy has made some impact on the illicit market. In Seattle, for instance, the resumption reportedly prompted many distributors to release "stockpiled" Mexican heroin which had been withheld from the market in an attempt to force the price up. This surge in supply has lead to more narcotic seizures in January of this year than in all of 1974 in that area. Similar reports are being received from around the Nation.

Whether the Turkish Government fails to hold to their commitments or not, we are again confronted with a horrendous heroin trafficking problem.

The increasing flow of Mexican heroin toward the major cities of the Northeast and the drying up of the European supply are the most startling aspects of the first half of 1975 DEA figures. A survey completed early in 1972, showed that the furthest penetration of Mexican-processed heroin eastward was an irregular line running from Detroit to the Florida Panhandle. The GAO maps supplied to the subcommittee also illustrate the significant Mexican heroin market during the same period.

For instance, in Boston 100 percent of all confiscated samples came from Mexico in 1975 and none from Europe. In 1974, 50 percent of the Boston samples had come from Mexico and 17 percent from Europe.

In New York City, 83 percent of the samples were Mexican-processed in the first half of 1975 compared with 10 percent from Europe. In 1974, 21 percent of the samples were Mexican and 67 percent were European.

For Philadelphia, 83 percent of the samples were Mexican in 1975 and none were from Europe in 1975. In 1974, 50 percent of the samples were Mexican and 17 percent were from Europe.

The new figures show that Mexican-processed heroin has even established itself for the first time in the Pacific Northwest, replacing heroin from Southeast Asia.

The already entrenched position of Mexican-processed heroin in the Middle West and the Southwest was further confirmed by the new figures. For instance. Detroit samples were 93 percent Mexican in 1974 and 94 percent in 1975, while Chicago remained at 100 percent Mexican for both years.

However, in 1972, Detroit samples showed 58 percent of the heroin was processed in Europe and 30 percent in Mexico. For Chicago, 44 percent in 1972 was European and 33 percent was Mexican.

The Midwest, and the Chicago area in particular, has become the main line of distribution for the Mexican brown heroin. The DEA deputy regional director in Chicago relates that "we are up to our ears in Mexican heroin". It is estimated that between 3.8 and 7.5 tons of heroin arrive in this principal U.S. marketplace for Mexican brown.

Renewed diplomatic steps are required. Mr. Bensinger, the DEA Administrator and Executive Director of the New Cabinet Committee for Drug Law Enforcement, and U.S. Ambassador Sheldon Vance, Senior Adviser and Coordinator for International Narcotics Matters to the Secretary of State, have kept the subcommittee apprised of important diplomatic efforts, including the recent June 8, 1976, meeting between Attorney General Levi and Mexican Attorney General Pedno Ojeda-Paullada on the apparently successful opium poppy eradication program, but much more must be done.

I ask unanimous consent that four charts illustrating the extensive impact of Mexican heroin be printed at this point in the RECORD.

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

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET, JANUARY TO JUNE 1975[1]

DEA region headquarters	Number of samples	Origin							
		Europe/Near East		Southeast Asia		Mexico		Unknown	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Boston	10					10	100		
2. New York	30	3	10	2	7	25	83		
3. Philadelphia	18			3	17	15	83		

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET, JANUARY TO JUNE 1975 [1]—Continued

DEA region headquarters	Number of samples	Origin: Europe/Near East Number	Europe/Near East Percent	Southeast Asia Number	Southeast Asia Percent	Mexico Number	Mexico Percent	Unknown Number	Unknown Percent
4. Baltimore	29	1	3	9	31	19	66		
5. Miami	10			2	20	8	80		
6. Detroit	34			2	6	32	94		
7. Chicago	25					25	100		
8. New Orleans	16			3	19	13	81		
10. Kansas City	17			2	12	15	88		
11. Dallas	36					35	97	[2] 1	3.0
12. Denver	28	1	4	1	4	26	93		
13. Seattle	15			2	13	13	87		
14. Los Angeles	37					37	100		
U.S. total	305	5	2	26	9	273	90	1	.3

[1] Estimate based on 305 in-depth analyses, which constitute a 10.5-percent stratified sample of 2,893 DEA heroin records for the first half of 1975.

[2] Sample contained both Mexican type and Southeast Asia #3 type heroin.

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET IN 1974 [1]

DEA region headquarters	Number of samples	Origin: Europe/Near East Number	Europe/Near East Percent	Southeast Asia Number	Southeast Asia Percent	Mexico Number	Mexico Percent	Unknown Number	Unknown Percent
1. Boston	6	1	17	2	33	3	50		
2. New York	24	16	67	2	8	5	21	1	4
3. Philadelphia	18	3	17	3	17	9	50	3	17
4. Baltimore	27	10	37	9	33	8	30		
5. Miami	12			1	8	11	92		
6. Detroit	30			2	7	28	93		
7. Chicago	24					24	100		
8. New Orleans	21			6	29	15	71		
10. Kansas City	18			3	17	15	83		
11. Dallas	39					39	100		
12. Denver	28			1	4	27	96		
13. Seattle	18	1	6	7	39	10	56		
14. Los Angeles	36			1	3	35	97		
U.S. Total	301	31	10	37	12	229	76	4	1

[1] Estimate based on 301 in-depth analyses, which constitute a 7-percent stratified, sample of 4,216 DEA heroin records for 1974.

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET, 1973 [1]

DEA region headquarters	Number of samples	Origin: Europe/Near East Number	Europe/Near East Percent	Southeast Asia Number	Southeast Asia Percent	Mexico Number	Mexico Percent	Unknown Number	Unknown Percent
1. Boston	12	9	75	2	17	1	8		
2. New York	36	20	56	11	30	3	8	2	6
3. Philadelphia	18	12	67			4	22	2	11
4. Baltimore	24	9	38	5	20	10	42		
5. Miami	12	2	17	4	33	5	42	1	8
6. Detroit	34	1	3	1	3	32	94		
7. Chicago	21	1	5	10	48	10	48		
8. New Orleans	10			2	20	8	60		
10. Kansas City	18	1	6			17	94		
11. Dallas	33	1	3	2	6	30	91		
12. Denver	27					27	100		
13. Seattle	15			6	40	9	60		
14. Los Angeles	39			6	15	33	85		
U.S. total	299	56	19	49	16	189	63	5	2

[1] Estimate based on 299 in-depth analyses, which constitute a 6-percent stratified, sample of 1,973 DEA heroin records.

HEROIN SOURCE IDENTIFICATION FOR U.S. HEROIN MARKET, 1972 [1]

DEA region headquarters	Number of samples	Origin: Europe/Near East Number	Europe/Near East Percent	Southeast Asia Number	Southeast Asia Percent	Mexico Number	Mexico Percent	Unknown Number	Unknown Percent
1. Boston	15	10	67			1	7	4	27
2. New York	51	26	51	15	29	4	8	6	12
3. Philadelphia	9	6	67					3	33
4. Baltimore	18	15	83	1	6	2	11		
5. Miami	27	17	63	3	10	3	11	4	15
6. Detroit	31	18	58	1	3	12	39		
7. Chicago	18	8	44	1	6	6	33	3	17
8. New Orleans	18	10	56			4	22	4	22
10. Kansas City	27	3	11			24	89		
11. Dallas	16	3	19	1	6	12	75		
12. Denver	20	2	10			18	90		
13. Seattle [2]									
14. Los Angeles	30	5	17			25	83		
Total	280	123	44	22	8	111	40	24	9

[1] Estimates based on a random sampling of 280 in-depth analyses which represent a 6-percent stratified, sample of 1972 DEA heroin records.

[2] No exhibits available for Seattle region.

Mr. BAYH. Since the subcommittee's extensive hearings on "poppy politics" in March 1975, I have been encouraged by the work of the Domestic Council Drug Abuse Task Force. In the fall of 1974 and early 1975 the subcommittee staff had detected signs of enlightenment regarding Federal drug enforcement policy in the approach of several individuals, including the chairman of the White House Opium Policy Task Force, Mr. Johnson, who in turn became the Director of the Working Group that developed the "White Paper on Drug Abuse." At our March 1975 hearings we were pleased to learn that this important project was well underway and that they intended to give special attention to the lack of Federal drug law enforcement coordination.

The widely publicized "tug of war" between DEA or its predecessor BNDD and the Bureau of Customs regarding jurisdiction on narcotics investigation has been at best a grave disappointment. I am confident that my colleague, Senator NUNN, and others on the Senate Government Operations Committee are dedicated to assuring that the proper governmental structure is devised to assure integrity and streamlined narcotics law enforcement.

The Government Operations Committee Interim report, "Federal Narcotics Enforcement," raises important issues regarding the respective DEA-Customs roles. It concludes that reorganization plan No. 2 of 1973, which created DEA "caused a break in the jurisdictional authority of this Government to combat drug smuggling." This less than satisfactory result followed after the approval of plan No. 2. The interim report leaves the impression that Congress had little or nothing to do with the approval of the reorganization plan No. 2, and that its role was "sharply limited," because if after 60 days from the date of submission of the plan, Congress had done nothing, the plan would be implemented.

My recollection was that another lengthy discussion and debate accompanied the consideration of reorganization plan No. 2—the vehicle that created DEA and a review of the record supported this view.

A Senate Government Operations Committee Report entitled "Reorganization Plan No. 2 of 1973, Establishing a Drug Enforcement Administration in the Department of Justice" documents the extensive review given the proposed plan No. 2. It reveals that "nearly 3 months before the President submitted reorganization plan No. 2, this committee's Subcommittee on Reorganization, Research, and International Organizations began an investigation of Federal drug law enforcement" and that they conducted "more than 100 staff interviews of current and former law enforcement officials and prosecutors at the Federal, State, and local levels, of other present and past Government officials, including former Cabinet Officers and White House aides, and of drug abuse prevention and treatment specialists."

