# SENATE—*Friday, August 5, 1977*

*(Legislative day of Tuesday, July 19, 1977)*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. JAMES R. SASSER, a Senator from the State of Tennessee.

PRAYER

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

*The Lord shall preserve thy going out and thy coming in from this time forth, and even forevermore.*—Psalms 121: 8.

Let us pray:

O God of grace and glory, who has watched over our going out and our coming in, our early openings and late closings, we thank Thee for Thy presence guarding, guiding, correcting and judging our efforts. We thank Thee for adding Thy strength to our weakness, for leaders who lead, for Members exerting their energies for maximum achievement, for workers in obscure places supporting the public effort, and for all those beyond this place who help shape the national policy. In the coming days, take what we have done and are doing and perfect it all more nearly like unto Thy kingdom on Earth. Abide with us wherever we may be, granting unto us the peace of those who love the Lord and strive to do His will. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., August 5, 1977.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES R. SASSER, a Senator from the State of Tennessee, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

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

## RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

## THE JOURNAL

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Thursday, August 4, 1977, be approved.

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

## EXECUTIVE SESSION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

Mr. BAKER. Mr. President, reserving the right to object—and I shall not object—the nominations on the Executive Calendar, beginning with National Credit Union Administration and continuing on the second page through those nominations placed on the Secretary's desk, are cleared for consideration and confirmation. We have no objection to proceeding to executive session.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The clerk will state the first nomination.

## NATIONAL CREDIT UNION ADMINISTRATION

The second assistant legislative clerk read the nomination of Lawrence Connell, Jr., of Connecticut, to be Administrator of the National Credit Union Administration.

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

## THE JUDICIARY

The second assistant legislative clerk read the nomination of T. F. Gilroy Daly, of Connecticut, to be U.S. district judge for the District of Connecticut.

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

## DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of George V. Grant, of New York, to be U.S. marshal for the Southern District of New York.

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

## DEPARTMENT OF LABOR

The second assistant legislative clerk read the nomination of Roland Ray Mora, of California, to be Deputy Assistant Secretary of Labor for Veterans' Employment.

Mr. CRANSTON. Mr. President, in urging the Senate to confirm the nomination of Roland R. Mora to be the first Deputy Assistant Secretary of Labor for Veterans' Employment—DAS—I think it is important to clarify for the benefit of my colleagues a number of concerns which the Committee on Veterans' Affairs, which I am privileged to chair, has in regard to the implementation by the Department of Labor of the Deputy Assistant Secretary position.

Section 601 of Public Law 94–502, the Veterans' Education and Employment Assistance Act of 1976, enacted on October 15, 1976, establishes the DAS position within the Department of Labor "to be the principal adviser to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to carry out . . . all Department of Labor employment, unemployment, and training programs to the extent that they affect veterans."

The nomination of Roland Mora for this new position was received by the Senate on June 6, 1977, and referred jointly to the Veterans' Affairs and Human Resources Committees. I chaired a joint confirmation hearing on June 9. Following the hearing, Mr. Mora submitted to the committees, on June 29, written responses to 28 issues which were raised at the hearing.

On June 17, Under Secretary of Labor Robert Brown appeared before the Subcommittee on Health and Readjustment which I chair on the Committee on Veterans' Affairs, and presented testimony regarding veterans' employment. At that time, he responded to a series of questions relating to the new DAS position.

Mr. President, it is our desire that Mr. Mora begin his new and important role as Deputy Assistant Secretary with the strongest possible support within the Department to assist him in carrying out effectively the demanding and unprecedented responsibilities which he will be undertaking.

After carefully reviewing the responses received from the Department and from the nominee during this process, the Committee on Veterans' Affairs continued to be deeply concerned about a number of issues that could potentially hinder the ability of the DAS to carry out the intent and mandate of the law.

In light of these concerns, Mr. President, all of the members of the Senate Veterans' Affairs Committee—Senator STAFFORD, the ranking minority member, and Senators TALMADGE, RANDOLPH, DURKIN, STONE, MATSUNAGA, THURMOND, and HANSEN—on July 21, 1977, joined in a letter to Secretary of Labor Ray Marshall in order to seek to clarify a number of issues which were of particular concern to the committee. These issues include staffing of the DAS office, travel funds and office expenses, pay grade of the DAS, clearance role in policy formulation, and the DAS' role as principal adviser to the Secretary for veterans matters.

Mr. President, I ask unanimous consent that a copy of our letter be printed in the RECORD at this point, together with a copy of the response from Secretary Marshall which was received by the Senate Veterans' Affairs Committee on August 2.

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

U.S. SENATE,
*Washington, D.C., July 21, 1977.*

Hon. F. RAY MARSHALL,
*Secretary of Labor,*
*Washington, D.C.*

DEAR MR. SECRETARY: We are writing to express our concern in regard to the establishment of the statutory position of

Deputy Assistant Secretary of Labor for Veterans Employment (DAS), for which the President has nominated Roland Mora to be the first such office-holder.

Section 601 of Public Law 94–502, the Veterans' Education and Employment Assistance Act of 1976, established the DAS position within the Department of Labor "to be the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures" to carry out the purposes of chapters 41 (Job Counseling, Training, and Placement Service for Veterans), 42 (Employment and Training of Disabled and Vietnam Era Veterans), and 43 (Veterans' Reemployment Rights) of title 38, United States Code. In addition, the DAS is mandated to serve as the principal advisor to the Secretary with respect to the formulation and implementation of all departmental policies and procedures to carry out "all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans."

We agree with your statement following your swearing-in that the unemployment problems among veterans, particularly disabled, minority and Vietnam-era veterans, must be among the "highest priorities"—these veterans "continue to bear a disproportionate share of the unemployment that exists today. . . . We cannot permit ourselves to become insensitive to the plight of thousands of Vietnam-era veterans who have borne the brunt of our involvement in a regrettable war and continue to bear a disproportionate share of the Nation's economic distress." (Statement, Secretary of Labor Ray Marshall, January 27, 1977.)

The Senate Veterans' Affairs Committee's report (No. 94–1243, 94th Cong., 2d Sess.) accompanying S. 969, ultimately enacted as Public Law 94–502, stressed the importance of consolidating responsibilities for veterans' employment matters at an appropriate level of accountability. The Committee on Veterans' Affairs had found that the Director of the Veterans Employment Service "was located at too low a level within the Department of Labor to carry out the congressional mandates in an effective and expeditious fashion." (Id. at page 139.) We believe that the implementation of the DAS position is a fundamental part of the Federal Government's efforts to provide veterans with meaningful job employment opportunities.

We are aware of your interest in assisting unemployed veterans and your concern that Roland Mora be enabled to do a first-rate job as the first DAS. However, we believe it important to bring to your attention concerns which, if unresolved, could seriously hinder the efforts of the DAS and, indeed, the Department of Labor, in alleviating veterans unemployment. We believe that it is imperative that these matters be resolved expeditiously so that we can move ahead to fill the DAS position. In this regard, we would appreciate your consideration of and comments on the following matters:

1. Staffing. The DAS designate, Roland Mora, in his written response to questions asked at the June 9 joint confirmation hearing before the Committees on Veterans' Affairs and Human Resources, and received by the Committees on June 29, reported that the Department of Labor has agreed to provide the DAS with a staff of three: a Special Assistant, GS–14; an Administrative Assistant, GS–12; and a Secretary, GS–8/9. (Mora responses, Question 2.) On June 17, Undersecretary of Labor Robert Brown testified before the Subcommittee on Health and Readjustment of the Committee on Veterans' Affairs that the DAS would be provided with four staff positions—the same as the staffing for the Undersecretary, himself. (Employment hearing transcript, June 17, at page 29.) We believe that the DAS, given the very demanding and unprecedented obligations of his new post, will need at least the four-person staff promised by the Undersecretary.

2. Travel Funds and Office Expenses. We believe that it is vitally important that the DAS be provided with sufficient new funds for necessary travel and office expenses. Mr. Mora's written response to a question in regard to travel money states that "the Department of Labor has already budgeted a total of $5,824,000 during Fiscal Year 1977 and $5,941,000 during Fiscal Year 1978 for which [he] will be responsible. Incorporated into this figure is $30,000 for travel of the DASVE and his immediate staff." (Mora responses, Question 5.)

It appears from this answer that the funds allocated to the DAS have been obtained by reducing the amount of money which the Veteran Employment Service (VES) would otherwise have been allocated. In addition, we are concerned that $30,000 may not be sufficient to support adequate travel and office expenditures. We would like to know how that figure was reached and whether it represents a reallocation of travel money already budgeted for the VES, and, if so, whether you believe that is an appropriate response.

3. Pay Grade. We are concerned that the grade of the DAS be established at a level which will enable him to meet his obligations effectively. Currently within the Department there are 10 Deputy Assistant Secretaries. Five are GS–17's; three are GS–18's; one is a GS–16; and one is a level V. During the hearing on June 17, 1977, the following exchange between Senator Thurmond and Undersecretary Brown took place:

Mr. THURMOND. Mr. Brown, do we understand correctly that the Deputy Assistant Secretary for Veterans Employment, an office created last year, will be on a co-equal basis as the current Deputy Assistant Secretary for Employment and Training [DAS–ET]? Mr. Brown, they are both Deputy Assistant Secretaries. Are they going to be on a co-equal basis?

Mr. BROWN. Senator, they are—as I indicated to the Chairman before, I believe, there are 10 Deputy Assistant Secretaries in [the] Department. We intend to make, in our judgment, as co-equal a relationship as possible.

In order to assure that relationships are "co-equal", it would seem that the DAS (VE) and the DAS(ET)—both of whom have important responsibilities and serve as deputies to the Assistant Secretary for Employment and Training—should be accorded similar stature in pay level. Although we recognize that the Manpower Administrator (DAS–ET) is mandated at level V (5 U.S.C. 5316(88)), we believe that consideration should be given to establishing the DAS at a level V also, pursuant to 5 U.S.C. 5317; or at least, at a GS–18. Such an elevation would seem appropriate in light of the GS levels of other employees within the Employment and Training Administration. It is the Committee's understanding, for example, that the Deputy Administrator of the United States Employment Service is a GS–17.

4. Clearance Process. Undersecretary Brown, on June 17, testified that the United States Employment Service (USES) will clear all departmental responses to inquiries in regard to chapter 41, title 38, United States Code (Job Counseling, Training and Placement Services for Veterans). This would seem an unnecessary and inevitably time-consuming clearance step for matters exclusively within the jurisdiction of the VES since the Department has assured the Committees that VES is being removed from the jurisdiction of USES and placed directly under the DAS. Similarly, it seems inappropriate for the Administrator of the U.S. Employment Service to be given clearance authority over responses bearing the signature of the DAS. This was apparently the case for Mr. Mora's responses to questions submitted on June 29, 1977. We do not believe such a clearance step should exist.

5. Role as Principal Advisor to the Secretary. The Committee is concerned that the Deputy Assistant Secretary actively carry out his statutorily mandated duties "in the formulation and implementation of . . . policies and procedures" in regard to the veterans' affirmative action and mandatory job listing programs (chapter 42, title 38, United States Code) administered by the Office of Federal Contract Compliance, and the Veterans Reemployment Rights program (chapter 43, title 38, United States Code). However, we are informed that this responsibility will be generally discharged by the DAS consulting with and providing "guidance to these organizations (OFCC and OVRR) on the formulation and implementation of their policies and programs as they affect veterans." (Mora response, Question 9.) This description of the DAS's responsibilities in regard to chapters 42 and 43 would appear to dilute considerably the DAS role envisioned in the statute.

We believe the DAS should have an explicit clearance role regarding the policies and procedures of the section 2012 and OVRR programs.

We are also concerned that the DAS will not be involved to the extent necessary in the implementation and formulation of policies and procedures in regard to Comprehensive Employment and Training Act (CETA). With respect to the relationship of the DAS to the promulgation of CETA regulations affecting veterans, we are informed that the DAS "will advise the Assistant Secretary for Employment and Training concerning issues raised by the regulations." That described role of the DAS in the promulgation of regulations does not, without more, conform with the formulation and implementation role required by law. The importance of the DAS in the formulation of CETA policy is underscored by the upcoming enactment of H.R. 6138, Youth Employment and Demonstration Projects.

Section 305 of that Act mandates the Secretary to take appropriate steps to increase participation of certain veterans in public service employment programs and job training opportunities. Although the Conference Committee deleted the Senate-passed provision that the Secretary of Labor consult with the DAS with respect to implementing this mandate, the conferees noted "that under the law, the Deputy Assistant Secretary is the principal advisor to the Secretary on all matters relating to veterans' employment and [the conferees] believe that such consultation would be a matter of normal procedure . . . ." (S. Rept. No. 95–456, at page 43).

We believe that the DAS should be intimately and actively involved in the formulation and implementation of policies and procedures for CETA to the extent veterans are affected and for the affirmative action, job listing, and reemployment rights programs. This involvement should include an express role of clearance and an assurance of direct access to you and the Undersecretary regarding all such policies and procedures when the clearance process does not, in the DAS's judgment, resolve his concerns.

The administrative implementation of the DAS position should spell out this role.

We are extremely anxious to have your

consideration of a response to the above matters at your earliest convenience.

ALAN CRANSTON,
*Chairman.*
ROBERT T. STAFFORD,
*Ranking Minority Member.*
HERMAN E. TALMADGE,
JENNINGS RANDOLPH,
RICHARD (DICK) STONE,
STROM THURMOND,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,

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U.S. DEPARTMENT OF LABOR,
*Washington, D.C., August 2, 1977.*

Hon. ALAN CRANSTON,
*Chairman, Committee on Veterans Affairs, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: Thank you for your joint letter of July 21, inquiring about certain administrative arrangements relating to the new office of Deputy Assistant Secretary for Veterans' Employment. I am in full agreement with the views expressed in the Committee's letter. It is imperative that we move ahead to fill the Deputy Assistant Secretary position. I think that Roland Mora is an excellent candidate for the position. I hope that his confirmation can be effected in the very near future.

You may be sure that one of the highest priorities of this Department is addressing the unemployment problems of veterans, and particularly disabled, minority and Vietnam-era veterans.

Your letter requested my consideration of several internal matters in the office of the Deputy Assistant Secretary. My responses are listed below:

1. Staffing. I have reviewed the staffing plans for the immediate office of the Deputy Assistant Secretary for Veterans' Employment and have concluded that a staff of four positions, as mentioned by Under Secretary Brown in the hearings on June 17, will be provided.

2. Travel Funds. The $5,941,000 of Fiscal Year 1978 funds cited as the amount for which the Deputy Assistant Secretary for Veterans' Employment will be responsible, is the Veterans Employment Service budget for that year. However, it does not include financing the immediate office of the Deputy Assistant Secretary. Funds for that office were determined after the preparation of the Fiscal Year 1978 estimates. The Veterans Employment Service budget includes $369,000 for travel. The estimate of $30,000 for the immediate office of the Deputy Assistant Secretary's travel is exceedingly generous by standards applied to all other components of the Department.

3. Pay Grade. We considered the grade level of the new Deputy Assistant Secretary very carefully. We also considered the duties and responsibilities of that position in relation to the program responsibilities of other Deputy Assistant Secretary positions in the Department. Our review resulted in allocation of the new position at the GS–17 level. Executive Level V positions in the Department of Labor all have very broad, line program management responsibilities. The Deputy Assistant Secretary for Employment and Training, for example, has line responsibility for employment and training programs amounting to $20.7 billion in Fiscal Year 1977, including the Department's part of the President's economic stimulus package. The new Deputy Assistant Secretary for Veterans' Employment position is primarily policy advisor to the Secretary, with line management responsibility only for the Veterans Employment Service. While this is an important role, it does not embrace the broad responsibilities of other Deputy Assistant Secretary positions. The GS–17 level is held by other officials who have significant responsibilities commensurate with those of the Deputy Assistant Secretary for Veterans Affairs. I, therefore, believe that allocation of this position at the GS–17 level is appropriate.

4. Clearance Process. Under terms of the Wagner-Peyser Act, the director of the United States Employment Service is responsible for programs of placement and job counseling. Therefore, issuance of policy guidance or interpretation pertaining thereto is of primary concern to that office. It is appropriate that the Employment Service exercise clearance over certain Veterans Employment Service matters. Such "clearance," of course, will not apply to matters exclusively within the jurisdiction of the Veterans Employment Service. Until the Deputy Assistant Secretary is confirmed and officially on the job, the Veterans Employment Service remains under the jurisdiction of the Administrator, United States Employment Service, and all official materials are cleared by his office.

5. Role as Principal Advisor to the Secretary. The Deputy Assistant Secretary for Veterans' Employment will be expected to actively carry out his responsibilities to me as principal advisor in the formulation and implementation of policies and procedures related to chapters 42 and 43 of the United States Code. He will also be responsible for chapter 41 (vis-a-vis jobs and training under the Comprehensive Employment and Training Act, et al.), and all other matters pertaining to veterans. Under Secretary Brown's letter to you of June 23, 1977, makes it explicit that the Deputy Assistant Secretary will have direct access to both our offices on any and all matters affecting veterans whenever our involvement is necessary. On other business, the Deputy Assistant Secretary will work closely with the line Assistant Secretaries and their staffs on policy and procedures for most effectively dealing with veterans' needs. I believe that it is unsound administration to establish two structures with line management responsibilities for the same program; or to separate the administration of an operating program along "clients-to-be-served" lines. I am convinced that the role of the Deputy Assistant Secretary for Veterans' Employment is workable and in complete compliance with the statute as we have designed it.

I hope that this letter responds fully to the matters raised in your letter of July 21. I reiterate my concern that we move forward expeditiously to fill the position of the Deputy Secretary for Veterans' Employment.

Sincerely,

RAY MARSHALL,
*Secretary of Labor.*

Mr. CRANSTON. Mr. President, to summarize briefly the results of this correspondence, Mr. Mora has been assured one additional staff position—for a total of four positions—but no additional funds for travel and office expenses have been allocated and no increase in grade level above GS–17 has been made. In addition, the Director of the U.S. Employment Service will continue to be able to exercise clearance over certain Veterans' Employment Service matters. The Secretary also indicated that while the DAS will have direct access to the Secretary and the Under Secretary, he will work within the line management of the assistant secretaries.

These responses are not as forthcoming as we had hoped, Mr. President. Mr. Mora's position and responsibilities within the Department have not been as clearly or firmly established as would be desirable and as may be necessary. However, we have done our very best to gain the commitments that we could, and now I strongly believe that the Senate should act to confirm Mr. Mora's nomination.

I also recognize the administration's concern for the employment needs of veterans. The commitment of the Department of Labor is evidenced by the implementation of such initiatives as Project HIRE and the Disabled Veterans' Outreach program—both programs, at last, showing signs of success.

Nevertheless, I remain deeply concerned about certain internal decisions and relationships in the Department that will undoubtedly impact on the position of the new DAS. I believe, however, that any difficulties that do arise will have to be dealt with at that time, and that no purpose would be served in delaying the confirmation further. We now have on the record an unusually large amount of congressional intent and certain commitments that have been made by the Department to implement the law fully. The committee will be watching developments in this area very closely, and I intend to do all I can to insure the success of the DAS office and of Mr. Mora.

Mr. Mora will, I feel sure, do his utmost to serve veterans, and will work hard to promote increased employment for this segment of the population.

He is, as Secretary Marshall said in his August 2 letter, "an excellent candidate for the position". I am certain he will bring to the Department an increased awareness of the problems of veterans—especially Vietnam-era, disabled, and minority veterans—and a renewed and strengthened commitment to serving the employment needs of those who have served this Nation in time of conflict.

I urge the Senate to take prompt and favorable action on the nomination at this time.

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

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## U.S. ARMY

The second assistant legislative clerk read the nomination of Col. James Clifford Good, to be brigadier general.

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

The second assistant legislative clerk read the nomination of Maj. Gen. Harold Robert Aaron, to be lieutenant general.

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

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## U.S. NAVY

The second assistant legislative clerk read the nomination of Vice Adm. John G. Finneran, U.S. Navy, to be vice admiral on the retired list.

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

The second assistant legislative clerk read the nomination of Real Adm. Charles H. Griffiths, U.S. Navy, to be vice admiral.

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

## NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations placed on the Secretary's desk in the Air Force, Army, and Navy.

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

Mr. CRANSTON. Mr. President, I ask unanimous consent that it be in order to reconsider en bloc the vote by which all the nominations were confirmed.

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

Mr. CRANSTON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. CRANSTON. I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

## DEPARTMENT OF JUSTICE

Mr. ROBERT C. BYRD. Mr. President, I have a nomination, which has been reported from the Committee on the Judiciary, of Mr. William H. Shaheen, of New Hampshire, to be U.S. attorney for the district of New Hampshire. I ask unanimous consent that the 1-day rule be waived and that the Senate proceed immediately to its consideration.

The PRESIDING OFFICER (Mr. ANDERSON). Is there objection? Without objection, it is so ordered.

The clerk will state the nomination.

The second assistant legislative clerk read the nomination of William H. Shaheen, of New Hampshire, to be U.S. attorney for the district of New Hampshire.

Mr. DURKIN. Mr. President, I strongly support the nomination of Mr. William Shaheen of Dover, N.H., to the position of U.S. Attorney for the District of New Hampshire.

Mr. Shaheen is a graduate of the University of Mississippi Law School, where he graduated No. 2 in his class and served two terms as president of the law school student body. Mr. Shaheen has served as city attorney for the city of Somersworth, N.H., and is a partner in the law firm of Keefe, Dunnington and Shaheen.

I am proud to support this excellent nomination and am confident that Bill Shaheen will well serve the citizens of New Hampshire and the Nation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately 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 ask unanimous consent that the Senate resume consideration of legislative business.

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

## TIME-LIMITATION AGREEMENT—S. 977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as S. 977, relating to the primary energy source of electric powerplants and major fuel-burning installations, is called up and made the pending business before the Senate, there be a time limitation on debate of 2 hours, to be equally divided between Mr. JACKSON and Mr. HANSEN; that there be a time limitation on any amendment thereto of 1 hour; that there be a time limitation on one amendment by Mr. KENNEDY of 4 hours, with the proviso that, if a tabling motion fails, there be no time limitation on that amendment; and that there be a time limitation of 30 minutes on any amendment to an amendment, debatable motion, appeal, or point of order, if such is submitted to the Senate; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object for just a moment, to make sure that I fully understand the last provisions of the majority leader's request, let me repeat them as they sounded to me.

The request is that there is an amendment by Mr. KENNEDY, on which there would be a time limitation of 4 hours; that if there is a tabling motion against the Kennedy amendment, which does not prevail—that is to say, the Kennedy amendment is not tabled—then there would be no time limitation on the bill and that other amendments would be in order on which there would be no time limit.

Mr. ROBERT C. BYRD. There would be no time limitation on that amendment; provided further that no other amendment dealing with divestiture, indirectly or directly, be in order——

Mr. BAKER. Present or prospective.

Mr. ROBERT C. BYRD. Present or prospective—be in order.

Mr. BAKER. With that understanding, I have no objection.

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

The text of the agreement is as follows:

*Ordered,* That when the Senate proceeds to the consideration of S. 977 (Order No. 336), a bill to require that new and, to the extent practicable, existing electric powerplants and major fuel-burning installations, in categories to be determined, utilize other than natural gas or petroleum as their primary energy source in compliance with applicable environmental requirements, and for other purposes, debate on any amendment in the first degree (except an amendment by the Senator from Massachusetts (Mr. Kennedy), on which there shall be 4 hours: *Provided,* That if a motion to table the Kennedy amendment fails, there shall be no time limitation on the Kennedy amendment: *Provided further,* That no other amendment dealing with divestiture shall be in order) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

*Ordered further,* That on the question of the final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Washington (Mr. Jackson) and the Senator from Wyoming (Mr. Hansen): *Provided,* That the said Senators, or either of them, may from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

## NATIONAL SCIENCE FOUNDATION—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I submit a report of the committee of conference on H.R. 4991 and ask for its immediate consideration.

Mr. BAKER. Mr. President, reserving the right to object, and there is no objection, the conference report is privileged and we are prepared to proceed with it.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4991) to authorize appropriations for activities of the National Science Foundation, 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 all 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 House proceedings of the RECORD of July 20, 1977.)

Mr. KENNEDY. Mr. President, the

conference report on the authorization for the National Science Foundation which is before the Senate today is the result of 2 months of negotiations between our conferees and the conferees representing the House. During that period the differences between the two bills were examined in detail and every effort was made to incorporate the major concerns of each body, and of especially interested individual members, into the final bill. In my view, the compromise we are bringing to a vote today merits the full support of the Senate. It was approved unanimously by the House yesterday.

As chairman of the Senate conferees I want to call to the attention of my colleagues the major funding provisions of the final bill.

First, the conference agreement authorizes $884,250,000 for the Foundation for fiscal year 1978. This is an 11-percent increase over the Foundation's 1977 operating budget. The funds are to be available as follows:

Mathematical and physical sciences and engineering, $246,500,000.

Astronomical, atmospheric, Earth, and ocean sciences, $210,500,000.

U.S. antarctic research program, $47,475,000.

Biological, behavorial, and social sciences, $142,500,000.

Basic research stability grants, $4,500,000 or 2 percent of basic research support, whichever is less.

Science education program, $83,300,000.

Research applied to national needs, $75,850,000.

Scientific, technological, and international affairs, $20,900,000.

Program development and management, $47,825,000.

Special foreign currency, $4,900,000.

Second. The conference agreement further designates funds for particularly important programs as follows:

Graduate fellowships, $11,900,000.

Continuing education for scientists and engineers, $1,200,000.

Resource center for science and engineering, $3,000,000.

Minorities, women, and the handicapped in science, $2,500,000.

Science for citizens, $1,800,000.

Public understanding of science, $2,600,000.

Ethics and values in science and technology, $1,400,000.

Comprehensive assessment of science education in 2-year colleges, $500,000.

Comprehensive assistance to undergraduate science education, $14,500,000.

Precollege teacher development, $6,000,000.

Policy Research and Analysis, $4,000,000.

Twelve and one-half percent of applied research support for small businesses.

Twenty-five percent of applied research support for applied social research and policy-related scientific research.

Major differences in policy between the House and Senate bills were resolved as follows:

Two-year authorization: The Senate bill provided a 2-year authorization for the Foundation. The House bill authorized funds for only 1 year. The conference agreement provides funding for 1 year.

The Senate conferees worked diligently for adoption of the Senate position on this issue—a position endorsed by the National Science Board. We repeatedly stressed our conviction that there would be significant advantages to a 2-year bill. The arguments we presented in support of our position were:

Greater stability in providing Foundation support for critical research/educational projects and programs which require long-term funding commitments and management would be possible.

Foundation staff time released as a result of two-year authorizations could be used to assess the effectiveness of current programs and research strategies as well as the adequacy of the Foundation's response to the needs of the Nation's scientific and engineering constituencies. At the same time, Congress would have increased time for oversight of the Foundation's programs and funding levels.

The Foundation's staff would be provided with greater opportunities to expand long-range planning activities and to prepare decision-making position papers for the Congress on major issues regarding the Nation's short-range, medium-range, and long-range outlooks for science and engineering.

Additional lead time would be available for the Foundation to consult with local and state Government officials across the country on their specific scientific and technological needs.

The House conferees agreed that there would be significant advantages to this approach.

However, because the House hearings and floor debate had not covered programs proposed for fiscal year 1979, the House Conferees advised that a 2-year bill would face serious difficulties on the House floor. For this reason, we agreed to a 1-year bill this year—and are working with the House committee members to urge them to hold hearings next year on a 2-year measure.

Industrial research: The Senate bill provided for equal competition between industrial and academic researchers, for increased support for cooperative research between industry and universities and for fellowship exchange programs between the two sectors. The House bill authorized none of these new efforts.

The conference agreement provides for increased cooperative research, urges the Foundation to initiate an industry-university fellowship exchange program, and calls for the Foundation to report to the Congress on the potential for increased industry participation in NSF-supported basic research.

The Senate and House committees will review the results of this report prior to reauthorization hearings next year and it is my expectation that it will provide us with the information we need to make definitive recommendations.

Science for citizens: The Senate bill authorized a $5 million program, including direct assistance for public interest groups, to assist citizen groups in developing information and in improving public understanding of policy issues with significant scientific and technical aspects. The House provided $100,000 and limited its use to an evaluation of past efforts.

The conference agreement provides for a $1.8 million program—a 50-percent increase over last year's program—and authorizes direct assistance for public interest groups.

I believe that we have made a significant breakthrough with this program, which now becomes permanent law. It will impose a minimum of redtape on citizen groups applying for funding. It will only be necessary for the groups to demonstrate that they meet the general principles applied by the IRS in determining eligibility for 501(c)(3) exemptions—the groups will not be required to have formal status under that section.

Resource center for science and engineering: The Senate bill provided for two of these centers to be established. The House bill authorized funds only for planning grants. The conference agreement provides for the establishment of one center.

In agreeing on one center, the conferees drafted the provision so that it becomes permanent law. It is the further intent of the conferees that additional centers should be established if experience warrants such action. This is particularly important, as the center program is designed to serve both poor and minority communities. To limit activities to just one center would make it extremely difficult to fulfill the intent of the program to increase the participation of minorities and the poor in research careers in science and to make scientific and technical resources available to those communities.

A $1.5 million minority graduate scholarships program is also authorized.

Policy research: The Senate bill provided that not more than $2 million was to be available for these activities in the STIA Directorate. The House bill provided $4.5 million. The conference agreement provides $4 million.

Because the overall funding for STIA provided in the conference agreement is $1.7 million below the budget request I strongly urge the Foundation to carry over unobligated policy research funds from fiscal year 1977 to meet the $4 million activity authorized in the conference agreement. Such a carryover will enable other STIA activities, particularly support for the upcoming UN Conference on Science and Technology, to go forward as planned in the budget request.

Amendments to the NSF Act: The conferees approved the following amendments to the NSF Act:

First. An increase in the maximum allowable compensation for members of the National Science Board to conform more closely with rates of compensation of similar bodies in other Federal agencies;

Second. Reinstatement of the National Science Board's annual report which had been eliminated by legislation establishing the Office of Science and Technology Policy;

Third. A change in working of the NSF

Act with regard to geographic distribution to assure that the Foundation continues to evaluate constructive ways to strengthen the participation of all regions of the country in the Foundation's programs.

Precollege curricula: The House bill extended Federal controls to the activities of local schoolboards with regard to the selection of teaching materials. Similar restrictions were defeated by the Committee on Human Resources and were not included in the Senate bill.

The conference agreement provides simply that curriculum activities supported by the Foundation, where they involve pre-college students, be conducted in conformance with local schoolboard procedures and with the prior consent of the local authority responsible for the schools.

Conflict of interest: The House bill included a provision establishing procedures to avoid conflicts of interest on the part of NSF employees and peer reviewers. The Senate bill did not include a similar provision, though inquiries carried out by the Subcommittee on Health and Scientific Research had pointed to the need for strengthened safeguards in this area. The conference agreement includes new procedures, but makes a distinction between the reporting requirements for NSF employees and those for peer reviewers, who volunteer their time and expertise.

Instrumentation set-aside: The Senate bill provided that 15 percent of the funds available for instrumentation be available for the purchase of equipment costing $25,000 or less. The House bill did not include a similar provision.

The statement of managers accompanying the conference agreement urges such a set-aside. This support is to be made available, whether or not the equipment required is included as part of a larger research grant and is expected to be of particular assistance to researchers in small colleges and universities.

International cooperation: The Senate bill emphasized the importance of bilateral agreements between the United States and Western Europe and between the United States and neighboring countries in the Western Hemisphere. The House bill did not include a similar provision. The conference agreement authorizes this new emphasis and assures that it will be carried out in a manner consistent with the Nation's foreign policy objectives.

Interdisciplinary studies: The Senate bill provided sustained support for interdisciplinary teams working on research problems of national importance. The House bill did not include a similar provision. The statement of managers accompanying the conference report urges the Foundation to make such sustained support available.

Nitrogen fixation: The Senate bill provided an additional $2 million for nitrogen fixation research in fiscal year 1978. The House bill provided no increase over the budget request. The conference agreement includes an additional $1 million for work in this area.



Applied social research: The House bill provided that $23 million in applied research funds would be available for applied social research and policy-related scientific research. The Senate bill did not set aside a specific amount, but included these activities under the RANN authorization. The conference agreement provides that 25 percent of RANN funds will be available for these programs, thereby assuring a balanced RANN effort in the event that the authorized RANN program is not fully funded.

Young scientists: The Senate bill authorized 3-year, nonrenewable grants for scientists and engineers whose Ph. D.'s were awarded within the last 5 years. The House bill did not include a similar provision. It is my hope, and that of the subcommittee chairman in the House, Mr. THORNTON, that the NSF will begin such a program in fiscal year 1978.

Precollege teacher training: The Senate bill provided $8 million for this program and set aside half of the funds to train teachers in providing instruction which emphasizes the interaction between science and society. The House bill did not include a similar provision. The conference agreement provides $6 million for this program and the statement of managers stipulates that 25 percent of the funds are to be available for the training called for in the Senate bill.

Mr. President, the conference agreement as described in my remarks includes every major program emphasis adopted by the Senate. Compromises were made with regard to levels of funding and detailed implementation. In my view this conference agreement, with the exception of the refusal of the House to agree to a 2-year bill at this time, fully reflects the Senate position and will be well received by the public and by the scientific community. I urge its adoption.