A central aspect of this inquiry was the "uncontrolled bitter feuding and the actual sabotaging of each other's investigations" by BNDD and Customs. The report notes that "by mid-March representatives of the Nixon administration informed * * * the * * * members of the subcommittee that the President would soon submit a reorganization plan to bring the primary drug enforcement efforts together in a single agency in the Justice Department."

According to the report, testimony was taken regarding plan No. 2 in Washington from Mr. Kleindienst, Attorney General; Roy Ash, Director of the Office of Management and Budget; John Ingersoll, Director of BNDD; Vernon Acree, Commissioner of Customs; Miles J. Ambrose, Director of ODALE and Special Consultant to the President for Drug Abuse Law Enforcement. When coupled with field hearings held around the country on plan No. 2 "a total of 158 witnesses were heard in 11 hearings."

The report on plan No. 2 reveals that the Government Operations Committee found that there was a strong need for the new superagency and it endorsed the reorganization plan and cited, among several, the following advantage expected to be derived from the reorganization:

(1) It will put on end to the interagency rivalries that have undermined Federal drug law enforcement, especially the rivalry between BNDD and the Customs Bureau.

It is interesting to note that the actual plan No. 2 submitted by the President to the Congress (H. Doc. No. 93–69, March 28, 1973) stressed the need to strengthen our narcotics law enforcement effort at our borders. It proposed in fact, in order to reduce the possibility that narcotics will escape detection at ports of entry because of divided responsibility, and to enhance the effectiveness of the DEA that all functions vested in the Justice Department respecting the inspection of persons or the documents of persons be transferred to Treasury to augment the effort of the Bureau of Customs at our borders.

According to the 1973 committee report, the hearings on plan No. 2 "did not dwell on the BNDD-Customs dispute because the chairman and members felt that no legislative purpose would have been served inasmuch as the plan acknowledged and remedied the problem by uniting the rival agencies." Apparently because President Nixon proposed the transfer of Immigration and Naturalization Service inspectors to Customs to accomplish the renewed focus at the border—thus possibly jeopardizing the rights and benefits of the inspectors—Customs lost out.

The new agency—DEA— would absorb virtually all of the Customs Service's drug enforcement functions except at the border and ports of entry. It would appear that no attention was given to beefing up Customs in a manner consistent with the rights of the Immigration and Naturalization inspectors, for example providing Customs with 1,000 additional positions. Consistent with such an approach former Assistant Secretary of the Treasury Mr. Eugene Rossides in a memorandum he submitted for my review, April 2, 1974, recommended the return of antidrug-smuggling responsibilities, including related intelligence collection, to Customs. The Government Operations Committee should give serious consideration to this recommendation.

Thus the reorganization plan No. 2 apparently did not resolve the "tug-a-war" between DEA and Customs. The Domestic Council in the white paper, however, has called for a settlement of the jurisdictional disputes between DEA and Customs. At the subcommittee hearing last week, both Administrator Bensinger and Commissioner Acree expressed strong support for the December 11, 1975, memorandum of understanding between their two agencies. I ask unanimous consent that the memorandum and attached guidelines be printed at this point in the RECORD.

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

MEMORANDUM

To Principal Field Offices (U.S. Customs Service/Drug Enforcement Administration).

From Commissioner of Customs/Acting Administrator, Drug Enforcement Administration.

Subject Memorandum of Understanding Between U.S. Customs Service/Drug Enforcement Administration.

As the Commissioner of Customs and the Acting Administrator, Drug Enforcement Administration, we wish to assure all personnel of both agencies that this Memorandum of Understanding was signed in good faith by both parties and it is our intention to insure that the relationships between our agencies are conducted according to these operational guidelines in both a coordinated and professional manner.

It is of the utmost importance that the U.S. Customs Service and the U.S. Drug Enforcement Administration work together in an atmosphere of harmony and efficiency in combating the illegal importation and trafficking in illicit drugs. It is essential that each agency complement and support the other in fulfilling their respective obligations.

The attached policy guidelines have been established between the Drug Enforcement Administration and the U.S. Customs Service for the purpose of clarifying the respective operations of each agency in regard to drug related enforcement activities. It is anticipated that the guidance established in this agreement will promote and insure that the inter-agency relationships are in the best interests of the United States and will result in effective and efficient law enforcement.

A copy of this memorandum and the attached Memorandum of Understanding is being sent directly to all field offices of both agencies so that all personnel will be immediately aware of the agreed upon operational guidelines. We expect all principal field offices to insure that meetings are arranged at the earliest date between U.S. Customs Service and Drug Enforcement Administration counterparts at the various managerial and working levels to develop the closest possible working relationships within these operating guidelines.

VERNON D. ACREE,
Commissioner of Customs.
HENRY S. DOGIN,
Acting Administrator, Drug Enforcement Administration.

MEMORANDUM OF UNDERSTANDING BETWEEN THE CUSTOMS SERVICE AND THE DRUG ENFORCEMENT ADMINISTRATION ON OPERATING GUIDELINES

The purpose of this memorandum is to emphasize and clarify the roles and the need for cooperation between the respective agencies. Under the broad guidelines of Reorga-

nization Plan No. 2, the Drug Enforcement Administration has been assigned the primary responsibility for ". . . intelligence, investigative and law enforcement functions . . . which relate to the suppression of illicit traffic in narcotics, dangerous drugs or marihuana. . . ." Under the plan and delegations, Customs retains and continues to perform those functions ". . . to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, marihuana or to the apprehension or detention of persons in connection therewith at regular inspection locations at ports-of-entry or anywhere along the land or water borders of the United States . . . ."

Both agencies have vital roles to perform within the Federal drug enforcement program. Customs, as part of its overall responsibility for interdicting the smuggling of contraband, retains the full responsibility for searching, detecting, seizing smuggled narcotics, and arresting suspected smugglers of any contraband. DEA has the full responsibility for any narcotic-related follow-up investigation as well as for providing Customs with information related to narcotics interdiction. Clearly, for the Federal effort to accomplish its enforcement goals related to reducing narcotics trafficking, both agencies must cooperate and provide appropriate mutual assistance in performing their respective functions. It is mutually agreed that an employee who willfully violates the intent and conditions of this agreement will be subject to firm disciplinary action.

To implement the above, the Commissioner of Customs and the Administrator of the Drug Enforcement Administration jointly approve the following guidelines for dealing with specific operational problems.

(1) Operational Roles of Customs and DEA.

Customs is the agency with primary responsibility for interdiction of all contraband, including all drugs at the land, sea, and air borders of the United States.

DEA is the agency with primary responsibility for investigation and intelligence gathering related to drug smuggling and trafficking.

The Drug Enforcement Administration will notify the U.S. Customs Service of information from its narcotic investigations which indicates that a smuggling attempt is anticipated at or between an established port-of-entry as soon as possible after the information is received. Such information may result in a cooperative joint interdiction effort but shall in no case result in uncoordinated unilateral action.

Within the limitations of its resources, Customs will cooperate when requested to support DEA operations and ongoing investigations, including interception of aircraft suspected of drug smuggling and convoys.

For purposes of this agreement an ongoing investigation includes only those cases in which information indicates a seizure and/or arrest should not occur at the initial point of contact in the United States, but should continue as a convoy to the final delivery point. The mere fact that a suspect or vehicle is known to DEA does not constitute an ongoing investigation.

(2) Law Enforcement Coordination

Whenever Customs has information on any person, aircraft, vessel, etc., that is involved in or suspected of being involved in drug smuggling or trafficking, DEA will be the first agency contacted by Customs. DEA will then have primary responsibility for the coordination of all investigative efforts.

Whenever DEA has information on any person, aircraft, vessel, etc., that is involved in or suspected of being involved in the smuggling of contraband, Customs will be the first agency contacted by DEA. Customs will then have primary responsibility for interdiction if a seizure or arrest is to occur at the initial point of contact in the United States except in those cases under the control of DEA.

(3) Placing of Transponders on Aircraft and Transponder Alerts

Transponders will not be utilized by Customs in drugs related activity without prior advice to DEA of the aircraft's identity and suspects involved. If DEA has an ongoing investigation, DEA will make the tactical decision as to the course of action to be taken.

Both agencies will expeditiously advise each other of all transponders placed on aircraft, and immediately upon receiving signals therefrom.

Customs will normally respond to all specially coded transponder alerts crossing the border. DEA will be given immediate notification whenever Customs responds to a drug-related transponder alert.

(4) Combined Seizures of Narcotics and Other General Contraband

Where both narcotics and general contraband are seized in the same case, the Customs Office of Investigations is to be notified and they will coordinate with DEA on a joint investigation.

Investigative efforts will be dependent upon the magnitude of the violations and/or the value of the general merchandise seized.

(5) Violations to be Reported to the U.S. Attorney

DEA case reports will include any customs reports related to the drug violation. Customs will furnish their reports to DEA in an expeditious manner. DEA will present the violations to the concerned prosecutor for determination of charges.

(6) International and Domestic Drug Intelligence Gathering, Coordination

DEA is the agency with primary responsibility for gathering intelligence on drug smuggling and trafficking, including air trafficking.

Customs has primary responsibility for intelligence gathering of smuggling activities and also a supportive role to DEA in drug smuggling and trafficking. Nothing in this agreement precludes Customs from gathering information from the air and marine community related to the smuggling of contraband. Customs will continue to maintain liaison and gather information from foreign Customs services on all smuggling activities.

Customs will expeditiously furnish all drug-related information to DEA. DEA will expeditiously furnish drug smuggling intelligence to Customs. Unless immediate action is required, such drug smuggling intelligence collected will not be subjected to enforcement action prior to coordination between Customs and DEA.

DEA and Customs will refrain from offering or lending support to any derogatory remarks regarding the other agency. When dealing with other law enforcement agencies, Federal, state and local officials should not be misled as to DEA and Customs respective responsibilities.

Neither Customs nor DEA will discourage potential sources of information from working for the other agency. The promising of rewards to informants for intelligence shall not be competitively used to increase the price of information and knowingly encourage the source of information to "Agency Shop."

Under no circumstances will Customs officers employ a participating informant for drug-related matters unless prior agreement and concurrence is obtained from DEA. Both agencies recognize that the identity of an informant may have to be revealed in court and that the informant may have to testify.

In those drug smuggling cases involving a DEA confidential source, Customs will be promptly notified of the role of the informants so that the safety of the cooperating individual is not jeopardized. Customs officers will not attempt to debrief DEA informants.

None of the foregoing is intended to limit total resource utilization of DEA and Customs law enforcement capabilities, but rather to insure coordination, elimination of duplication of effort, and prevention of counter-productive or potentially dangerous enforcement activities.

At the field level, Customs and DEA offices will identify specific persons or organizational units for the purpose of information referral and to coordinate enforcement matters.

(7) Procedures to be Followed When DEA has Information that an Aircraft, Vehicle, Vessel, Person, etc., will Transit the Border Carrying Narcotics

For criminal case development purposes, DEA may request that such persons or conveyances be permitted to enter the United States without enforcement intervention at that time. These requests will be made by DEA supervisory agents at the ARD level or above to District Directors or their designated representative. Such requests will be rare and made only when DEA intends to exploit investigations of major traffickers.

Customs officers will participate in the enforcement actions until the initial seizure and arrest. The number of Customs personnel and equipment needed will be decided by the Customs supervisor with input from the DEA Case Agent, subject to the limitations of available Customs resources, not to exceed the number recommended by the DEA Case Agent.

On drug-related joint enforcement actions, no press releases will be made by Customs or DEA without the concurrence of each other.

(8) Drug Seizure Procedures

Customs responsibility for interdiction of contraband, including illegal drugs, remains unchanged. Using every enforcement aid and technique available to them, Customs officers will continue to search for illicit drugs. Each time any drugs are discovered, they will be seized and the nearest DEA office will be immediately notified unless otherwise locally agreed upon. Questioning of arrested violators will be limited to obtaining personal history and seizure information for Customs forms. Further questioning is the responsibility of DEA. Chain of custody forms or receipts are required for transfers, of all seized items.

Customs will take every step possible to preserve all evidentiary material and not remove suspected drugs from original containers when such action compromises evidentiary and investigative potential.

In these instances where DEA will not accept custody of detained persons or seizure of drugs due to U.S. Attorney prosecutive policy, DEA will notify local enforcement authorities for prosecutive consideration. Otherwise DEA will request Customs to notify these authorities. When local enforcement authority declines, Customs will proceed to assess administrative and civil penalties, as appropriate. Otherwise, administrative and civil penalties should be held in abeyance until local prosecution is completed.

(9) Convoy Operations After Customs Seizures

In those instances where DEA decides to convoy the contraband seized by Customs to the ultimate consignee, Customs personnel will fully cooperate, and will withhold publicity. All seized vehicles or conveyances will be included in a chain of custody receipt.

The weighing of the contraband may be waived when the method of concealment makes it impractical. At the termination of the convoy, an accurate weight will be supplied by DEA to the orginating district director, and the chain of custody will be annotated with the correct weight. Customs officers will not normally participate in this type of convoy operation.

At the termination of this type convoy operation, involved vehicle or conveyance shall be released to the custody of the nearest district director of Customs.

(10) Disposition of Vehicles, Vessels, Aircraft and Seizures in Joint Enforcement

All vehicles, vessels, and aircraft involved in joint smuggling cases will be seized and forfeited by Customs. Final disposition of the conveyance will be determined by a joint Headquarters review board comprised of Customs and DEA personnel. Guidelines governing disposition will be developed.

Upon prior DEA request in writing, Customs will not admistratively dispose of seized aircraft or other conveyance until it is no longer required for evidence by the courts or termination of DEA investigation.

(11) Referral to Other Agencies (Chain of Custody and Laboratory Sampling)

Customs will continue, in the case of seized heroin and cocaine, weighing two ounces or more, to make samples not to exceed 7 grams. However, the Customs laboratory will not perform the quantitative and qualitative analysis until completion of the prosecutive action, except for special contingencies.

(12) DEA Access to Customs Personnel and Controlled Areas

Designated Customs areas are not normally accessible to others. Access to Customs controlled areas and Customs personnel on an as needed basis will be obtained from the officer-in-charge of the Customs facilitiy in each instance. Customs will honor such requests, provided that DEA personnel in no way interfere in examination and inspection processes.

(13) Procedures When Discovery of Drugs is Made Before Actual Violators Have Been Identified and Goods or Conveyances are Still in Customs Custody

When Customs officers discover the presence of concealed drugs in imported goods, and the goods or conveyances are still under Customs custody or control, and they have been claimed by a consignee or reached their ultimate destination, Customs shall maintain control of the drugs, but DEA will be notified immediately. Customs officers will cooperate with DEA and be guided by DEA's tactical decisions regarding investigative development, arrest and seizure.

(14) Any representation made to Federal, State or local prosecutors for mitigation of sentence or other consideration on behalf of a defendant who has cooperated in narcotic cases or investigations will be made by DEA. DEA will bring to the attention of the appropriate prosecutor cooperation by a narcotic defendant who has assisted Customs.

There are existing DEA/Customs agreements not covered in this document that pertain to cross-designation of DEA agents, mail parcel drug interdiction and other matters. DEA and Customs mutually agree to review each of these and amend where appropriate for consistency with the cooperative intent of this agreement.

No guidelines are all encompassing and definitive for all occasions. Therefore, the appropriate field management of both agencies are directed to establish communication with their respective counterparts to better coordinate their respective operations. Similar cooperation and harmonious working relationships should be implemented at all subordinate levels. It must be recognized that good faith as well as mutual respect for the statutory responsibilities of our agencies and for the employees are the cornerstones upon which full cooperation must be established. To this end, Customs and DEA personnel must take the appropriate affirmative actions to minimize conflict and develop a combined program which adequately serves the interests of the United States of America and its citizenry.

HENRY S. DOGIN,
Acting Administrator, Drugs Enforcement Administration.

VERNON D. ACREE,
Commissioner, U.S. Customs Service.

Mr. BAYH. I was impressed by the sincerity of these two men at our hearing last week, but in light of the failure of a similar prior agreement to resolve jurisdictional problems, I urge the President to clearly delineate a White House level monitoring system to assure that our drug law enforcement agencies get on with their mandates namely to curb the flow of heroin and other dangerous drugs into this country.

Whatever agency or agencies are eventually assigned the drug law enforcement responsibilities it is my subcommittee's mandate to assure that the Controlled Substances Act and the Controlled Substances Import and Export Act that were drafted by the subcommittee after extensive hearings in 1969 and enacted in 1970 provide the Nation's drug law enforcement officers and our criminal justice system with the most effective constitutionally sound tools to help take the profit out of heroin and other illegal dangerous drug traffic.

Through our 1975 hearings on opium policy and presently on legislation introduced by the President the subcommittee intends to develop a better understanding of the ramifications of the public policy developed by the Nixon administration to curb heroin traffic and abuse and whether or not the current administration has learned from their mistakes.

I agreed with the President when he stressed in his April 27, 1976, message that "drug abuse constitutes a clear and present threat to the health and future of our Nation" that we must "refocus and revitalize the Federal effort," especially with regard to those who accumulate substantial wealth through such tainted trade.

This is not the first time, since 1968 that the administration has expressed support for congressional effort to curb drug traffic. Earlier proposals lacked focus and did not reflect the judicious use of limited public resources. Thus, although I am encouraged by some recent remarks, I would be less than candid if I did not admit that earlier rhetoric and indifference about these important issues only reaffirms former Attorney General Mitchell's enjoinder that it was more important to watch what is done than what is said. You do not help take the easy profits out of drug traffic with tough talk and hollow promises.

MANDATORY PENALTIES

I believe that firm and certain punishment must be the response to drug traffickers. Because of the understandable concern and debate regarding Senate bill 1, a rewrite of the entire Federal Criminal Code, I agree with the President and the distinguished Senator from Nebraska (Mr. HRUSKA) that we not delay the enactment of appropriate measures to curb narcotics traffickers. Thus I intend to report a separate drug bill this year.

Although there seems to be a bandwagon syndrome regarding the application of mandatory minimum penalties to all crimes I agree with Prof. James Vorenberg "that the rush to mandatory minimum sentences distracts attention from a general restructuring of sentencing laws as well as from the futility of efforts to run our criminal justice system 'on the cheap'". But I concur with the distinguished executive director of the American Civil Liberties Union, Mr. Aryeh Neier, that:

Some people who have committed very serious crimes of violence should be given incapacitating sentences to protect everyone else.

The 1970 act eliminated most mandatory sentences. As the former President said in his June 17, 1971, drug abuse message to Congress:

The act contains credible and proper penalties against violators of the drug law. Several punishments are invoked against the drug pushers and peddlers while more lenient and flexible sanctions are provided for the users.

The President continued:

These new penalties allow judges more discretion, which we feel will restore credibility to the drug control laws and eliminate some of the difficulties prosecutors and judges have had in the past arising out of minimum mandatory penalties for all violators.

The only provision of the 1970 act providing minimum mandatory sentences is the continuing criminal enterprise provision, section 408, which was intended to serve as a strong deterrent and to keep those found guilty of such violations out of circulation.

It provides that persons engaged in continuing criminal enterprises involving violations of the bill, from which substantial profits are derived, shall, upon conviction, be sentenced to not less than 10 years in prison, and may be imprisoned up to life, with a fine of up to $100,000, plus forfeiture of all profits obtained in that enterprise. A second conviction under this section will lead to a mandatory sentence of not less than 20 years and up to life imprisonment, a fine up to $200,000, and forfeiture of all such profits.