Mr. JAVITS. Mr. President, I urge my colleagues to support the conference report on H.R. 4991, the National Science Foundation Authorization Act for fiscal 1978.

The administration requested $879 million for NSF; this measure authorizes $879.35 million. It reflects a careful assessment by the Senate Human Resources Committee and the House Science and Technology Committee of the amounts requested by the administration for particular programs in scientific research and science education.

Both the Senate and House bills provided for increases in science education funds over the administration request of $75.7 million. Our final compromise of $83.3 million is a good one in my opinion. This can be considered a net increase of $12.1 million for science education for the following reason: the $4.5 million requested for research initiation and support under science education has been shifted to a new program, basic research stability grants, which is a separate line item in the bill, but which is expected to provide similar kinds of support in a more effective way.

The increased funds for science education include a tripling of the administration request of $1 million to $3 million for a Resource Center for Science and Engineering, to expand opportunities in science and engineering for minority students and students from low-income families. It also increases by 50 percent the authorization for minority traineeships.

Support for the program for minorities, women, and the handicapped in science is increased one-half million dollars over the budget request, as is support for graduate fellowships. We agreed to authorize $1.8 million for the science for citizens program—$3.2 million less than the Senate bill provided, but $1.7 million above the House recommendation. We have provided another one-half million dollars for a comprehensive assessment of science education in 2-year colleges—a matter of concern in both the House and Senate, for which there was not any request in the original budget submission. In addition, we have increased the authorization for precollege teacher training programs from a requested $4 million to $6 million and have urged NSF to use not less than 25 percent of these program funds to train teachers in methods that will encourage students to explore the interaction of science and society.

The lack of emphasis on the importance of science education has been of particular concern to me; and this agreement was reached through initiatives on both the Senate and House sides. It reflects two important and growing needs in our Nation today—the need for a broadly informed citizenry that understands the significance of science for society, and the need for training the very best scientists and engineers to meet the challenges that lie ahead—new energy sources, protecting our oceans and atmosphere, and increasing our production of food, among many other areas that will directly affect our lives and those of our children.

The measure reflects strong support for basic scientific research. Such research programs are the Nation's most effective means for insuring that U.S. science remains second to none.

Mr. President, I note that the Senate and House Appropriations Committees agreed to appropriate funds for NSF's three basic research directorates, its Antarctic research program, and its scientific, technological, and international affairs directorate at the full level provided in the authorization conference report—$667.9 million. Thus, we can say that the Foundation's basic research programs are being funded at the level authorized—a level only slightly below the administration request.

There is one feature missing in the authorization conference agreement that I had very much hoped to see—a 2-year authorization. The Senate bill contained such a provision; the House bill did not. The National Science Board and the scientific community have indicated that a 2-year authorization was not only acceptable but desirable. The conferees agreed that a 2-year authorization would be useful in establishing a longer range framework for policy planning and that it could enable the Appropriations Committees to give more consideration to these policies.

In my view, it is essential that the Congress move to a multiyear authorization. We should not be reformulating policies each year—policies that the other committees do not have time even to study before they appropriate the funds—and too little time looking at the Nation's long-range needs in science and providing stable, consistent programs to meet those needs. We are losing the forest for the trees, so to speak, by each year examining individual programs and forgetting—or not having time for—the broad policy questions with which the Congress should be concerned.

A recent editorial in Change, June 1977, noted:

Unfortunately, the price of highly sophisticated research is not only a wider public understanding of these issues but also continued high national investments. The trouble with science is that it is not enough to be very good. It must be very, very good. Two second-rate research efforts do not add up to one superb effort. It is not the kind of mathematics that is easy to support politically in egalitarian terms. But here, excellence is a national necessity.

It is important that we remain responsive to this national interest. Thus, authorized funding for NSF programs should be longer-ranged because basic science research itself is a long-range undertaking. The research projects of today might not have an impact for 5 or 10 years; the yearly reauthorization process, however, makes it difficult for the Congress to think in these terms and even implies an unwillingness to do so which, in my judgment, is unwise.

While I support the Senate position in favor of a 2-year authorization for these programs, I am mindful of the concerns expressed by the managers on the part of the House that their body had not fully considered this approach. I have discussed this issue with Congressman RAY THORNTON, Chairman, and Congressman HAROLD HOLLENBECK, ranking minority member of the Subcommittee on Science, Research, and Technology of the Science and Technology Committee. Representative THORNTON has indicated that his committee is also concerned with the issue of predictability in authorizing long-term research, and is pledged to a thorough examination of the efficacy of multi-year authorizations in order to improve the management and stability of our Nation's basic science research effort. I am grateful to him for this view.

Mr. President, while I am genuinely disappointed that we were unable to reach agreement for a 2-year authorization this year, we have every reason to believe that both bodies may be able to reach accord on this issue next year.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

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

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

## AUTHORITY FOR THE SECRETARY OF THE SENATE TO RECEIVE AND REFER A MESSAGE FROM THE PRESIDENT ON AUGUST 6

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive a message from the President of the United States on welfare reform, on Saturday, August 6, and that the Secretary be authorized to refer that message jointly to the Committee on Finance, the Committee on Human Resources, and the Committee on Agriculture, Nutrition, and Forestry.

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

## CONCLUSION OF MORNING BUSINESS

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

## FOREIGN ASSISTANCE APPROPRIATIONS, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the foreign assistance appropriations bill.

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

Under the previous order, the Senate will now resume consideration of H.R. 7797, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time for debate on this bill is limited to 5 hours, with 1 hour each under the control of the Senator from Hawaii (Mr. INOUYE) and the Senator from Pennsylvania (Mr. SCHWEIKER), and with 3 hours under the control of the Senator from Virginia (Mr. HARRY F. BYRD, JR.); with 1 hour on any amendment in the first degree, except three amendments by the Senator from Alabama (Mr. ALLEN), on which there shall be no time limitation and no tabling motions thereto in order; with 30 minutes on any amendment in the second degree; and with 20 minutes on any debatable motion, appeal, or point of order.

The question is on agreeing to the committee amendment on page 4.

Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, until the manager of the bill is able to get to the floor, I plan to suggest the absence of a quorum and request that the time be equally divided between the opponents, the 2 hours allotted on the bill and the 3 hours allotted to the Senator from Virginia, and charge the time equally.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARRY F. BYRD, JR. Mr. President, from the 3 hours allotted to the Senator from Virginia, I yield myself such time as I may need.

First, I commend the able Senator from Hawaii (Mr. INOUYE) for the conscientious and diligent work he has done on the pending measure, H.R. 7797, the foreign assistance appropriation bill. I regret to find myself in opposition to a measure which is being handled by the distinguished senior Senator from Hawaii.

While, in my judgment, the figures in this bill are much too large, I am confident that the bill would be even more unacceptable from the point of view of the Senator from Virginia were it not for the distinguished manager of the bill, Senator INOUYE, and were it not for the ranking minority member of that committee, the distinguished Senator from Pennsylvania (Mr. SCHWEIKER).

I regret to find myself in opposition.

But, frankly, I do not believe it to be wise, or logical, or warranted for the Congress of the United States to be considering the approval of a measure which would increase by 27 percent the amount of foreign assistance which is being given to 100 countries scattered throughout the world.

For fiscal 1977, the comparable legislation approved by Congress called for an appropriation of $5.6 billion for this part of the foreign aid program.

The bill before us today would appropriate $7.1 billion for fiscal 1978. That represents an increase of 27 percent in the overall cost.

To me, that is totally unjustified.

Mr. President, the foreign aid bill before the Senate, totaling $7.1 billion, is only a part of the total amount of tax dollars taken from the pockets of the working people and then disbursed to 100 nations throughout the world.

The total for foreign assistance for the fiscal year 1976 was $6,994,402,000.

For fiscal 1977, the current fiscal year, the total appropriated was $9,290,286,000.

Now we come to fiscal 1978, and the total appropriated approaches $10 billion, the exact figure being $9,964,264,000.

Mr. President, what is being done, if this measure is approved by the Senate, is that the amount of funds appropri-

ated for foreign aid for fiscal 1978 will be $10 billion, in round figures, compared to fiscal 1976, when the Congress appropriated $7 billion, in round figures. That represents an increase of almost 50 percent in that short period of 2 years.

But this is not all.

The figures I have just cited—and I will use round figures for clarity—of $7 billion for fiscal 1976, $9 billion for fiscal 1977, and $10 billion for fiscal 1978 do not include another very important item, and that is the amount of foreign assistance rendered through the Export-Import Bank.

For fiscal 1976, that figure was $4 billion, in round figures; for fiscal 1977, the current fiscal year, it is $4 billion; and for fiscal 1978, for which Congress is now appropriating, the figure will be $5.5 billion.

So the grand total of the transfer of U.S. resources to foreign nations for the 3 fiscal years is as follows: For fiscal 1976, the transfer of U.S. resources to foreign nations was $11 billion, again using round figures; for fiscal 1977, the transfer of U.S. resources to foreign nations was $13.5 billion; and for fiscal 1978, it is proposed that $15.5 billion of U.S. resources be transferred to foreign nations.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield, without losing his right to the floor and without any time being charged against his time?

Mr. HARRY F. BYRD, JR. I am glad to yield.

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## INTERNATIONAL TRADE COMMISSION AUTHORIZATION, 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, the conference report has been cleared on the other side of the aisle. On behalf of Mr. LONG I submit a report of the committee of conference on H.R. 6370 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6370) to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential appointment of the Chairman and Vice Chairman of the Commission, to provide for greater efficiency in the administration of the Commission, 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 all 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 House proceedings of the RECORD of July 21, 1977.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

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## FOREIGN ASSISTANCE APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7797.

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

Mr. HARRY F. BYRD, JR. I yield.

### REQUEST FOR TIME-LIMITATION ON AMENDMENTS

Mr. INOUYE. Mr. President, I ask unanimous consent that time on any amendment which, under the previous order, was granted 1 hour be reduced to 30 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, I object to that for the time being. We might work something out later.

The PRESIDING OFFICER. Objection is heard.

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the figures show that instead of our Government getting its foreign aid programs under control, the Government is going in just the opposite direction.

Foreign aid programs began in 1946, some 30 years ago, and during that period of time, including the current fiscal year, the United States will have provided more than $231 billion in a vast program of foreign assistance which has directly benefited most of the nations of the world.

Those figures are not figures the Senator from Virginia developed. Those figures—and indeed all the figures I have cited—come directly from the report of the Committee on Appropriations and are included in the committee report which accompanies the pending legislation.

Most of the figures I have cited this morning are on page 6 of that committee report. So while the United States during the past 30 years has contributed more than $231 billion in foreign assistance to other nations, with that in mind one would think our transfer of U.S. resources to other nations would be declining after that long period of time and that vast amount of money would be declining. But this bill provides for a substantial increase in the amount of U.S. dollars being provided to other nations.

Of course, the only place our Government can get funds to send to foreign countries is out of the pockets of the working people of our Nation.

I think it is very important, Mr. President, that the trend be reversed.

But what is happening is that the amounts of funds being taken from the pockets of the working people and transferred to other nations are being accelerated rather than decreased.

I might point out, too, in many cases these funds are being given to heads of government, and what I am going to say next I cannot document, and I do not pretend to. But I am convinced that in many cases the funds intended for good purposes, for helping better the lives of people in those countries, are being siphoned off by leaders of governments.

I feel our entire foreign aid program needs to be totally reexamined.

I think it can be and should be very substantially reduced. Yet, as I have mentioned earlier, instead of being reduced or even held at a steady level, it is being very substantially increased.

The legislation before us dramatizes that very clearly when it provides for a 27 percent increase as compared to last year's appropriation in these fields.

To indicate the increase, I quote from page 6 of table I of the Appropriations Committee report in which it lists the grand total for foreign assistance for fiscal year 1976 as $7 billion in round figures, and the proposed figure for 1978 is $10 billion in round figures.

Mr. President, I do not plan to do it at the moment, but at a later time I shall ask unanimous consent to insert in the RECORD a summary, by country, of the huge amounts which have been transferred from the United States to a multitude of countries, more than 100 different countries, throughout the world.

If I may, at this point, I would like to ask several questions of the distinguished floor manager of the bill. Could the Senator from Hawaii give the total amount of appropriations, assuming the legislation is passed, the total amount of appropriations, in this and other bills for fiscal 1978 that will be given to the United Nations?

Mr. INOUYE. To the United Nations?

Mr. HARRY F. BYRD, JR. To the United Nations.

Mr. INOUYE. If you are talking about all funds, assessed and voluntary——

Mr. HARRY F. BYRD, JR. Yes, all funds assessed and voluntary and all other ways that they are transferred from American taxpayers to the United Nations.

Mr. INOUYE. It is approximately $500 million.

Mr. HARRY F. BYRD, JR. Approximately $500 million. I thank the Senator.

I wonder if the Senator has information showing what countries, and in what amounts, have received funds from the World Bank, say, for fiscal 1976, fiscal 1975, fiscal 1977, whichever fiscal year the information might be available?

Mr. INOUYE. The World Bank, as the Senator is well aware, provides loans and they are not making grants. Are we talking about grants?

Mr. HARRY F. BYRD, JR. In the case of the international financial institutions they would be presumably loans. Where the soft loan windows are involved one could argue whether they were loans or grants.

But in any case, what loans or grants have been made by the various international financial banks to the various countries?

Mr. INOUYE. We do not have in the files the names of the countries and amounts these countries have received in loans during the current year from the various international and financial institutions.

Mr. HARRY F. BYRD, JR. Whether they be soft loans or hard loans, as to not only the World Bank but also the

various international banking institutions to which the Federal Government makes tremendous contributions in dollars, would it not be well for Congress to have available to it exactly how the funds are being handled and in which countries loans are being made and in which amounts?

Mr. INOUYE. I completely agree with the distinguished Senator. As the committee report indicates, we have been trying now for several years to bring about a better understanding between Congress and the various international financial institutions. For example, at the present time, I think it would be of great interest to the people of the United States to know the names of the depository banks in which approximately $10 billion of cash reserves of the various international development banks are now being deposited.

Mr. HARRY F. BYRD, JR. Do we not have that information?

Mr. INOUYE. By an arrangement we are not permitted to make these figures public.

Mr. HARRY F. BYRD, JR. Yet the American public, the American taxpayers, pay the larger share of all of these funds going into these financial institutions.

Mr. INOUYE. If the Senator will look on page 1262 of the committee hearing transcript, the Senator will have, by country and by institution, the amounts applied for and amounts granted, but this does not give all of the information that the Senator seeks. For example, the purpose of the loan.

Mr. HARRY F. BYRD, JR. If I may say so, I am not sure it gives any unless I misread it. What this says on page 1262 is cumulative subscriptions and contributions to the international development lending institutions by member countries.

But my question was what do these international banking institutions do with the money after we give it to them? To whom does the money go?

We know it goes to heads of governments. Which heads of government?

Which governments and in what amounts?

Mr. INOUYE. I am certain we can get it for the Senator for his information. It is the same thing with the information relating to deposits. We would like to reach that stage some day when we can make it public. I think it would be of great interest not only to the people of the United States but also Members of Congress to know exactly whese these deposits are being held.

On page 1266 there is at least most of the information being sought by the Senator. These are the commitments made by the banks to the various countries. But unfortunately this information does not tell the Senator for what purpose.

Mr. HARRY F. BYRD, JR. Then this information is cumulative and does not include what might have been done in the more recent years, I assume.

Mr. INOUYE. No. This is as of December 31, 1976.

Mr. HARRY F. BYRD, JR. Yes. it is cumulative.

Mr. INOUYE. From the time the banks began.

Mr. HARRY F. BYRD, JR. Yes. These are cumulative commitments.

Mr. INOUYE. Yes. So, it does not precisely respond to the Senator's question as to how much was granted last year.

Mr. HARRY F. BYRD, JR. In regard to the huge deposits, to which the able Senator from Hawaii refers, that information he says is not available to the Senate.

Mr. INOUYE. It is available on a classified basis. This is by prior agreement with the members of the bank, but we are not permitted to make the list public.

Mr. HARRY F. BYRD, JR. So it puts it in the category of a CIA, does it?

Mr. INOUYE. International CIA. If the Senator will look on page 124 of the committee report, as I indicated, as of 31 January 1977, well over $10 billion in liquid assets of the banks were held in various securities and in sundry commercial and governmental financial institutions throughout the world. Unfortunately, we cannot give the Senator the names of these banks. Someday we will get it for the Senator.

Mr. HARRY F. BYRD, JR. Some banks somewhere are making huge sums, huge profits, I would assume, off of these deposits.

Mr. INOUYE. Obviously.

Mr. HARRY F. BYRD, JR. And it occurs to me that that is information that should be available to Congress and to the public.

After all, the public is supplying the funds; the U.S. taxpayer is supplying most of the funds in almost every case.

Mr. INOUYE. As the Senator is aware, that is the position of the committee, but unfortunately it is opposed by the Department of the Treasury and by the banks themselves. But let me assure the Senator that we are doing all that is in our power to make the names available for public disclosure.

Mr. HARRY F. BYRD, JR. Why would the Department of Treasury object to having Congress know where these funds are being deposited?

Mr. INOUYE. I presume as a member of the bank they go along with the unanimous decision of the bank.

Mr. HARRY F. BYRD, JR. This helps explain, I think, why there is so much pressure for all of these foreign aid programs.

I have been convinced for a long time that big banks, both in this country and in other countries, are being greatly advantaged by the foreign assistance program.

I think this is one area where big banks are getting an advantage, and yet we are not even permitted to know where the money is being deposited.

I see no reason why we should not be informed as to which of these huge banks, both in this country and elsewhere, are getting the benefit of these tremendous deposits.

I think the Senator from Hawaii mentioned $10 billion.

Mr. INOUYE. In liquid assets.

Mr. HARRY F. BYRD, JR. In liquid assets.

Mr. INOUYE. But for the most part these are short-term deposits, because they are immediately taken out to serve as a basis for loans.

Mr. HARRY F. BYRD, JR. Well, we are not certain, I do not suppose, as to just how short term they are in all cases.

We do know, even on the short term, that banks generally scramble around right much to try to get deposits, because it is to their financial advantage to do so.

Did the Senator from Hawaii say that provision is being made to get this information?

Mr. INOUYE. Yes. We have been working on this for several months now, and we were hoping that we could have resolved it by today. In fact, it is in the process of being worked out at the present time.

Mr. HARRY F. BYRD, JR. Mr. President, I want to say again as I said in my opening remarks, and I do not believe the Senator from Hawaii had come in at that point, that I think that the Senator from Hawaii has done a tremendous job on handling this legislation and developing it. While it is not acceptable in size, the size is too great, and thus is not acceptable to the Senator from Virginia, I am sure it would have been more unacceptable had it not been for the dedicated work of the able Senator from Hawaii.

Mr. INOUYE. The Senator's generous remarks are very much appreciated.

Mr. HARRY F. BYRD, JR. I know, too, the concern that has been expressed in the committee report as to the salaries which prevail at the international banking institutions, and I know also that our Secretary of the Treasury, Mr. Blumenthal, has expressed concern to the international banks in this regard.

I think the unfortunate aspect is that the bank officials, the presidents of the various banks do not have to pay income taxes. Take the World Bank, for example. The president of the World Bank, and as a matter of fact all of its employees, but I am speaking now of the higher echelon, as a practical matter they pay no income tax.

To put it another way: The American taxpayer pays the income taxes for the officers and employees of the international banking institutions, the salaries being set to provide for this.

Now, when the top officials in an agency like the international banks pay no income tax, naturally they have somewhat less concern as to the amount of tax funds that would be appropriated to their institutions than they might have if they were subject to the income tax the same as any other American citizen. I am speaking now of American citizens.

Mr. Robert S. McNamara, who is the head of the World Bank, is an American citizen and has his income taxes paid by the American taxpayer. Or, to put it another way, his salary is set in such a way that he gets the net salary when one disregards the income taxes.

I think that this is an undesirable situation. Here are the World Bank sal-

aries, on page 129 of the report. If I am reading this correctly—and the Senator from Hawaii can correct me if I am not—the way I read it, the President of the World Bank gets a gross equivalent of $111,570. That is substantially higher than any public official, any Cabinet officer, any Supreme Court Justice, and of course, any Member of Congress. It is substantially higher than any U.S. official except the President of the United States himself.

The Senior Vice President is in the same category, with $106,950. The Executive Directors, $83,830. The Alternate Executive Directors, $61,730.

The professionals, class Q, the Vice Presidents, $97,320. Class P, $89,570. O, $86,470. N, $74,960. M, $64,560. And all of those officials are paid substantially higher salaries than are the highest officials of Government in our country.

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

Mr HARRY F. BYRD, JR. Yes.

Mr. INOUYE. The Senator is well aware that the committee agrees with him completely, and has so stated in the committee report.

As the Senator is aware, in our committee bill we have provided language whereby our executive, the U.S. Executive Director of the Bank, will receive no more than his superior. At the present time, the Executive Director representing the U.S. interests at the World Bank receives more than the Secretary of the Treasury. So what we are trying to do is bring his pay level down to that of the assistant secretary, his superior. We are also trying to reduce the salary of the Executive Director.

Mr. HARRY F BYRD, JR. Actually, that is a part of the bill which is before the Senate now.

Mr. INOUYE. The Senator is correct, yes.

Mr. HARRY F. BYRD, JR. But, of course, that applies only to the Executive Director. and I guess to the alternate Executive Director, I am not sure.

Mr. INOUYE. Of the United States.

Mr. HARRY F. BYRD, JR. Of the United States. It does not apply to the President or the Senior Vice President, both of whom are U.S. citizens.

Mr. INOUYE. They are U.S. citizens, but they are employees of the international institution.

Mr. HARRY F. BYRD, JR. It does not apply to these other individuals either.

What I am pointing out, and what the committee report, indeed, points out, and what I am sure the Senator from Hawaii concurs in, is that in appropriating funds to these international banking institutions, we are turning over vast sums of American tax dollars. After doing that, we lose all power and all authority as to how those funds will be used, as to what salaries will be paid, and as to what countries loans will be made to, or what countries to which loans cannot be made.

So we are turning these vast sums of American tax dollars over to the international banking institutions without any strings attached.

In previous comments on the Senate floor, the argument has been made that these banks do quite well with the funds, and that money which is loaned to various countries sometimes, or frequently, comes back to this multitude of international banks.

What is never pointed out is that none of that money—none of it—ever comes back to the U.S. Treasury. Once that money is appropriated to the international banking institutions, that money is gone insofar as the American taxpayer is concerned. The banking institutions may get repaid from time to time on their loans, but that money does not come back to the American Government.

At a later date, at the conclusion of my remarks, I wish to put into the RECORD an article from the Washington Post of July 23, the caption of which is "Blumenthal Asks Cap on International Bank Salaries." I shall not do that right at the present time; I will get to it a little later, at a later time.

At this time, Mr. President, I do again commend the able Senator from Hawaii for an excellent speech which he made in the Senate on June 14, 1977, pointing out—and I think it is the first time this has been done so forthrightly—that commitments of U.S. tax funds can be made only by the Congress.

The Senator from Hawaii in that Senate address on June 14, 1977, in which he presented an amendment, I assume to the International Financial Institution authorization bill, stated:

> My amendment to the bill reported by the Senate Foreign Relations Committee makes a clear statement of fact: The commitment of U.S. resources to international financial institutions, or indeed to any purpose, is subject to the appropriation of those resources. This is an incontestable statement grounded in the bedrock of the Constitution.

I think the Senator from Hawaii is so right. As a result of the speech by the Senator from Hawaii it may be different in the future. In the past so many of our colleagues have argued that once the executive branch makes an agreement as to how much the United States will contribute to these various international financial institutions, that is regarded as being an obligation of our Government. I believe it is quite important that the Senator from Hawaii has made clear that it is indeed not a commitment until the Congress appropriates the funds.

The Senator from Hawaii made another statement which I think should be repeated.

> Mr. President, in a statement notable for both its sweeping grandure and for its departure from reality, the Foreign Relations Committee report declares: "The power of commitment rests with the authorizing committee." I would like to most humbly say this is preposterous.

There, again, those are the words of the able Senator from Hawaii. The Senator from Virginia would like to associate himself with those remarks.

Then the Senator from Hawaii goes on to say:

> The authorizing committee has the power to recommend the authorization of U.S. participation in international funding arrangements. The authorizing committee has the power to recommend the authorization to a level of participation. The authorizing committee does not have the power to commit U.S. resources.

Then another splendid statement in that speech by Senator INOUYE:

> The commitment of U.S. resources follows from and can only follow from the appropriation by law of those resources.

I believe that is a vitally important contribution which the able Senator from Hawaii has made to this whole area of appropriating tax funds to these international organizations.

Mr. President, how much time have I utilized?

The PRESIDING OFFICER. The Senator has used 45 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, at this time I ask unanimous consent to have printed in the RECORD the historical totals of U.S. economic and military assistance to foreign nations for the fiscal year 1946 through 1977. This table gives the countries and the amount which went to each country.

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

HISTORICAL TOTALS OF U.S. ECONOMIC AND MILITARY ASSISTANCE

The following table presents summary and detail information relating to the totality of U.S. foreign assistance (economic and military) furnished to other nations during the period fiscal year 1946–76. It has been extracted from information assembled and presented by the Agency for International Development in the current edition of its publication, U.S. Overseas Loans and Grants.

HISTORICAL UNITED STATES FOREIGN ASSISTANCE [1]

*Summary for all countries*

| | |
|---|---|
| Total, economic and military assistance, fiscal years 1946–76 | $191,833,400,000 |
| Total, other U.S. loans and grants, fiscal years 1946–76 | 30,596,700,000 |
| Total, fiscal year 1977 (estimated) | 9,290,286,000 |
| Grand total, U.S. foreign assistance, fiscal years 1946–77 | [2] 231,720,386,000 |

Detail by Region and Country (Fiscal Years 1946–1976)

| | |
|---|---|
| A. Near East and South Asia | 45,138,700,000 |
| Afghanistan | 498,200,000 |
| Bahrain | 1,200,000 |
| Bangladesh | 1,015,600,000 |
| Cyprus | 85,400,000 |
| Egypt | 2,269,800,000 |
| Greece | 4,894,400,000 |
| India | 9,494,800,000 |
| Iran | 2,172,500,000 |
| Iraq | 95,500,000 |
| Israel | 8,329,800,000 |
| Jordan | 1,599,200,000 |
| Lebanon | 153,600,000 |
| Nepal | 201,300,000 |
| Oman | 1,000,000 |
| Pakistan | 5,427,500,000 |
| Saudi Arabia | 327,700,000 |
| Sri Lanka | 289,000,000 |
| Syria | 279,800,000 |
| Turkey | 7,394,100,000 |
| Yemen, People's Democratic Republic of | 4,500,000 |
| Yemen, Arab Republic | 67,600,000 |
| Central Treaty Organization (CENTO) | 54,100,000 |
| Near East and South Asia regional | 481,900,000 |

Footnotes at end of table.

| | |
|---|---|
| B. Latin America | $15,974,900,000 |
| Argentina | 463,700,000 |
| Bahamas | 300,000 |
| Barbados | 1,400,000 |
| Belize | 7,600,000 |
| Bolivia | 746,800,000 |
| Brazil | 3,078,300,000 |
| Chile | 1,333,900,000 |
| Colombia | 1,491,900,000 |
| Costa Rica | 213,200,000 |
| Cuba | 20,100,000 |
| Dominican Republic | 567,800,000 |
| Ecuador | 373,500,000 |
| El Salvador | 180,400,000 |
| Guatemala | 405,800,000 |
| Guyana | 81,100,000 |
| Haiti | 165,900,000 |
| Honduras | 237,800,000 |
| Jamaica | 108,100,000 |
| Mexico | 298,900,000 |
| Nicaragua | 296,600,000 |
| Panama | 372,500,000 |
| Paraguay | 191,400,000 |
| Peru | 681,400,000 |
| Surinam | 5,800,000 |
| Trinidad and Tobago | 40,500,000 |
| Uruguay | 248,000,000 |
| Venezuela | 354,000,000 |
| Other West Indies | 13,400,000 |
| ROCAP | 273,900,000 |
| East Caribbean regional | 60,400,000 |
| Latin America regional | 3,660,700,000 |
| C. East Asia | 61,189,700,000 |
| Burma | 193,100,000 |
| Cambodia | 2,186,900,000 |
| China, Republic of | 6,510,400,000 |
| Hong Kong | 43,800,000 |
| Indochina, undistributed | 1,557,100,000 |
| Indonesia | 2,296,300,000 |
| Japan | 3,959,700,000 |
| Korea | 12,592,700,000 |
| Laos | 2,506,100,000 |
| Malaysia | 159,500,000 |
| Philippines | 2,628,600,000 |
| Ryukyu Islands | 413,700,000 |
| Singapore | 23,600,000 |
| Thailand | 2,161,200,000 |
| Vietnam | 23,394,900,000 |
| Western Samoa | 5,900,000 |
| East Asia regional | 556,500,000 |
| D. Africa | 6,615,200,000 |
| Algeria | 193,200,000 |
| Benin (formerly Dahomey) | 18,200,000 |
| Botswana | 41,900,000 |
| Burundi | 12,700,000 |
| Cameroon | 41,000,000 |
| Cape Verde | 7,200,000 |
| Central African Empire | 9,600,000 |
| Chad | 29,400,000 |
| Congo, People's Republic of the | 7,000,000 |
| Ethiopia | 636,900,000 |
| Gabon | 11,100,000 |
| Gambia, the | 10,600,000 |
| Ghana | 311,300,000 |
| Guinea | 124,900,000 |
| Guinea-Bissau | 1,100,000 |
| Ivory Coast | 40,900,000 |
| Kenya | 177,000,000 |
| Lesotho | 30,200,000 |
| Liberia | 255,900,000 |
| Libya | 230,100,000 |
| Madagascar | 16,800,000 |
| Malawi | 31,600,000 |
| Mali, Republic of | 83,100,000 |
| Mauritania | 28,100,000 |
| Mauritius | 16,200,000 |
| Morocco | 1,061,900,000 |
| Mozambique | 12,300,000 |
| Niger | 73,000,000 |
| Nigeria | 409,400,000 |
| Portuguese Territories | 1,700,000 |
| Rwanda | 13,900,000 |
| Senegal | 72,000,000 |
| Seychelles | 800,000 |
| Sierra Leone | 54,700,000 |
| Somali Republic | 83,500,000 |
| South Africa, Republic of | 1,300,000 |
| Southern Rhodesia | $7,000,000 |
| Sudan | 130,100,000 |
| Swaziland | 10,900,000 |
| Tanzania | 170,800,000 |
| Togo | 29,800,000 |
| Tunisia | 861,300,000 |
| Uganda | 43,300,000 |
| Upper Volta | 52,900,000 |
| Zaire | 578,400,000 |
| Zambia | 35,700,000 |
| Central and West Africa regional | 131,500,000 |
| East Africa regional | 35,800,000 |
| Southern Africa regional | 66,500,000 |
| Africa regional | 310,800,000 |
| E. Europe | 43,477,400,000 |
| Albania | 20,400,000 |
| Austria | 1,255,100,000 |
| Belgium-Luxembourg | 1,867,500,000 |
| Czechoslovakia | 193,000,000 |
| Denmark | 922,000,000 |
| Finland | 57,000,000 |
| France | 8,466,700,000 |
| German Democratic Republic | 800,000 |
| Germany (Federal Republic) | 4,980,500,000 |
| Berlin | 131,900,000 |
| Hungary | 32,700,000 |
| Iceland | 82,200,000 |
| Ireland | 146,500,000 |
| Italy | 5,851,100,000 |
| Malta | 67,000,000 |
| Netherlands | 2,312,300,000 |
| Norway | 1,245,700,000 |
| Poland | 539,300,000 |
| Portugal | 618,400,000 |
| Romania | 9,700,000 |
| Spain | 1,945,200,000 |
| Sweden | 109,000,000 |
| United Kingdom | 8,779,600,000 |
| U.S.S.R. | 186,400,000 |
| Yugoslavia | 2,821,800,000 |
| Europe regional | 835,800,000 |
| F. Oceania | 840,300,000 |
| Australia | 123,400,000 |
| New Zealand | 8,600,000 |
| Papua New Guinea | 300,000 |
| Trust Territory of the Pacific Islands | 693,400,000 |
| Other Oceania | 14,400,000 |
| G. Canada | 30,500,000 |
| H. Interregional | 18,566,600,000 |

Information as of September 30, 1976.

[1] Basic data (fiscal years 1946–1976) taken from "U.S. Overseas Loans and Grants and Assistance from International Organizations," a publication of the Agency for International Development. See this publication for explanation and detail. Summary totals may differ slightly due to use of full numbers.

[2] Through September 30, 1976, repayments of principal and interest of both economic and military loans total $21,461,600,000. In addition, it is estimated that $496,843,900,000 will be repayed on AID loans in fiscal year 1977.

Mr. HARRY F. BYRD, JR. Now, Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Washington Post of Saturday, July 23, 1977, captioned "Blumenthal Asks 'Cap' on International Bank Salaries."

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

[From the Washington Post, July 23, 1977]

BLUMENTHAL ASKS "CAP" ON INTERNATIONAL BANK SALARIES

(By Hobart Rowen)

Treasury Secretary W. Michael Blumenthal plans to ask the heads of the World Bank and International Monetary Fund to put a "cap" on further increases in the tax-exempt salaries those institutions pay.