Except when continuing criminal enterprises serve as the basis for an indictment, manufacture, sale, or other distribution of controlled drugs will carry penalties which vary, depending upon the danger of the drugs involved. If the drugs are narcotic drugs listed in schedules I or II, which have the highest probability of creating severe physical as well as psychological dependence, the penalties which may be imposed are up to 15 years imprisonment and a fine of up to $25,000 for a first offense. If the drug involves nonnarcotic substances listed in schedules I or II, or any substance—whether or not a narcotic—included in schedule III, the penalties for a first offense are up to 5 years imprisonment, plus a fine of not more than $15,000. If the drug is a schedule IV substance, the penalty is up to 3 years imprisonment and a fine of $10,000, and if a schedule V substance is involved, the penalty is up to 1 year imprisonment, plus a fine of not more than $5,000.

Where a violation of the bill involves distribution to a person below the age of 21 by a person who is 18 or more years of age, the penalty authorized is twice the penalty otherwise authorized for a first offense, with substantially increased penalties for second and subsequent violations.

The President's proposed legislation would require mandatory minimum sentences for all persons convicted of trafficking in heroin and similar narcotic

drugs. It calls for a 3-year mandatory sentence for the first offense, and at least 6 years for any subsequent offenses or selling illegal drugs to a minor, subject in each instance to exceptions.

This approach does not focus on the financier, importer, or organized criminal leaders who control drug traffic—it does not focus on these kingpins. What we need is meaningful sentencing for major traffickers. The problem with current Federal policy and focus was clearly presented to the subcommittee last week by Hon. Sheldon B. Vance, Senior Adviser to Secretary Kissinger for International Narcotics Matters, when he told the subcommittee that—

> While we can point with some satisfaction to our efforts toward improving the effectiveness of international narcotics control over the past several years, our own efforts to deal with traffickers has acquired a reputation of leniency. Minimal sentences, liberal parole policies and prosecutorial bargaining with cooperating defendants have caused some foreign officials to criticize the United States judicial system, often referring to it as a "revolving door." Specific complaints have been registered, primarily from Latin American countries, about low bail, release on personal cognizance, plea bargaining, lenient sentences, and early paroling of traffickers apprehended following close collaboration with foreign law enforcement officials.

Ambassador Vance cited an especially illustrative case. He explained that—

> It concerned two individuals arrested in November 1972 in New York subsequent to their delivery from Singapore of 2.5 kilos of # 4 heroin to Special Agents of the Drug Enforcement Administration. The exhibit was delivered as a free sample toward a 23 kilo delivery scheduled for the future. They were tried without a jury in the Southern District of New York and in March 1973 were given sentences of 15 years for each of two counts, to run consecutively. On June 26, 1974, the judge reduced their sentences pursuant to their motions, making them eligible for parole.
>
> On August 30, 1974, one of them filed an application for parole. His application was heard on October 16, 1974. An Institutional Review Hearing was held in March 1976 and parole was granted. He was delivered to the U.S. Immigration and Naturalization Service Authorities on July 15, 1976 for deportation.
>
> On July 17, 1976, upon his arrival in Singapore, he was arrested by officers of the Singapore Central Narcotics Bureau. On July 20, 1976, the Assistant Director, Central Narcotics Bureau requested the High Court Magistrate to order his detention for the remainder of his U.S. prison sentence.

Ambassador Vance commented that—

> These developments have caused the Singapore authorities seriously to question the commitment and sincerity of the United States in its efforts against the international trafficking of narcotics.

And that—

> Such cases and other indicators clearly show a soft and imprecise handling of narcotics offenders. This inhibits our ability to obtain cooperation from foreign governments.

We need to restore credibility to the sentencing process to assure that the "kingpins" are disrupted. I endorse the Domestic Council White Paper recommendation regarding sentencing of drug traffickers to require "minimum mandatory sentences for persons convicted of high-level trafficking in narcotics and dangerous drugs." I took particular note of the task force recommendation that the President's proposal be expanded to include high-level traffickers of barbiturates and amphetamines.

The most effective way to curb the flow of illicit drugs is to immobilize substantial trafficking networks through the prosecution and conviction of their leaders. I concur in the White Paper recommendation that:

> Federal law enforcement efforts should focus on the development of major conspiracy cases against the leaders of high-level trafficking networks, and should move away from "street-level" activities.

In calendar year 1974, DEA special agents in the United States spent 28 percent of their time in pursuit of class I violators, or those at the high level of traffic; 19 percent investigating class II's; 45 percent of their time on class III's; and 8 percent of their time on IV's. Even fewer of the arrests made were class I or II violators.

According to DEA Administrator Bensinger, however, the trend has improved. He told the subcommittee last week that class I, major, heroin violator arrests have increased by 106 percent in the 9-month period ending March 31, 1976, and class IV street-level arrests have decreased significantly.

These are encouraging signs but only time will determine whether DEA has finally focused its limited resources on the class I violators. The New York Drug legislation was recently amended to reflect this priority. The so-called Rockefeller shotgun approach clogged the counts but failed to sharpen the system's focus on major traffickers. To help assure this long-term objective the subcommittee is considering provisions that would restrict Federal drug control jurisdiction and authority to major interstate and international cases.

In 1973, the subcommittee desired to significantly strengthen the hand of our law enforcement officials in dealing with one of the most dangerous types of criminals in our society—major dealers who are the purveyors of heroin to our young people. This concern was reflected in the public menace amendment to S. 800, introduced by Senators BAYH and TALMADGE. This amendment was aimed at the backbone of heroin trade and distribution in this country, not addicts who are supporting a habit, for whom current laws are adequate, but the high-level traffickers who hook others. The Senate passed this amendment on April 3, 1973. It was not favorably reported from the House Judiciary Committee before the close of the 93d Congress. Similar provisions are included in S. 1800, the Violent Crime and Repeat Offender Control Act of 1975, which I introduced last June.

There is no criminal element in this country which is more dangerous and despicable than those who are the purveyors of heroin to our young people. My approach is not aimed at addicts who are already hooked and who are trying to support their habits. For such people laws already on the books and adequate treatment—together with the capture and imprisonment of big time dealers—offer the best hope. My target is those who have hooked others and not themselves.

Under my bill persons convicted of manufacturing, distributing, or dispensing heroin or morphine in amounts equal to or in excess of one-tenth of an ounce of pure narcotic would receive, on the first offense, a mandatory minimum sentence of 10 to 30 years. For second convictions, these pushers would get a mandatory life sentence. In neither case would the offender be eligible for probation, suspended sentence, or parole—except after serving 30 years of a life sentence. In both cases the mandatory minimum sentence would have to be imposed in addition to the sentence provided under existing law; and in both cases the additional sentence would have to be consecutive to, not concurrent with, the existing punishment.

One-tenth of an ounce of heroin or morphine may seem to be a tiny amount, Mr. President, but it is as deadly as it is small. It can and is turned into a large number of bags of heroin on the street, and is worth a handsome sum. As a measure of the seriousness of the criminal conduct it is preferable to the President's bill which applies to any detectable amount of opiate. It best assures that we reach the high-level dealers who handle very pure and very valuable heroin. This test also assures that we do not bring under these very severe penalties a person with a mixture which contains only traces of a narcotic. Under this approach the volume of the material sold or manufactured would not matter; the only question would be whether it contained the equivalent of one-tenth of an ounce of pure heroin or morphine.

The following table, prepared by subcommittee staff, illustrates graphically the amount of heroin involved in the application of my bill:

Estimates of heroin dosage units derived from 1/10 ounce of pure heroin or morphine

Total units	*Unit size (milligram bags)*	*Percent of heroin or morphine*
a. 2,835	100	1
b. 1,417.5	100	2
c. 945	100	3
d. 708.7	100	4
e. 567	100	5
f. 472.5	100	6
g. 405	100	7
h. 354.3	100	8
i. 315	100	9
j. 283.5	100	10

Note: 0.1 ounce equals 28.35 grm. or 28,350 mgms. 0.2 ounce equals 2.835 grm. or 2,835 mgs.

Any nonaddict who manufactures, distributes, or dispenses one-tenth of an ounce of heroin or morphine is, we can be confident, a high-level trafficker who is rationally and for profit pushing drugs. Such a person deserves no quarter.

The President's bill neither distinguishes as to amount or purity of the drug involved, it would even mandate a 3-year jail term for one who illegally transfers a portion of a methadone maintenance patient's average 100 milligram dosage. Although we have not received an assessment from the Bureau of Prisons as to the impact of the President's pro-

posal, we can rest assured that multimillions of nonexistent dollars would be required for new prisons. This shotgun-nonspecific approach should be rejected.

While, I believe present statutes are adequate for addicts, the subcommittee is considering an amendment to the 1970 act to include an "attempt" section punishable by up to 5 years imprisonment, that would apply to nonaddict traffickers; such provision may provide the necessary impetus for such nonaddicts to cooperate in the prosecution of major trafficking cases.

A sound drug enforcement policy must reflect the reality that all drugs are not equally dangerous, and all drug use is not equally destructive. The Domestic Council White Paper on Drug Abuse stresses this theme when it concludes that enforcement efforts should therefore concentrate on drugs which have a high addiction potential, and treatment programs should be given priority to those individuals using high-risk drugs, and to compulsive users of any drugs.

I ask unanimous consent that chart 12 from the Domestic Council's White Paper, A Summary of Drug Priorities and accompanying text—pages 32–34—be printed at this point in the RECORD.

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

SUMMARY: DRUG PRIORITIES

Chart 12 ranks the various drugs according to the following criteria: (1) likelihood that a user will become physically or psychologically dependent; severity of adverse consequences, both (2) to the individual and (3) to society; and (4) size of the core problem.

SUMMARY OF DRUG PRIORITIES

	Dependence liability	Severity of consequences		Size of core problem
		Personal	Social	
Heroin	High	High	High	High/ 400,000.
Amphetamines:				
Needle	High	High	High	High/ 500,000.
Oral	Low	Medium	Medium	
Barbiturates:				
Mixed	High	High	High	Medium/ 300,000.
Alone	Medium	High	Medium	
Cocaine	Low	Low	Medium	Low.
Marihuana	Low	Low	Low	Low.
Hallucinogens	Medium	Medium	Medium	Low.
Inhalants	Medium	High	Medium	Low.

Though the data are flawed and the rankings therefore imprecise, a clear pattern emerges.

Heroin ranks high in all four categories;

Amphetamines, particularly those injected intravenously, also rank high in all four categories;

Mixed barbiturates rank high three out of four categories;

Cocaine,* hallucinogens, and inhalants rank somewhat lower; and

Marihuana is the least serious.

On the basis of this analysis, the task force recommends that priority in Federal efforts in both supply and demand reduction be directed toward those drugs which inherently pose a greater risk to the individual and to society—heroin, amphetamines (particularly when used intravenously), and mixed barbiturates—and toward compulsive users of drugs of any kind.

* This ranking is on the basis of current patterns. As mentioned earlier, if intensive use patterns develop, cocaine could become a considerably more serious problem.

This ranking does not mean that *all* efforts should be devoted to the high priority drugs, and none to the others. Drug use is much too complicated and our knowledge too imprecise for that. Some attention must continue to be given to all drugs both to keep them from exploding into major problems and because there are individuals suffering severe medical problems from even a low priority drug, such as marihuana.

However, when resource constraints force a choice, the choice should be made in favor of the higher priority drugs. For example:

In choosing whom to treat, we should encourage judges and other community officials not to overburden existing health facilities with casual users of marihuana who do not exhibit serious health consequences. (But, a person who is suffering adverse consequences because of intensive marihuana use should have treatment available.)

In assigning an additional law enforcement agent, preference might be given to Mexico, which is an important source of both heroin and "dangerous drugs", rather than to Miami, where an agent is more likely to "make" a cocaine or marihuana case.

This drug priority strategy is essential to better targeting of limited resources and it will be further addressed in relation to supply and demand reduction activities in chapters 3 and 4. Further, the process of assessing the current social costs of drug abuse should be a continuing one, to ensure that resources are allocated on the basis of priorities which reflect current conditions and current knowledge.

Mr. BAYH. Our priorities in drug law enforcement must reflect reasoned judgments based on the facts. The fact is that nationally, arrests for marihuana violations have escalated from 188,682 in 1970 to 450,000 in 1974. This is not nearly as dramatic as the 1,000-percent increase between 1965–70 from 18,815 to 188,682, but it is rather astonishing that this 4-year increase is more than 12 times the total marihuana arrests just 10 years ago.

The fact is that the number of marihuana arrests as a percentage of all drug arrests has increased substantially. In 1970 these arrests amounted to 45.4 percent of total drug arrests. During the 1970–73 period 1,127,389 of the total 2,063,900 drug arrests were for marihuana. And in 1974, the most recent year for which records are available, 70 percent of all drug arrests were for marihuana.

Available studies and research to date have found that the majority of those arrested are otherwise law-abiding young people in possession of small amounts of marihuana. In fact, a Presidential commission found that the vast majority of users are essentially indistinguishable from their nonuser peers by any criteria other than its use.

In 1969 and 1970 the subcommittee considered the adequacy of penalties for marihuana with the result that the new Controlled Substances Act provided that simple possession or distribution of a small amount of marihuana for no remuneration were both designated misdemeanors, not felonies, punishable by up to 1 year in jail and/or up to a $5,000 fine. It was the view of many Members that the sanctions should be further reduced. Some suggested that the sanction be eliminated for such conduct.

In order to permit a thorough assessment of these issues the subcommittee recommended the creation of a Presidential commission. The Congress agreed and provided for the establishment of the Commission on Marihuana and Drug Abuse in part F of the Controlled Substances Act.

This body, known as the Shafer Commission, after its distinguished chairman, conducted an in-depth study of the issues and concluded that marihuana was not dangerous enough to the user or to the general public for its private possession and use to remain a criminal offense.

In the last several years a growing list of States, organizations, and individuals have endorsed and adopted approaches comparable to the Shafer Commission recommendations.

Rather than ignore the law on marihuana or prosecute possession cases selectively as some would suggest, I believe that: We must recognize that the $600 million invested annually to prosecute marihuana cases can be used in a manner more consistent with the protection of property and safety of the taxpayers who must sustain our severely overburdened criminal justice agencies; we must recognize that public interest is not served by arresting annually 500,000, mostly young people, for simple possession of small amounts of marihuana and thereby assuring that they are inhibited for life—in their education and careers—by the unrelenting stigma of a criminal record; and we must recognize that the public is not going to get the highest return on their tax dollars in the national effort to curb drug traffic and drug-related crime when 7 in 10 drug arrests are for predominantly simple marihuana possession. We must reject such counterproductive drug law enforcement policy.

Thus an integral title of the bill we plan to report from the subcommittee will provide for the decriminalization of marihuana. I will recommend an approach similar to that undertaken by the State of Oregon which abolished criminal penalties for simple possession and substituted a civil fine up to $100 for possession and nonprofit transfers of up to 1 ounce of marihuana. Criminal penalties for the sale of the drug for profit would remain intact. This approach maintains a policy of discouragement toward marihuana use while recognizing the current inappropriate use of law enforcement resources and the destructive impact of potentially 30 million criminal records for such common conduct.

The fact of the matter is that if the American public knew that more dollars are spent each year to prosecute marihuana cases than the Federal Government expends on its combined drug law enforcement and drug treatment program with the results I have outlined, I would speculate that rather than the near deadlock of opinion reflected in the most recent Harris poll—January 26, 1976—on decriminalization showing 43 percent in favor and 45 percent opposed a clear majority would support my approach. Concentrating our Federal drug enforcement resources on high-level heroin and dangerous drug traffickers is sound policy, but will call for a shift in the standards for measuring success. We in Congress should deemphasize the number of arrests as a criterion of suc-

cess. And as the Assistant Attorney General for the Criminal Division concluded in his July 22, 1976, speech before the fifth Controlled Substances Conference in Minneapolis, Minn.: "No statistical striving or" seizure syndromes can or will substitute for the quality, prosecution of those cases which place behind bars for extended jail sentences individuals responsible for the plan of illegal drugs into American communities. Such a strategy applies limited public resources more judiciously and simultaneously reflects sensible priorities.

REFORM OF BAIL LAWS FOR DRUG TRAFFICKERS

Another serious problem with current Federal law and practice is that even the most notorious drug traffickers are often released on bail. I agree with the President's concern about bail jumpers. He emphasized in the April 22, 1976, message one aspect of the problem when he stated:

> These offenders simply flee to their homelands upon posting bail. Then, they serve as walking advertisements for international traffickers attempting to recruit other couriers.

Yet, title II of the President's legislation, S. 3411, would enable judges to deny bail to almost anyone arrested for a drug offense if otherwise suspected, such as nonresident aliens. Thus, the nearly 7 million aliens admitted last year under nonimmigrant status whether foreign government officers, temporary visitors for business, or pleasure, and a myriad of other bases for admission become suspect under S. 3411.

Rather than resort to preventive detention which would reverse the basic tenet of our criminal justice system—the presumption of innocence—what we lack today is a realistic application of bail within the confines of the constitutional protection of the eighth amendment. We need full and expeditious implementation of the Speedy Trial Act to assure that justice is not only fair but swift and certain.

Incidentally, I recently reviewed the status of the 540 Americans in Mexican jails, mostly on drug offenses, with an eye to numerous allegations of torture and police brutality and general outrage at the fact that these Americans were "languishing" in foreign jails. The impact and significance of our cherished presumption of innocence was unmistakably clear when juxtaposed to the plight of these persons. The reliance in Mexico on the Napoleonic Code's "guilty until proven innocent" had assured that some innocent persons could be held as long as a year and that many would not be able to prepare an adequate defense. It is ironic that the White House is recommending a similar denial of basic rights for suspected citizens and nonresident aliens.

Aside from constitutional and humanitarian objections, preventive detention has failed to accomplish its goals in the District of Columbia. The 1972 Vera Institute-Georgetown University Law Center Study as well as testimony before the subcommittee last week supported this conclusion. Earl Rauh, the Chief Assistant U.S. Attorney, testified that of the more than 30,000 felony cases handled by the District of Columbia criminal justice system the preventive detention procedure had been used only 70 times in the last 5 years. Even on practical grounds such a track record hardly bespeaks adoption of this approach on a national basis.

The subcommittee will carefully consider for incorporation in the drug legislation, however, provisions that mandate the denial of bail when necessary to prevent the flight of major drug traffickers. These provisions will include specific judicial guidelines. DEA Administrator Bensinger discussed what appeared to be an appropriate case for the mandatory denial of bail with the subcommittee last week. He set out the case as follows:

> In Miami in 1975, two defendants were arrested at the Miami International Airport for smuggling 13½ pounds of pure Asian heroin. Initial bond was set at $500,000 surety bond for each defendant, but was later reduced to $100,000 surety bond each despite the following facts: (1) At the time of their arrest, each defendant possessed false identification; (2) they were operating a smuggling conspiracy bringing in 35–40 kilos of Asian heroin per month; (3) they had access to Swiss bank accounts of several million dollars; (4) one defendant was under a murder indictment in Southern California, and both were under other Federal narcotic indictments in California; (5) they were extensive international travelers. Both defendants posted the surety bonds by paying a $10,000 premium. Both are now fugitives, and have since withdrawn $400,000 from their Swiss bank accounts.

An additional reform under consideration by the subcommittee concerns major narcotics traffickers who jump bail.

To help remedy this growing problem we may amend the Federal law to make the penalty for bail jumping equal to that of the underlying substantive offense.

These are the type of realistic changes we need to more effectively combat those who accumulate incredible profits from the misery of hundreds of thousands.

NARCOTICS AND PROFITS

A primary premise of the legislation that the subcommittee intends to report is that the Federal Government must act more decisively to attempt to take the easy profits out of major drug trafficking. I support provisions that would require the forfeiture of the proceeds used or intended to be used in illegal narcotic or dangerous drug transactions.

These forfeiture provisions should apply to subsequent profits or value generated by the investment of the tainted proceeds. We must disrupt major narcotic distribution lines and attempt to provide a greater degree of deterrence and risk for these kingpins.