Because of the exemption the salaries are 30 to 40 per cent higher than they look, and also about the same percentage above those paid for comparable U.S. government jobs.

Blumenthal in an interview scored the bank and IMF salary levels as "excessive" and warned that "if we hadn't put some limits" on the pay at international agencies, Congress is likely to place restrictions on U.S. contributions to them.

The discrepancy between pay levels at the international lending institutions and U.S. scales comes about because they pick up the tax bills for U.S. citizens and pay generous allowances for dependents.

As an example, Blumenthal pointed out that Edward Fried, U.S. executive director for the World Bank, is paid $47,500. Theoretically, that's a notch below an assistant secretary of the treasury at $50,000. But Blumenthal estimated that Fried's tax-exempt pay is the equivalent of a taxable $75,000 to $80,000, or better than anyone in the U.S. government except the President and the Vice President.

World Bank President Robert S. McNamara is paid the equivalent of $116,000, against Blumenthal's Cabinet level salary of $66,000.

According to a World Bank spokesman, the bank reimburses its U.S. employees, dollar for dollar, for federal and state taxes, at a cost of about $15 million a year. That provides a salary worth up to $90,000 for any American who happens to be a bank vice president, up to $70,000 for a department head, and around $60,000 for a senior specialist, such as an economist. IMF scales are similar.

"We're very much concerned about this problem," Blumenthal said. "We just don't think that excessive salaries considerably above virtually everybody in this government are essential . . . The fact is they create great difficulty for us to get the collaboration of the Congress."

He cited the recent action of the Senate Appropriations Committee that reported an aid bill to the floor reducing salaries of six top U.S. officials at the World Banks, the Inter-American Bank, and the Asian Development bank from the $80,000 level to a maximum of $50,000. Whether this provision survives a conference session with the House remains to be seen.

Blumenthal was also highly critical of "lavish" subsidies he said the lending agencies pay for "restraurants," "travel of wives, all sorts of things." In a recent floor speech, Rep. C. W. Young (R.-Fla.) charged that the World Bank makes personal loans to employees at 4 per cent interest using funds intended "for the poorest of the poor."

Officials at the agencies vigorously contest the charge that their salaries are too high. A World Bank spokesman said in an interview that Bank salaries are less than those paid by the United Nations, or by the European Common Market in Brussels. At all of the affected agencies the argument is made that high salaries are necessary to attract highly-qualified professionals.

The tax-exempt status provides a net benefit for a U.S. employee of the Bank, compared with U.S. salaries, the spokesman conceded, "but only because we are in the business of sustaining real wages, as do most governments, with the notable exception of the U.S. government."

The bank spokesman said that the average real wage in the bank has risen less than 1 per cent a year since 1970, and emphasized that "tax dollars" supporting national contributions to the bank "do not pay (our) salaries" The money, he said comes out of bank earnings on loans.

"We reserve the right to determine how to operate (the World Bank) effectively," he said, "and our salary structure is part of that." As for Young's report to low-interest loans, he said they had been made largely

to non-Americans settling here for the first time, and that none of the funds came from money earmarked for loans.

A key IMF official said the agency "has to pay a significant expatriation allowance to get people to come here. Washington is not regarded as that ideal."

But Blumenthal insists that "we would have to deal with this (salary problem) in some practical way probably in step-by-step negotiations with McNarmara and IMF Managing Director H. J. Witteveen.

Blumenthal recognizes that the salary issue is a difficult and sensitive one for McNamara and Witteveen to handle. No one objects to salary levels except the United States. An effort by former Treasury Secretary William E. Simon to block an IMF increase last year resulted in a one-day walkout.

"The question is: 'What is an adequate salary to attract competent people from different countries to come here to do this job?' Washington is not the Sahara desert and I really don't think you have to pay someone $100,000 and give them all these fringes to bring them here," Blumenthal said.

Mr. HARRY F. BYRD, JR. Because of its importance, unless there be objection on the part of the able Senator from Hawaii, I ask unanimous consent to have printed in the RECORD the speech which the able Senator made to the Senate on June 14, 1977, so that the RECORD will be complete on this particular point.

Mr. INOUYE. I have no objection.

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

UP AMENDMENT NO. 420

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) for himself and Mr. SCHWEIKER proposes unprinted amendment No. 420.

Mr. INOUYE. 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:

Beginning with "needing" on page 11, line 15, strike out all that follows through the period on line 23, and insert in lieu thereof a period and the following new sentence: "It also notes that the availability of funds for the United States contribution to these international financial institutions is contingent upon future action by the Congress appropriating the necessary sums and thereby establishing the level of contributions for any given fiscal year.".

Beginning with page 12, line 13, strike out all that follows "That" through "Acts" on line 15, and insert in lieu thereof the following: "any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated".

Beginning with page 13, line 10, strike out all that follows "That" through "Acts" on line 11, and insert in lieu thereof the following: "any commitment to make payment for such additional subscriptions shall be made subject to obtaining the necessary appropriations".

Beginning with page 14, line 2, strike out all that follows "That" through "Acts" on line 3, and insert in lieu thereof the following: "any commitment to make such contributions shall be made subject to obtaining the necessary appropriations".

Beginning with page 14, line 16, strike out all that follows "That" through "Acts" on line 19, and insert in lieu thereof the following: "any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated".

Beginning with page 15, line 3, strike out all that follows "That" through "Acts" on line 5, and insert in lieu thereof the following: "any commitment to make such contribution shall be made subject to obtaining the necessary appropriations".

Beginning with page 15, line 18, strike out all that follows "That" through "Acts" on line 19, and insert in lieu thereof the following: "any commitment to make such contribution shall be made subject to obtaining the necessary appropriations".

Mr. INOUYE. Mr. President, the amendment I have sent to the desk appears, on the face of it, to involve no more than the restoration of language in the House bill bearing on provisions governing the commitment of resources to the international financial institutions.

In essence, that is what the amendment does. But, I suggest that we must carefully attend to the consequences of this amendment, for it is of great significance to U.S. participation in agreements to replenish the resources of international financial institutions, and it goes to the heart of the conduct and operation of the U.S. Senate—the committee system.

My amendment to the bill reported by the Senate Foreign Relations Committee makes a clear statement of fact: the commitment of U.S. resources to international financial institutions, or, indeed, to any purpose, is subject to the appropriation of those resources. This is an incontestible statement, grounded in the bedrock of the Constitution.

Mr. President, I believe that the adoption of this amendment is essential to the rational implementation of U.S. foreign policy and to the rigorous application of Senate procedure. In a moment I will suggest a number of the reasons which cause me to propose my amendment, but first there is one thing I would like to note in passing.

The Foreign Relations Committee report suggests that the committee went to great lengths to avoid having a point of order raised against sections of the bill which appear to be in violation of the requirements of the Congressional Budget and Impoundment Act. I am of the opinion that a point of order could be held against this bill, but I prefer to treat substantive issues which are directly linked to the commitment of U.S. resources to the international financial institutions. I leave it to the Budget Committee to decide whether or not to raise a point of order.

I would only note here that, according to the report:

"It was felt by a number of Members of the Committee that the Budget Act had been written without full consideration of its ramifications on the conduct of U.S. foreign affairs."

Once I have stated my objections to the reported bill, I believe that many here will agree that the reported bill, itself, was apparently "written without full consideration of its ramifications on the conduct of U.S. foreign affairs."

Mr. President, in a statement, notable both for its sweeping grandeur and for its departure from reality, the Foreign Relations report declares, and I quote:

"The power of commitment rests with the authorizing committee."

I would like to most humbly say this is preposterous.

The authorizing committee has the power to recommend the authorization of U.S. participation in international funding arrangements;

The authorizing committee has the power to recommend the authorization of a level of participation;

The authorizing committee does not have the power to commit U.S. resources. To assert that it does is to invade terrain reserved to the Appropriations Committee. The commitment of U.S. resources follows from, and can only follow from, the appropriation, by law, of those resources.

For the United States to make a cogent, authoritative, and valid pledge to contribute resources to an international financial institution, that pledge must be subject to the appropriation of amounts necessary to fulfill the pledge. When there is no recognition of the requirement for an appropriation, intention is confused with aspiration.

Representatives of the United States in international negotiations can say that the United States hopes to contribute a certain sum—that is an aspiration. But, if by subscription, in the absence of an appropriation, they indicate that the United States intends to contribute a certain sum, they are making a hollow pledge. The commitment can be fulfilled only after funds are appropriated. It is therefore, necessarily a conditional commitment.

What the administration sought to do—what my amendment seeks to do—what the House bill does—is to state, in the face of the law authorizing U.S. participation in international funding arrangements, this clear distinction between aspiration and intention, between hope and fulfillment, between the process of commitment as the Foreign Relations Committee would see it, and as it really is.

In the past the United States has, unfortunately, made pledges in advance of appropriations without fully expressing their contingent nature. Because of this, when the Congress has declined to appropriate the full amount pledged by administration officials in international meetings, confusion has been engendered at home, mistrust abroad.

In recent times, the highest authorities in the U.S. Government have declared publicly:

"We have up until now defaulted on the word of honor of our country . . . Other countries have kept their word. We have broken our word so far."

This ad hominum argument is repeatedly voiced in requests to the Congress for appropriations of ever increasing contributions to the international financial institutions. Allow me to quote the congressional presentation of the Agency for International Development:

"Failure of the United States to meet our commitments has been very damaging."

And again:

"Delay in fulfilling U.S. pledges has been taken . . . as a discouraging sign of the inability of the United States to honor its commitments. . . ."

Mr. President, I submit that these statements, which question the honor of our country, put intense pressure on the Appropriations Committee to blindly approve whatever amounts are requested by the administration. We are told that our national honor must be upheld, that the United States has made commitments in international negotiations, that a failure of the Appropriations Committee to abide by these pledges is inimical to the interests of the United States.

Our national honor is at stake. But, with all of the talk about U.S. commitments in

international agreements, I think that some may have forgotten that we have, indeed, made solemn commitments—to our own people.

Every appropriations bill which emerges from the Congress carries the phrase:

"That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated . . ."

There is much in that phrase. It says that the resources of the U.S. Treasury are limited—there is only so much money.

Others can go to London, to Paris, to Vienna, and Rome—to all of the grand capitals of the world, pledging U.S. support for a multitude of purposes, but it is the Appropriations Committee which must weigh, in its singular responsibility, the competing demands for money "not otherwise appropriated."

Some may regard U.S. participation in international financial institutions as a grand potluck ceremony, in which the wealth of the United States is to be given away, but the Appropriations Committee must husband the resources of our country—that there may be enough to meet our national goals. The needs of our own people must be placed in the balance when we weigh the needs of the international community; our goals at home must be balanced against our goals in the international arena. We cannot pledge what we do not have, and we do not have everything.

That is why U.S. contributions to international financial institutions are—and must be—subject to appropriations.

That there may be no doubt, let me state that it is the considered judgment of the Appropriations Committee that any pledge, commitment, or subscription to increase U.S. participation in any international financial institution, which does not specify that it is subject to appropriation, is not valid. This traditional position of the Appropriations Committee was amplified in a letter by its chairman, Senator JOHN MCCLELLAN, to the then Secretary of the Treasury, William E. Simon. The letter, sent on January 15, 1975, stated:

It has been the longstanding view of the committee that only the enactment of an appropriation bill can obligate the United States to any given payment to the international development banks . . . it should now be clearly understood that the Congress is not committed to any given funding level until that figure is actually appropriated.

On April 30, 1976, the then chairman of the House Appropriations Subcommittee on Foreign Operations, Mr. Passman, and I joined in a letter to Secretary Simon. Our letter stated our belief that "the possibility of any misunderstanding" could be avoided by making pledges to international financial institutions "clearly contingent upon appropriation of the amount involved."

Mr. President, I ask unanimous consent that the text of these two letters be printed in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. INOUYE. Mr. President, perhaps I can make a further observation which will serve to cut away the thickets of ambiguity which have surrounded this issue.

The report of the Foreign Relations Committee notes that committee members were concerned that the President could be precluded from making "an unconditional, multiyear commitment under which the U.S. incurs financial obligations." Consequently, the reported bill provides for multiyear authorizations.

Now, were we to accept the proposition that authorization of U.S. participation in multiyear funding agreements is sufficient to enable the administration to unconditionally pledge, on behalf of the United States, payment of specific amounts in future years, future Congresses would be bound—de facto, if not de jure—to appropriate the necessary funds.

This proposition is antithetical to the traditional and established procedures of the Senate. It is, moreover, of doubtful validity on constitutional grounds. Neither the administration nor Congress can bind future Congresses to any given level of contributions. My amendment would avoid this legislative imbroglio by making U.S. contributions subject to the annual appropriations process.

Now let me turn to another reason that caused me to offer this amendment. It, too, is concerned with the nature of U.S. commitments to international financial institutions.

The reported bill does not require the appropriation of callable capital. The House bill does.

The administration and the Appropriations Committees of the House and the Senate have taken the position that all callable capital contributions should be appropriated by Congress. By restoring the language of the House bill, my amendment will insure that this is done.

The Appropriations Committees have long contended that to pledge callable capital in the absence of appropriations is to circumvent the established budgetary and appropriations processes and to contravene our concerted efforts to eliminate "backdoor funding" of Federal programs.

On April 30, 1976, Congressman Passman and I joined in a letter to the then Secretary of the Treasury in which we said:

"Although the callable capital of the banks may constitute a 'virtual risk free obligation' it is very much an obligation."

On October 8, 1976, I wrote to Secretary Simon protesting his proposal to pledge callable capital "after the Congress—had—considered and specifically declined to appropriate the full amount requested by the President." I might add that Secretary Simon had not even informed the House Appropriations Committee of his proposed action. And, on February 2, of this year, the chairman of the House Appropriations Subcommittee on Foreign Operations joined me in a letter to Secretary of the Treasury Blumenthal, informing him that it was our collective judgment that all pledges of callable capital "should follow only upon the provision of budget authority in an appropriation bill."

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

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

(See exhibit 2.)

Mr. INOUYE. Secretary Blumenthal agreed with the position of the two Appropriations Committees and the administration amended the fiscal year 1978 budget presentation to incorporate requests for the appropriation of callable capital.

Now the Foreign Relations Committee has reported a bill which, for the first time, attempts to provide a legislative justification for pledging callable capital without an appropriation. It has done so notwithstanding the definition of callable capital found in its report:

"Callable capital is a guarantee and an obligation backed by the full faith and credit of the United States."

Mr. President, I hope I have made it abundantly clear that guarantees and obligations—if they are to be backed by the full faith and credit of the United States—if they are to have credibility and meaning—must be based on the appropriation of funds. My amendment, which, as I have said, restores the House language on this matter, would give meaning to pledges of callable capital by making them subject to appropriation.

If I may summarize at this point, the reported bill raises jurisdictional and procedural matters of consequence. The issues at hand do not stem from some petty squabble between the two Senate committees, for they turn not only on how we are to conduct the business of the Senate, but also on how the United States is to give credibility and meaning to its position in international funding agreements. I believe that these issues can be resolved by the adoption of my amendment.

Before yielding the floor, Mr. President, I shall respond to several matters that have been brought up by our distinguished colleague from Minnesota.

As you recall, Mr. President, he was quite concerned that the Appropriations Committee would insist upon full funding of callable capital to international banks but just 10 percent for military sales.

There is a basic difference involved. In the case of military sales we are dealing with entities that are subject to the laws of the United States; in fact, for the most part they are agencies of the Government.

In the case of the international banks, we are dealing with international institutions over which we have no control and little ability to direct.

It may be of interest to colleagues to note, for example, that notwithstanding all of the demands we have made for austerity, for cutting down unnecessary expenses and bringing about greater efficiency, the international banks still insist upon paying the highest salaries of all international organizations.

For example, at the present time the Secretary of the Treasury, the man who is in charge of our involvement of international financial institutions, under the new pay raise receives a gross of $66,000. Our U.S. delegate, the man who is appointed by the Secretary of the Treasury to the World Bank, is now paid at an annual rate of $83,800. In this case the subordinate to the Secretary of the Treasury gets more than he. And the delegate's deputy gets paid $61,700. At this juncture, it might be well to note that the pay of a U.S. Senator is $57,000, which is incidentally equivalent to the eighth pay level in the World Bank. The U.S. delegate to the International American Development Bank is paid at an annual rate of $77,750 and his assistance get $56,000.

Furthermore, at the present time the World Bank has liquid assets in excess of $7.5 billion. I grant you that these are obligations against loans but they are amounts not yet expended. These funds have been placed on deposit throughout the world. I believe the location of these deposits should be public information. Can anyone answer why they are not? These are reasons why we insist upon 100 percent funding of callable funds.

Mr. President, please note that my amendment has nothing to do with the level of funding. In fact, as a member of the Appropriations Committee. I have been always sympathetic with goals of our development banks. At the same time I have my responsibility as a Senator and as a chairman of my committee to point out that to permit the present bill to pass without amendment would be a travesty. Therefore, I ask that Senators agree with the amendment and support it.

Mr. HARRY F. BYRD, JR. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. NUNN). The question is on agreeing to the committee amendment. Does each Senator yield back his time?

Mr. HARRY F. BYRD, JR. What is the amendment, Mr. President?

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 4, line 14, after the word "university," strike all through line 25.

Mr. ALLEN. Mr. President, is this the amendment we were on at the time of the recess last night, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. CLARK. Will the Senator from Hawaii yield for a question?

Mr. INOUYE. Yes.

Mr. CLARK. Is this the amendment which would affect the ceilings on the Namibia Institute?

Mr. INOUYE. This is the amendment which would remove a ceiling for the United Nations Namibia Institute.

Mr. CLARK. And the amendment would have the effect only of removing that ceiling?

Mr. INOUYE. The committee amendment would have stricken out the House language that ran from line 14 to line 25. The effect would be to just take off the ceiling.

Mr. CLARK. I know there had been some discussion before I arrived last night about writing a prohibition into the bill prohibiting money in the bill to be spent for the Namibia Institute. That is not at issue in this amendment, as I interpret this?

Mr. INOUYE. The committee amendment does not prohibit the use of funds, but last night before adjournment the manager of the bill and the distinguished Senator from Alabama did discuss the possibility of amending this section to prohibit the use of funds in this bill for the Namibia Institute.

Mr. CLARK. But that amendment is not before us at this time?

Mr. INOUYE. Not at this time.

Mr. CLARK. I thank the Senator.

Mr. ALLEN. Will the Senator yield?

Mr. INOUYE. I will be glad to yield.

Mr. ALLEN. I wonder why that would not be before the Senate. The distinguished manager of the bill made a proposed modification of the committee amendment. The Senator from Alabama and the Senator from Virginia agreed to that modification. I am somewhat surprised that that modification is not to be offered at this time.

Mr. INOUYE. I was under the impression that at that time the staffs of the three Senators were trying to work out the language. In fact, the Senator was sitting here discussing it with the staff.

Mr. ALLEN. Have the staffs worked out the language?

Mr. INOUYE. I have a substitute.

Mr. ALLEN. The Senator has a substitute?

Mr. INOUYE. Yes.

Mr. ALLEN. That is going to be offered at the conclusion of the allotted time?

Mr. INOUYE. I will either offer the substitute or work from the committee amendment.

May I suggest that we call a quorum and consider together for a while?

Mr. ALLEN. That would suit me.

Mr. INOUYE. 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. INOUYE. 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. INOUYE. Mr. President, Senator ALLEN, Senator CLARK, and I have been in conference on this matter and, in accordance with our agreement, I would like to make the following changes.

On page 4, line 3, the committee would like to modify the number $243,850,000 to $224,750,000, and restore the House language which was stricken from line 14 to and including line 25 on page 4.

The PRESIDING OFFICER. The Chair would observe that it would take unanimous consent to make such a change, and the Chair would further observe that this figure that has been quoted has already been modified by the committee.

Mr. INOUYE. Mr. President, I ask unanimous consent that the figure $243,850,000, appearing on line 3, page 4, be amended to read $224,750,000.

The PRESIDING OFFICER. That figure is no longer in the bill. The figure is now $234 million, as modified.

Mr. INOUYE. Mr. President, I ask unanimous consent that the figure $234,350,000 appearing on line 3, page 4, be amended to read $224,750,000, and that the House language that was stricken by the committee on page 4, from line 14 to line 25, be restored.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, and I do not plan to object, the House passed the bill with the figure $257,000,000. Heretofore, it was modified by the committee down to $234 million. The distinguished Senator now is suggesting modifying it again and reducing it further by $9 million. Is that correct?

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. As I understand it, the reason for this modification is that the House bill has this $9 million for the U.N. Cyprus peacekeeping force at another place in the bill.

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. If this action were not taken, there would be two $9 million items, which could result in an appropriation of $18 million. But the Senator's requested modification would remove that possibility and limit the amount to $9 million, if the conferees agree on that figure. Is that correct?

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. Since the Senate has no $9 million figure in it, it could end up with no appropriation for this purpose. Is that correct?

Mr. INOUYE. That is correct.

Mr. ALLEN. I thank the Senator.

Mr. CLARK. Mr. President, reserving the right to object, I had not realized that the amendment would include the change of the figure. If the unanimous-consent request is agreed to and the $9 million is removed here, does it affect any part of the United Nations funding or international organization funding other than Cyprus?

Mr. INOUYE. We would have to make one change, which would appear on page 9, and I was about to make the unanimous-consent request. That appears on lines 20 to 24. That is to restore the House language.

Mr. CLARK. But the unanimous-consent request would affect only Cyprus?

Mr. INOUYE. The Senator is correct.

Mr. CLARK. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, reserving the right to object, do I correctly understand that later in the bill, on page 9, the House language, which provided for funding of the peacekeeping force—which, of course, is an enormously important element in maintaining peace in the area—would be restored?

Mr. INOUYE. I was just about to make the unanimous-consent request.

Mr. SARBANES. I understand the point that it should not be in two places, but it should be in one place and not eliminated altogether.

Mr. INOUYE. After this unanimous-consent request is granted, I shall make another unanimous-consent request to restore the House language.

Mr. ALLEN. Mr. President, reserving the right to object, I think the way to handle that would be to kill the Senate amendment to the item on page 9. That would leave the House language in the bill. It would not be in conference. We would be assured of the peacekeeping force, but we would not have the possibility of having paid twice.

Mr. SARBANES. That is correct. I understand it is agreeable to the Senator from Alabama.

I withdraw my reservation.

The PRESIDING OFFICER. Is there objection to changing the figure on page 4, line 3, disagreeing to the committee amendment on the same page from lines 14 to 25, and disagreeing to the committee amendment on page 9, striking lines 21 to 24?

Mr. ALLEN. Lines 21 to 24.

Mr. INOUYE. Lines 20 through 24.

The PRESIDING OFFICER. Lines 20 through 24. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, as I understand it, by the modification, the ceilings provided for these agencies and functions of the U.N., provided by the House, will be accepted by the Senate, and this matter will not be in conference. I ask the distinguished Senator from Hawaii if that is correct.

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. So whatever ceiling the House set could not be exceeded in conference on this item on page 4.

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. I think that is a good resolution of the issue.

Mr. INOUYE. Mr. President, may we proceed? I yield back the remainder of my time.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, unless the Senator from Alabama feels otherwise, so far as the Senator

from Virginia is concerned, the amendments beginning on page 5 through page 9 taking into consideration what has already been done at the end of page 9, could be handled en bloc, if it should be the desire of the manager of the bill to do so.

Mr. ALLEN. I would rather check it. If the Senator does not mind, perhaps we can have a short quorum call.

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

The PRESIDING OFFICER. There is no time remaining. The Senator from Alabama has time.

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

The PRESIDING OFFICER. The Senator from Hawaii suggested the absence of a quorum. The Senator from Hawaii has time on the bill.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. 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. SCHWEIKER. Mr. President, I ask unanimous consent that John Napier, of the Judiciary Committee; Ed Kenney, of the Armed Services Committee; and Jim Bennett, of the Judiciary Committee, be allowed the privilege of the floor during the consideration of the foreign assistance appropriation bill.

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

Mr. SCHWEIKER. 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. INOUYE. 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. INOUYE. Mr. President, I ask unanimous consent that the committee amendments appearing on page 5 through line 11 on page 9 be considered en bloc and accepted.

The PRESIDING OFFICER. Without objection, they are considered and agreed to en bloc.

The amendments agreed to en bloc are as follows:

On page 5, line 3, strike "$25,000,000" and insert "$19,800,000";

On page 5, beginning with line 4, strike through and including line 9;

On page 5, line 17, strike "$20,000,000" and insert "$30,000,000";

On page 5, line 20, following "expended" insert a colon and *"Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total cash contributions to such program";

On page 6, line 1, strike "$39,000,000" and insert "$38,000,000: *Provided*, That not to exceed $3,000,000 shall be for the United Nations Fund for Drug Abuse Control: *Provided further*, That $12,475,000 shall be available only for programs in Mexico";

On page 6, line 18, strike "except as otherwise provided by law,";

On page 6, line 20, strike "purposes for which appropriated" and insert "appropriation account and under the same terms, conditions, and limitations as originally provided in appropriations Acts";

On page 7, line 1, following "amended," insert "are, if deobligated, hereby continued available";

On page 7, line 2, beginning with "purpose" strike through and including "programs" in line 14, and insert in lieu thereof: appropriation account and under the same terms, conditions, and limitations as originally provided in appropriations Acts: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the obligation of such funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for fiscal year 1978.

On page 7, beginning with line 22, insert: The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof.

On page 8, line 18, strike "unless the Appropriations Committees of both Houses of the Congress are previously notified fifteen days in advance";

On page 9, line 2, before the period, insert a colon and the following: *"Provided further*, That none of the funds appropriated under this heading may be used to carry out those provisions of section 903 of the Foreign Assistance Act of 1961 which pertain to the Sinai support mission".

On page 9, line 5, strike out "531" and insert in lieu thereof "497, 531, and 533".

On page 9, line 6, immediately after the second comma insert the following: "and those provisions of section 903 of the Foreign Assistance Act of 1961 which pertain to the Sinai support mission,".

On page 9, line 6, strike out "$2,214,700,000" and insert in lieu thereof "$2,202,200,000".

The PRESIDING OFFICER. The clerk will report the next amendment.

The assistant legislative clerk read as follows:

On page 9, beginning with line 12, insert: Loan Allocation, Security Supporting Assistance: Of the new obligational authority appropriated under this Act for Security Supporting Assistance, not to exceed $856,800,000 shall be available for grants: *Provided*, That of the amounts available for loans, not to exceed $865,400,000 shall be available for loans with maturities in excess of thirty years following the date on which funds were originally made available under such loans.

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

Mr. INOUYE. I will be very happy to yield, sir.

Mr. ALLEN. This is a similar matter to the matter we had up on the first amendment.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. I yield——

Mr. ALLEN. Would the Senator yield 10 minutes?

Mr. INOUYE. Ten minutes.

Mr. ALLEN. May I ask unanimous consent that the time be equally divided inasmuch as I seek to engage in colloquy with the distinguished manager of the bill? I ask that unanimous consent.

Mr. SCHWEIKER. Is that on this amendment?

Mr. ALLEN. Yes; we are on this amendment.

Mr. President, I ask unanimous consent that the time consumed be charged equally to both sides.

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

Mr. ALLEN. I would like to inquire as to how much money in all is available for a loan in this area inasmuch as this amendment would allow $856,800,000 to be loaned with maturities in excess of 30 years, and I assume that would mean up to 100 years, for that matter, because that would be in excess of 30 years. How much is the total fund of which this amount is carved out for loans in excess of 30 years?

Mr. INOUYE. The gross amount is $1,065,400,000.

Mr. ALLEN. In other words, approximately 80 percent of these loans can go up to 100 years; is that right? You said less than $1.1 billion, so apparently some 80 percent of these loans can go up as high as 50, 60, 100 years.

Mr. INOUYE. Forty years.

Mr. ALLEN. It just says in excess of 30 years.

Mr. INOUYE. In excess of 30 years. In other words, the others will have to be matured in 30 years——

Mr. ALLEN. Or less.

Mr. INOUYE. Or less.

Mr. ALLEN. Yes. But 80 percent of them——

Mr. INOUYE. I would like to point out to the Senator, if I may, this is the first time Congress has attempted to allocate the loans under this program, security supporting assistance, in different maturities. Up until now the officials of different administrations have insisted that all of the loans be made on a 40-year basis. We decided——

Mr. ALLEN. There is nothing here that even limits it to 40 years. It just says you can lend 80 percent of it approximately in loans with maturities in excess of 30 years, with no ceiling.

What disturbs me is that——

Mr. INOUYE. There is a ceiling which is set by the authorization bill, and the ceiling is 40 years.

Mr. ALLEN. Yes; but this does not refer to any ceiling. It says this could be a new authority with the go-ahead of whatever language there is now. This would be an act of Congress.

Mr. INOUYE. The authorization would control this section. All this says is it can mature any time between 30 and 40 years.

Mr. ALLEN. But the section does not say that, of course. I think it is fine that the distinguished Senator says the committee is saying that some of these loans can be made in excess of 30 years. But why did you pick 20 percent as the number or the percentage that had to be under 30 years? Would not a much higher percentage be more in order?

Mr. INOUYE. This is the first time it has been attempted. I should point out to the Senator this step was taken with the disagreement on the part of the administration.

Mr. ALLEN. Will these loans be made to sovereign nations?

Mr. INOUYE. These are loans being

made primarily to Egypt, Syria, Jordan, and Israel.

Mr. ALLEN. I wonder why we would lend for such a long term?

Mr. INOUYE. Because of their present economic condition.

Mr. ALLEN. You do not think they are going to improve in the next 30 years then?

Mr. INOUYE. Well, for example, in the case of Israel, as the Senator is well aware, the income of the average wage earner in the State of Israel is at the present time approximately $3,400. Of that amount, 70 percent is subject to taxes, involuntary purchases of bonds, and other assessments. In other words, average Israeli wage earners are the highest-taxed people in the world.

Furthermore, because of the present circumstances, 35 percent of the gross national product of the State of Israel is now being set aside for defensive purposes as compared to approximately 6 percent in the United States.

From any calculation this is a very high percentage to be set aside for purposes of warfare, whether defensive or offensive.

The per capita income in Egypt is at present $280. The Secretary of State, as the Senator is well aware, is presently visiting these countries. He is now, I believe, in Amman conferring with King Hussein. He is hoping that, together with the program in this bill and his persuasive power, he will be able to bring the parties together and finally resolve their differences. As long as their differences exist there is always the possibility that the United States, because of our friendly relations with Israel, may get involved.

The Middle East is very important to the United States, not just because of cultural reasons but for economic reasons as well. This is where the oil is.

Therefore, when we took this initiative, we realized it was a modest attempt, but we felt if we cut further beyond the 20 percent it would make the Secretary's job that much more difficult.

Mr. ALLEN. Well, now actually with the economic conditions of some of these nations they really are not economically capable of conducting a war unless the United States furnishes the money for both sides to be able to go to war.

I have noted these appropriations in recent years as between Egypt and Israel pretty well balance off. I believe in this bill $785 million goes to Israel, and $750 million goes to Egypt. So actually we are providing the capability for both nations to wage war against each other; is that not correct?

Mr. INOUYE. No. There is a technical difference. We are providing not only economic assistance to the State of Israel, we are also providing military assistance. In the case of Egypt that is not the case.

Mr. ALLEN. It is the practice of Congress after some of these loans have been on the books for a year or two or three to come in and forgive these loans, turn them into grants.

I wonder if the Senator could tell the Senate how much volume in dollars has been converted from a loan to a gift under this type of loan in the last 3 years, I will ask?

Mr. INOUYE. In the case of security supporting assistance loans to the Middle East countries, I am happy to advise the Senator that all of the loans have been paid on time.

Mr. ALLEN If they are able to do that it looks like they would not need this in excess of 30 years if they are able to do so well.

Mr. INOUYE. But, as the Senator knows, the payments come as they mature, and these are long-term loans with no interest during the first 10 years.

Mr. ALLEN. Yes.

Possibly their ability to repay has come in part from the fact that much of it has been forgiven; is that correct? I say possibly their ability to be current on some of these loans comes about by reason on the conversion of the loans into grants; is that correct?

Mr. INOUYE. No, the bill sets aside a certain amount of grants and certain amount of loans.

Mr ALLEN. I know. But even after the loans have been made is it not the Senator's understanding that loans on occasion have been forgiven or granted?

Mr. INOUYE. Not in the past 3 years.

Mr. ALLEN. To recipient countries.

Mr. INOUYE. It has not been done with the concurrence of the Appropriations Committee.

Mr. ALLEN. What?

Mr INOUYE. The Appropriations Committee has not approved any transfer of an account from the loan to the grant portfolio.

Mr. ALLEN. Is it not a fact, though, that some loans have been turned into grants by being forgiven?

Mr. INOUYE. The Senator is correct, but if we are speaking of this account, none of the loans have been forgiven or made into grants. If the Senator is speaking of loans that were made in the past to countries like India, Pakistan, Bangladesh; yes, some of these loans have been either modified, forgiven, or made into grants.

Mr. ALLEN. None to the Mideast countries?

Mr. INOUYE None to the Middle East.

Mr. ALLEN. I wish the Senator would check on that. I wish the Senator would check on this information while we are discussing the bill. Later on we might go back into that.

Mr. INOUYE. If the Senator has different information, I would like to receive it now.

Mr. ALLEN. What did the Senator say?

Mr INOUYE. If the Senator has information which would raise a question, I would be pleased to receive it.

Mr. ALLEN. I wanted the Senator to advise me inasmuch as he has the staff facilities on this and I will make query independently. I was asking for information.

Mr. INOUYE. As I have been trying to point out, there are many accounts in this bill, but, as far as this specific account is concerned, the loans have been properly made; and at maturity dates, payments have been made; and none of these loans have been converted or modified into grants.

However, in other programs, for example, Public Law 480, payments are made in local currencies. In the country of India payments were to be made in local currency, in Indian rupees, which are soft currency funds. We had accumulated over a $3 billion equivalent in rupees, as the Senator is aware, over a period of many years, and we forgave the Indian Government over $2 billion of that amount.

Mr. ALLEN. Who has the power to forgive these loans? Does the executive have that power?

Mr. INOUYE. With the concurrence of Congress.

Mr. ALLEN. They do not have authority on their own to forgive?

Mr. INOUYE. They can renegotiate.

Mr. ALLEN. Or declare amnesty on it? They do not have authority to do that.

Is the Senator wedded to the $865 million figure? Would the Senator be willing to reduce that down to a 50-percent level in excess of 30-year loans?

Mr. INOUYE. We have studied this matter at great depth because this is the first time this allocation is being made.

The administration, in submitting its proposal for loans, had done so under the assumption that the loans would be for 40 years, and what we are doing now is to change that. We feel that the 20 percent is a prudent amount as a beginning. I can assure the Senator from Alabama that the next fiscal year we will confer and advise the administration that arrangements should be made to increase the portfolio for loans of less than 30 years. But I would think that at this stage to reduce it further would be disruptive of the Secretary's peace mission at the present time.

Mr. ALLEN. I thank the Senator for this information.

Mr. INOUYE. I yield back the remainder of my time.

Mr. ALLEN. I yield.

Mr. HARRY F. BYRD, JR. Could I ask one question in that regard?

Mr. INOUYE. Yes.

Mr. HARRY F. BYRD, JR. Would it help to serve the concerns of Senator ALLEN and also take care of the Senator's concerns if we were to insert in excess of 30 years but not beyond 40 years? The Senator's feeling is that that is not necessary, I assume.

Mr. INOUYE. Because the controlling law in the authorizing bill sets the limit at 40 years.

Mr. ALLEN. It would not hurt anything to put in the 40, though, would it?

Mr. INOUYE. Not at all.

Mr. ALLEN. To accept that.

Mr. INOUYE. We felt it would be redundant, that is all.

Mr. ALLEN. It is not redundant in this bill. We have to run down another bill to find the redundancy.

Mr. INOUYE. In other words, on line 17 after the word 30 years but not to exceed 40 years.

Mr. HARRY F. BYRD, JR. Correct.

Mr. ALLEN. Will the Senator make that modification?

Mr. INOUYE. Mr. President, I ask

unanimous consent that on line 17 after the words "30 years," the following be inserted, "but not to exceed 40 years."

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

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. ALLEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 10, line 6, strike "$215,200,000" and insert "$210,200,000";

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 740

Mr. INOUYE. Mr. President, I believe my distinguished colleague, Senator HEINZ, wishes to submit an amendment which does not affect the committee amendment just announced, and I ask unanimous consent that we take Senator HEINZ' amendment at this time.

The PRESIDING OFFICER. Is there objection?

Mr. SCHWEIKER. Mr. President, I want to say that I support my colleague from Pennsylvania and feel it is a good amendment, and I am pleased to join with the chairman of the committee in accepting the amendment.

The PRESIDING OFFICER. Hearing no objection, the amendment will be stated.

Mr. HEINZ. Mr. President, I believe the amendment is at the desk.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes unprinted amendment No. 740.

Mr. HEINZ. 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 28, between lines 12 and 13, insert the following:

"SEC. 507. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise.".

Mr. HEINZ. Mr. President, the purpose of my amendment is to give the President a flexible policy tool to deal with the increasing threat—and reality—of international terrorism.

International terrorism in our society has grown at a frightening rate. Terrorist acts have occurred throughout the world; no nation is safe from the violence and horror of this phenomenon. Terrorists have struck children, travelers, and athletes. There is no pattern to their chaos and no jurisdiction for their disregard of laws and governments. A brief review of terrorist acts will illustrate the randomness and violence with which they act.

Our recent plague of international terrorism began escalating nearly a decade ago. On August 28, 1968, the U.S. Ambassador to Guatemala, John Gordon Mein, was assassinated by Armed Forces of the Revolution. He was the first U.S. Ambassador ever assassinated. Previously, in January 1968, two U.S. military attachés had been slain in Guatemala. Just 2 years later, the Popular Front for the Liberation of Palestine (PFLP) tried to hijack five airliners in 1 week: an attempt on El Al was foiled; a Pan Am plane was flown to Cairo and blown up; Swissair, TWA, and BOAC jets were hijacked to Dawson's Field, Jordan, and destroyed. This action precipitated a civil war in Jordan.

After 1970, assaults on diplomats increased. The Quebec Minister of Labour and Immigration, Pierre Laporte, was kidnaped by a Quebec separatist movement and later found murdered. In May 1971, guerrillas of the Turkish People's Liberation Army kidnaped and then killed the Israeli Consul General in Istanbul. In November 1971, Jordanian Prime Minister Wasfi Tal was also killed—this time by Black September terrorists in Cairo.

While the list of public figures murdered in terrorist plots grew, so did the literally hundreds of civilian casualties. Perhaps the most horrifying terrorist strike was the Black September attack on Israeli athletes at the Olympic games in Munich, Germany. With world attention focused on this traditional event, terrorists slaughtered 11 Israelis; mastermind Abu Daoud was ultimately apprehended, arrested, and then released by France on January 11, 1977. Other infamous massacres of innocent people include the Lod Airport killings on May 30, 1972, the bombing of the Tower of London on July 17, 1974, and the Palestinian bombing of a TWA flight from Tel Aviv to New York on September 8, 1974. 26 were killed and over 70 injured at Lod; 42 were killed or injured in London; all 88 passengers died in the TWA attack. Last summer, on June 27, 1976, another major hijacking occurred. Guerrillas commandeered an Air France jetliner departing from Athens to Uganda, threatening to kill all passengers and crew. Only a courageous July 4 rescue by Israel soldiers saved innocent lives and ended a week of terror.

Mr. President, this amendment is very simple. It prohibits any of the direct funds or Export-Import Bank funds in this bill from going to any government aiding or abetting international terrorism by granting sanctuary to individuals or groups which have committed acts of terrorism.

There are several things the amendment does not do. It does not affect those funds being channeled through international financial institutions or other multilateral organizations. It does not specify particular countries which will be denied funding. It does not specify particular acts of terrorism which would be covered by the amendment.

The objective of this amendment is to provide the President with a policy tool that can be used to show other nations we are serious about combating terrorism, without locking him into an inflexible structure that provides no maneuvering room. In providing this policy tool we should not simply try to punish those nations that have pursued courses of action we do not like, but rather we should give the President a lever he can use to encourage policy changes by other governments. Arbitrary aid cutoffs on our part provide no behavior modification incentives and turn our policy into one of retribution.

My amendment, on the other hand, gives maximum flexibility to the President by leaving to him the judgment of when a government is aiding or abetting terrorism, and by permitting him to waive this prohibition if our national security requires it.

Likewise, the operative words in the amendment—"aid or abets" and "act of international terrorism"—are deliberately broad in order to make clear that our particular concern is with a nation's commitment to the cause of terrorism as exemplified by a pattern of behavior. In particular, this amendment seeks to deal with those committed states whose support of international terrorists is a systematic element of their policies, as exemplified by the granting of sanctuary. Other actions which should concern us include active financial support of terrorist groups, permitting such groups to exist openly and train freely within a country's borders, and violating any of the three international conventions on aviation and aircraft that deal with terrorist activities—Tokyo 1963, The Hague 1970, and Montreal 1971.

An important exclusion in the amendment is its omission of international financial institutions. These institutions, such as the World Bank and the Inter-American Development Bank have proved to be responsible and effective facilitators of economic development. Their continued credibility and independence hinges on their ability to make judgments in economic rather than political terms. It has already been made clear that these institutions cannot accept funds with strings attached, and it serves no useful purpose to seek to attach such strings.

Moreover, the conference report on the authorization for international financial institution funding makes clear that our representatives to the institutions shall use their voice and vote to advance the cause of human rights, the latter term specifically defined to include denying assistance to governments which "provide refuge to individuals committing acts of international terrorism by hijacking aircraft." Thus a similar principle has already been incorporated into the international financial institutions legislation, and there is no need for further action at this point.

Given the way the amendment is drafted and the fact that decisions under it are left to the President, it is difficult to estimate at this point what immediate effect there might be. My concern, of course, is not with immediate effect but

with the usefulness of this policy tool throughout the coming year, but nonetheless a few words should be said about what impact it is likely to have. In doing so, I am somewhat hesitant to mention specific countries, since it is not my intention that Congress make that judgment. Two appropriate examples, however, of countries which by anybody's standards might be regarded as having aided or abetted international terrorism are Libya and Iraq.

Perhaps the nation most responsible for aid to terrorism is Libya. In recent years, Libya has been the resting and planning place for several international terrorists: Illich Ramirez Sanchez—better known as "Carlos"—mastermind of the 1975 raid on the OPEC ministers conference in Vienna; the Japanese Red Army, JRA, attackers of the American Consulate in Kuala Lumpur; Hans Joachim Klein, a member of the Carlos attack team at Vienna; Wilfred Base, another Carlos associate killed last June by Israeli soldiers during the rescue of hostages in Entebbe, Uganda. The Libyans, however, supply more than asylum to their "guests."

With huge oil revenues and stockpiles of Soviet weaponry, Libya is the traditional armorer and financier of terrorist groups. The Christian Science Monitor reports that terrorists from Eritrea, Syria, Somalia, South Yemen, Chad, Morocco, Tunisia, Thailand, the Philippines, Panama, Sardinia, and Corsica all have received Libyan assistance. In 1972, Libyan aid to the Black September killers of Israeli athtletes supposedly totaled many millions of dollars; some intelligence sources also claim that Carlos was rewarded with between $1 million and $2 million for kidnapping the OPEC oil ministers. Libya is considered to be the source of Soviet rocket launchers that the Irish Republican Army has used against police and military outposts in Northern Ireland. They are also responsible for the distribution of Strela missiles seized in an attempted Palestinian attack at Rome Airport in 1973. Three of the terrorists arrested were later flown to Tripoli, the capital of Libya.

The situation in Iraq is also grim. The Abu Ali Iyad training camp currently covers several miles in central Iraq. Equipped with its own arms factory, the camp is filled with Palestinians and others receiving guerrilla training from al-Fatah defector Abu Nidal. There is little doubt that terrorist sympathy is not a new development in Iraq. Black June terrorists operating from this country appear to be responsible for a string of incidents in 1976: the attack on Damascus' Semiramus Hotel in September, assaults on Syrian embassies in Rome and Islamabad in October, the attack on Amman's Intercontinental Hotel in November, and the attempted assassination of Syrian Foreign Minister Abdel Khaddam in December. The Iraqi Black June attacks on moderate Arab states stem from a vigorous "rejectionist" policy, that is, a refusal to accept a negotiated settlement to the Arab-Israeli dispute. It is noteworthy in this regard, that acts of terrorism growing out of the Middle East situation have been directed against both Arabs and Israelis, and that both sides in the controversy have an interest in controling these fanatics.

Iraq also now seems to be the main base for the Popular Front for the Liberation of Palestine, PFLP, and its terrorist planner Waddieh Haddad. The extent of their terrorist-aiding activity remains high. The Iraqi mission to the United Nations was recently discovered purchasing and distributing 200 fully automatic machine guns. These weapons, experts state, were "ideal for terrorists."

With respect to both these countries our formal relations are not extensive, and the short-term effect of this amendment, if the President were to make such a finding in either of these cases, would not be great. Neither country receives direct assistance, either economic or military, from the United States.

The major immediate impact would be with respect to the Export-Import Bank. In fiscal 1976 Libya received slightly more than $6.5 million in short term insurance, just under $1 million in medium term insurance, and one loan of $180,000 from the Bank. Prior year extensions were at somewhat lower levels.

Likewise, in fiscal 1976, Iraq received approximately $3.3 million in short term insurance. In both cases, assistance like this would be precluded were the President to determine that Libya and Iraq were aiding and abetting international terrorism by granting sanctuary.

There are, of course, other countries periodically mentioned as ones whose governments assist terrorists, notably the Democratic People's Republic of Yemen, but in any case, I think it is fair to say that the immediate impact of this amendment, if any, will be with respect to Export-Import Bank activity rather than our direct assistance programs. I would reiterate, however, that any cutoff of funds is not automatic and is not specified in this amendment. The President will have discretion to use this limitation in ways that will discourage other states from promoting terrorism.

It is my belief that this amendment represents a strong statement of our commitment to deal forcefully with countries that support international lawlessness and fanaticism, and at the same time provides a flexible tool for the President in actually dealing with other nations. It will not force us into precipitous or unwise action, but it will give the President a lever that he badly needs to influence the irresponsible behavior of other nations.

In sum, terrorism results in deplorable acts perpetrated on individual and innocent human beings. We are dealing with international outlaws who fear no government or established order, and who show no compassion or humanity toward their victims. Terrorism is the grossest violation of human rights. We must act first and foremost to stamp out terrorism if our commitment to human rights is to have meaning and credibility. I am sure we all feel that an effective law must be passed to curb the freedom of the terrorist, and I urge my colleagues to support this amendment.

Mr. President, I have discussed this amendment with the managers of the bill, the distinguished Senator from Hawaii (Mr. INOUYE) and the distinguished Senator from Pennsylvania (Mr. SCHWEIKER), and I understand that they feel they can accept the amendment, and if that is correct, I would be glad to yield back the remainder of my time.

Mr. CLARK. Will the Senator from Pennsylvania mind a few sentences of explanation?

Mr. HEINZ. Certainly.

Mr. INOUYE. I shall explain it.

This amendment provides that none of the funds appropriated or made available by this act to the Export-Import Bank and none of the funds appropriated by this act for foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise.

Mr. CLARK. I thank the Senator.

Mr. INOUYE. Mr. President, I yield back the remainder of my time and I am pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. I shall proceed for 30 seconds to thank the managers of the bill for their very great courtesy and I appreciate their understanding in taking this amendment.

Mr. INOUYE. I thank the Senator very much.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on behalf of Mr. INOUYE, I take such time as I may consume on the bill.

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

## CONSIDERATION OF CERTAIN MEASURES ON THE UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the measures on the Unanimous Consent Calendar which have been cleared, all of which have been cleared at least 24 hours.

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

## FAIR DEBT COLLECTION PRACTICES ACT

The Senate proceeded to consider the bill (H.R. 5294) to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors, which had been reported from the Committee on Banking, Housing, and Urban Affairs

with an amendment to strike all after the enacting clause and insert the following:

That the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VIII—DEBT COLLECTION PRACTICES



"§ 801. Short title

"This title may be cited as the 'Fair Debt Collection Practices Act'.

"§ 802. Findings and purpose

"(a) There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.

"(b) Existing laws and procedures for redressing these injuries are inadequate to protect consumers.

"(c) Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

"(d) Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.

"(e) It is the purpose of this title to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

"§ 803. Definitions

"As used in this title—

"(1) The term 'Commission' means the Federal Trade Commission.

"(2) The term 'communication' means the conveying of information regarding a debt directly or indirectly to any person through any medium.

"(3) The term 'consumer' means any natural person obligated or allegedly obligated to pay any debt.

"(4) The term 'creditor' means any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.

"(5) The term 'debt' means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

"(6) The term 'debt collector' means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by clause (G) of the last sentence of this paragraph, the term includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. For the purpose of section 808(6), such term also includes any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the enforcement of security interests. The term does not include—

"(A) any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

"(B) any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

"(C) any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties;

"(D) any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

"(E) any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors;

"(F) any attorney-at-law collecting a debt as an atttorney on behalf of and in the name of a client; and

"(G) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; (ii) concerns a debt which was originated by such person; (iii) concerns a debt which was not in default at the time it was obtained by such person; or (iv) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor.

"(7) The term 'location information' means a consumer's place of abode and his telephone number at such place, or his place of employment.

"(8) The term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

"§ 804. Acquisition of location information

"Any debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall—

"(1) identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his employer;

"(2) not state that such consumer owes any debt;

"(3) not communicate with any such person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information;

"(4) not communicate by post card;

"(5) not use any language or symbol on any envelope or in the contents of any communication effected by the mails or telegram that indicates that the debt collector is in the debt collection business or that the communication relates to the collection of a debt; and

"(6) after the debt collector knows the consumer is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period of time to communication from the debt collector.

"§ 805. Communication in connection with debt collection

"(a) COMMUNICATION WITH THE CONSUMER GENERALLY.—Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt—

"(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antimeridian and before 9 o'clock post-meridian, local time at the consumer's location;

"(2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; or

"(3) at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.

"(b) COMMUNICATION WITH THIRD PARTIES.—Except as provided in section 804, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.

"(c) CEASING COMMUNICATION.—If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt, except—

"(1) to advise the consumer that the debt collector's further efforts are being terminated;

"(2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or

"(3) where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy.

If such notice from the consumer is made by mail, notification shall be complete upon receipt.

"(d) For the purpose of this section, the term 'consumer' includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator.

"§ 806. Harassment or abuse

"A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

"(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

"(3) The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of section 603(f) or 604(3) of this Act.

"(4) The advertisement for sale of any debt to coerce payment of the debt.

"(5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

"(6) Except as provided in section 804, the placement of telephone calls without meaningful disclosure of the caller's identity.

"§ 807. False or misleading representations

"A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) The false representation or implication that the debt collector is vouched for, bonded by, or affiliated with the United States or any State, including the use of any badge, uniform, or facsimile thereof.

"(2) The false representation of—

"(A) the character, amount, or legal status of any debt; or

"(B) any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt.

"(3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.

"(4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action.

"(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

"(6) The false representation or implication that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to—

"(A) lose any claim or defense to payment of the debt; or

"(B) become subject to any practice prohibited by this title.

"(7) The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer.

"(8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

"(9) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval.

"(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

"(11) Except as otherwise provided for communications to acquire location information under section 804, the failure to disclose clearly in all communications made to collect a debt or to obtain information about a consumer, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose.

"(12) The false representation or implication that accounts have been turned over to innocent purchasers for value.

"(13) The false representation or implication that documents are legal process.

"(14) The use of any business, company, or organization name other than the true name of the debt collector's business, company, or organization.

"(15) The false representation or implication that documents are not legal process forms or do not require action by the consumer.

"(16) The false representation or implication that a debt collector operates or is employed by a consumer reporting agency as defined by section 603(f) of this Act.

"§ 808. Unfair practices

"A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

"(2) The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the debt collector's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.

"(3) The solicitation by a debt collector of any postdated check or other postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.

"(4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.

"(5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

"(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if—

"(A) there is no present right to possession of the property claimed as collateral through an enforceable security interest;

"(B) there is no present intention to take possession of the property; or

"(C) the property is exempt by law from such dispossession or disablement.

"(7) Communicating with a consumer regarding a debt by post card.

"(8) Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.

"§ 809. Validation of debts

"(a) Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—

"(1) the amount of the debt;

"(2) the name of the creditor to whom the debt is owed;

"(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

"(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

"(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

"(b) If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

"(c) The failure of a consumer to dispute the validity of a debt under this section may not be construed by any court as an admission of liability by the consumer.

"§ 810. Multiple debts

"If any consumer owes multiple debts and makes any single payment to any debt collector with respect to such debts, such debt collector may not apply such payment to any debt which is disputed by the consumer and, where applicable, shall apply such payment in accordance with the consumer's directions.

"§ 811. Legal actions by debt collectors

"(a) Any debt collector who brings any legal action on a debt against any consumer shall—

"(1) in the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or

"(2) in the case of an action not described in paragraph (1), bring such action only in the judicial district or similar legal entity—

"(A) in which such consumer signed the contract sued upon; or

"(B) in which such consumer resides at the commencement of the action.

"(b) Nothing in this title shall be construed to authorize the bringing of legal actions by debt collectors.

"§ 812. Furnishing certain deceptive forms

"(a) It is unlawful to design, compile, and furnish any form knowing that such form would be used to create the false belief in a consumer that a person other than the creditor of such consumer is participating in the collection of or in an attempt to collect a debt such consumer allegedly owes such creditor, when in fact such person is not so participating.

"(b) Any person who violates this section shall be liable to the same extent and in the same manner as a debt collector is liable under section 813 for failure to comply with a provision of this title.

"§ 813. Civil liability

"(a) Except as otherwise provided by this section, any debt collector who fails to com-

ply with any provision of this title with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damage sustained by such person as a result of such failure;

"(2)(A) in the case of any action by an individual, such additional damages as the court may allow, but not exceeding $1,000; or

"(B) in the case of a class action, (i) such amount for each named plaintiff as could be recovered under subparagraph (A), and (ii) such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed the lesser of $500,000 or 1 per centum of the net worth of the debt collector; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs.

"(b) In determining the amount of liability in any action under subsection (a), the court shall consider, among other relevant factors—

"(1) in any individual action under subsection (a)(2)(A), the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which such noncompliance was intentional; or

"(2) in any class action under subsection (a)(2)(B), the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, the resources of the debt collector, the number of persons adversely affected, and the extent to which the debt collector's noncompliance was intentional.

"(c) A debt collector may not be held liable in any action brought under this title if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

"(d) An action to enforce any liability created by this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within one year from the date on which the violation occurs.

"(e) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any advisory opinion of the Commission, notwithstanding that after such act or omission has occurred, such opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"§ 814. Administrative enforcement

"(a) Compliance with this title shall be enforced by the Commission, except to the extent that enforcement of the requirements imposed under this title is specifically committed to another agency under subsection (b). For purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of this title shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.

"(b) Compliance with any requirements imposed under this title shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Federal Reserve Board; and

"(C) banks the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 5(d) of the Home Owners Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

"(4) the Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts;

"(5) the Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or any foreign air carrier subject to that Act; and

"(6) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

"(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title any other authority conferred on it by law, except as provided in subsection (d).

"(d) Neither the Commission nor any other agency referred to in subsection (b) may promulgate trade regulation rules or other regulations with respect to the collection of debts by debt collectors as defined in this title.

"§ 815. Reports to Congress by the Commission

"(a) Not later than one year after the effective date of this title and at one-year intervals thereafter, the Commission shall make reports to the Congress concerning the administration of its functions under this title, including such recommendations as the Commission deems necessary or appropriate. In addition, each report of the Commission shall include its assessment of the extent to which compliance with this title is being achieved and a summary of the enforcement actions taken by the Commission under section 814 of this title.

"(b) In the exercise of its functions under this title, the Commission may obtain upon request the views of any other Federal agency which exercises enforcement functions under section 814 of this title.

"§ 816. Relation to State laws

"This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to debt collection practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection provided by this title.

"§ 817. Exemption for State regulation

"The Commission shall by regulation exempt from the requirement of this title any class of debt collection practices within any State if the Commission determines that under the law of that State that class of debt collection practices is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

"§ 818. Effective date

"This title takes effect upon the expiration of six months after the date of its enactment, but section 809 shall apply only with respect to debts for which the initial attempt to collect occurs after such effective date.".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. RIEGLE. This legislation would add a new title to the Consumer Credit Protection Act entitled the Fair Debt Collection Practices Act. Its purpose is to protect consumers from a host of unfair, harassing, and deceptive debt collection practices without imposing unnecessary restrictions on ethical debt collectors. This bill, which substantially modifies the House's legislation, was strongly supported by consumer groups, labor unions, State and Federal law enforcement officials, and by both national organizations which represent the debt collection profession, the American Collectors Association and Associated Credit Bureaus.

NEED FOR THIS LEGISLATION

Mr. President, debt collection abuse by third-party debt collectors is a widespread and serious national problem. Collection abuse takes many forms, including obscene or profane language, threats of violence, telephone calls at unreasonable hours, misrepresentation of a consumer's legal rights, disclosing a consumer's personal affairs to friends, neighbors, or an employer, obtaining information about a consumer through false pretense, impersonating public officials and attorneys, and simulating legal process.

Debt collection by third parties is a substantial business which touches the lives of many Americans. There are more than 5,000 collection agencies across the country, each averaging 8 employees. Last year, more than $5 billion in debts were turned over to collection agencies. One trade association which represents approximately half of the Nation's independent collectors states that in 1976 its members contacted 8 million consumers.

Hearings before the Consumer Affairs Subcommittee revealed that independent debt collectors are the prime source of egregious collection practices. While unscrupulous debt collectors comprise only

a small segment of the industry, the suffering and anguish which they regularly inflict is substantial. Unlike creditors, who generally are restrained by the desire to protect their good will when collecting past due accounts, independent collectors are likely to have no future contact with the consumer and often are unconcerned with the consumer's opinion of them. Collection agencies generally operate on a 50-percent commission, and this has too often created the incentive to collect by any means.

The primary reason why debt collection abuse is so widespread is the lack of meaningful legislation on the State level. While debt collection agencies have existed for decades, there are 13 States, with 40 million citizens, that have no debt collection laws. These States are Alabama, Delaware, Georgia, Kansas, Kentucky, Mississippi, Missouri, Montana, Ohio, Oklahoma, Rhode Island, South Carolina, and South Dakota. Another 11 States—Alaska, Arkansas, Indiana, Louisiana, Nebraska, New Jersey, Oregon, Pennsylvania, Utah, Virginia, and Wyoming—with another 40 million citizens, have laws which are so weak or incomplete that they provide little or no effective protection. Thus, 80 million Americans, nearly 40 percent of our population, have no meaningful protection from debt collection abuse.

While 37 States and the District of Columbia do have laws regulating debt collectors, only a small number are comprehensive statutes which provide a civil remedy. As an example of ineffective State laws, of the 16 States which regulate by debt collection boards, 12 require by law that a majority of the board be comprised of debt collectors.

The Banking Committee has found that collection abuse has grown from a State problem to a national problem. The use of WATS lines by debt collectors has led to a dramatic increase in interstate collections. State law enforcement officials have pointed to this development as a prime reason why Federal legislation is necessary, because State officials are unable to act against unscrupulous debt collectors who harass consumers from another State.

One of the most frequent fallacies concerning debt collection legislation is the contention that the primary beneficiaries are "deadbeats." In fact, however, there is universal agreement among scholars, law enforcement officials, and even debt collectors that the number of persons who willfully refuse to pay just debts is miniscule. Prof. David Caplovitz, the foremost authority on debtors in default, testified that after years of research he has found that only 4 percent of all defaulting debtors fit the description of "deadbeat." This conclusion is supported by the National Commission on Consumer Finance which found that creditors list the willful refusal to pay as an extremely infrequent reason for default.

The Commission's findings are echoed in all major studies: The vast majority of consumers who obtain credit fully intend to repay their debts. When default occurs, it is nearly always due to an unforeseen event such as unemployment, overextension, serious illness, or marital difficulties or divorce.

Mr. President, the serious and widespread abuses in this area and the inadequacy of existing State and Federal laws make this legislation appropriate and highly necessary.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–382), explaining the purposes of the measure.

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

NATURE AND PURPOSE OF THE BILL

This legislation would add a new title to the Consumer Credit Protection Act entitled the Fair Debt Collection Practices Act. Its purpose is to protect consumers from a host of unfair, harassing, and deceptive debt collection practices without imposing unnecessary restrictions on ethical debt collectors. This bill was strongly supported by consumer groups, labor unions, State and Federal law enforcement officials, and by both national organizations which represent the debt collection profession, the American Collectors Association and Associated Credit Bureaus.

NEED FOR THIS LEGISLATION

The committee has found that debt collection abuse by third party debt collectors is a widespread and serious national problem. Collection abuse takes many forms, including obscene or profane language, threats of violence, telephone calls at unreasonable hours, misrepresentation of a consumer's legal rights, disclosing a consumer's personal affairs to friends, neighbors, or an employer, obtaining information about a consumer through false pretense, impersonating public officials and attorneys, and simulating legal process.

Debt collection by third parties is a substantial business which touches the lives of many Americans. There are more than 5,000 collection agencies across the country, each averaging 8 employees. Last year, more than $5 billion in debts were turned over to collection agencies. One trade association which represents approximately half of the Nation's independent collectors states that in 1976 its members contacted 8 million consumers.

Hearings before the Consumer Affairs Subcommittee revealed that independent debt collectors are the prime source of egregious collection practices. While unscrupulous debt collectors comprise only a small segment of the industry, the suffering and anguish which they regularly inflict is substantial. Unlike creditors, who generally are restrained by the desire to protect their good will when collecting past due accounts, independent collectors are likely to have no future contact with the consumer and often are unconcerned with the consumer's opinion of them. Collection agencies generally operate on a 50-percent commission, and this has too often created the incentive to collect by any means.

The primary reason why debt collection abuse is so widespread is the lack of meaningful legislation on the State level. While debt collection agencies have existed for decades, there are 13 States, with 40 million citizens, that have no debt collection laws. These States are Alabama, Delaware, Georgia, Kansas, Kentucky, Mississippi, Missouri, Montana, Ohio, Oklahoma, Rhode Island, South Carolina, and South Dakota. Another 11 States (Alaska, Arkansas, Indiana, Louisiana, Nebraska, New Jersey, Oregon, Pennsylvania, Utah, Virginia and Wyoming) with another 40 million citizens, have laws which in the committee's opinion provide little or no effective protection. Thus, 80 million Americans, nearly 40 percent of our population, have no meaningful protection from debt collection abuse.

While 37 States and the District of Columbia do have laws regulating debt collectors, only a small number are comprehensive statutes which provide a civil remedy. As an example of ineffective State laws, of the 16 states which regulate by debt collection boards, 12 require by law that a majority of the board be comprised of debt collectors.

The Committee has found that collection abuse has grown from a State problem to a national problem. The use of WATS lines by debt collectors has led to a dramatic increase in interstate collections. State law enforcement officials have pointed to this development as a prime reason why federal legislation is necessary, because State officials are unable to act against unscrupulous debt collectors who harass consumers from another State.

One of the most frequent fallacies concerning debt collection legislation is the contention that the primary beneficiaries are "deadbeats." In fact, however, there is universal agreement among scholars, law enforcement officials, and even debt collectors that the number of persons who willfully refuse to pay just debts is miniscule. Prof. David Caplovitz, the foremost authority on debtors in default, testified that after years of research he has found that only 4 percent of all defaulting debtors fit the description of "deadbeat." This conclusion is supported by the National Commission on Consumer Finance which found that creditors list the willful refusal to pay as an extremely infrequent reason for default.

The Commission's findings are echoed in all major studies: the vast majority of consumers who obtain credit fully intend to repay their debts. When default occurs, it is nearly always due to an unforeseen event such as unemployment, overextension, serious illness, or marital difficulties or divorce.

The committee believes that the serious and widespread abuses in this area and the inadequacy of existing State and Federal laws make this legislation necessary and appropriate.

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

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

The motion to lay on the table was agreed to.

## SILETZ INDIAN TRIBE RESTORATION ACT

Th Senate proceeded to consider the bill (S. 1560) to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized soverign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes, which had been reported from the Committee on Indian Affairs with amendments as follows:

On page 2, beginning with line 14, strike through and including line 20, and insert "the tribe, and the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended,";

On page 3, line 10, strike "order" and insert "Order";

On page 3, line 13, strike "(25 U.S.C. 691 708)" and insert "(68 Stat. 724)";

On page 4, line 3, following "roll" insert a comma and "in accordance with the terms of this Act and the tribal constitution and bylaws adopted pursuant to this Act";

On page 4, beginning with line 14, insert:

(C) he is not an enrolled member of any other tribe; or

On page 4, line 16, strike "(C)" and insert "(D)";

On page 4, line 22, following "bylaws" insert "and of this Act";

On page 6, line 1, strike "fifteen" and insert "forty-five";

On page 6, line 5, strike "thirty" and insert "sixty";

On page 6, line 22, strike "thirty' 'and insert "sixty";

On page 8, line 23, strike "this";

On page 9, beginning with line 23, strike "in each House shall give such proposed legislation priority on their calendars" and insert "of the Senate and House of Representatives";

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Siletz Indian Tribe Restoration Act".

SEC. 2. For the purposes of this Act—

(1) the term "tribe" means the Confederated Tribes of the Siletz Indians of Oregon;

(2) the term "Secretary" means the Secretary of the Interior or his authorized representative;

(3) the term "interim council" means the council elected pursuant to section 5;

(4) the term "member", when used with respect to the tribe, means a person enrolled on the membership roll of the tribe, as provided in section 4 of this Act;

(5) the term "final membership roll" means the final membership roll of the tribe published on July 20, 1956, on pages 5454—5462 of volume 21 of the Federal Register.

SEC. 3. (a) Federal recognition is hereby extended to the tribe, and the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended, except as inconsistent with specific provisions of this Act, are made applicable to the tribe and the members of the tribe. The tribe and the members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes. Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective upon enactment of this Act without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation.

(b) All rights and privileges of the tribe and of members of the tribe (other than hunting, fishing, and trapping rights) under any Federal treaty, Executive Order, agreement, or statute, or under any other authority, which have been diminished or lost under the Act of August 13, 1954 (68 Stat. 724), are hereby restored and such Act shall be inapplicable to the tribe and its members after the date of enactment of this Act.