As policymakers we must place the nature and extent of heroin traffic in perspective. As Assistant Secretary of the Treasury David Macdonald told the subcommittee last week, it is important to recognize that what we are talking about "is big business. In terms of dollars, it is one of the larger industries in the United States and exceeds the gross sales of many multinational corporations."

The Treasury Department estimates that the retail value of heroin sold in the United States each year is in the neighborhod of $7 billion. In my view this is a conservative estimate. Others speculate that the domestic heroin market sales are in excess of $10 billion annually. In 1972, the entire domestic prescription drug industry accounted for $5.4 billion in sales, or significantly less than the domestic heroin industry, which incidentally pales by comparison with our legitimate domestic narcotic market. The drug industry employed 143,985 persons in the United States and in the latest year for which data are available paid a total of nearly a billion dollars in taxes. The outlaw drug industry paid negligible taxes, if any.

What does it mean when one says that high level drug dealing is very profitable? According to analysis of the distribution hierarchy gross profits are considerable at every level. At the higher levels of the distribution systems, however, the operating costs—basically wages and stock finance costs—are claimed to be a larger percentage of the value added than at lower levels. So-called average profits in this market would be considered astronomical in most markets with which I am familiar. The rate of return on investment is approximately as follows: 300 percent for the importer; 100 percent for the kilo connection; 145 percent for the connection—or ounce man; 114 percent for the weight dealer; 124 percent for the street dealer; and 50 percent for the juggler or the seller from whom the average street addict buys heroin.

According to Sterling Johnson, Jr., special narcotics prosecutor for New York City, an active seller at a level comparable to the street dealer—one-eighth ounce of diluted heroin selling for an average price of $55—can clear $500 to $1,000 profit a day. A key dealer in the Baltimore, Md., area was recently sent to prison for a 15-year term. As the No. 2 person in Baltimore heroin trade he was clearing $140,000 a week in 1973. Kilo importers in Harlem are reportedly clearing $150,000 a week and their distributors a paltry $50,000 a week. It is estimated that these dealers take home more than $4 million every week in this one community. These figures are all "before taxes" for little revenue is collected from this multibillion-dollar-a-year business.

Obviously these illicit activities generate large flows of money, both domestically and internationally. Secretary Macdonald reported to the subcommittee that "hundreds of millions of dollars, usually in the form of currency, are moved out of the United States annually to pay foreign producers and processors for their services." He went on to say that "within the United States, drugs are also a cash-and-carry business." In a recent case a major trafficker was arrested with $1 million in cash in his possession.

I believe that as a basic theme of our drug law enforcement strategy we should attack drug smugglers and traffickers through the currency and profits generated by their illegal activity.

High-level traffickers, who may be insulated from the illegal merchandise and consequently cannot readily be convicted for drug violations are often vulnerable to financially oriented investigations. As

Secretary Macdonald pointed out last week such an approach "could have greater impact than by concentrating solely on the drug transactions themselves." In this connection the United States-Swiss Mutual Assistance Treaty in Criminal Matters, recently ratified by the Senate should help to expedite the exchange of information relative to the international aspects of this dirty, tainted trade. By carefully monitoring the vast flow of currency and monetary instruments important information is developed with respect to narcotics trafficking.

To help facilitate the prosecution of major trafficker couriers, I intend to amend current law to clarify the time frame for violations relating to traffickers' proceeds and by granting additional authority to search persons suspected of smuggling tainted drug proceeds in excess of $5,000 out of the country. These provisions will include fines that are far more than those under present law which any major traffickers could assume as a cost of doing business.

The subcommittee is concerned that DEA reliance on techniques in which their agents and informants use Federal moneys to purchase illegal narcotics or information may be far too costly and even counterproductive. There is some evidence that these practices, known as PE—purchase of evidence—and PI—purchase of information—may actually expand the narcotic trade.

We intend to address this problem, to the extent necessary, in the subcommittee legislation.

To even the casual student of the activities of those who control the flow of heroin and other dangerous drugs in the United States one thing is strikingly clear: they take in exorbitant profits and pay no income tax.

I was especially pleased that the President stressed, in his April drug message, the need to reestablish the Internal Revenue Service tax enforcement program aimed at high-level drug traffickers. In reaffirming his support for this vital program the President said:

> We know that many of the biggest drug dealers do not pay income taxes on the enormous profits they make on this criminal activity. I am confident that a responsible program can be designed which will promote effective enforcemeent of the tax laws against these individuals who are currently violating these laws with impunity.

The IRS program aimed specifically at major drug traffickers was announced by the former President in June 1971, and the Congress then voted emergency funds for this vital and worthwhile initiative. Though a recent review of the impact of this program by the Domestic Council Drug Abuse Task Force characterized it as "extremely successful," all is not well with this special attempt to tax narcotics merchants. In fact, since 1973, after an impressive 18-month track record, the current IRS Commissioner downgraded and eventually deemphasized—some would assert dismantled—the program.

An especially articulate supporter of this innovative program, who played a major role in its establishment is former Assistant Secretary of the Treasury, Mr. Eugene Rossides. In the past we have worked together to help curb the unrestricted availability of nonsporting handguns as well as on efforts to curb drug traffic. I recall that my good friend Congressman PAUL ROGERS, chairman of the House Interstate and Foreign Commerce Subcommittee on Public Health and Environment, brought to my attention the impressive and persuasive October 27, 1971, testimony of Mr. Rossides regarding the narcotics trafficker tax program. He set out the program for tax investigators of major narcotics traffickers as follows:

> Included in the June 17, 1971, Presidential message, which announced the administration's expanded effort to combat the menace of drug abuse, is a high priority program to conduct systematic tax investigations of middle- and upper-echelon narcotics traffickers, smugglers and financiers. These are the people who are generally insulated from the daily operations of the drug traffic through a chain of intermediaries. This program will mount a nationally coordinated effort to disrupt the narcotics distribution system by intensive tax investigations of these key figures. By utilizing the civil and criminal tax laws, our objective is to prosecute violators and to drastically reduce the profits of this criminal activity by attacking the illegal revenues of the narcotics trade.
>
> Reflecting the high priority given this program by the President, Congress has provided financial support for the program amounting to $7.5 million in fiscal 1972 and authorization for 541 additional positions—200 special agents, 200 revenue agents, and 141 support personnel.
>
> Certain major features of this program should be noted:
>
> (1) Treasury will not only coordinate its efforts with all other interested Federal agencies, but will actively seek the maximum cooperation of State and local enforcement agencies as well. This is a vital feature of this program;
>
> (2) With the manpower provided, our goal is to have at least 400 full-scale ongoing IRS investigations;
>
> (3) In line with the high priority given this program by the President, the Internal Revenue Service has already assigned more than 100 experienced special agents and more than 100 experienced revenue agents, full time to this program. Additional experienced agents are presently being phased into the program.

Mr. Rossides has recently expounded upon the need to revitalize this effort to remove the capital and the profit from the drug trafficking business by utilizing the Federal tax laws, and I ask unanimous consent that these pertinent and timely remarks regarding the IRS NTTP be printed at this point in the RECORD.

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

REMARKS OF EUGENE ROSSIDES

It seemed clear to me in 1969 that from an enforcement point of view the Achilles heel of the illicit drug trafficking business was its financing and its illegal but taxable income or profits.

Obtaining evidence against major drug dealers on drug charges is one of the most difficult law enforcement jobs. They can easily insulate themselves from the street-level pusher and minor dealers. It is a rarity to catch them in possession of drugs. The crime is victimless in the enforcement sense in that the addicts and users are not interested or willing to give evidence. They don't consider it a crime. They want the drugs. They want to protect their source of supply, not turn him in.

This is the key reason why I felt it was a necessity to develop a tax enforcement program against the illicit drug traffickers.

I tried unsuccessfully in mid-1969 to get the Organized Crime Strike Forces to accept illicit drug trafficking as a priority item, if not the priority item. I then recommended that Treasury initiate its own special Narcotics Trafficker Tax Program for two reasons: (1) jurisdiction over the tax laws was in Treasury, and (2) from the time of Al Capone, the tax laws have proven to be an effective tool to put major crime figures out of business.

In the short period the Treasury/IRS Narcotics Trafficker Tax Program* was active—from July 1, 1971 to early 1974, it proved to be one of the most successful enforcement efforts in Federal history. (I happen to believe it is the finest from the point of view of results, professionalism, and costs.)

The NTTP was designed to take the illegal profit out of drug trafficking and to disrupt the distribution system. In the short period of its active existence, the IRS initiated full tax audit investigations of over 1800 upper and middle level drug traffickers and dealers; found tax deficiencies totaling $200 million; it paid for itself or practically paid for itself in taxes and penaltes collected; and its impact put drug dealers out of the illicit drug business.

The essence of the NTTP was (1) the careful selection of targets utilizing the talents and information of Federal, state and local enforcement agencies, and (2) the use of both the criminal and civil sections of the IRS Code against major drug distributors and financiers who are often insulated from the traffic and, therefore, in effect, immune from prosecution under the drug laws.

The Treasury Department developed through the target selection system of the NTTP a comprehensive nationwide list of over 1800 major drug traffickers and financiers who were put under full tax audit investigations; gathering information from the then BNDD, Customs, IRS, the Bureau of Alcohol, Tobacco & Firearms, and of substantial importance, from state and local police.

The importance of this substantial list of major drug dealers cannot be overemphasized. While DEA and its predecessors tried, with little success, to bring drug cases against major drug dealers (there were not more than a handful of successful cases), the NTTP, within its first twelve months, identified and put under tough tax investigation 793 major targets in 53 metropolitan areas in 40 states!

State and local police agencies and personnel welcomed the NTPP because it helped them get immediate, short-term, and long-term results, they could see and feel the almost immediate effect of their activities, and of great significance, the NTTP did not encroach on their jurisdictions.