(c) This Act shall not grant or restore any hunting, fishing, or trapping right of any nature, including any direct or procedural right or advantage, to the tribe or any member of the tribe.

(d) Except as specifically provided in this Act, nothing in this Act shall alter any contractual right or obligation, or any obligation for taxes already levied.

SEC. 4. (a) The final membership roll is declared open. The Secretary, the Interim Council, and tribal officials under the tribal constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll, in accordance with the terms of this Act and the tribal constitution and bylaws adopted pursuant to this Act.

(b) (1) Until after the initial election of tribal officers under the tribal constitution and bylaws, a person shall be a member of the tribe and his name shall be placed on the membership roll if he is living and if—

(A) his name is listed on the final membership roll;

(B) he was entitled on August 13, 1954, to be on the final membership roll but his name was not listed on that roll; or

(C) he is not an enrolled member of any other tribe; or

(D) he is a descendant of a person specified in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe or their Siletz Indian ancestors.

(2) After the initial election of tribal officials under the tribal constitution and bylaws, the provisions of the tribal constitution and bylaws and of this Act shall govern membership in the tribe.

(c) (1) Before election of the Interim Council, verification of descendancy, age, and blood shall be made upon oath before the Secretary and his determination thereon shall be final.

(2) After election of the Interim Council and before the initial election of the tribal officials, verification of descendancy, age, and blood shall be made upon oath before the Interim Council, or its authorized representative. A member of the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and files, and any other material relating to enrollment matters, to the tribal governing body.

(d) For purposes of sections 5 and 6, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

SEC. 5. (a) Within forty-five days after the date of the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within sixty days after the date of the enactment of this Act. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect nine members of the tribe to the Interim Council from among the nominees submitted to him from such general council meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 4(d) at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

(b) The Interim Council shall represent the tribe and its members in the implementation of this Act and shall be the acting tribal governing body until tribal officials are elected pursuant to section 6(c) and shall have no powers other than those given to it in accordance with this Act. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health, Education, and Welfare with respect to Federal services and benefits for the tribe and its members and to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribunal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly elected tribal governing body takes office.

(c) Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 4(d) at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

SEC. 6. (a) Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 16 of the Act of June 18, 1934 (48 Stat. 987), for the purpose of adopting a constitution and bylaws for the tribes. The election shall be held within sixty days after the Secretary has—

(1) reviewed and updated the final membership roll for accuracy, in accordance with sections 4(a), 4(b)(1), and 4(c)(1),

(2) made a final determination of all appeals filed under section 4(c)(2), and

(3) published in the Federal Register a certification copy of the membership all of the tribe.

(b) The Interim Council shall draft and distribute to each member described in section 4(d), no later than thirty days before the election under subsection (a), a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief, impartial description of the proposed constitution and bylaws. The members of the Interim Council may freely consult with members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) In any election held pursuant to subsection (a), the vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws.

(d) Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

SEC. 7. (a) This Act shall not be construed as establishing a reservation for the tribe, but any reservation for the tribe shall be established by an Act of Congress enacted after the enactment of this Act.

(b) The Secretary shall negotiate with the tribe, or with representatives of the tribe chosen by the tribe, concerning the establishment of a reservation for the tribe, and the Secretary shall, in accordance with subsections (c) and (d), develop a plan for the establishment of a reservation for the tribe and shall submit such plan, in the form of proposed legislation, to the Congress within two years after the date of enactment of this Act.

(c) To assure that legitimate State and local interests are not prejudiced by the creation of a reservation for the tribe, the Secretary, in developing a plan under subsection (b) for the establishment of a reservation, shall notify and consult with all appropriate officials of the State of Oregon, all appropriate local governmental officials in the State of Oregon and any other interested parties. Such consultation shall include the following subjects:

(1) the size and location of the reservation;

(2) the effect the establishment of the reservation would have on State and local tax revenues;

(3) the criminal and civil jurisdiction of the State of Oregon with respect to the reservation and persons on the reservation;

(4) hunting, fishing, and trapping rights of the tribe and members of the tribe, on the reservation;

(5) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and

(6) the provision of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

(d) Any plan developed under this section for the establishment of a reservation for the tribe shall provide that—

(1) any real property transferred by the tribe or members of the tribe to the Secretary shall be taken in the name of the United States in trust for the benefit of the tribe and shall be the reservation for the tribe;

(2) the establishment of such a reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation;

(3) the Secretary shall not accept any real property in trust for the benefit of the tribe or its members unless such real property is located within Lincoln County, State of Oregon;

(4) any real property taken in trust by the Secretary for the benefit of the tribe or its members shall be subject to all rights existing at the time such property is taken in trust, including liens, outstanding Federal, State, and local taxes, mortgages, outstanding indebtedness of any kind, easements, and all other obligations, and shall be subject to foreclosure and sale in accordance with the laws of the State of Oregon;

(5) the transfer of any real property to the Secretary in trust for the benefit of the tribe or its members shall be exempt from all Federal, State, and local taxation, and all such real property shall, as of the date of such transfer, be exempt from Federal, State, and local taxation; and

(6) the State of Oregon shall have civil and criminal jurisdiction with respect to the reservation and persons on the reservation in accordance with section 1360 of title 28, United States Code, and section 1162 of title 18, United States Code.

(e) The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (c) was carried out and shall include any written comments with respect to the establishment of a reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

SEC. 8. The Secretary may make such rules and regulations as are necessary to carry out the purposes of this Act.

THE SILETZ INDIAN RESTORATION ACT

Mr. HATFIELD. Mr. President, the Confederated Tribes of the Siletz Indians in Oregon were one of many tribes and bands of Northwest Indians to be terminated and abruptly cut off from Federal supervision by the Act of August 13, 1954. After 100 years of Federal supervision, following a forced march that uprooted the Siletz from their ancestral lands, the tribe was cut off from all Federal services and benefits, and summarily told by a capricious Government that they were to give up their cultural identity and be absorbed into the dominant white society.

At the time of termination, the once magnificent Siletz Reservation of some 1.4 million acres had dwindled to only 7,900 acres. In only a few years that, too, was gone, as the Siletz were unable to attain the measure of economic prosperity and stability required to keep their land. The tribe dispersed, officially shorn of its "Indianness."

The ostensible purpose of termination, that being to end what had come to be seen as a paternalistic relationship in which the self-determination and prosperity of Native Americans was stulified by an unresponsive bureaucracy, was meritorious, and indeed some tribes welcomed it. But others had it imposed upon them by a unilateral action of the Federal Government, destroying the historic trust relationship established by 200 years of treaties, statutes, and other agreements.

The impact of termination upon the Siletz Indians was severe, as it has been with other tribes. Instead of being assimilated into the dominant white society, the Siletz have suffered as outcasts, and have not been able to attain the economic position on which acceptance into the dominant culture depends. Statistics compiled in a 1975 survey of the social and econcmic status of the tribe bear grim witness to their plight: 44 percent unemplovment; an average family income of $3,333; a 44 percent dropout rate in high school; high incidences of disease, alcoholism, and early death.

Mr. President, I am convinced that this situation exists as a direct result of the misguided policy of termination. I believe it can be corrected if we restore Federal recognition to the Siletz, thereby making them eligible for health, education, and welfare benefits and services provided to American Indians by the Federal Government. In so doing, we should not attempt to restore the paternalistic relationship which termination sought to end. Rather, we need to maintain a philosophy of self-determination in the context of the trust relationship.

It is for these reasons that I urge adoption of S. 1560, the Siletz Indian Restoration Act.

Because of the concern expressed by many Oregon citizens about certain aspects of this legislation, I would like to briefly discuss two matters: hunting and fishing rights and the establishment of a reservation.

As was made clear repeatedly in last year's hearings on similar legislation, and again in hearings this year in both the Senate and the House of Representatives, this bill does not grant or restore any hunting or fishing rights, and says so explicitly in section 3(c): "This Act shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe."

As many of my colleagues are aware, Indian fishing rights are a matter of great controversy in the Pacific Northwest. Officials of the Oregon Department of Fish and Wildlife have been very concerned that this legislation might somehow result in the Siletz attaining superior hunting and fishing rights, free from State regulation, by virtue of their restoration to Federal recognition. But the language of this bill makes it clear that restoration of recognition will not restore any hunting or fishing rights. If those rights exist, by virtue of the unratified 1855 treaty with the Siletz, they do so despite termination and independent of this legislation. This bill does not create them, grant them, or restore them if they were lost in termination. Indeed, the tribe itself is so sure of this that it promised in testimony before the House Subcommittee on Public Lands and Indian Affairs that if any member went to court seeking superior hunting or fishing rights on the basis of this bill, it would file a brief against that effort.

On the second matter, that of the establishment of a reservation, I want to emphasize that this bill, unlike my similar legislation of last year, does not establish a reservation. Rather, it directs the Secretary of the Interior to enter negotiations with the tribe, State and local officials, and all interested parties, as to the establishment of a reservation. He is specifically directed to discuss the size and location of the reservation, its impact on tax revenues, civil and criminal jurisdiction on the reservation, the provision of State and local services, and the provision of Federal services.

Once the Secretary has completed his discussions, he is directed to submit a reservation plan, in the form of proposed legislation, to the appropriate committees of each House. This process, from initiation of discussion to submission of the plan, must be completed within 2 years of the enactment of the act.

The Committees which receive the plan are requested to give it priority on their calendars. Of course, no reservation of any sort will be created without a separate act of Congress, and there is certainly no requirement that the Committees abide by the Secretary's plan.

I want to emphasize, Mr. President, that if a reservation is established for the Siletz, that establishment will not grant or restore any hunting or fishing

rights, and again, the bill says so explicitly in section 7(d)(2): "the establishment of such a reservation shall not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation."

Mr. President, I believe anyone with the ability to understand the English language should see that S. 1560 is absolutely neutral on hunting and fishing rights.

This bill has been before Congress now for a year and a half. It has been the subject of extensive debate and two Senate hearings. It is sorely needed, and I urge its adoption by the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

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

The amendments were agreed to en bloc.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-386), explaining the purposes of the measure.

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

EXCERPT

PURPOSE

The purpose of this act is to restore Federal recognition, services and assistance to the Confederated Tribes of Siletz Indians of Oregon and to the tribal members. This legislation would also provide a means by which an interim tribal government can be elected as well as initiate discussions between the Secretary of the Interior and all interested local parties concerning whether a reservation should be created for the Confederated Tribes of the Siletz Indians by a separate act of Congress.

BACKGROUND

The Confederated Tribes of Siletz Indians were among the Western Oregon Tribes who were terminated pursuant to the act of August 13, 1954 (69 Stat. 724; 25 U.S.C. §§ 691-708). The BIA's termination roll published in the Federal Register in 1956 showed 929 tribal members, with another 500 roll applications in controversy. One-hundred and thirty people on the final roll are now deceased and more than 300 have moved out of Lincoln County, where the greatest number of tribal members resided at the time of termination. Most of those leaving Lincoln County now live in Willamette Valley cities (Portland, Salem, Eugene, Springfield, Albany, and the Corvallis) and castal towns. Thus, for those people for whom information is available, approximately 73 percent of the tribal members lived on or near the reservation at the time of termination. Now, approximately 27 percent of the estimated 1,750 Siletz Indians live on or near the former reservation.

Recent studies indicate that the effect of termination on the Siletz Tribe has been severe. The unemployment rate for Siletz Indians living in the former reservation area is 43.8 percent, and the median family income for a Siletz family in the area is $3,333. In 1974, 44 percent of the Siletz Indians between the ages of 17 and 25 had not finished high school, and there is a high incidence of alcoholism and other health problems, for which many members cannot afford medical care.

Restoration would make a large difference to both the individuals and the tribe as a whole in that they would be eligible for such benefits as: certain BIA programs such as Johnson-O'Malley Act funds for elementary and secondary school children in the Siletz schools; and BIA scholarship for post-secondary education for tribal youths. Tribal members could receive health benefits through HEW's Indian Health Service. The tribe would also be able to administer some BIA prgrams, which would provide jobs for tribal members, and the tribe would be eligible for certain BIA loan funds.

The Interior Department estimates the BIA program costs under the bill would be approximately $300,000 in the first year after enactment. Appropriations for these programs are authorized under existing law.

LEGISLATIVE HISTORY

Legislation to restore the Confederated Tribes of the Siletz Indians to the status of a federally recognized tribe was first introduced in the 94th Congress by Senator Hatfield with the consponsorship of Senators Bartlett, Abourezk, and Packwood. That bill, S. 2801, was the subject of 2 days of hearings before the Senate Subcommittee on Indian Affairs on March 30 and 31, 1976.

Aside from assessing the need to restore Federal recognition in order to make Federal services and benefits available to the tribe and its members, the hearing focused on the issue of hunting and fishing rights. The Oregon Assistant Attorney General argued that the bill would establish a basis for granting superior hunting and fishing rights, beyond the regulatory powers of the State, to members of the Siletz Tribe. The Assistant Attorney General recommended the addition to the bill of the so-called "McKean amendment," which would give the State clear authority to regulate hunting and fishing by the Tribe on the same basis as non-Indians.

At the hearing on S. 2801, the then Associate Solicitor for Indian Affairs, Reid Chambers, was asked what effect the State's proposed amendment would have on both the Siletz hunting and fishing rights and the obligations and liabilities of the U.S. Government. It was Mr. Chamber's opinion that the passage of a bill which abrogated any existing hunting, fishing, or trapping rights would cer'ainly expose the Federal Government to liability for taking property without due process. Mr. Chambers further pointed out that it had not yet been determined whether the Siletz had reserved to them by their unratified treaty of 1855 superior hunting and fishing rights which might be restored or denied.

Legislation similar to S. 2801 was introduced in the House of Representatives in the 94th Congress by Representative Les AuCoin, but no hearings were held on the House bill.

S. 1560 was introduced on May 18 by Senators Hatfield and Packwood and a hearing was held on July 13. Unlike last year's bill, S. 1560 does not create a reservation. Rather, it directs the Secretary of the Interior to negotiate with the tribe and local interests concerning the establishment of a reservation, and requires him to submit a plan for the establishment of a reservation to the Congress within 20 years after enactment of the bill.

Both S. 2801 and the present bill, S. 1560, are neutral on the issue of hunting and fishing rights, neither extinguishing any rights the tribal members may have nor conferring any new rights. However, at the hearing, the Fish and Wildlife Department for the State of Oregon proposed substitute legislation which would make the Siletz Indians eligible for all Federal Indian health, education, and welfare benefits but not restore them to Federal recognition. This proposal would give the State the authority to regulate Siletz Indian hunting and fishing as it does all other user groups (this is the same as the aforementioned "McKean amendment").

House hearings on identical legislation introduced by Representative Les AuCoin were held on July 14. The Subcommittee on Indian Affairs and Public Lands held a mark-up session on July 28.

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

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

The motion to lay on the table was agreed to.

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## SEVERANCE PAY FOR CERTAIN COMMITTEE STAFF MEMBERS

The resolution (S. Res. 239) to provide severance pay for certain committee staff members who are displaced as a result of the reorganization of Senate committee staffs caused by the committee system reorganization amendments of 1977, was considered and agreed to, as follows:

*Resolved*, That for purposes of this resolution—

(1) the terms "eligible staff member", new committee", and "transition period" have the meanings given to them by section 701 of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977; and

(2) the term "displaced staff member" means an eligible staff member whose service as an employee of the Senate is terminated solely and directly as a result of the reorganization of the staff of a new committee caused by such S. Res. 4, and who is certified as a displaced staff member by the chairman (and, with respect to a minority employee, by the ranking minority member) of such new committee.

SEC. 2. The chairman (and, with respect to a minority employee, the ranking minority member) of each new committee shall certify to the Committee on Rules and Administration the name of each displaced staff member of such committee within ten days after the day on which this resolution is agreed to (or, in the case of a displaced staff member whose service terminates after such day, within ten days after the termination of his service).

SEC. 3. (a) Subject to the provisions of this section and sections 4 and 5, each displaced staff member shall be entitled, upon application to the Committee on Rules and Administration, to receive a gross amount of severance pay (based on a thirty-day month) equal to seven days' pay for each year of service as an employee of the Senate (and a ratable portion in the case of service for part of a year). Such application shall be made not later than the thirtieth day after the day on which this resolution is agreed to (or, in the case of a displaced staff member whose service terminates after such day, not later than the thirtieth day after the termination of his service).

(b) The maximum number of days' pay which may be taken into account in computing the gross amount of severance pay to which a displaced staff member is entitled under subsection (a) shall be ninety days' pay.

(c) For purposes of subsection (a)—

(1) in prorating severance pay for part of a year, any service insufficient to calculate severance pay for a full day shall be disregarded; and

(2) active military service shall be treated

as service as an employee of the Senate if such active military service was immediately preceded and followed (except for periods of thirty days or less) by service as an employee of the Senate.

(d) Severance pay of a displaced staff member (1) shall be computed on the basis of the per annum rate of compensation of such displaced staff member on the date of termination of his service, (2) shall commence on the day after the termination of the transition period, and (3) shall be paid on a monthly basis from the contingent fund of the Senate, upon vouchers approved by the chairman of the Committee on Rules and Administration, until such displaced staff member has been paid the gross amount to which he is entitled under this resolution.

SEC. 4. (a) A displaced staff member shall not be entitled to severance pay under section 3 unless he has served continuously (except for any period of four days or less) as an employee of the Senate for one year immediately preceding the termination of his service.

(b) A displaced staff member shall not be entitled to severance pay under section 3 if, at the time of the termination of his service, he—

(1) is receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or is entitled to receive an immediate annuity under such subchapter; or

(2) is receiving retirement or retired pay or an annuity under any other retirement law or retirement system for employees of the United States or the District of Columbia or members of the uniformed services (other than retired pay for nonregular service under chapter 67 of title 10, United States Code), or is entitled to receive such pay or an immediate annuity under such law or system.

(c) A displaced staff member shall not be paid severance pay under section 3 for any day during the period of his entitlement to severance pay on which he—

(1) is an employee of the United States or the government of the District of Columbia; or

(2) is entitled to receive a deferred annuity under subchapter III of chapter 83 of title 5, United States Code, or under any retirement law or system referred to in subsection (b)(2),

and each such day shall be subtracted from the number of days for which such displaced staff member is entitled to severance pay under section 3.

(d) A displaced staff member shall be entitled to severance pay under section 3 only if the Committee on Rules and Administration is satisfied that the displaced staff member has made reasonable efforts to obtain employment comparable to his employment as a member of a committee staff, but has been unable to do so.

SEC. 5. (a) To receive severance pay for any month (or portion thereof), a displaced staff member shall submit to the Secretary of the Senate, as soon as possible after the close of such month, a notarized statement setting forth—

(1) whether or not he was employed or self-employed during such month (or portion) or received unemployment compensation for such month (or portion); and

(2) the amount of compensation received or receivable for services performed as an employee during such month (or portion), the amount of net earnings received or receivable from self-employment during such month (or portion), and the amount of unemployment compensation received or receivable for such month (or portion).

(b) The amount of severance pay to which a displaced staff member is otherwise entitled for a month (or portion thereof) shall be reduced by the sum of the amounts set forth under subsection (a)(2) in the statement submitted by him for such month (or portion). If a statement for a month (or portion) is not submitted by a displaced staff member to the Secretary of the Senate within sixty days after the close of such month (or, if later, within sixty days after the date on which this resolution is agreed to) the gross amount of severance pay to which such displaced staff member is otherwise entitled under section 3 shall be reduced by the amount of severance pay which would otherwise have been paid to him for such month (or portion).

SEC. 6. In the event of the death of a displaced staff member, any unpaid severance pay to which the displaced staff member is entitled shall be paid to the widow or widower of the displaced staff member or, if no widow or widower, to the heirs at law or next of kin of such deceased displaced staff member.

SEC. 7. Severance pay paid under this resolution shall not be treated as compensation for purposes of any provision of title 5, United States Code. or of any other law relating to benefits accruing from employment by the United States, and the period of entitlement to such pay shall not be treated as a period of employment for purposes of any such provision or law.

SEC. 8. Upon the enactment of S. 1153, Ninety-fifth Congress, or similar legislation abolishing the Joint Committee on Atomic Energy and providing for disposition of the staff of such Joint Committee, the provisions of this resolution shall apply with respect to the displaced staff members of such Joint Committee. In applying this resolution for such purpose, the terms "eligible staff member", "new committee", and "transition period" have the meanings given to them by S. 1153 or such similar legislation.

SEC. 9. Upon the termination of the temporary Select Committee on Nutrition and Human Needs on December 31, 1977, pursuant to section 106(e) of S. Res. 4, Ninety-fifth Congress, each eligible staff member of such select committee who is serving as a member of its staff on such date shall be treated as a displaced staff member and the provisions of this resolution (other than section 2) shall apply with respect to such displaced staff member. In applying this resolution for such purpose, the transition period shall be treated as ending on December 31, 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-387), explaining the purposes of the measure.

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

EXCERPT

Senate Resolution 4, the "Committee System Reorganization Amendments of 1977," in its original form as referred to the Committee on Rules and Administration on January 4, 1977, contained language to provide severance pay for committee staff members who would be displaced from their jobs as a direct result of Senate approval of reorganization of the committee system.

Provision of severance pay in such cases had been recommended by the Temporary Select Committee to Study the Senate Committee System, and during its hearings on Senate Resolution 4 in January the Rules Committee endorsed the proposal in principle, but deferred action on it until the end of the transition period provided by Senate Resolution 4.

The committee discussed this matter in detail in hearings held on July 13 and July 27, at which the recommendations of the Temporary Select Committee and testimony by the Senate Financial Clerk, Mr. William A. Ridgely, and the Senate Legislative Counsel, Mr. Harry B. Littell, were carefully considered.

According to the figures supplied by the Senate Financial Clerk, a possible total of 28 individuals could be involved; the exact number can not be determined until certifications have been made to the Committee on Rules and Administration.

For purposes of Senate Resolution 389, various terms are defined as follows:

(1) "Eligible staff member" means an individual who was a member of the staff of an old committee, or of a subcommittee thereof, on February 10, 1977, and had served continuously (except for a period of 4 days or less) thereon since October 1, 1976;

(2) "New committee" means a standing, select, or special committee of the Senate which was in existence on February 11, 1977;

(3) "Transition period" means the period from February 11 through June 30, 1977; and

(4) "Displaced staff member" means an eligible staff member whose service as an employee of the Senate was terminated solely and directly as a result of the reorganization of the staff of a new committee caused by Senate Resolution 4, and who is certified as a displaced staff member by the chairman (and, with respect to a minority employee, by the ranking minority member) of such new committee.

The resolution provides that the chairman (and, with respect to a minority employee, the ranking member) of each new committee would have to certify to the Committee on Rules and Administration the name of each displaced staff member of such committee within 10 days after the date on which this resolution is agreed to.

Upon application by such displaced staff members to the Committee on Rules and Administration, they would be entitled to a gross amount of severance pay (based on a 30-day month) equal to a 7-day pay for each year of Senate service. Partial years of service would be prorated but any service that does not equal 1 full day would be disregarded. Military service would be included under certain circumstances. The maximum of a 90-day pay at the rate received on the date of termination would be paid on a monthly basis from the contingent fund of the Senate. Severance pay would be reduced by any compensation received or receivable for services performed as an employee during the period of entitlement.

In the event of death, any unpaid severance pay due a displaced staff member would be paid to the widow or widower or heirs at law or next of kin.

Employees of the Joint Committee on Atomic Energy and the Select Committee on Nutrition and Human Needs would be treated as displaced staff members under provisions of sections 8 and 9 of this resolution.

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

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

The motion to lay on the table was agreed to.

## AMENDMENT OF COMMUNICATIONS ACT OF 1934

The Senate proceeded to consider the bill (S. 1866) to amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment on page 1, beginning with line 6, insert the following:

SEC. 2. Section 222 of the Communications Act of 1934 (47 U S.C. 222), as amended, is further amended by adding at the end thereof the following new subsection:

"(g) (1) The authority of any carrier to provide any service or operate any facilities which it is authorized to provide or operate on the date of enactment of this subsection shall not be altered solely by the inclusion of Hawaii within the definition of 'Continental United States', nor shall such inclusion restrict or impair any carrier's eligibility after the date of enactment of this subsection for new or additional authority.

"(2) Whenever, upon a complaint or upon its own initiative, and after opportunity for a hearing, the Commission finds that any charge, classification, regulation, or practice relating to intercarrier arrangements of any carrier serving Hawaii is or will be unjust, unreasonable, discriminatory, or not in the public interest, the Commission shall determine and prescribe what charge, classification, regulation, or practice, or such other remedy as is or will be just, reasonable, nondiscriminatory and in the public interest to be thereafter followed.".

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 222(a) (10) of the Communications Act of 1934 (47 U.S.C. 222(a) (10) is amended by striking out ", except Hawaii".

SEC. 2. Section 222 of the Communications Act of 1934 (47 U.S.C. 222), as amended, is further amended by adding at the end thereof the following new subsection:

"(g) (1) The authority of any carrier to provide any service or operate any facilities which it is authorized to provide or operate on the date of enactment of this subsection shall not be altered solely by the inclusion of Hawaii within the definition of 'Continental United States', nor shall such inclusion restrict or impair any carrier's eligibility after the date of enactment of this subsection for new or additional authority.

"(2) Whenever, upon a complaint or upon its own initiative, and after opportunity for a hearing, the Commission finds that any charge, classification, regulation, or practice relating to intercarrier arrangements of any carrier serving Hawaii is or will be unjust, unreasonable, discriminatory, or not in the public interest, the Commission shall determine and prescribe what charge, classification, regulation, or practice, or such other remedy as is or will be just, reasonable nondiscriminatory and in the public interest to be thereafter followed.".

The amendment was agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-389), explaining the purposes of the measure.

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

EXCERPT

Section 222 was enacted in 1943, in the light of special circumstances then prevailing and 16 years before Hawaii was admitted to the Union. It is now 18 years since Hawaii became a State. Experience in these years has shown that the designation of Hawaii as an international point for the purposes of section 222 has frustrated the efforts of the Federal Communications Commission and private industry to afford Hawaii similar treatment as her sister States. This disparity has resulted generally in higher rates for interstate communications to and from Hawaii, and in fewer services and facilities. Exclusion of Hawaii from the definition of "Continental United States" restricts the classes of carriers which are allowed to provide services to Hawaii. S. 1866 seeks to make available to Hawaii the same modern telecommunications facilities, services and rate-making principles which are now or will be enjoyed throughout the Continental United States. The amendment will accomplish this by including Hawaii within the definition of "Continental United States," thereby removing artificial constraints on the availability of telecommunications offerings, the entry of new carriers into the Hawaiian market and service integration into the mainland structure.

BRIEF DESCRIPTION

S. 1866 is intended to remove the anomalous designation of the State of Hawaii as an international point under section 222 of the Communications Act of 1934. The bill would amend section 222(a) (10) by including Hawaii within the definition of "Continental United States." The bill would remove the applicability of the international/domestic dichotomy to the Hawaiian market and would foster competition among all carriers serving that market. The bill would further amend section 222 by adding a new subsection, which would provide that carriers currently serving the Hawaiian market may continue to do so. Additionally, the bill would provide for the entry of additional carriers and the offering of new or additional services to the Hawaiian market, subject to the approval of the Federal Communications Commission.

BACKGROUND AND NEED

*Enactment of section 222*

Prior to World War II, the two major companies providing domestic telegraph services on the U.S. mainland were the Western Union Telegraph Company and the Postal Telegraph and Cable Corporation. By 1943, both domestic telegraph companies were in serious financial trouble. Telephone services were making significant inroads into the telegraph market, leaving both telegraph companies with excessive and duplicative facilities. To solve this problem, Congress enacted section 222 of the Communications Act which created a statutory antitrust exemption to allow Western Union and Postal to merge. Congress was concerned, however, that the merged entity might utilize its newfound monopoly position in domestic telegraph service to favor its own international operation at the expense of its international record service competitors. To remove this danger, the merger legislation incorporated four additional provisions.

1. Western Union was required to divest itself of its international operations.

2. Domestic and international areas of service were defined and international record carriers (IRCs) could receive messages destined for international delivery and hand over incoming messages destined for the hinterlands for delivery by Western Union.

3. Congress included a provision in section 222 requiring that Western Union distribute unrouted international telegraph among the overseas carriers according to "a just, reasonable and equitable formula".

4. In order to compensate Western Union for the use of its facilities for the delivery of international messages, section 222 provides that the parties negotiate a proper division of revenues. If an agreement cannot be negotiated, the Commission is authorized to prescribe the division of revenues.

*Hawaii designated as an international point*

Congress drew the international/domestic dichotomy of section 222 largely on historical and geographic bases. Hawaii was not included in the definition of the domestic service area in 1943, and thus became an international location with respect to communication services. That designation was continued by congressional enactment of section 36 of the Hawaii Omnibus Act (Public Law 86-624, approved July 12, 1960) which added the phrase "except Hawaii" to section 222(a) (10). The legislative history indicates that the designation of Hawaii as an international point indicated that further study of the status of Hawaii was necessary:

. . . to preserve, at least for the immediate future, Hawaii's exclusion from the definition (of the United States). As will appear below further consideration by the Federal Communications Commission may at a later date indicate that other or different amendments are desirable.

Hawaii has historically been regarded as outside the United States for the purposes of the transmission of telegraph messages. . . . This exclusion was apparently based on geographical considerations, rather than on political status. . . .

The amendment to section 222 is necessary now to maintain the status quo. . . . It may later develop, however, that different amendments may prove more suitable. The Federal Communications Commission has instituted an inquiry. . . . the purpose of which is to enable the Commission to receive from interested parties their views as to what changes in the Communications Act, if any, the Commission should recommend to Congress. Before making a determination as to what changes it recommends, other than the foregoing which would merely preserve current arrangements, the Federal Communications Commission will require more time to complete its inquiry.

The Commission did not recommend a change. In its 1960 decisions, *Telegraph Service With Hawaii,* 28 F.C.C. 599 and 29 F.C.C. 714, the Commission found that a change in status at that time promised no benefits for Hawaii.

Whatever validity the exclusion of Hawaii from domestic services may have had in the past, it would seem to have been lessened by the revolutionary changes which have taken place in communications technology and concurrent development of entirely new service concepts.

Domestic satellites are insensitive to distance or terrain crossed. They can be used to provide service between the contiguous States and Hawaii at far less additional cost than was the case when only submarine cable technology was available. There now are numerous services and potential rate advantages that are likely to accrue to Hawaii by a change in status.

*Current industry structure*

(a) *Domestic carrier.*—Today, Western Union retains its monopoly position in providing domestic telegraph service to the continental United States. In domestic record services, other than telegraph, Western Union faces competition from A.T. & T., specialized, resale, and satellite carriers who now offer a wide range of services capable of satisfying diverse customer requirements.

(b) *International record carriers.*—There are four major international record carriers: ITT, RCA, WUI and TRT. Three of these, RCA, ITT and WUI, serve Hawaii and, in combination, have direct circuits to virtually every major communications center throughout the world. TRT has recently been authorized to expand its service area. The Liberia, a subsidiary of Firestone Rubber, serve limited areas in Europe and Africa.

(c) *Other international carriers.*—The American Telephone and Telegraph Company (A.T. & T.) provides all message telephone service and all voice-only private line services from the United States mainland to international points. The Hawaiian Telephone Company (HTC) provides international and interstate, as well as intrastate, services for Hawaii. As A.T. & T's correspondent, it provides all those services A.T. & T. is authorized to provide between Hawaii and

the mainland. The Communications Satellite Corporation (Comsat), a carrier's carrier, leases satellite circuits to end service carriers

*Technology and services*

The sophistication of today's international record market results in large measure from the development of high quality transmission facilities. High capacity voice-grade submarine cables and satellite facilities have virtually replaced telegraph cables and HF radio for media used for overseas transmissions in 1943, and are today the backbone of the international record industry. The global satellite communications network, independently, makes possible new and innovative record and voice services as well as international television relay, and reaches global points which cables cannot serve

Voice-grade circuits in both cables and satellites are capable of transmitting alternate and simultaneous voice/data, facsimile and high-speed data and may be subdivided for telegraph and telex transmission. Although public message telegraph service was the first and for many years the predominant international record service, by 1974, telegraph revenues represented only about 13 percent of total international record service revenues with telex and leased lines accounting for 55 and 25 percent of the industry's revenues, respectively. Telex is a teletypewriter exchange system directly linking a customer's office with any other party on a carrier's telex network. A leased channel, on the other hand, is a circuit dedicated to a single customer or customer group. Leased channel services may include teleprinter, data, facsimile, alternate voice/data transmission.

*Impact of section 222 upon Hawaiian communications*

Disagreement as to the scope of section 222 has contributed greatly to the delay in securing new services, better rates, and new facilities for Hawaiian points. For example, because of section 222's designation as Hawaii as an international point, the Commission could not authorize provision of Western Union's MAILGRAM service. Additionally, integration of Hawaii into the domestic rate and service structure has been a long, difficult process due, at least in part, to section 222 complications.