The NTTP was downgraded by IRS Commissioner Donald Alexander shortly after he assumed his duties in mid-1973 and by 1974 it was gutted, despite the clear Congressional and Executive policy, and specific earmarked appropriations. Although Commissioner Alexander has unjustifiably criticized the NTTP, the fact remains it was a most successful tax program which had an extraordinary impact on the illicit drug traffic. Fortunately, the NTTP has now been revived by Presidential directive.

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*The abbreviation most often used is NTP. I prefer NTTP because it emphasizes that it is a tax program.

The importance of NTTP to our nation's efforts to reduce the illicit drug traffic and bring it within manageable proportions is overriding and requires a detailed analysis of the program.

I state to this Subcommittee and to the Congress that without an effective Treasury/IRS Narcotics Trafficker Tax Program we will fail in our efforts to reduce the illicit drug traffic. In view of the overriding importance of this program, I would like to describe in some detail its theory and practice.

The NTTP was initiated as part of the overall effort to crack down on the illegal traffic in narcotics. Recognizing that the huge profits of the drug trafficking business are largely unreported and therefore untaxed, in late 1969 I recommended to the Secretary of the Treasury, David M. Kennedy, and to Under Secretary Charles E. Walker, who had the responsibility for direct supervision of IRS, that the Treasury develop a tax program aimed at the drug trafficking business.

Preliminary surveys in 1970 showed that among a group of suspected narcotics traffickers several patterns could be observed. First, there was a high incidence of nonfiling of income tax returns. Second, a large number appeared to have life styles which would require income far in excess of that on which taxes were being paid.

As a result of these findings and our general studies and review, in the late spring of 1971, Secretary John B. Connally obtained White House and Congressional approval for the program and $7½ million in appropriations for the first year of operation.

Thus, this program had the full backing of the Congress and the Executive Monies were appropriated specifically for the NTTP—monies and manpower which would not have been authorized or appropriated but for this program and were not authorized and appropriated for any other IRS activity.

The Narcotics Trafficker Tax Program is an income tax program. The goal of the NTTP is to tax the illegal profits of the drug trafficking business, a major area of tax noncompliance. The program was carefully developed over a two-year period and the results during the short time it was active—from July 1, 1971, to some time in 1974, including substantial start-up and training time—demonstrate that it was extremely successful.

It is important and central to the NTTP program to understand that the income from the illegal narcotics traffic business is taxable. And it is the responsibility of the Treasury Department to go after this taxable income. Drug trafficking is a business. It is not some isolated activity.

It is damaging to the "voluntary compliance" concept of tax administration to suggest that income from illegal activity should be given a lower priority than income from lawful activity. The narcotics trafficking business is a highly organized criminal activity which requires a sophisticated and comprehensive program to identify the individuals involved and to determine the income which is taxable. Are we to encourage unlawful activity of the most serious kind by our failure to enforce the tax laws against the narcotics traffickers?

The enormous profits of the narcotics trafficking business constitute taxable income to traffickers. To develop a program to identify major narcotics traffickers and tax them is part of administering the tax laws. There is no meaningful distinction between this type of activity and the ordinary IRS methods of identifying what is referred to as "pockets of noncompliance."

There is no difference in concept in deciding to select suspected major drug traffickers for tax audit and in deciding to select waitresses and taxicab drivers regarding gratuities income, corporate executives, individuals regarding interest and dividends payments or tax resister groups, and other classifications of taxpayers. Indeed, the incidence of tax noncompliance by drug traffickers is, I submit, higher than other noncompliance groups.

The significant point with respect to the NTTP was that under such a tax program we were able for the first time on an organized and comprehensive basis to get at major drug traffickers, persons who use intermediaries to insulate themselves from the day-to-day operations of the drug traffic. In this way, they achieve virtual immunity from prosecution under the substantive narcotics laws. The Narcotics Trafficker Tax Program was able to get at many of the "Kingpins" of the traffic.

In developing the original program and thereafter while I served at the Treasury, the program had the full bipartisan support of the Congress; the full support of three Secretaries of the Treasury, David M. Kennedy, John B. Connally, and George P. Shultz; the excellent cooperation and leadership of two Commissioners of IRS, Randolph Thrower and Johnnie M. Walters; and the full support of the Tax and Criminal Divisions of the Department of Justice and the various U.S. Attorneys.

Important and central to the NTTP was the policy decision to stress civil as well as criminal enforcement. This policy decision was a significant improvement on previous uses of tax administration to go after profits from criminal activity. It was our position that the illegal profits must be taxed and should be attacked either by civil enforcement or criminal enforcement. If a criminal case could be made, fine. If not, then the decision should be made as soon as possible and appropriate civil action pursued vigorously. It can be argued that in many cases the greater punishment and deterrent is taking the illegal profits from the illicit drug trafficker.

A critical innovation in federal law enforcement, and essential to the success of NTTP, was the development of the major drug traffickers target selection procedure—a coordinated and cooperative selection of persons to be audited.

As of July 1, 1971, the paucity of information identifying known major drug traffickers was appalling.

We developed a program for selection of targets, which once selected would be turned over to the IRS for audit. We organized field target selection committees throughout the country and developed guidelines for target selection. The persons selected had to be considered major traffickers and there had to be an indication of assets to warrant a full audit.

The field target selection committees were composed of professional career personnel from federal, state and local agencies. On the federal level, the committees included personnel from IRS, the then BNDD, and Customs. On the state and local levels, it included representatives from the local and state police. The committees would meet periodically and pool their knowledge.

Targets selected would then be sent to Washington, D.C. for review and final selection by an inter-agency target selection committee composed of personnel from IRS, BNDD and Customs and chaired by the Deputy Assistant Secretary for Enforcement. This Treasury committee would meet periodically to review the field recommendations and decide to accept, reject, or hold for further consideration each field recommendation.

Once a person was accepted the file would be sent to IRS and from that point on in the investigative process, it was an IRS tax case and handled in accordance with IRS operating procedures. After investigation if the decision was that the evidence justified a criminal prosecution it was referred to the appropriate U.S. attorney's office. Otherwise it was pursued civilly by IRS.

Important byproducts of multi-agency analyses and review of potential targets, supervised by the Office of the Secretary and not at IRS or other agency level, are that it insures selection of high-level targets, increases cooperation and efficiency, and reduces the possibilities of corruption in the selection process to a minimum. I want to stress my belief that this interdepartmental and interagency activity must be supervised by the Office of the Secretary of the Treasury and not at an agency level.

We also developed a minor drug trafficker tax program designed to go after the profits of the minor dealer and pusher. The individuals involved were primarily lower-level drug traffickers—dealers and pushers—who were arrested by state, local and federal officials on substantive drug charges and where there was cash found. We decided against a full audit of these individuals but instead we took tax action; we stressed a tax check type of investigation—did they file a return—and the use of tax year termination and jeopardy assessment procedures on these individuals to reach their large, conspicuous assets. Such tax action was taken on over 3,300 minor dealers and pushers.

This part of the program achieved outstanding success in taxing and reducing the working capital and street-level profits and, thereby, in disrupting the distribution system.

A monthly report system was developed to monitor the progress of this tax program. That report system enabled the Secretary and me to follow the progress of each element of the program. The monthly report listed the number of cases by states and metropolitan areas and the status of the cases.

Within the first twelve months of the NTTP, 793 major targets in 53 metropolitan areas in 40 states were selected for intensive tax investigation and 565 minor traffickers were put under tax action. Within seventeen months 1,175 major targets were selected for intensive tax investigation and 1,239 minor traffickers were put under tax action * * *.

The extraordinary success of the program stems from three groups of dedicated personnel: (1) the target selection efforts of Federal, state and local officials; (2) the several hundred men and women in IRS—tax specialists performing a tax function—who took this program to heart and dedicated themselves to it; and (3) the attorneys in the Department of Justice and the U.S. attorneys' offices throughout the country.

I strongly recommend that the NTTP be reactivated quickly and given the highest priority possible under the overall supervision of the Assistant Secretary of the Treasury for Enforcement, Operations and Tariff Affairs.

This highly successful program was unique in the spirit of cooperation it engendered among state, local and Federal officials and among Federal agencies. No jealousies and no infringement of jurisdiction existed among the various agencies cooperating in the NTTP. I submit that it ranks as one of the finest, if not the finest, cooperative law enforcement programs in our history from the point of view of results, professional performance, and costs. It can be put back in operation and effective within months with strong supervision from the Office of the Secretary of the Treasury.

Mr. BAYH. It appears that the Internal Revenue Service is in the processes of reconsidering the viability of the NTTP. Whether this apparent reassessment was voluntary or not should be left to the speculators; but, coincidentally, the day before our first hearing on the

President's drug message, July 27, 1976, the Administrator of DEA and the Commissioner of the Internal Revenue signed a memorandum of understanding regarding the Presidential directive to reestablish a tax enforcement program aimed at high level drug trafficking. Though the ink had actually dried when the memorandum was presented in testimony to the subcommittee by DEA Administrator Bensinger, the Executive Director of the newly appointed Presidential Cabinet Committee for Drug Law Enforcement—members are the Secretary of Treasury, the Attorney General, and the Secretary of Transportation—we did not have the opportunity to inquire as to the details of this July 27, 1976, agreement.

The ostensible objectives of the new agreement as well as the development and track record of the NTTP will be diligently assessed at the subcommittee hearing on August 5, when IRS Commissioner Donald Alexander and others will appear before the subcommittee.

NARCOTICS SMUGGLING

In addition to provisions which will assist the detection of couriers smuggling tainted proceeds out of the country, the subcommittee legislation will incorporate sections to facilitate the detection and prosecution of narcotics smugglers who use seagoing vessels, including private yachts and pleasure boats. This so-called deep-six connection has developed into an integral conduit for major narcotics smugglers and distributors.