The major class of service offerings not now available to Hawaii are those being offered on the mainland for the first time by new carriers in the competitive market. For example, Graphnet, Telenet, Tymnet, Southern Pacific and MCI are offering numerous specialized domestic services. These services consist of switching and private line services designed to meet the growing communications needs of mainland customers. AT&T has introduced Dataphone Digital Service—a private line service offering two-way transmission of digital signals at various synchronous speeds—also not available to Hawaii. Finally, as a result of the Federal Communications Commission decision prohibiting restrictions on the resale and shared use of most carrier offerings, additional services will soon be offered on the mainland. The resale and shared use decision does not apply to Hawaii, since Hawaii is classified as an international point. Many record services now offered by Western Union on the mainland are not currently offered to Hawaii through the IRCs. Included in this group of services are Braille Gram, Data Gram, Data Comm, Infomaster (stored and forward message switching), and miscellaneous new ticker services. While it is not possible to identify which of these services and carriers, and any future services or carriers, may be competitively viable in the Hawaiian market, artificial statutory constraints should not hamper their availability.

A hearing was held on S. 1162, a bill to repeal section 222, in Hawaii on April 15, 1977. Although S. 1162 is broader in scope than S. 1866, the field hearing was narrowly focused on the effect of section 222 on Hawaiian telecommunications. A subsequent hearing on S. 1866 was held in Washington, D.C., on July 21, 1977. In the two days of hearings, nearly all witnesses, including representatives from the State of Hawaii, the Federal Communications Commission, the IRCs, the Office of Telecommunications Policy, and Hawaiian business and consumer groups testified in favor of extending to Hawaii telecommunications services comparable to those available in the continental United States. On August 2, 1977 the Committee on Commerce, Science and Transportation, meeting in open executive session, ordered S. 1866 reported with an amendment.

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

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

The motion to lay on the table was agreed to.

## FINANCIAL INSTITUTIONS SUPERVISORY ACT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed at this time, without any time being charged on the bill for the time being, to the consideration of Calendar No. 302, with the understanding that the managers of the foreign assistance appropriation bill may at any time interrupt the consideration of Calendar Order 302 for a resumption of consideration of the foreign assistance appropriation bill.

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

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 71) to strengthen the supervisory authority of Federal agencies which regulate depository institutions.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment in the nature of a substitute.

The PRESIDING OFFICER. The time is under control.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, the minority leader and I have time.

Mr. BAKER. Mr. President, I ask the majority leader to state, if he would, or might we inquire of the Chair, the nature of the unanimous-consent limitations on the consideration of this bill?

The PRESIDING OFFICER. The clerk will state the unanimous-consent agreement.

The legislative clerk read as follows:

*Ordered*, That when the Senate proceeds to the consideration of S. 71 (Order No. 302), a bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

*Ordered further*, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. Proxmire) and the Senator from Massachusetts (Mr. Brooke): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order: *Provided further*, That this agreement may be vitiated by the Senator from Massachusetts (Mr. Brooke).

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

I ask the majority leader, the nongermaneness provision in this consent order, is it the majority leader's view that would prevent the introduction and consideration of any amendment dealing with the confirmation of any appointment to the office of Chairman of the Federal Reserve Board?

Mr. ROBERT C. BYRD. Indubitably so.

Mr. BAKER. I thank the majority leader.

## PRIVILEGE OF THE FLOOR—H.R. 7797

Mr. BAKER. Mr. President, I ask unanimous consent that Ernest Garcia and Claude Alexander of Mr. DOLE's staff be granted privilege of the floor during the remainder of the foreign assistance bill, as and when the Senate returns to its consideration.

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

## ORDER FOR CONSIDERATION OF S. 977, THE COAL CONVERSION BILL, AND H.R. 7797, THE FOREIGN ASSISTANCE APPROPRIATION BILL, ON SEPTEMBER 7, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the return of the Senate on September 7, if the action by the Senate on the foreign assistance appropriation bill has been completed, the Senate proceed on that date following the recognition of the two leaders or their designees under the standing order to the consideration of the coal conversion bill, S. 977, and that, in the alternative, if the Senate has not completed action on the foreign assistance appropriation bill, action on that measure be resumed immediately following the recognition of the two leaders or their designees under the standing order.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, does the majority leader have in mind to ask unanimous consent for any limitations on debate on consideration of the coal conversion measure?

Did I misunderstand? I thought that the request at this time was that we proceed to the consideration of the coal conversion after we finish consideration of the foreign aid appropriations.

Mr. ROBERT C. BYRD. That is what I asked.

Mr. BAKER. Is there already an order on the coal bill?

The PRESIDING OFFICER. The chair advises that there is an order.

Mr. BAKER. I am sorry, I misunderstood. I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, has the request been agreed to?

The PRESIDING OFFICER. If there is no objection, it is so ordered.

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

## FINANCIAL INSTITUTIONS SUPERVISORY ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 71.

Mr. ROBERT C. BYRD. Mr. President, I believe that Mr. PROXMIRE and Mr. BROOKE are ready to proceed with the consideration of Calendar No. 302, which is the pending measure.

Mr. PROXMIRE obtained the floor.

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

Mr. PROXMIRE. I yield.

Mr. ROBERT C. BYRD. Mr. President, for the information of the distinguished manager of the bill, a unanimous consent order has been entered that at such time as the managers of the foreign assistance appropriation bill are ready to resume consideration of that measure today, they will have the privilege of interrupting the proceedings on the now pending measure and resume consideration of that measure.

Mr. PROXMIRE. I believe this measure can be disposed of in a few minutes; but if not, I will be happy to have it set aside.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Wisconsin.

### FOREIGN ASSISTANCE

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

Mr. PROXMIRE. I yield.

Mr. HELMS. I ask the majority leader if he has any anticipation of what hour the foreign aid appropriation bill will be resumed?

Mr. ROBERT C. BYRD. There are consultations at the moment which may result in my having enough knowledge on the question to respond adequately. At the moment, I cannot.

Mr. BAKER. Mr. President, if the Senator will yield, I will respond to the Senator from North Carolina by saying that at this very instant, these negotiations are underway. The majority leader and I just left. The negotiations were both energetic and promising, and I expect that we will have more information on that before long.

Mr. HELMS. As the Prince of Denmark is supposed to have said, " 'Tis a consummation devoutly to be wished."

Mr. ROBERT C. BYRD. I thank the Senator. I now have something new to memorize, which I may use later.

[Laughter.]

Mr. PROXMIRE. Mr. President, on June 30 the Committee on Banking, Housing, and Urban Affairs reported to the Senate a bill (S. 71 committee report No. 95–323) to strengthen the supervisory authority of the Federal banking agencies over financial institutions.

Mr. President, S. 71 has four titles:

Title I gives the Federal financial institutions regulatory agencies strengthened supervisory authority over depositary institutions.

Title II prohibits with certain exemptions interlocking management and directors among competing financial institutions in specified geographic areas.

Title III authorizes the FDIC to regulate the establishment of foreign banking operations by institutions it regulates in addition to making general "housekeeping" changes. The foreign banking operations of national banks and state member banks are already under such supervisory authority as exercised by the Federal Reserve.

Title IV prohibits revolving door employment practices by the heads of the Federal financial regulatory agencies and raises the salary levels of the Chairman and members of the Federal Reserve, the Chairman of the FDIC and Federal Home Loan Bank Board, and the Administrator of the National Credit Union Administration.

The four titles were the subject of consolidated hearings by the Senate Banking Committee on May 24 and 25, 1977. All interested Government agencies and parties testified on the legislation. The testimony was favorable. The committee marked up the legislation on June 15, 1977, and made a number of changes in the legislation as introduced reflecting specific points made at the hearings.

Mr. President, the banking industry has recently come under tremendous strain. Banking institutions have experienced rapid growth during the past 25 years. During the past 5 years we have seen the largest failures in the history of the Nation with the collapse of the Bank of the Commonwealth, $1 billion; the Franklin National Bank, $5 billion; the Security National Bank, $1 billion; and the Hamilton National Corp., $1 billion. More recently the number of "problem banks" has shown an upward and worrisome trend. FDIC statistics, for example, reveal that the number of institutions in the problem categories increased from $25 billion in assets at the beginning of 1976 to $75 billion at the beginning of 1977. Classified loans—that is loans that present greater than normal risk of repayment—as a percentage of capital assets increased significantly during the past 5 years.

Unfortunately, the capitalization of our banking system has not kept pace with these events. Chairman Burns testified before the Senate Banking Committee that the banking system is undercapitalized. The largest financial institutions—those institutions whose assets exceed $5 billion—are particularly undercapitalized.

Last year the House and Senate Committees asked the GAO to audit the bank regulatory agencies in the light of the increasing number of problem banks to determine how well these Federal agencies were carrying out their regulatory responsibilities. The GAO found that in some cases the bank regulatory agencies did not use the powers they already had to stop unsafe or unsound practices. But the GAO specifically recommended that the regulatory agencies powers be augmented as provided in title I of S. 71 in order to enhance the abilities of the regulators to deal with problem situations.

Title I was recommended by Chairman Burns jointly on behalf of the three bank regulators as a means of preventing problem bank situations from arising and for arriving at more timely solutions once such situations did arise. The Federal Home Loan Bank Board made a strong case before the Banking Committee for the powers contained in title I citing specific cases where lack of authority had hampered their enforcement efforts.

Mr. President, the Banking Committee has done a lot of work in the past 2 years relating to the matter of regulation of the financial system and its condition. There are proposals which the committee is considering to streamline and simplify the existing structure in various ways by merging regulatory agencies or requiring closer coordination of their operations. S. 71 may not be the complete answer to correcting the deficiencies in the regulatory process but it is an extremely important step in the right direction.

By authorizing cease and desist orders to be instituted against individuals and civil money penalties for violations of such orders, enforcement action can be tailored to the needs of particular cases and the orders should be self-enforcing. S. 71 will also tighten the restrictions on insider lending which have been the principal cause of bank failures over the course of the past 15 years.

I would prefer an outright prohibition on insider loans but I recognize the difficulty of accomplishing this aim at this time. S. 71 authorizes the removal of bank officials whose conduct demonstrates a willful disregard for the safety of the institution. And S. 71 authorizes the divestiture of nonbank subsidiaries of bank holding companies in cases where they represent a threat to the safety of a subsidiary bank.

This will insure that bank holding companies are operated for the benefit of the subsidiary banks instead of being a drain on the bank. I am convinced that correctly used by the financial institutions regulatory agencies the powers contained in S. 71 will enable them to focus on and stop specific unsafe or unsound practices.

While title I of S. 71 gives the agencies the power they need to assure a safe and sound banking system, title II will provide a healthier banking climate by prohibiting interlocking management and director relationships among competing financial institutions.

Over 50 years ago Congress prohibited interlocking employment and director relationships among commercial banks and stock savings banks. These provisions have become outdated. Title II represents the recommendations for legislation by Chairman Burns of the Federal Reserve as amended by the Banking Committee after hearings.

Title II of S. 71 recognizes that all types of financial institutions compete for depositors funds: commercial banks, savings and loan associations, mutual savings banks, trust companies and so forth. Prohibiting interlocking management and director relationships among

these institutions in the areas where they compete will benefit consumers and their communities. Competition between institutions will be assured as to price and quality of depositary and lending services. Funds flow to the community will be free from artificial distortions based on conflicting relationships.

Interlocking relationships are prohibited among these institutions in standard metropolitan statistical areas (SMSAs) or in the same or adjacent city, town, or village. And, regardless of geographic area all such interlocks between an institution with $1 billion in assets are prohibited with institutions whose assets exceed $500 million. Since title II is intended to proscribe anticompetitive interlocking relationships there are exceptions—for credit unions, for example—and the Federal Reserve is authorized to grant exceptions and to prevent evasions of the law by rule.

Title III of the legislation was recommended by the FDIC as "housekeeping" legislation. There is one provision in this title which I should mention specifically because it is more than a housekeeping provision. The Federal Reserve must give its prior approval to the establishment of foreign banking operations by national banks and State member banks of the Federal Reserve. Title III would subject banks under the jurisdiction of the FDIC—that is, state nonmember banks—to such regulatory jurisdiction. This is needed because State nonmember banks have increased in size and because their overseas operations can affect the safety and soundness of their domestic operations.

Title IV of the legislation will prohibit revolving door employment practices by the heads of financial institutions regulatory agencies who take jobs with institutions they regulate before their terms of office are completed. This provision of the legislation seeks to encourage the heads of these regulatory bodies to complete their terms of office.

The salary levels of the Chairman of the Federal Reserve and the members of the Federal Reserve are elevated respectively to level I and level II. At the same time the salary levels of the Chairman of the other bank regulatory agencies—the FDIC, the FHLBB, the Comptroller and the Administrator of the NCUA are increased to level II to maintain parity with the members of the Federal Reserve. These salary increases should encourage these officials to complete their terms of office.

Title IV places no new restrictions on post-employment for individuals completing their terms of office. However, heads of the financial institutions regulatory agencies who leave their term uncompleted would be prohibited for 2 years from taking a job with a bank or bank holding company or affiliates of a bank which they regulate.

Existing law prohibits a member of the Federal Reserve, FDIC, and the Comptroller in such circumstances from taking a job with a bank regulated by the official. No such statutory restriction applies to members of the FHLBB. Title IV will cure two deficiencies in current law.

First, the existing prohibition on employment with a bank is expanded to include bank holding companies and affiliates of such banks. This merely recognizes the reality that bank holding companies are part and parcel of their subsidiary banks. Second, the statutory proscriptions applying to the Federal Reserve, the FDIC and the Comptroller are made applicable to the FHLBB. This will give the same treatment to the heads of all the financial regulatory agencies.

In increasing the salary level of the Chairman of the Federal Reserve from level II to level I the committee has recognized the important position of the Chairman of the Federal Reserve and the important functions he performs on behalf of the Congress in conducting the monetary policy of the Nation. Cabinet status for the Chairman of the Federal Reserve is a step which should be taken.

Mr. President, I commend the legislation to my colleagues for favorable consideration.

Mr. BROOKE. Mr. President, the measure we consider today is an important step toward strengthening the supervisory authority of the Federal bank regulatory agencies over financial institutions and their affiliates.

The bill was introduced at the request of the financial regulatory agencies and represents a response to the "problem bank" situations which arose over the past few years.

Our committee has added to S. 71 the provisions contained in S. 73 relating to interlocking management and directorates at financial institutions. We have also added the provisions of S. 895, a series of "housekeeping" amendments to the Federal Deposit Insurance Act, and certain provisions of S. 1433 designed to prevent conflicts of interest.

Since the chairman has explained the principal features of the bill, I shall not repeat them here. I believe that the bill as reported is a sound bill, and I urge my colleagues to support its enactment.

UP AMENDMENT NO. 741

Mr. PROXMIRE. Mr. President, the distinguished Senator from New Hampshire has an amendment which I will offer on his behalf. I send it to the desk.

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

The Senator from Wisconsin (Mr. PROXMIRE), on behalf of the Senator from New Hampshire (Mr. MCINTYRE) proposes an amendment numbered 741.

The amendment is as follows:

At the end of the bill add the following:

TITLE V—CREDIT UNION RESTRUCTURING

SEC. 501. Section 102 of the Federal Credit Union Act (12 U.S.C. 1752a) is amended to read as follows:

"CREATION OF ADMINISTRATION

"SEC. 102. (a) There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration. The Administration shall be under the management of a National Credit Union Administration Board.

"(b) The Board shall consist of three members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be members of the same political party.

"(c) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, initially appointed shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment. Board members shall not be appointed to succeed themselves except the initial members appointed for less than a six-year term may be reappointed for a full six-year term and future members appointed to fill unexpired terms may be reappointed for a full six-year term. Any Board member may continue to serve as such after the expiration of said member's term until a successor has qualified.

"(d) The management of the Administration shall be vested in the Board. The Board shall adopt such rules as it sees fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the Board shall constitute a quorum. Not later April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report to the President and to the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

"(c) The Chairman of the Board shall be the spokesman for the Board and shall represent the Board and the National Credit Union Administration in its official relations with other branches of the Government. The Chairman shall determine each Board member's area of responsibility and shall review such assignments biennially. It shall be the Chairman's responsibility to direct the implementation of the adopted policies and regulations of the Board.

"(f) The members of the Board shall be ineligible during the time they are in office or for two years thereafter to hold any office position, or employment in any credit union or in any financial institution in which a credit union owns stock, except that this restriction shall not apply to any member who has served the full term for which he was appointed.

"(g) The financial transactions of the Administration shall be subject to audit on a calendar year basis by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.".

SEC. 502. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the term 'Chairman' means the Chairman of the National Credit Union Administration Board;";

(2) by inserting "Administration" after "Union" in clause (4).

(b) The Federal Credit Union Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Board", and by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "them", and "its" as appropriate wherever such words appear therein.

(c) Section 209 of the Federal Credit Union Act (12 U.S.C. 1789) is amended—

(1) by inserting in subsection (b)(1) the language "on a calendar year basis" immediately following "prepare annually";

(2) by inserting in subsection (b)(2) the language "on a calendar year basis" immediately following "set of accounts".

(d) Section 5108 of title 5, United States Code, is amended by adding the following new paragraph:

"(h) In addition to the number of positions authorized by subsection (a), the National Credit Union Administration is authorized without regard to any other provision to this section, to place two positions in the Administration at GS–18 and a total of fourteen positions in the Administration at GS–16 or GS–17.".

(c) Section 5313 of title 5, United States Code, is amended by adding the following new paragraph:

"(28) Chairman, National Credit Union Administration Board.".

(f) Section 5314 (92) of title 5, United States Code, is amended by striking out "Administrator of the National Credit Union Administration" and inserting in lieu thereof "Members, National Credit Union Administration Board (2)".

SEC. 503. (a) The Federal Credit Union Act (12 U.S.C. 1751–1790) is further amended by striking out "Administrator" and inserting in lieu thereof "Board" in the following sections:

(1) section 103 (12 U.S.C. 1753);
(2) section 104 (12 U.S.C. 1754);
(3) section 105 (12 U.S.C. 1755);
(4) section 106 (12 U.S.C. 1756);
(5) paragraphs (5), (8), (9), (10), (13), and (14) of section 107 (12 U.S.C. 1757);
(6) section 108 (12 U.S.C. 1758);
(7) section 109 (12 U.S.C. 1759);
(8) section 111 (12 U.S.C. 1761);
(9) section 112 (12 U.S.C. 1761a);
(10) section 13 (12 U.S.C. 1761b);
(11) section 115 (12 U.S.C. 1761d);
(12) paragraph (b)(2) of section 116 (12 U.S.C. 1762);
(13) the title of section 120 (12 U.S.C. 1766);
(14) section 120(a) (12 U.S.C. 1766);
(15) section 120(b)(1) (12 U.S.C. 1766);
(16) section 120(b)(2) (12 U.S.C. 1766);
(17) section 120(b)(3) (12 U.S.C. 1766);
(18) section 120(b)(4) (12 U.S.C. 1766);
(19) section 120(b)(5) (12 U.S.C. 1766);
(20) section 120(c) (12 U.S.C. 1766);
(21) section 120(d) (12 U.S.C. 1766);
(22) section 120(e) (12 U.S.C. 1766);
(23) section 120(f)(1) (12 U.S.C. 1766);
(24) section 120(f)(2)(A) (12 U.S.C. 1766);
(25) section 120(f)(2)(B) (12 U.S.C. 1766);
(26) section 120(g) (12 U.S.C. 1766);
(27) section 120(h) (12 U.S.C. 1766);
(28) section 120(i) (12 U.S.C. 1766);
(29) section 120(i)(3) (12 U.S.C. 1766);
(30) section 121 (12 U.S.C. 1767);
(31) section 125(b)(1) (12 U.S.C. 1771);
(32) section 125(b)(2) (12 U.S.C. 1771);
(33) section 127 (12 U.S.C. 1772a); and
(34) sections 201 to 210 (12 U.S.C. 1773–1775).

(b) Such Act is further amended by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "they", and "its" as appropriate wherever such words appear therein.

SEC. 504. (a) Paragraph (4) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752) which begins with "The terms 'member account'" is redesignated paragraph "(5)" and the succeeding paragraphs numbered (5) through (8) are redesignated as paragraphs (6) through (9), respectively.

(b) Paragraph (5) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by subsection (a) of this section, is amended—

(1) by striking "(when referring to the account of a member of a credit union)";

(2) by striking "share, share certificate, or share deposit" each time it appears therein and inserting "share or share certificate" in lieu thereof;

(3) by striking "those" and inserting "share or share certificate" in lieu thereof; and

(4) by striking all language after "political subdivisions thereof" and inserting "enumerated in section 207 of this Act: *Provided*, That for purposes of insured State credit unions, reference in this paragraph to 'share' or 'share certificate' accounts includes, as determined by the Board, the equivalent of such accounts under State law;" in lieu thereof.

(c) Paragraph (9) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by (a) of this section, is amended by—

(1) inserting ", including the trust territories," after "several territories"; and

(2) adding the following new sentence: "The term 'branch' also includes a suboffice, operated by a Federal credit union or by a credit union authorized by the Department of Defense, located on an American military installation in a foreign country or in the trust territories of the United States.".

SEC. 505. (a) Subsection (a) of section 201 of the Federal Credit Union Act (12 U.S.C. 1781) is amended by inserting ", including the trust territories," after "several territories".

(b) Paragraph (b)(7) of such section is amended by inserting "except for accounts authorized by State law for State credit unions" before the semicolon.

(c) Such section is further amended by striking all of subsection (d) and redesignating subsection (e) as (d).

SEC. 506. (a) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended by striking out "his" in the fifth sentence of paragraph (a)(1) and inserting "such officer's" in lieu thereof.

(b) Subsection (h)(3) of such section is amended to read as follows:

"(3) The term 'member account' when applied to the premium charge for insurance of accounts shall not include amounts received from other federally insured credit unions in excess of the insured account limit set forth in section 207(c)(1).".

SEC. 507. Section 208 of the Federal Credit Union Act (12 U.S.C. 1788) is amended by striking out "Special Assistance to Avoid Liquidation" and inserting "Special Assistance for Federally Insured Credit Unions" in lieu thereof.

SEC. 508. Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended to read as follows:

"FEES

"SEC. 105. (a) In accordance with rules prescribed by the Board, each Federal credit union shall pay to the Administration an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.

"(b) The fee assessed under this section shall be determined according to a schedule, or schedules, or other method determined by the Board to be appropriate, which gives due consideration to the expenses of the Administration in carrying out its responsibilities under this Act and to the ability of Federal credit unions to pay the fee. The Board shall, among other things, determine the periods for which the fee shall be assessed and the date or dates for the payment of the fee or increments thereof.

"(c) If the annual operating fee is composed of separate charges, no supervision charge shall be payable by a Federal credit union, and the Board may waive payment of any or all other charges comprising the fee, with respect to the year in which its charter is issued, or in which final distribution is made in its liquidation or the charter is cancelled.

"(d) All operating fees shall be deposited with the Treasurer of the United States for the account of the Administration and may be expended by the Board to defray the expenses incurred in carrying out the provisions of this Act including the examination and supervision of Federal credit unions.".

SEC. 509. Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) is amended to read as follows:

"REPORTS AND EXAMINATIONS

"SEC. 106. Federal credit unions shall be under the supervision of the Board, and shall make financial reports to it as and when it may require, but at least annually. Each Federal credit union shall be subject to examination by, and for this purpose shall make its books and records accessible to, any person designated by the Board.".

SEC. 510. The amendments made by this title take effect upon enactment, except that the functions of the Administration of the National Credit Union Administration under the provisions of the Federal Credit Union Act as in effect on the date preceding the date of enactment of this title, shall continue to be performed by him in accordance with such provisions until such time as all the members of the National Credit Union Administration Board, established under the amendments made by this title, take office. All rules, regulations, policies, and procedures of the Administrator in effect on the date of enactment of this title shall remain in effect until amended, superseded, or repealed.

On page 132, line 7, after the period insert close quotation marks and a period.

On page 132, strike out lines 8 and 9.

On page 132, strike out lines 12 through 15.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator MCINTYRE.

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

STATEMENT BY SENATOR MCINTYRE

The provisions of this amendment are contained in Title 2 of S. 1665, a bill which I introduced on June 9th and which, together with a number of other bills, was the subject of hearings within the Subcommittee on Financial Institutions June 20–23. As a result of these hearings I introduced, on July 15, S. 1873, a bill which incorporates a number of proposals endorsed in the hearings. S. 1873 will be considered by the Banking Committee August 2nd.

In fashioning S. 1873, the proposals contained in this amendment to restructure the National Credit Union Administration were omitted with a view to adding them to the bill now before the Senate, S. 71, where they appropriately belong.

The hearings I referred to demonstrated once again that this amendment is noncontroversial. Indeed, it is identical to S. 3312, a bill that was reported by the Banking Committee in the last Congress.

Essentially, the principal thrust of this amendment is to transfer management of the National Credit Union Administration from a single Administrator who serves at the pleasure of the President to a three-member board with fixed terms of office. The responsibilities of the National Credit Union Administration have increased substantially and become more complex since the agency was created in 1970. With the current emphasis on financial restructuring and the emergence of new developments relating to electronic funds transfer systems, the climate in which credit unions find themselves is a dynamic one. To keep pace, an upgraded and modernized National Credit Union Administration management structure is needed.

The establishment of a three-member board will provide greater stability and continuity in establishing and carrying out policy. The broad representation provided a three-member board will permit greater ex-

perience and expertise to be brought to bear on the day-to-day complexities of managing the NCUA.

The establishment of a board is also consistent with the past actions of Congress in establishing the management structure of other Federal financial regulatory agencies.

The amendment also upgrades the salary levels of senior management and staff within the NCUA which is needed to move the NCUA closer to a position of parity with the other financial regulatory agencies.

Mr. PROXMIRE. Mr. President, so far as I know, there is no opposition to the McIntyre amendment. Senator McINTYRE desired to be here to support it. It is supported by the credit union organizations and by the National Credit Union Administration.

Mr. BROOKE. Mr. President, I have studied the McIntyre NCUA amendment. This amendment was discussed before the committee. This is to provide for the three-man board, as I understand it. It was unanimously agreed to in the committee, and I have no objection.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. BROOKE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 742

Mr. PROXMIRE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 742.

The amendment is as follows:

On page 100, line 22, after the period insert the following: "Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the agency."

On page 102, strike out lines 23 through 25.

On page 103, line 1, strike out "(4)" and insert "(3)".

On page 103, line 5, strike out "(5)" and insert "(4)".

On page 103, line 9, strike out "(6)" and insert "(5)".

On page 105, line 8, after the period, insert the following: "Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Corporation."

On page 106, between lines 17 and 18, insert the following:

(3) Section 407(j)(2) of such Act (12 U.S.C. 1730(j)(2)) is amended by inserting "(1)" after "subsection (h)".

On page 108, line 7, after the period, insert the following "Any notice of suspension or order of removal issued under this subparagraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board."

On page 110, strike out lines 8 though 10.

On page 110, line 11, strike out "(4)" and insert "(3)".

On page 112, line 6, after the period, insert the following: "Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Administrator."

On page 114, between lines 14 and 15, insert the following:

(3) Section 206(1)(2) of such Act (12 U.S.C. 1786(1)(2)) is amended by inserting "(1)" after "subsection (h)".

Mr. PROXMIRE. Mr. President, this amendment is proposed jointly by Senator TOWER and myself.

This amendment is a due process amendment. It would provide authorization for an appeal to the U.S. court of appeals to a bank officer or director who has been suspended or removed after a hearing upon an indictment or conviction of a crime involving dishonesty or breach of trust.

Since 1966 there has been in the law a summary suspension and removal procedure applied by the regulatory agencies against bank officers or directors. After indictment or conviction for a crime the regulatory agencies have had the power to suspend and remove such individuals without a hearing. No appeal mechanism is in the law.

In the legislation recommended by the regulatory agencies a hearing procedure was provided for but did not recommend that an appeal procedure to the courts be included.

I have considered this matter since the committee marked up the legislation. The agencies affected now have no objection to providing for an appeal of an adverse finding to a U.S. court of appeals.

This amendment would provide that and pending the completion of the proceedings a suspension would remain in effect. This will insure that the public is protected while the individual is given full recourse to the courts for review of a suspension or removal order.

Mr. BROOKE. Mr. President, I have knowledge of this amendment, and I have no objection. I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I have no further amendments. I understand that the Senator from Massachusetts may have an amendment. Before he offers his, I wish to say this: One amendment I did have to this bill, which I will not offer, would provide for Senate confirmation of the nomination of the Chairman of the Federal Reserve Board. As I understand it, there is no opposition to that kind of amendment, provided it is prospective and does not apply to the present Chairman. The House has an amendment which would give the Senate that confirmation authority.

It seems to me that the case is just overwhelming. If there is any figure in our Government who should be subject to confirmation by the Senate, it is the Chairman of the Federal Reserve Board—the Chairman, as Chairman.

I say that because this is a very powerful position. All the indications are that it is the most powerful economic position in our Government. The Federal Reserve Board is peculiarly a legislative agency, independent of the executive branch. So we certainly should pass on the qualifications of the man to be Chairman.

Furthermore, the record is replete in showing that people who come up for a simple confirmation to the Board itself are given very brief consideration by the committee.

I made a review of the past 10 confirmations. I find that in most cases the interrogation lasted only a very few minutes, no discussion or debate. They were approved usually by polling the committee.

The confirmation was taken to the floor and approved by unanimous consent with no debate. I might point out that any one of the six members of the Board or the seven members of the Board could be reappointed by President Carter, including some very fine people, but people whose record, whose attitude, whose qualifications should be passed on as Chairmen.

However, we are not going to do that today. I hope we can do that within the next month or two because I see the House has got that in a bill which has been unanimously approved by their committee, and we will have an opportunity to pass on that later. So I will not offer the amendment. But I only do not offer it because of the strenuous objections by certain Members of the Senate who, unless they wish it to be otherwise, will remain anonymous so far as I am concerned.

Mr. BROOKE. Mr. President, the distinguished chairman has made a most eloquent statement about an amendment, of course, which he is not going to offer, for which I am very grateful he is not going to offer at this particular time.

But I have discussed this amendment at great length with the distinguished Senator from Wisconsin, and I think we will be able to work out something relative to that amendment and have it come before the Senate for its consideration.

UP AMENDMENT NO. 743

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

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes unprinted amendment No. 743.

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.

The amendment is as follows:

At the end of the bill, add a new title as follows:

TITLE V—STANDBY LETTERS OF CREDIT

SEC. 501. The purpose of this title is to regulate standby letters of credit, guaranties, surety agreements and certain acceptances issued by commercial banks.

SEC. 502. (a) Section 5202 of the Revised Statutes, as amended (12 U.S.C. 82), is amended by inserting "(a)" after section 5202.

(b) The clause numbered "Fifth" in such redesignated section 5202(a) is amended to read:

"Fifth. Liabilities incurred under the provisions of the Federal Reserve Act, including liabilities arising from the acceptance of time drafts of the kinds described in section 13 of the Federal Reserve Act."

(c) Section 5202 is further amended by adding a new subsection (b) to read:

"Section 5202(b). No national banking association shall incur any liability arising from the acceptance of a time draft (other than liabilities arising from the acceptance of time drafts of the kinds described in section 13 of the Federal Reserve Act), or from any undertaking to make or arrange a payment in the event another person fails to do so, in an amount exceeding 50 percent of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, plus 50 percent of its unimpaired surplus fund, except that any liability which is secured by readily realizable collateral shall not be included as a liability subject to the limitation contained herein."

SEC. 503. Section 5200 of the Revised Statutes (12 U.S.C. 84) is amended by inserting immediately after the second sentence the following new sentence: "For purposes of this section, (a) where an association accepts a time draft (other than a time draft of a kind described in section 13 of the Federal Reserve Act), the amount of the acceptance shall be deemed an obligation to the association of the person who is obliged to place the bank in funds prior to the maturity of the acceptance, (b) where an association undertakes to make or arrange a payment in the event another person fails to do so, the amount involved shall be deemed an obligation of that person to the association, and (c) where the acceptance or undertaking is made in connection with the financing of the purchase of personal property for lease or sale to a user, the amount of such acceptance or undertaking shall be deemed an obligation of the user to the association; and all such transactions shall be incorporated and disclosed fully in the balance sheets and reports of condition of the issuing bank and be subject to full extension of credit analysis."

SEC. 504. Section 19(a) of the Federal Reserve Act, as amended (12 U.S.C. 461(a)), is amended by adding at the end thereof the following sentence: "For the purposes of subsection (b) of this section, any member bank acceptance (other than an acceptance of a kind described in section 13) or any undertaking by a member bank to make or arrange a payment in the event another person fails to do so shall be deemed a deposit."

SEC. 505. Paragraph 6 of section 9 of the Federal Reserve Act, as amended (12 U.S.C. 324), is amended by adding at the end thereof the following: "The provisions of sections 5200 and 5202(b) of the Revised Statutes shall apply to all State member banks and all insured nonmember State banks, so long as such banks are liable on acceptances not of a kind described in section 13 or on undertakings to make or arrange a payment in the event another person fails to do so."

SEC. 506. The provisions of this Act shall take effect upon the expiration of thirty days after the date of its enactment.

Mr. BROOKE. Mr. President, almost 3 years have passed since I introduced legislation to regulate standby letters of credit and other bank guaranties. During this time, as the amount of guaranty-type instruments has continued to grow, the potential for damaging effects on this Nation's banking system stemming from such practices has increased significantly.

When I first addressed problems attending the use of these instruments in August of 1974, the aggregate amount outstanding at the 20 largest banks alone approximately $6.9 billion. In the 3 years which have passed, the amount outstanding has risen to approximately $13 billion, while the amount outstanding nationwide is estimated at $20 billion. Indeed, there are estimates that the usage of such instruments will climb in magnitude to $50–$100 billion in the not too distant future. Clearly, the growth of such practices has gone unabated, and the attending problems have not been addressed by the banks themselves, the bank regulatory agencies or the Congress.

Chairman PROXMIRE and I introduced legislation similar to my original bill during the 2d session of the 94th Congress, and hearings were held on this legislation last year. The Committee on Banking, Housing, and Urban Affairs received wide-ranging testimony on this bill. Following the hearings on this subject, certain technical amendments were received, and considered; and they have been incorporated in the provisions before us today. It is fair to say, however, that the proposed legislation is in essence the bill which served as the basis for the Banking Committee's hearings last year.

In my judgment, we must heed the lessons of the past, and foreclose the recurrence of problems which arose in recent years involving this Nation's banking system. This amendment is designed to address problems similar to those which were involved with the failure of the United States National Bank of San Diego, and to insure that the future growth of standby letters of credit and other bank guaranties is coupled with reasonable restraints designed to insure the safety and soundness of those commercial banks engaging in such practices. In this regard, I am pleased that Chairman PROXMIRE has seen fit to join me in supporting this legislation. I believe that the addition of the amendment to S. 71 will strengthen the bill and will help to promote the safety and soundness of our banking system.

Mr. PROXMIRE. Mr. President, I am happy to support the Brooke amendment.

Standby letters of credit are guarantees issued by banks standing ready to pay the commercial paper obligations of firms that become insolvent. As such they arguably represent inherently unsafe or unsound banking practices. The three banking agencies discussed this problem. Two of them wanted to ban them outright but the third—the Comptroller of the Currency—did not.

As often happens when the banking agencies disagree, the minority prevailed. This legislation will not ban standby letters of credit, but it will control them to safe levels. So I am happy to join the distinguished Senator from Massachusetts in supporting his amendment.

Mr. President, I yield back the remainder of my time on the amendment.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I have no further amendments.

Mr. PROXMIRE. I have no further amendments.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, were agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. Is all time yielded back?

Mr. BROOKE. I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, shall the bill pass?

The bill, S. 71, was passed, as follows:

*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 "Financial Institutions Supervisory Act Amendments of 1977".

TITLE I—SUPERVISORY AUTHORITY OVER DEPOSITARY INSTITUTIONS

SEC. 101. The Federal Reserve Act is amended by redesignating sections 29 and 30 as sections 30 and 31, respectively, and by inserting after section 28 a new section as follows:

"SEC. 29. (a) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of section 22 or 23A of this Act, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, or the Board in the case of a State member bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(b) In determining the amount of the penalty the Comptroller of the Currency or the Board, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(c) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days

after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (d). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(d) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency or the Board, as the case may be. The Comptroller of the Currency or the Board, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency or the Board, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(e) If any member bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency or the Board, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(f) The Comptroller of the Currency and the Board shall promulgate regulations establishing procedures necessary to implement this section.

"(g) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

SEC. 102. Section 19 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of this section, or any regulation or order issued by the Board pursuant thereto, shall forfeit and pay a civil money penalty of not more than $100 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in paragraph (4). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The Board shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Board shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(5) If any member bank or person fails to pay an assessment after it has become a final and unappealable order or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(7) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

SEC. 103. Section 22 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(h)(1) No member bank shall make any loan or extension of credit in any manner to any of its own officers, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an officer or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such officer or person and to all companies controlled by such officer or person, would exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes, as amended, in the case of a national banking association, or by the applicable State law in the case of a State member bank.

"(2) No member bank shall make any loan or extension of credit in any manner to any of its own officers or directors, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an officer, director, or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such officer, director, or person and to all companies controlled by such officer, director, or person, would exceed $25,000, unless such loan or extension of credit is approved in advance by two-thirds of the entire board of directors with the interested party abstaining from participating directly or indirectly in the voting.

"(3) No member bank shall make any loan or extension of credit in any manner to any of its own officers or directors, or to any person who directly or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such officer, director, or person, unless such loan or extension of credit is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(4) For purposes of this subsection, an officer, director, or person shall be considered to have control of a company if said officer, director, or person, directly or indirectly or acting through or in concert with one or more other persons—

"(A) owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the company;

"(B) controls in any manner the election of a majority of the directors of the company; or

"(C) has the power to exercise a controlling influence over the management or policies of such company.

"(5) For the purposes of this subsection—

"(A) the term 'person' means an individual or company;

"(B, the term 'company' means any corporation, partnership, business trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, any other form of business entity not specifically listed herein, or any other trust, but shall not include any insured bank or any corporation the majority of shares of which is owned by the United States or by any State;

"(C) the term 'extension of credit' has the same meaning assigned such term in the fourth paragraph of section 23A of this Act;

"(D) a person shall be deemed to be a 'director' of a member bank or a 'person who directly or indirectly or acting through or in concert with one or more persons owns, controls or has power to vote more than 10 per centum of any class of voting securities of a member bank' if such person has such relationship with any bank holding company of which such member is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company; and

"(E) a person shall be deemed to be an 'officer' of a member bank if such person is an officer of any bank holding company of which such member bank is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company.

"(6) The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it deems necessary to effectuate the purposes and to prevent evasions of this subsection. The Board may further prescribe rules providing a reasonable period of time after the date of enactment of this subsection within which the amount of outstanding loans or extensions of credit made prior to such date of enactment shall be reduced so as to conform to the limitations of this subsection.".

SEC. 104. (a) Section 5 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844), is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of this Act, the Board may, whenever it has reasonable cause to believe that the continuation by a bank holding company of any activity or of ownership or control of any of its nonbank subsidiaries, other than a nonbank subsidiary of a bank, constitutes a serious risk to the financial safety, soundness, or stability of a bank holding company subsidiary bank and is inconsistent with sound banking principles or with the purposes of this Act or with the Financial Institutions Supervisory Act of 1966, order the bank holding company or any

such nonbank subsidiaries, after due notice and opportunity for hearing, and after considering the views of the bank's primary supervisor, which shall be the Comptroller of the Currency in the case of a national bank or the Federal Deposit Insurance Corporation and the appropriate State supervisory authority in the case of an insured nonmember bank, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Board may direct in unusual circumstances) its ownership or control of any such subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the bank holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing bank holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

"(2) The Board may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the holding company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in section 9 of this Act, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(b)(1) Section 408(h) of the National Housing Act (12 U.S.C. 1730a(h)) is amended by adding immediately after "under subsection (a)(2)(D)" in paragraphs (3)(A) and (3)(B) of subsection (h) the phrase "or under subsection (h)(5)" and is amended by redesignating paragraph (h)(5) as (h)(6) and by adding a new paragraph (h)(5) to read as follows:

"(5)(A) Notwithstanding any other provision of this section, the Corporation may, whenever it has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary insured institution and is inconsistent with the sound operation of an insured savings and loan institution or with the purposes of this section or with the Financial Institutions Supervisory Act, order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Corporation directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.".

"(B) The Corporation may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in subsection (k), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(2) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

"(f)(1) In order to prevent a default in an insured institution or in order to restore an insured institution in default to normal operation, the Corporation is authorized, in its discretion and upon such terms and conditions as it may determine, to make loans to, to purchase the assets of, or to make a contribution to, an insured institution or an insured institution in default.

"(2) Whenever an insured institution is in default or, in the judgment of the Corporation, is in danger of default, the Corporation may, in order to facilitate a merger or consolidation of such insured institution with another insured institution or the sale of the assets of such insured institution and the assumption of its liabilities by another insured institution and upon such terms and conditions as the Corporation may determine, purchase any such assets or assume any such liabilities, or make loans to such other insured institution, or guarantee such other insured institution against loss by reason of its merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution in or in danger of default.

"(3) No contribution or guarantee shall be made pursuant to paragraphs (1) or (2) of this subsection (f) in an amount in excess of that which the Corporation finds to be reasonably necessary to save the cost of liquidating such insured institution in or in danger of default, but if the Corporation determines that the continued operation of such institution is essential to provide adequate savings or home financing services in its community, such limitation upon the amount of a contribution or guarantee shall not apply.".

SEC. 105. (a) Section 8 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1847), is amended by redesignating "SEC. 8." as "SEC. 8. (a)" and by adding a new subsection (b) to read as follows:

"(b)(1) Any company which violates or any individual who participates in a violation of any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The company or person assessed shall be afforded an opportunity for agency hearing upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in section 9. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Board, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(7) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

(b) Section 5 of the Bank Holding Company Act is amended by adding the following new paragraph:

"(e) In the course of or in connection with an application, examination, investigation or other proceeding under this Act, the Board, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Board is empowered to make rules and regulations to effectuate the purposes of this subsection. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this Act may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted or where the witness resides or carries on business, for the enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any service required under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board may by regulation or otherwise provide. Any court having jurisdiction of any proceeding instituted under this subsection may allow to any such party such reasonable expenses and attorney's fees as it deems just and proper. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpena of the Board, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(c) Section 408(j) of the National Housing Act (12 U.S.C. 1730a(j)), is amended by adding thereto a new paragraph (j)(4) to read as follows:

"(4)(A) Any company which violates or any individual who participates in a violation of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The company or person assessed

shall be afforded an opportunity for agency hearing, upon request made within 10 days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any company or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the company is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 106. (a)(1) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818 (b)) is amended to read as follows:

"(b)(1) If, in the opinion of the appropriate Federal banking agency, any insured bank, bank which has insured deposits, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such a bank is engaging or has engaged, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank or any written agreement entered into with the agency, the agency may issue and serve upon the bank or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the agency at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the agency shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the agency may issue and serve upon the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the bank or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(e) of the National Housing Act (12 U.S.C. 1730(e)) is amended to read as follows:

"(e)(1) If, in the opinion of the Corporation, any insured institution, institution which has insured accounts or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is engaging or has engaged, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the institution or any written agreement entered into with the Corporation, including any agreement entered into under section 403 of this title, the Corporation may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation of violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Corporation at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Corporation shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Corporation may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the institution or directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and, further to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the institution or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Corporation or a reviewing court.

"(3) This subsection and subsections (f), (g), (h), (j), (k), (m)(3), (n), (o), (p), and (q) of this section shall apply to any savings and loan holding company, and to any subsidiary (other than an insured institution) of a savings and loan holding company, as those terms are defined in section 408 of this title, and to any affiliate service corporation of an insured institution in the same manner as they apply to insured institutions.".

(3) Section 5(d)(2) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(2)), is amended to read as follows:

"(2)(A) If, in the opinion of the Board, any association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is engaging or has engaged, or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to engage, in an unsafe or unsound practice in conducting the business of such association, or is violating or has violated or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to violate, a law, rule, or regulation, or charter, or any condition imposed in writing by the Board in connection with the granting of any application or other request by the association or any written agreement entered into with the Board, the Board may issue and serve upon the association or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Board at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Board

shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and serve upon the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the association or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(B) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the association or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

"(C) This paragraph and paragraphs (3), (4), (5), (7), (8), (9), (10), (12) (A) and (B), (13), and (14) of this subsection (d) shall apply to any savings and loan holding company or to any subsidiary (other than an association) of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act (12 U.S.C. 1730a), as amended, and to any affiliate service corporation of an association in the same manner as they apply to an association.".

(4) Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786 (e)(1)) is amended to read as follows:

"(e)(1) If, in the opinion of the Administrator, any insured credit union, credit union which has insured accounts, or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union is engaging or has engaged, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union or any written agreement entered into with the Administrator, the Administrator may issue and serve upon the credit union or such director, officer, committte member, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union or the the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Administrator shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the credit union or its directors, officers, committee members, employees, agents, and other persons participating in the conduct of the affairs of such credit union to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the credit union or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(b) Section 8(b)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(b)(3)), is amended: (1) by inserting after "Bank Holding Company Act of 1956" a comma and the following: "and to any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,"; and (2) by adding at the end thereof the following new sentence: "Nothing in this subsection or in subsection (c) of this section shall authorize any Federal banking agency, other than the Board of Governors of the Federal Reserve System, to issue a notice of charges or cease-and-desist order against a bank holding company or any subsidiary thereof (other than a bank or subsidiary of that bank).".

(c)(1) Sections 8(c)(1) and (2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)(1) and (2)) are amended to read as follows:

"(c)(1) Whenever the appropriate Federal banking agency shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank pursuant to paragraph (1) of subsection (b) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously weaken the condition of the bank or otherwise seriously prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (b) of this section, the agency may issue a temporary order requiring the bank or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the bank or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the bank or such director, officer, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the bank concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank has been served with a temporary cease-and-desist order, the bank or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the bank is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (1) of subsection (b) of this section, and such court shall have jurisdiction to issue such injunction.".

(2) Section 407(f) (1) and (2) of the National Housing Act (12 U.S.C. 1730(f) (1) and (2)) is amended to read as follows:

"(f)(1) Whenever the Corporation shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution or any institution any of the accounts of which are insured pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (c) of this section, the Corporation may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution and/or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Corporation shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the institution or such director, officer, employee, agent, or other person, until the effective date of any such order.

"(2) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease-and-desist order, the institution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the principal office of the institution is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of

charges served upon the institution or such director, officer, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(3) Section 5(d)(3) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(3) (A) and (B)), is amended to read as follows:

"(3)(A) Whenever the Board shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association pursuant to paragraph (2)(A) of this subsection, or the continuation thereof, is likely to cause insolvency (as defined in paragraph (6)(A)(i) of this subsection) or substantial dissipation of assets or earnings of the association, or is likely to seriously weaken the condition of the association or otherwise seriously prejudice the interests of its savings account holders prior to the completion of the proceedings conducted pursuant to paragraph (2)(A) of this subsection the Board may issue a temporary order requiring the association or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the association or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Board shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the association or such director, officer, employee, agent, or other person, until the effective date of such order.

"(B) Within ten days after the association concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association has been served with a temporary cease-and-desist order, the association or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the association is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (2)(A) of this subsection, and such court shall have jurisdiction to issue such injunction.".

(4) Sections 206(f) (1) and (2) of the Federal Credit Union Act (12 U.S.C. 1786(f) (1) and (2)) are amended to read as follows:

"(f)(1) Whenever the Administrator shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to seriously weaken the condition of the credit union or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (e) of this section, the Administrator may issue a temporary order requiring the credit union or such director, officer, committee member, employee, agents, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the credit union or such director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Administration shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the credit union or such director, officer, committee member, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the credit union concerned or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union has been served with a temporary cease-and-desist order, the credit union or such director, officer, committee member, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the credit union is located or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union or such director, officer, committee member, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(d)(1) Section 8(e) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(e)), is amended to read as follows:

"(e)(1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful disregard for the safety or soundness of the bank, the agency may serve upon such director or officer a written notice of its intention to remove him from office.

"(2) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the bank.

"(3) In respect to any director or officer of an insured bank or any other person referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured bank, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency at the request of (A) such director or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice have been established, the agency may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. In any action brought under this section by the Comptroller of the Currency in respect to any director, officer or other person with respect to a national banking association or a District bank, the findings and conclusions of the Administrative Law Judge shall be certified to the Board of Governors of the Federal Reserve System for the determination of whether any order shall issue. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(g)(1) and (2) of the Na-

tional Housing Act (12 U.S.C. 1730(g)(1) and (2)) is amended to read as follows:

"(g)(1) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Corporation determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful disregard for the safety or soundness of the institution, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

"(2) Whenever, in the opinion of the Corporation, any director or officer of an insured institution, by conduct or practice with respect to another insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Corporation, any other person participating in the conduct of the affairs of an insured institution, by conduct or practice with respect to such institution or other insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and in addition, has evidenced his unfitness to participate in the conduct of affairs of such insured institution, the Corporation may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.".

(3) Section 5(d)(4) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(4) (A) and (B)) is amended to read as follows:

"(4)(A) Whenever, in the opinion of the Board, any director or officer of an association has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the association, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Board determines that the association has suffered or will probably suffer substantial financial loss or other damage or that the interests of its savings account holders could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful disregard for the safety or soundness of the association, the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.

"(4)(B) Whenever, in the opinion of the Board, any director or officer of an association, by conduct or practice with respect to another savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Board, any other person participating in the conduct of the affairs of an association, by conduct or practice with respect to such association or other savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such association, the Board may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.".

(4) Section 206(g) (1) through (4) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(g) (1) through (4)), is amended to read as follows:

"(g)(1) Whenever, in the opinion of the Administrator, any director, committee member, or officer of an insured credit union has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the credit union, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director, committee member, or officer, and the Administrator determines that the credit union has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director, committee member, or officer received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director, committee member, or officer, or one which demonstrates a willful disregard for the safety or soundness of the credit union, the Administrator may serve upon such director, committee member, or officer a written notice of his intention to remove him from office.

"(2) Whenever, in the opinion of the Administrator, any director, committee member, or officer of an insured credit union, by conduct or practice with respect to another insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Administrator, any other person participating in the conduct of the affairs of an insured credit union, by conduct or practice with respect to such credit union or other insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured credit union, the Administrator may serve upon such director, officer, or other person a written notice of his intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the credit union.

"(3) In respect to any director, committee member, or officer of an insured credit union or any other person referred to in paragraph (1) or (2) of this subsection, the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its members, by written notice to such effect served upon such director, committee member, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (1) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Administrator shall dismiss the charges specified in such notice, or, if an order of removal and prohibition is issued against the director, committee member, or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, committee member, or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, committee member, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured credit union, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by this Administrator at the request of (A) such director, committee member, or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, committee member, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice have been established, the Administrator may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the credit union, as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such credit union and the director, committee member, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(e)(1) Section 8(i) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818 (i)), is amended by redesignating section 8 (i) as 8(1)(1) and by adding at the end thereof a new paragraph as follows:

"(2)(i) Any insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such a bank who violates the terms of any order which has become final and was issued pursuant to subsection (b) or (c) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the appropriate Federal banking

agency by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The insured bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) Each Federal banking agency shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

(2) Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended by adding a new paragraph (k)(3) to read as follows:

"(3)(A) Any insured institution or any institution any of the accounts of which are insured which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the terms of any order which has become final and was issued pursuant to subsection (e) or (f) of this section shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section. the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured institution or person charged, the gravity of the violation, the history of previous violations and such other matters as justice may require.

"(C) The insured institution or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured institution or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(3) Section 5(d)(8) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(5)(d)(8)), is amended by redesignating "section 5(d)(8)" as "5(d)(8)(A)" and by adding the following new paragraph:

"(B)(i) Any association which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an association who violates the terms of any order which has become final and was issued pursuant to paragraph (2) or (3) of this subsection, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The association or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the association is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) the Board shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(4) Section 206(j) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(j)), is amended by redesignating section 206(j) as 206(j)(1) and by adding a new paragraph as follows:

"(2)(A) Any insured credit union which violates or any officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union who violates the terms of any order which has become final and was issued pursuant to subsection (e) or (f) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Administrator by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty, the Administrator shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured credit union or person charged, the gravity of the violation, the history of previous violations, and other matters as justice may require.

"(C) The insured credit union or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The Administrator's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured credit union or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may ob-

tain review by the United States court of appeals for the circuit in which the home office of the insured credit union is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Administrator. The Administrator shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Administrator shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured credit union or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Administrator shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 107. Section 18(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(j)), is amended by redesignating section 18(j) as "18(j)(1)" and by adding at the end thereof the following:

"(2) The provisions of section 22(h) of the Federal Reserve Act, as amended, relating to limits on loans and extensions of credit by a member bank to its officers or directors or to any individual who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank or to companies controlled by such officer, director, or individual, and relating to board of director's approval of and terms of such loan, shall be applicable to every nonmember insured bank in the same manner and to the same extent as if such nonmember insured bank were a State member bank.

"(3)(i) Any nonmember insured bank which violates or any officer, director, employes, agent, or other person participating in the conduct of the affairs of such nonmember insured bank who violates any provision of section 23A or 22(h) of the Federal Reserve Act, as amended, or any lawful regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The nonmember insured bank or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided the assessment shall constitute a final and unappealable order.

"(iv) Any nonmember insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any nonmember insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under the authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 108. Any amendment made by this title which provides for the imposition of civil penalties shall apply only to violations occurring or continuing after the date of its enactment.

SEC. 109. Section 22(g) of the Federal Reserve Act, as amended (12 U.S.C. 375a), is amended by inserting the figure "$60,000" in lieu of the figure "$30,000" in paragraph (2), and by inserting the figure "$20,000" in lieu of the figure "$10,000" in paragraph (3); and by inserting the figure "$10,000" in lieu of the figure "$5,000" in paragraph (4).

SEC. 110. (a)(1) Section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

"(g)(1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the appropriate Federal banking agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, by written notice served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. A copy of such notice shall also be served upon the bank. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the appropriate agency. A copy of such order shall also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in bank affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the agency.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the bank and their respective successors take office.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the agency to show that the continued service to or participation in the conduct of the affairs of the bank by such individual does not, or is not likely to, pose a threat to the interests of the bank's depositors or threaten to impair public confidence in the bank. Upon receipt of any such request, the appropriate Federal banking agency shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the agency to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the agency shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the bank will be continued, terminated, or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the bank will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the agency's decision, if adverse to the director, officer or other person. The Federal banking agencies are authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (g)(3) of this section)".

(3) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out "(e)(5), (e)(7), (e)(8)" and inserting in lieu thereof "(e)(3), (e)(4)".

(4) Section 8(k) of the Federal Deposit Insurance Act (12 U.S.C. 1818(k)) is amended by striking out "paragraph (1) of subsection (g)" and inserting in lieu thereof "paragraph (1) or (3) of subsection (g)".

(5) Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended by adding at the end thereof the following new sentence: "Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the appropriate Federal banking agency, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(b)(1) Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended to read as follows:

"(h)(1) Whenever any director or officer of an insured institution, or other persons participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Corporation. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Corporation. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Corporation from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Corporation.

"(2) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the Corporation to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution. Upon receipt of any such request, the Corporation shall fix a time (not more than thirty days after receipt of such requests, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the Corporation or designated employees of the Corporation to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Corporation shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Corporation's decision, if adverse to the director, officer, or other person. The Corporation is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 407(j)(1) of such Act (12 U.S.C. 1730(j)(1)) is amended by inserting after "any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 407(j)(2) of such Act (12 U.S.C. 1730(j)(2)) is amended by inserting "(1)" after "subsection (h)".

(c)(1)(a) Section 5(d)(5) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(5)) is amended to read as follows:

"(5)(A) Whenever any director or officer of an association, or other person participating in the conduct of the affairs of such association, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Board, may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the association. A copy of such notice shall also be served upon the association. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the association except with the consent of the Board. A copy of such order shall also be served upon such association, whereupon such director or officer shall cease to be a director or officer of such association. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in association affairs, pursuant to subparagraph (A), (B), or (C) of paragraph (4). Any notice of suspension or order of removal issued under this subparagraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board.

"(B) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an association less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of an association are suspended pursuant to this section, the Board shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the association and their respective successors take office.

"(C) Within thirty days from service of any notice of suspension or order of removal issued pursuant to subparagraph (A), the director, officer, or other person concerned may request in writing an opportunity to appear before the Board to show that the continued service to or participation in the conduct of the affairs of the association by such individual does not, or is not likely to, pose a threat to the interests of the association's depositors or threaten to impair public confidence in the association. Upon receipt of any such request, the Board shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the Board to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Board shall notify the director, officer or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the association will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the association will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Board's decision, if adverse to the director, officer, or other person. The Board is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 5(d)(7)(A) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(d)(7)(A)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in paragraph (5)(C) of this section)".

(3) Section 5(d)(13)(A)(1) of such Act (12 U.S.C. 1464(d)(13)(A)(1)) is amended by inserting after "paragraph (5)(A)" the following: "or (C)".

(d)(1) Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended to read as follows:

"(h)(1) Whenever any director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust

which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's depositors or may threaten to impair public confidence in the credit union, by written notice served upon such director, committee member, officer, or other person suspended him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator. In the event that a judgment of conviction with respect to such crime is entered against such director, committee member, officer or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's depositors or may threaten to impair public confidence in the credit union, issue and serve upon such director, committee member, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director or officer shall cease to be a director, committee member, or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, committee member, officer, or other person from office or to prohibit further participation in the affairs of the credit union, pursuant to subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Administrator.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a Federal credit union are suspended pursuant to this section, the Administrator shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office. Directors appointed temporarily by the Administrator shall, within thirty days following their appointment, call a special meeting for the election of new directors, unless during the thirty-day period (A) the regular annual meeting is scheduled, or (B) the suspensions giving rise to the appointment of temporary directors are terminated.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, committee member, officer, or other person concerned may request in writing an opportunity to appear before the Administrator to show that the continued service to or participation in the conduct of the affairs of the credit union by such individual does not, or is not likely to, pose a threat to the interests of the credit union's depositors or threaten to impair public confidence in the credit union. Upon receipt of any such request, the Administrator shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, committee member, officer, or other person) and place at which the director, committee-member, officer, or other person may appear, personally or through counsel, before the Administrator or his designee to submit written materials (or, at the discretion of the Administrator, oral testimony) and oral argument. Within sixty days of such hearing, the Administrator shall notify the director, committee member, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the credit union will be continued, terminated or otherwise modified, or whether the order removing said director, committee member, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the credit union will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Administrator's decision, if adverse to the director, committee member, officer, or other person. The Administrator is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection."

(2) Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 206(i)(2) of such Act (12 U.S.C. 1786(i)(2)) is amended by inserting "(1)" after "subsection (h)".

SEC. 111. (a) Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended by inserting after the second sentence the following new sentence: "The Board is authorized upon application by a bank to extend, from time to time for not more than one year at a time, the two-year period referred to above for disposing of any shares acquired by a bank in the regular course of security or collecting a debt previously contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed three years.".

(b) Section 2(a)(5)(D) of such Act (12 U.S.C. 1841(a)(5)(D)) is amended by adding at the end thereof the following new sentence: "The Board is authorized upon application by a company to extend, from time to time for not more than one year at a time, the two-year period referred to herein for disposing of any shares acquired by a company in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extension shall in the aggregate exceed three years.".

(c) Section 4(c)(2) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(2)), is amended by striking out "shares acquired by a bank in satisfaction of a debt previously contracted in good faith, but such bank shall dispose of such shares within a period of two years" and inserting in lieu thereof the following: shares acquired by a bank holding company or any of its subsidiaries in satisfaction of a debt previously contracted in good faith, but such shares shall be disposed of within a period of two years".

TITLE II—INTERLOCKING DIRECTORS

SEC. 201. This title may be cited as the "Depositary Institution Management Interlocks Act".

SEC. 202. As used in this title—

(1) the term "depositary institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;

(2) the term "depositary holding company" means a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956, a company which would be a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 but for the exemption contained in section 2(a)(5)(F) thereof, or a savings and loan holding company as defined in section 408((a)(1)(D) of the National Housing Act;

(3) the characterization of any corporation (including depositary institutions and depositary holding companies), as an "affiliate of," or as "affiliated" with any other corporation means that—

(A) one of the corporations is a depositary holding company and the other is a subsidiary thereof, or both corporations are subsidiaries of the same depositary holding company, as the term "subsidiary" is defined in either section 2(d) of the Bank Holding Company Act of 1956 in the case of a bank holding company or section 408(a)(1)(H) of the National Housing Act in the case of a savings and loan holding company;

(B) more than 50 per centum of the voting stock of one corporation is beneficially owned in the aggregate by one or more persons who also beneficially own in the aggregate more than 50 per centum of the voting stock of the other corporation; or

(C) one of the corporations is a trust company all of the stock of which, except for directors qualifying shares, was owned by one or more mutual savings banks on the date of enactment of this Act, and the other corporation is a mutual savings bank;

(4) the term "management official" means an employee or officer with management functions, a director (including an advisory or honorary director), a trustee of a business organization under the control of trustees, or any person who has a representative or nominee serving in any such capacity; *Provided*, That if a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank is specifically authorized under the laws of the State in which said institution is located to serve as a trustee, director, or other officer of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons, then, for the purposes of this title, such corporator, trustee, director, or other officer shall not be deemed to be a management official of such trust company: *And provided further*, That if a management official of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons is specifically authorized under the laws of the State in which said institution is located to serve as a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank, then, for the purposes of this title, such management official shall not be deemed to be a management official of any such savings bank or cooperative bank; and

(5) the term "office" used with reference to a depositary institution means either a principal office or a branch.

SEC. 203. A management official of a depositary institution or a depositary holding company may not serve as a management official of any other depositary institution or depositary holding company not affiliated therewith if an office of one of the institutions or any depositary institution that is an affiliate of such institutions is located within either—

(1) the same standard metropolitan sta-

tistical area as defined by the Office of Management and Budget, or

(2) the same city, town, or village as that in which an office of the other institution or any depositary institution that is an affiliate of such other institution is located, or in any city, town, or village contiguous or adjacent thereto.

SEC. 204. If a depositary institution or a depositary holding company has total assets exceeding $1,000,000,000, a management official of such institution or any affiliate thereof may not serve as a management official of any other nonaffiliated depositary institution or depositary holding company having total assets exceeding $500,000,000 or as a management official of any affiliate of such other institution.

SEC. 205. The prohibitions contained in sections 202, 203, and 204 shall not apply in the case of any one or more of the following or any branch or subsidiary thereof:

(1) A depositary institution or depositary holding company which has been placed formally in liquidation, or which is in the hands or a receiver, conservator, or other official exercising a similar function.

(2) A corporation operating under section 25 or 25A of the Federal Reserve Act.

(3) A credit union being served by a management official of another credit union or a credit union being served by a management official of another depositary institution.

(4) A depositary institution or depositary holding company which does not do business within any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands except as an incident to its activities outside the United States.

SEC. 206. A person whose service in any given position as a management official was not prohibited by this title at the time of the beginning of such service is not prohibited by this title from continuing to serve in that position for a period of ten years after the date of enactment of this title. The Board of Governors of the Federal Reserve System may provide a reasonable period of time for compliance with this title, not exceeding fifteen months, after any change in circumstances, other than the coming into effect of this title which makes such service prohibited by this title.

SEC. 207. This title shall be administered and enforced by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporations with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation.

(4) the Federal Home Loan Bank Board with respect to Federal savings and loan associations and institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies,

(5) the National Credit Union Administration with respect to Federal credit unions and institutions the accounts of which are insured by the National Credit Union Administration, and

(6) the Attorney General for all other institutions.

SEC. 208. The following provisions of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (Clayton Act, 38 Stat. 732, as amended), are repealed:

(a) The first three paragraphs of section 8 (15 U.S.C. 19).

(b) The words "bank or other" in the last paragraph of section 8 each time they appear.

SEC. 209. (a) Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by adding at the end thereof the following new paragraph:

"(5) For the purposes of enforcing any law, rule, regulation or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

(d) Section 5(d) of the Homeowners' Loan Act (12 U.S.C. 1464(d) is amended by adding at the end thereof the following new paragraph:

"(15) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity."

(c) Section 407(q) of the National Housing Act is amended by adding at the end thereof the following:

"(4) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

SEC. 210. The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including authorization for a management official of a depository institution to serve as a management official of any other depository institution, as are consistent with the purposes of this title and necessary to effectuate such purposes or to prevent evasion of this title.

## TITLE III—FOREIGN BRANCHING

SEC. 301. (a) Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended—

(1) by inserting "domestic" immediately before "branch" the first place it appears; and

(2) by inserting before the period at the end thereof a semicolon and the following: "and the term 'foreign branch' means any office, place of business, or similar establishment located outside the United States, its territories, Puerto Rico, Guam, American Samoa, and the Virgin Islands".

(b) Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by inserting "domestic" between "new" and "branch";

(3) by inserting "such" between "any" and "branch"; and

(4) by adding at the end thereof the following new paragraph:

"(2) No State nonmember insured bank shall establish or operate any foreign branch, except with the prior written consent of the Corporation and upon such conditions and pursuant to such regulations as the Corporation may prescribe from time to time.".

(c) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

"(1) When authorized by State law, a State nonmember insured bank may, but only with the prior written consent of the Corporation and upon such conditions and under such regulations as the Corporation may prescribe from time to time, acquire and hold, directly or indirectly, stock or other evidences of ownership in one or more banks or other entities organized under the law of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the Board of Directors, shall be incidental to the international or foreign business of such foreign bank or entity; and, notwithstanding the provisions of subsection (j) of this section, such State nonmember insured bank may, as to such foreign bank or entity, engage in transactions that would otherwise be covered thereby, but only in the manner and within the limits prescribed by the Corporation by general or specific regulation or ruling.".

SEC. 302. The sixth sentence of section 7 (a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: "The correctness of said report of conditions shall be attested by the signatures of at least two directors or trustees of the reporting bank other than the officer making such declaration, with a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.".