The Commissioner of Customs, Mr. Vernon Acree, explained this growing problem to the subcommittee, in part as follows:

The high speed and fuel carrying capabilities of today's small boats permits them to travel distances which were not envisioned when the vessel reporting requirements were enacted in 1930. Thus, a small boat can journey from our eastern coast to larger vessels hovering off-shore outside the 12 mile Customs waters, or to the Bahamas or other nearby foreign islands for the purpose of picking up narcotics. They may then return to the U.S., pull into a small cove or marina and unload the drugs. Some of these boats will then call Customs to report their arrival, while others will ignore this requirement. In either case, the present reporting requirements are virtually useless since any contraband will have been removed before Customs officers arrive to inspect the vessel.

This problem has become particularly acute in Florida where private yachts and pleasure vessels, with easy access to nearby foreign islands, the high seas and the United States' inland waterways, complicate detection. Futher magnifying the problem is the fact that hard evidence has been developed establishing that foreign flag vessels are moving multi-ton loads of marijuana and smaller portions of hashish to positions on the high seas adjacent to the United States eastern and gulf coasts. At a position usually between 40 and 60 miles offshore, the mother ship—or hovering vessel—is met, under cover of darkness, by small vessels that take on a portion of the load for introduction into the United States. The mother ship then moves to the next rendezvous point where similar discharges are made. When the mother ship is empty it returns to its country of origin without ever having entered U.S. waters.

To respond more effectively to these special distribution channels and to address the fact that many vessels consistently ignore current law the subcommittee intends to amend the relevant reporting requirements.

As I mentioned earlier we are concerned that the reorganization plan No. 2 processed by the Government Operations Committee in 1973, though not without merit, has resulted in the underutilization or misdirection of intelligence gathering and dissemination, especially at our borders and most importantly our Southwestern border. The full utilization of Customs intelligence and investigative resources is a necessary step in bringing Federal narcotics enforcement effectiveness to its highest possible level. It should be recalled that narcotics traffic is a giant, incredibly profitable industry. Even if it were taxed comparable to the level of our domestic prescription drug industry—it would owe the American taxpayers at least $1 billion or every American citizen $5 each year. Thus these merchants of death—by the most conservative and cautious assessment—would owe more in taxes than the combined Federal drug abuse law enforcement and Federal drug abuse prevention budgets. I ask unanimous consent that two tables prepared by Peter Goldberg of the Drug Abuse Council be printed in the RECORD at this point.

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

TOTAL FEDERAL DRUG ABUSE PREVENTION FUNDING

[In millions of dollars]

	Fiscal year —								
	1971 Actual	1972 actual	1973 actual	1974 actual	1975 actual	1976 estimated	TQ estimated	1977 estimated	Total, 1971-77
SAODAP		1.5	39.9	27.3	13.0				81.7
DHEW	69.7	193.1	255.1	349.4	320.1	338.4	46.4	359.0	1,931.2
NIDA	56.2	116.7	181.4	[1] 272.9	220.1	232.2	21.2	247.8	1,348.5
NIMH				4.5	5.2	4.2		4.3	18.2
NIH				3.3	3.0	3.2		3.5	13.0
SRS	3.6	58.0	53.0	54.0	79.0	88.0	23.0	94.0	452.6
OE	5.4	13.0	11.9	5.7	4.0	2.0			42.0
OHD	4.5	5.4	8.8	9.0	8.8	8.8	2.2	9.4	56.9
OEO	12.8	18.0	(2)						30.8
VA	1.1	16.2	27.7	30.3	33.2	36.7	9.4	38.0	192.6
DOD	1.1	58.7	73.0	68.6	64.0	61.3	14.3	57.8	398.8
Justice	40.3	36.5	33.5	34.5	26.6	46.4	6.7	24.3	248.8
State		1.0	1.0	.9	.7	.8		.8	5.2
HUD	8.7	13.0	6.3	1.6	2.9	4.0	.9	4.8	42.2
USDA		2.5	1.9	1.8	1.6	1.6		1.0	10.4
Other Federal [3]	.2	1.4	2.9	2.8	9.0	3.5	1.3	4.0	25.1
Total	133.9	341.9	441.3	517.2	471.1	492.7	79.0	489.7	2,966.8

[1] High because of supplemental received in fiscal year 1973, and not obligated until fiscal year 1974.

[2] Total of $23,000,000 included in NIDA funds.

[3] Includes amounts of less than $1,000,000 each year in DOL, DOC, CSC, DOT, ACTION, other.

CONSOLIDATED DRUG ABUSE LAW ENFORCEMENT BUDGET, IN OBLIGATIONS

[In millions of dollars]

	Fiscal year—		
	1975	1976	1977
SUPPLY REDUCTION			
Justice:			
Drug Enforcement Administration	139.4	[1] 156.4	160.8
LEAA and other Justice	62.2	43.6	40.9
Treasury:			
Customs	39.1	[1] 43.2	43.4
IRS	20.0	20.0	15.0
State	32.0	43.4	34.0
Other	1.9	2.1	2.1
Total	294.6	308.7	296.2

[1] Both DEA and Customs have applied for a supplemental appropriation in fiscal year 1976. DEA asked for $2,200,000, primarily for salary and insurance increases. Customs asked for $4,000,000, $2,000,000 of which would be carried over into fiscal year 1977. These funds are for the Customs' drug interdiction program.

Source: OMB, Federal Drug Management Division.

Mr. BAYH. There is little doubt that the drug law enforcement task at hand is substantial. Thus, it is even more essential than ever to focus resources at our borders where high purity narcotics are traded in volume. It is with this focus that we can most effectively disrupt key distribution networks.

Another unfortunate aspect of reorganization plan No. 2 is that though the Government Operations Committee cited the benefit of a single focal point for coordinating Federal drug enforcement with that of State and local authorities, the plan as approved did not contain stipulations to prevent Federal interference with State and local drug law enforcement activities.

As I indicated, in the discussion of Federal drug control jurisdiction, the subcommittee will consider restricting Federal enforcement agencies statutorily to interstate and international major trafficking cases. While we are concerned that Federal efforts do not erode local initiative and accountability, we believe that the Federal Government should expand its programs of assistance to State

and local drug enforcement officials. The controlled substance units and diversion investigation units should be expanded to assist State and local investigation and prosecution of major diversion and trafficking cases.

The subcommittee is exploring the possible use of forfeited assets of drug traffickers and moneys collected by IRS under a revitalized NTTP to support the expansion of these successful efforts to assist State and local governments.

I intend to incorporate other salutary provisions in the legislation which I will soon ask the subcommittee to consider, including crucial enabling legislation to permit Senate ratification of the psychotropic treaty and sections addressing the problem of pharmacy related crime and more adequate controls for some barbiturates. I especially appreciate the enthusiastic support of the Senate leadership for our efforts and invite my colleagues to assist us in the enactment of a sensible statutory response to high risk drugs and to major drug traffickers. It is about time and it is clear that the taxpayers of this country demand and deserve no less.

ORDER FOR ADJOURNMENT UNTIL 8:30 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 the hour of 8:30 tomorrow morning.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 8:30 tomorrow morning. Immediately after the two leaders or their designees have been recognized, Mr. JAVITS will be recognized for not to exceed 15 minutes, at the conclusion of which the Senate will resume consideration of the Clean Air Act, at which time the question will be on the adoption of the Allen amendment No. 2101 to the Randolph amendment No. 1798.

Rollcall votes will occur on amendments to the Clean Air Act and on motions in relation to the same.

At no later than the hour of 2 p.m. tomorrow, the Senate will resume the consideration of the tax reform bill and undoubtedly, throughout the afternoon and into the evening, rollcall votes will occur on amendments and motions in relation to the same, by unanimous consent, Mr. President.

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

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

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 the hour of 8:30 tomorrow morning.

The motion was agreed to; and, at 9:13 p.m., the Senate adjourned until tomorrow, Wednesday, August 4, 1976, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 3, 1976:

IN THE JUDICIARY

Richard M. Bilby, of Arizona, to be U.S. circuit judge for the ninth circuit, vice Richard H. Chambers, retiring.

DEPARTMENT OF JUSTICE

Frank J. Violanti, of Illinois, to be U.S. attorney for the district of the Canal Zone for the term of 8 years, vice Lester Engler, resigning.

IN THE COAST GUARD

The following-named officers of the Coast Guard for promotion to the grade of lieutenant (junior grade):

Michael L. Hunt	James R. Watson
Steven J. Brantner	Kenneth M. Hay
Hugh S. Edwards	John E. Williams
Allan L. Shell	James C. Montgomery
Gordon P. Lau	Douglas L. Hickcox
Thomas A. Murphy	John H. Williams, Jr.
Robert D. Olsen	

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. Donald G. Nunn, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. James T. Stewart, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

CONFIRMATION

Executive nomination confirmed by the Senate August 3, 1976:

DEPARTMENT OF COMMERCE

John W. Eden, of Pennsylvania, to be an Assistant Secretary of Commerce.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, August 3, 1976*

The House met at 12 o'clock noon.

The Reverend F. Bertram Brandreth, United Methodist Church, Malvern, Pa., offered the following prayer:

O Lord, our Lord and Heavenly Father, we praise Thy name. For it is a good thing to give thanks unto Thee, and to show forth Thy loving kindness in the morning, and Thy faithfulness every night, and sing forth Thy praise at noonday. Thou hast not dealt with us after our sins, nor rewarded us according to our iniquities, for as the heaven is high above the Earth, so great is Thy mercy toward them that fear Thee. So heal our land, O Lord, and teach us to number our days that we may apply our hearts to wisdom and let the beauty of the Lord our God be upon us. Yea, the work of our hands establish Thou it. Amen and Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on July 31, 1976, the President approved and signed bills of the House of the following titles:

H.R. 11504. An act to amend section 502 of the Merchant Marine Act, 1936;

H.R. 13308. An act to amend the Federal Aviation Act of 1958 to extend the authority of the Secretary of Transportation with respect to war risk insurance; and

H.R. 14231. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11670) entitled "An act to authorize appropriations for the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 133. Concurrent resolution to make certain corrections in the enrollment of H.R. 11670.

REV. F. BERTRAM BRANDRETH

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I am pleased to introduce the Reverend F.