SEC. 303. Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended—

(1) by inserting in the first sentence after "this section," the first place it appears therein the following: "or in connection with any claim for insured deposits or any examination or investigation under section 10(c),";

(2) by inserting "examination, or investigation or considering the claim for insured deposits," in the first sentence after "proceeding," the second place it appears therein;

(3) by striking out "proceedings" at the end of the first sentence thereof and inserting in lieu thereof "proceedings, claims, examinations, or investigations";

(4) by inserting "such agency or any" after "Any" at the beginning of the third sentence thereof; and

(5) by striking out "section" and inserting in lieu thereof "subsection" in the fourth sentence thereof.

SEC. 304. Section (8)(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended to read as follows:

"(q) Whenever the liabilities of an insured bank for deposits shall have been assumed by another insured bank or banks, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract (1) the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption; (2) the separate insurance of all deposits so assumed shall terminate at the end of six months from the date such assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period; and (3) the assuming or resulting bank shall give notice of such assumption to each of the depositors of the bank whose liabilities are so assumed within thirty days after such assumption takes effect. Where the deposits of an insured bank are assumed by a newly insured bank, the bank whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been so assumed after the semiannual period in which the assumption takes effect.".

SEC. 305. (a) Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is

amended by inserting "or other institution" in the first sentence after the words "any State nonmember bank" and by striking out the last two sentences of that subsection.

(b) Section 10 (c) and (d) of the Federal Deposit Insurance Act (12 U.S.C. (c) and (d)) are amended to read as follows:

"(c) In connection with examinations of insured banks, State nonmember banks or other institutions making application to become insured banks, and affiliates thereof, or with other types of investigations to determine compliance with applicable law and regulations, the appropriate Federal banking agency, or its designated representatives, are authorized to administer oaths and affirmations, and to examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank or institution or affiliate thereof, and to exercise such other powers as are set forth in section 8(n) of this Act.

"(d) For purposes of this section, the term 'affiliate' shall have the same meaning as in section 23A of the Federal Reserve Act, except that the term 'member bank' in such section 23A and in section 2(b) of the Banking Act of 1933 shall be deemed to refer to an insured bank.".

SEC. 306. Section 18(c)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1928(c)(1)(B)) is amended by inserting after the word "deposits" the following: "(including liabilities which would be 'deposits' except for the proviso in section 3(1)(5) of this Act)".

SEC. 307. Section 1114 of title 18, United States Code, is amended by inserting before "shall be punished" the following "or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administrator engaged in or on account of the performance of his official duties,".

SEC. 308. Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended to read as follows:

"SEC. 5. Whenever any bank which is regularly examined by a Federal supervisory agency or any subsidiary or affiliate of such bank which is subject to examination by that agency, causes to be performed, by contract or otherwise, any bank sevices for itself, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if the services were being performed by the bank itself on its own premises and

"(2) the bank shall notify such agency of the existence of a service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.".

## TITLE IV—CONFLICTS OF INTEREST

SEC. 401. This title may be cited as the "Depository Institutions Conflict of Interest Act".

SEC. 402. Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended by striking out the sixth sentence and inserting in lieu thereof the following: "The members of the Board of Directors shall be ineligible, during the time they are in office and for a period of two years thereafter, to hold any office, position, or employment in an insured bank, in a holding company of an insured bank, or in an affiliate of a holding company of an insured bank, and may not, during such two-year period, voluntarily acquire any interest in such a bank, company, or affiliate, or exercise any voting rights attributable to the ownership of any security issued by such a bank company, or affiliate, except that this restriction shall not apply to any individual who has served the full term for which he was appointed.".

SEC. 403. The first sentence of the second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by adding at the end thereof the following: "The members of the Board of Governors shall be ineligible, during the time they are in office and for a period of two years thereafter, to hold any office position, or employment in a member bank, in a bank holding company or in an affiliate of a bank holding company, and may not, during such two-year period, voluntarily acquire any interest in such a bank, company, or affiliate, or exercise any voting rights attributable to the ownership of any security issued by such a bank company, or affiliate, except that this restriction shall not apply to any individual who has served the full term for which he was appointed.".

SEC. 404. Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) is amended by adding at the end thereof the following:

"(c) The members of the board shall be ineligible during the time they are in office and for a period of two years thereafter to hold any office, position, or employment in an insured institution, in a holding company of an insured institution, or in an affiliate of a holding company of an insured institution, and may not, during such two-year period, voluntarily acquire any interest in such an institution, company, or affiliate, or exercise any voting rights attributable to the ownership of any security issued by such an institution, company, or affiliate, except that this restriction shall not apply to any individual who has served the full term for which he was appointed. As used in this subsection, the term 'insured institution' has the same meaning as in section 401 of the National Housing Act.".

SEC. 405. (a) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Chairman, Board of Governors of the Federal Reserve System.".

(b) Section 5313(10) of such title is amended by striking out "Chairman" and inserting in lieu thereof "Members".

(c) Section 5313 of such title is amended by adding at the end thereof the following:

"(24) Chairman, Board of Directors, Federal Deposit Insurance Corporation.

"(25) Chairman of the Federal Home Loan Bank Board.

"(26) Comptroller of the Currency.".

(d) Section 5314 of title 5, United States Code, is amended by striking out items 19, 20, 30, and 43.

## TITLE V—CREDIT UNION RESTRUCTURING

SEC. 501. Section 102 of the Federal Credit Union Act (12 U.S.C. 1752a) is amended to read as follows:

"CREATION OF ADMINISTRATION

"SEC. 102. (a) There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration. The Administration shall be under the management of a National Credit Union Administration Board.

"(b) The Board shall consist of three members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be members of the same political party.

"(c) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, initially appointed shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment. Board members shall not be appointed to succeed themselves except the initial members appointed for less than a six-year term may be reappointed for a full six-year term and future members appointed to fill unexpired terms may be reappointed for a full six-year term. Any Board member may continue to serve as such after the expiration of said member's term until a successor has qualified.

"(d) The management of the Administration shall be vested in the Board. The Board shall adopt such rules as it sees fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the Board shall constitute a quorum. Not later than April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report to the President and to the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

"(e) The Chairman of the Board shall be the spokesman for the Board and shall represent the Board and the National Credit Union Administration in its official relations with other branches of the Government. The Chairman shall determine each Board member's area of responsibility and shall review such assignments biennially. It shall be the Chairman's responsibility to direct the implementation of the adopted policies and regulations of the Board.

"(f) The members of the Board shall be ineligible during the time they are in office or for two years thereafter to hold any office, position, or employment in any credit union or in any financial institution in which a credit union owns stock, except that this restriction shall not apply to any member who has served the full term for which he was appointed.

"(g) The financial transactions of the Administration shall be subject to audit on a calendar year basis by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.".

SEC. 502. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the term 'Chairman' means the Chairman of the National Credit Union Administration Board,";

(2) by inserting "Administration" after "Union" in clause (4).

(b) The Federal Credit Union Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Board", and by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "them", and "its" as appropriate wherever such words appear therein.

(c) Section 209 of the Federal Credit Union Act (12 U.S.C. 1789) is amended—

(1) by inserting in subsection (b)(1) the language "on a calendar year basis" immediately following "prepare annually";

(2) by inserting in subsection (b)(2) the language "on a calendar year basis" immediately following "set of accounts".

(d) Section 5108 of title 5, United States Code, is amended by adding the following new paragraph:

"(h) In addition to the number of positions authorized by subsection (a), the National Credit Union Administration is authorized without regard to any other provision to this section, to place two positions

in the Administration at GS–18 and a total of fourteen positions in the Administration at GS–16 or GS–17.".

(e) Section 5313 of title 5, United States Code, is amended by adding the following new paragraph:

"(28) Chairman, National Credit Union Administration Board.".

(f) Section 5314 (92) of title 5, United States Code, is amended by striking out "Administrator of the National Credit Union Administration" and inserting in lieu thereof "Members, National Credit Union Administration Board (2)".

SEC. 503. (a) The Federal Credit Union Act (12 U.S.C. 1751–1790) is further amended by striking out "Administrator" and inserting in lieu thereof "Board" in the following sections:

(1) section 103 (12 U.S.C. 1753);
(2) section 104 (12 U.S.C. 1754);
(3) section 105 (12 U.S.C. 1755);
(4) section 106 (12 U.S.C. 1756);
(5) paragraphs (5), (8), (9), (10), (13), and (14) of section 107 (12 U.S.C. 1757);
(6) section 108 (12 U.S.C. 1758);
(7) section 109 (12 U.S.C. 1759);
(8) section 111 (12 U.S.C. 1761);
(9) section 112 (12 U.S.C. 1761a);
(10) section 113 (12 U.S.C. 1761b);
(11) section 115 (12 U.S.C. 1761d);
(12) paragraph (b)(2) of section 116 (12 U.S.C. 1762);
(13) the title of section 120 (12 U.S.C. 1766);
(14) section 120(a) (12 U.S.C. 1766);
(15) section 120(b)(1) (12 U.S.C. 1766);
(16) section 120(b)(2) (12 U.S.C. 1766);
(17) section 120(b)(3) (12 U.S.C. 1766);
(18) section 120(b)(4) (12 U.S.C. 1766);
(19) section 120(b)(5) (12 U.S.C. 1766);
(20) section 120(c) (12 U.S.C. 1766);
(21) section 120(d) (12 U.S.C. 1766);
(22) section 120(c) (12 U.S.C. 1766);
(23) section 120(f)(1) (12 U.S.C. 1766);
(24) section 120(f)(2)(A) (12 U.S.C. 1766);
(25) section 120(f)(2)(B) (12 U.S.C. 1766);
(26) section 120(g) (12 U.S.C. 1766);
(27) section 120(h) (12 U.S.C. 1766);
(28) section 120(i) (12 U.S.C. 1766);
(29) section 120(i)(3) (12 U.S.C. 1766);
(30) section 121 (12 U.S.C. 1767);
(31) section 125(b)(1) (12 U.S.C. 1771);
(32) section 125(b)(2) (12 U.S.C. 1771);
(33) section 127 (12 U.S.C. 1772a); and
(34) sections 201 to 210 (12 U.S.C. 1773–1775).

(b) Such Act is further amended by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "they", and "its" as appropriate wherever such words appear therein.

SEC. 504. (a) Paragraph (4) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752) which begins with "The terms 'member account'" is redesignated paragraph "(5)" and the succeeding paragraphs numbered (5) through (8) are redesignated as paragraphs (6) through (9), respectively.

(b) Paragraph (5) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by subsection (a) of this section, is amended—

(1) by striking "(when referring to the account of a member of a credit union)";

(2) by striking "share, share certificate, or share deposit" each time it appears therein and inserting "share or share certificate" in lieu thereof;

(3) by striking "those" and inserting "share or share certificate" in lieu thereof; and

(4) by striking all language after "political subdivisions thereof" and inserting "enumerated in section 207 of this Act: *Provided*, That for purposes of insured State credit unions, reference in this paragraph to 'share' or 'share certificate' accounts includes, as determined by the Board, the equivalent of such accounts under State law;" in lieu thereof.

(c) Paragraph (9) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by (a) of this section, is amended by—

(1) inserting ", including the trust territories," after "several territories"; and

(2) adding the following new sentence: "The term 'branch' also includes a suboffice, operated by a Federal credit union or by a credit union authorized by the Department of Defense, located on an American military installation in a foreign country or in the trust territories of the United States.".

SEC. 505. (a) Subsection (a) of section 201 of the Federal Credit Union Act (12 U.S.C. 1781) is amended by inserting ", including the trust territories," after "several territories".

(b) Paragraph (b)(7) of such section is amended by inserting "except for accounts authorized by State law for State credit unions" before the semicolon.

(c) Such section is further amended by striking all of subsection (d) and redesignating subsection (e) as (d).

SEC. 506. (a) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended by striking out "his" in the fifth sentence of paragraph (a)(1) and inserting "such officer's" in lieu thereof.

(b) Subsection (h)(3) of such section is amended to read as follows:

"(3) The term 'member account' when applied to the premium charge for insurance of accounts shall not include amounts received from other federally insured credit unions in excess of the insured account limit set forth in section 207(c)(1).".

SEC. 507. Section 208 of the Federal Credit Union Act (12 U.S.C. 1788) is amended by striking out "SPECIAL ASSISTANCE TO AVOID LIQUIDATION" and inserting "SPECIAL ASSISTANCE FOR FEDERALLY INSURED CREDIT UNIONS" in lieu thereof.

SEC. 508. Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended to read as follows:

"FEES

"SEC. 105. (a) In accordance with rules prescribed by the Board, each Federal credit union shall pay to the Administration an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.

"(b) The fee assessed under this section shall be determined according to a schedule, or schedules, or other method determined by the Board to be appropriate, which gives due consideration to the expenses of the Administration in carrying out its responsibilities under this Act and to the ability of Federal credit unions to pay the fee. The Board shall, among other things, determine the periods for which the fee shall be assessed and the date or dates for the payment of the fee or increments thereof.

"(c) If the annual operating fee is composed of separate charges, no supervision charge shall be payable by a Federal credit union, and the Board may waive payment of any or all other charges comprising the fee, with respect to the year in which its charter is issued, or in which final distribution is made in its liquidation or the charter is cancelled.

"(d) All operating fees shall be deposited with the Treasurer of the United States for the account of the Administration and may be expended by the Board to defray the expenses incurred in carrying out the provisions of this Act including the examination and supervision of Federal credit unions.".

SEC. 509. Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) is amended to read as follows:

"REPORTS AND EXAMINATIONS

"SEC. 106. Federal credit unions shall be under the supervision of the Board, and shall make financial reports to it as and when it may require, but at least annually. Each Federal credit union shall be subject to examination by, and for this purpose shall make its books and records accessible to, any person designated by the Board.".

SEC. 510. The amendments made by this title take effect upon enactment, except that the functions of the Administrator of the National Credit Union Administration under the provisions of the Federal Credit Union Act, as in effect on the date preceding the date of enactment of this title, shall continue to be performed by him in accordance with such provisions until such time as all the members of the National Credit Union Administration Board, established under the amendments made by this title, take office. All rules, regulations, policies, and procedures of the Administrator in effect on the date of enactment of this title shall remain in effect until amended, superseded, or repealed.

TITLE VI—STANDBY LETTERS OF CREDIT

SEC. 601. The purpose of this title is to regulate standby letters of credit, guaranties, surety agreements and certain acceptances issued by commercial banks.

SEC. 602. (a) Section 5202 of the Revised Statutes, as amended (12 U.S.C. 82), is amended by inserting "(a)" after section 5202.

(b) The clause numbered "Fifth" in such redesignated section 5202(a) is amended to read:

"Fifth. Liabilities incurred under the provisions of the Federal Reserve Act, including liabilities arising from the acceptance of time drafts of the kinds described in section 13 of the Federal Reserve Act.".

(c) Section 5202 is further amended by adding a new subsection (b) to read:

"(b) No national banking association shall incur any liability arising from the acceptance of a time draft (other than liabilities arising from the acceptance of time drafts of the kinds described in section 13 of the Federal Reserve Act), or from any undertaking to make or arrange a payment in the event another person fails to do so, in an amount exceeding 50 percent of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, plus 50 percent of its unimpaired surplus fund, except that any liability which is secured by readily realizable collateral shall not be included as a liability subject to the limitation contained herein.".

SEC. 603. Section 5200 of the Revised Statutes (12 U.S.C. 84) is amended by inserting immediately after the second sentence the following new sentence: "For purposes of this section, (a) where an association accepts a time draft (other than a time draft of a kind described in section 13 of the Federal Reserve Act), the amount of the acceptance shall be deemed an obligation to the association of the person who is obliged to place the bank in funds prior to the maturity of the acceptance, (b) where an association undertakes to make or arrange a payment in the event another person fails to do so, the amount involved shall be deemed an obligation of that person to the association, and (c) where the acceptance or undertaking is made in connection with the financing of the purchase of personal property for lease or sale to a user, the amount of such acceptance or undertaking shall be deemed an obligation of the user to the association; and all such transactions shall be incorporated and disclosed fully in the balance sheets and reports of condition of the issuing bank and be subject to full extension of credit analysis.".

SEC. 604. Section 19(a) of the Federal Reserve Act, as amended (12 U.S.C. 461(a)), is amended by adding at the end thereof the following sentence: "For the purposes of subsection (b) of this section, any member bank acceptance (other than an acceptance of a kind described in section 13) or any under-

taking by a member bank to make or arrange a payment in the event another person fails to do so shall be deemed a deposit.".

SEC. 605. Paragraph 6 of section 9 of the Federal Reserve Act, as amended (12 U.S.C. 324), is amended by adding at the end thereof the following: "The provisions of sections 5200 and 5202(b) of the Revised Statutes shall apply to all State member banks and all insured nonmember State banks, so long as such banks are liable on acceptances not of a kind described in section 13 or on undertakings to make or arrange a payment in the event another person fails to do so.".

SEC. 606. The provisions of this Act shall take effect upon the expiration of thirty days after the date of its enactment.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to strengthen the supervisory authority of Federal agencies which regulate depositary institutions, to prohibit interlocking management and director relationships between depositary institutions, to amend the Federal Deposit Insurance Act, and to encourage officials of Federal agencies responsible for the supervision of financial institutions to complete their terms of office, and for other purposes.

## FOREIGN ASSISTANCE APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7797.

Mr. ROBERT C. BYRD. Mr. President, could we resume consideration of the foreign aid bill?

The PRESIDING OFFICER. The question recurs on the committee amendment on page 10, which the clerk will report.

The assistant legislative clerk read as follows:

On page 10, line 6, strike "$215,200,000" and insert "$210,200,000";

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time not be charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. ZORINSKY assumed the chair.)

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

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

## RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 1:14 p.m., took a recess, subject to the call of the Chair.

The Senate reassembled at 1:55 p.m., when called to order by the Presiding Officer (Mr. ZORINSKY).

## VELZORA CARR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of a measure on the calendar which has been cleared for unanimous-consent passage, Calendar No. 362.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2563) for the relief of Velzora Carr.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

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

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

The motion to lay on the table was was agreed to.

## AUTHORITY FOR COMMITTEES TO REPORT BILLS AND RESOLUTIONS DURING AUGUST RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the August recess, all committees be authorized to report bills and resolutions between the hours of 9 a.m. and 3 p.m. on Thursday, August 18, and Monday, August 29.

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

## STATUS OF NOMINATIONS DURING AUGUST RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all nominations currently being considered by the Senate or received by the Senate be considered as remaining in status quo during the adjournment of the Senate from August 5 or 6, 1977, until September 7, 1977.

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

## REPORT ON THE CONDUCT OF MONETARY POLICY (REPT. NO. 95-405)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I submit the fifth report on the conduct of monetary policy, which reviews the activities during oversight hearings held by the committee on May 3 and May 10, 1977, pursuant to House Concurrent Resolution 133, 94th Congress.

I ask unanimous consent that the report be printed, together with additional views, and that the committee deliver the copy for printing purposes on August 18.

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

## FOREIGN ASSISTANCE APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7797.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged against either side on the bill.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

### RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:30 p.m. today.

There being no objection, the Senate, at 1:58 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HART).

The PRESIDING OFFICER. The pending question is the committee amendment on page 10, line 6.

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

The PRESIDING OFFICER. On whose time?

Mr. INOUYE. On my time.

The PRESIDING OFFICER. The Chair will remind the Senator from Hawaii that he only has 3 minutes on this amendment.

Mr. INOUYE. Then on the committee bill.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

### ORDER LIMITING TIME ON SPECIFIED AMENDMENTS TO 30 MINUTES

Mr. INOUYE. Mr. President, I ask unanimous consent that time on any amendment, which, under the previous order, was granted 1 hour or unlimited time, be reduced to 30 minutes.

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

Mr. INOUYE. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the committee amendment on page 10, line 6. The Senator from Hawaii has 3 minutes on this amendment. The Senator from Pennsylvania has 30 minutes.

Mr. INOUYE. Mr. President, I yield back the remainder of my time and move its adoption.

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

Mr. INOUYE. I yield.

Mr. HELMS. Mr. President, I ask unanimous consent that De Ciro Simms be accorded the privileges of the floor during the consideration of the pending measure and any votes thereon.

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

Mr. HELMS. I thank the Chair, and I thank the Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask unanimous consent that amendments appearing on page 10, line 6 to and including line 22 be considered en bloc and agreed to.

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

Mr. INOUYE. Mr. President, may we take up the next committee amendment?

The PRESIDING OFFICER. The clerk will state the next amendment.

The legislative clerk read as follows:

On page 12, line 7 after "$30 million;" strike all down through the end of line 10.

Mr. INOUYE. Mr. President, I yield back the remainder of my time. I believe Mr. SCHWEIKER would do the same. I ask for the acceptance of the committee amendment.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield back the remainder of his time?

Mr. SCHWEIKER. I do.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 12, line 20, strike down through "1962" on line 21 and insert new language.

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 12, line 25, after "and" strike down through "loans" on page 13, line 1.

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 13, line 4, strike "title" and insert "Act."

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 13, line 4, strike "and/"

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 1 minute on the time which I have reserved.

Mr. President, I will change that. I suggest the absence of a quorum, with the time to be charged against my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 14, line 6, strike "or indirectly."

Mr. INOUYE. Mr. President, I ask unanimous consent that amendments relating to sections 107, 114, and 506 be temporarily set aside.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask that the order for the quorum call be rescinded.

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

The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 14, line 17, strike "$20,000" and insert "$15,000".

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that Sue Corbett, Mike Chafty, and Henk Chesborough, of the office of Senator GRIFFIN, be granted the privileges of the floor during the consideration of H.R. 7797.

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

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 15, line 18, after "aiding;" strike all down through line 19 through the word "indirectly" and insert "directly".

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

At the top of page 16, add the following:

SEC. 115. None of the funds made available under appropriation accounts other than Operating Expenses of the Agency for International Development shall be available for the salaries and related benefits of full-time AID employees in permanent positions.

SEC. 116. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated.

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 16, strike "$675,850,000" and insert "$677 million."

Mr. INOUYE. I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 16, line 24, strike '$81,000,000' and insert '$84,800,000.'

Mr. INOUYE. I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 18, line 3, strike "Investment in" and insert "Contribution to the."

Mr. INOUYE. Mr. President, in behalf of the Senator from Alabama, I ask unanimous consent that the amount appearing on line 11 on page 18—to wit, $263,571,563—be amended to read "$235 million."

Mr. SCHWEIKER. Mr. President, I have to register an objection in behalf of Senator BROOKE until this matter is cleared with him.

Mr. INOUYE. I also ask unanimous consent that the deletion appearing on line 3 be agreed to.

The PRESIDING OFFICER. Objection was heard to the first part of the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. 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. INOUYE. Mr. President, I repeat my unanimous-consent request that, on page 18, line 11, the number "263,571,-563," be amended to read "$235,000,000."

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. ALLEN. Reserving the right to object, I shall not object, because this has been agreed to. As I understand it, the Senate raised the amount set by the House $63,571,563. This reduces the raise to $35 million.

Mr. INOUYE. The Senator is correct.

Mr. ALLEN. I have no objection to the amendment. I commend the distinguished manager of the bill for agreeing to this reduction of some $20 million. I appreciate his conciliatory attitude on making some constructive changes in these amounts, reducing them substantially.

I reserve the remainder of my time because I believe the distinguished Senator from North Carolina wishes to address this amendment.

Mr. HELMS. Mr. President, with the understanding that the time is charged to neither side, may we have a brief quorum call? I suggest the absence of a quorum.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. 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. INOUYE. Mr. President, in order to clarify the situation, I ask unanimous consent that the amendment appearing on page 18, line 3, of the committee amendment be agreed to.

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

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

Mr. INOUYE. I am quite happy to yield.

Mr. HELMS. We have been moving so rapidly that we crossed over section 116 on page 16. I wonder if the distinguished Senator would be willing to go back to that and reconsider the action and let me offer an amendment at that point. I can put it elsewhere in the bill, but it would fit better in section 116.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. 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. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 18, from line 11, to page 19, lines 1 and 2, be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection—is that as modified?

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 19, line 3, be agreed to.

Mr. ALLEN. Will the Senator yield?

Mr. INOUYE. I am happy to yield.

Mr. ALLEN. I commend the manager for this amendment, because I believe that, by putting in this amendment, he is being frank and candid. I think it is well to face up to reality, because the House had the language "Investment" in the Inter-American Development Bank, and the committee, very wisely, changed "investment" to "contribution." I think that more nearly describes what is involved here. It is not an investment, it is a contribution.

I commend the distinguished manager of the bill and the committee for coming to us with a realistic amendment that calls these multimillion dollar contributions contributions, instead of investments, because that is what they are.

Mr. INOUYE. I thank the Senator, very much.

Mr. President, I repeat my unanimous consent request that the committee amendment appearing on page 19, line 3, be agreed to.

The PRESIDING OFFICER. The Chair points out to the distinguished manager of the bill that the amendment beginning on page 18, line 11, has not been agreed to. Does the Senator wish that?

Mr. INOUYE. I repeat my unanimous-consent request that the amount, "$263,-571,563," be amended to read "$235 million."

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 19, line 3, be agreed to.

The PRESIDING OFFICER. Does the Senator wish to pass over the amendment on page 18, line 11, starting with the word "expended," that it be skipped over?

Mr. INOUYE. We have already made a unanimous consent to accept all of that, agree to that.

Mr. ALLEN. That is where the Senator changed it to $235 million instead of $263 million.

The PRESIDING OFFICER. It is a separate amendment.

Mr. INOUYE. Once again, I repeat, Mr. President, I ask unanimous consent that the committee amendments appearing on page 18 and 19, beginning on line 11 with the word "expended" and ending with the United States Code on line 2, page 19, be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 19, line 3, be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 19, beginning at line 10 and extending to page 20, line 2, be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendments appearing on page 20, beginning with line 3, to and including line 19, be agreed to.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 20, line 20, be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the amount appearing on line 2, page 21, be amended to read $42 million.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the amendment appearing on page 21, line 4, be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I have an amendment to the next section, which is an amendment prior to the next committee amendment.

I assume that before this next committee amendment would be the proper time to offer this amendment.

The PRESIDING OFFICER. When the time has expired on the committee amendment would be the appropriate time.

Mr. INOUYE. Mr. President, I ask unanimous consent that, notwithstanding the rule, the Senator from Virginia be permitted to submit an amendment to the figure of $950 million appearing on page 21, line 12.

The PRESIDING OFFICER. Is there objection?

Mr. SCHWEIKER. Mr. President, I have to object, not for myself, because I am in support of what is being done here, but I have to object for the Senator from Massachusetts (Mr. BROOKE) until he will come to the Senate floor.

Mr. HARRY F. BYRD, JR. Is the objection to submitting the amendment or is it to the amendment after it is submitted?

Mr. SCHWEIKER. The Senator has registered objection to any unanimous-consent request relating to this particular item.

Mr. INOUYE. I do not suppose he objects to having the amendment submitted.

Mr. SCHWEIKER. What was the unanimous-consent request?

Mr. INOUYE. To permit the Senator from Virginia to submit an amendment relating to the figure of $950 million appearing on page 21, line 12.

Mr. SCHWEIKER. As long as that is the extent, at this point, of the unanimous consent, I see no objection.

The PRESIDING OFFICER. Without objection, the Senator from Virginia may offer his amendment.

UP AMENDMENT NO. 744

Mr. HARRY F. BYRD, JR. Mr. President, I submit an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, Jr.) proposes an unprinted amendment numbered 744:

On page 21, strike out lines 6 through 12 and insert in lieu thereof "For payment to the International Development Association by the Secretary of the Treasury for the first installment of the United States contribution to the fifth replenishment; $800,000,000 to remain".

Mr. HARRY F. BYRD, JR. Mr. President, so that we might clarify the situation, I suggest the absence of a quorum with the time to be charged against my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. 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. INOUYE. Mr. President, I ask unanimous consent that the amendment by the Senator from Virginia be set aside temporarily.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 21, from line 13 to line 23, be agreed to.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendments appearing on page 22, from lines 1 to 24, and on page 23, from lines 1 to 9, be agreed to.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 25, line 10, to page 26, line 5, be agreed to.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that the numerical changes appearing on page 26, lines 6 and 9, be agreed to.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendments appearing on page 26, line 20, to and including page 27, line 9, be agreed to.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 27, lines 10 to 12, be agreed to.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that the numerical change appearing on page 27, line 13, be agreed to.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 27, lines 21 to 25, to and including page 28, lines 1 and 2, be agreed to.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that the numerical change appearing on page 28, line 31, be agreed to.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendment appearing on page 28, line 7, to and including line 12, be agreed to.

Mr. ALLEN. Mr. President, reserving the right to object, that should be submitted——

The PRESIDING OFFICER. Reservation is heard.

Mr. INOUYE. I am sorry. This has to be done on a rollcall vote.

Mr. ALLEN. Suppose we consider the IDA matter before we get to this?

Mr. INOUYE. Mr. President, the committee amendment appearing on line 7, page 28, will be subject to a rollcall vote. This is to notify Members of the Senate. It is the section which was proposed by the House to provide for an across-the-board 5-percent cut in all obligations and expenditures appearing in this bill.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. HARRY F. BYRD, JR. I assume that what the Senator proposes is not to take up this amendment at this time.

Mr. INOUYE. I suggest that we take up the IDA amendment before that.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that this committee amendment be set aside temporarily.

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

Mr. INOUYE. Mr. President, I now request that the Senate resume consideration of the amendment submitted by the Senator from Virginia (Mr. HARRY F. BYRD, Jr.) amending page 21, lines 6 to 12.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, Jr.) proposes an unprinted amendment numbered 744:

On page 21, strike out lines 6 through 12 and insert in lieu thereof "For Payment to the International Development Association by the Secretary of the Treasury for the first installment of the United States contribution to the fifth replenishment; $800,000,000 to remain".

The PRESIDING OFFICER. There is a limit of 30 minutes for debate on this amendment, equally divided between the proponents of the amendment and the manager of the bill.

Mr. HARRY F. BYRD, JR. Mr. President, the bill before the Senate provides for the appropriation of $950 million to the International Development Association for the fiscal year 1978. The International Development Association is the soft-loan window of the World Bank. The bill before the Senate provides that $800 million of this $950 million will be for the fifth replenishment for the International Development Association with the additional $150 million to be a contribution to the fourth replenishment.

The amendment offered by the Senator from Virginia would reduce the total from $950 million to $800 million, and would provide that the $800 million remaining would be for the fifth replenishment of the World Bank.

As the distinguished Senator from Hawaii pointed out in the Senate on June 14 of this year, there can be no commitments to these international financial organizations until the appropriation is made by Congress.

The fourth replenishment already has gone by the boards. A new replenishment—namely, the fifth replenishment—to the soft-loan window of the International Development Association has now come to the fore and is before Congress for appropriation.

The amendment offered by the Senator from Virginia would change the figure now in the bill. It would eliminate $150 million for the fourth replenishment.

I understand, from having been in conference with the manager of the bill and the ranking minority member of the committee, that the managers of the bill will look favorably on the amendment offered by the Senator from Virginia.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Hawaii.

Mr. INOUYE. Mr. President, I would like to advise my colleagues that this matter was given very serious consideration not only by the Subcommittee on Foreign Operations but also by the full committee.

Of the $950 million provided in the committee bill, it was intended to set aside $150 million for the fourth replenishment of IDA and $800 million for the fifth replenishment.

Many of us believe the $950 million is a much more reasonable amount to be appropriating at this juncture. However, the realistic circumstances of this day move me to suggest to my colleagues we should reduce this figure to $800 million. It will provide full funding of the first installment of U.S. contributions to the fifth replenishment of IDA, and if the Secretary of the Treasury, in the coming months, should feel sufficiently strong on insisting upon our contribut-

ing further to the fourth IDA replenishment, he has every right and authority to submit a supplemental request.

At this point, I have given my personal assurance to the Senator from Virginia that I will support his amendment to reduce this $950 million to $800 million. I hope my colleagues will agree to this arrangement.

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

Mr. INOUYE. I would be very happy to yield, sir.

Mr. MATHIAS. I have great respect for the judgment of the Senator from Hawaii, and great confidence that his own commitment to a balanced and a reasonable program of assistance will give us in the long run the kind of program which is adequate for our needs.

I would have to say to him with candor I regret the necessity for agreeing to this amendment. It seems to me the world in which we live today makes it very difficult for us to balance the equities around the world on a bilateral basis. It is through these multinational organizations, such as the International Development Association, that we are able to meet needs, contain problems, and help to diminish passions in various parts of the world which could be extremely troublesome. The Senator from Hawaii certainly recognizes this by his very steadfast support for these programs.

If we reduce this particular appropriation, I am heartened by the Senator's assurance that it will be possible to come in for a supplemental to which the committee can give very prompt attention. I would point out that IDA is the principal vehicle for moving resources and for effecting constructive change in the poorest countries in the world in the areas where we can expect the most trouble, which will be destabilizing in the world.

It is a symbol of the concern of all the industrial nations and the developed nations for that part of the world which shares least in the prosperity and welfare which are generally associated with the Northern Hemisphere.

So I personally regret an amendment which diminishes the ability of IDA to meet what I think is one of the most serious challenges before us. I look to the Senator—I know I can look with complete confidence to him—to consider the necessity of supplemental if the administration comes to us for it.

Mr. INOUYE. The Senator is correct.

Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Virginia has 12 minutes remaining; the Senator from Hawaii has 10 minutes remaining on the amendment.

Mr. INOUYE. Mr. President, I believe the Senator from Massachusetts would like to be recognized.

Mr. BROOKE. Mr. President, I want to associate myself with what the distinguished Senator from Maryland said about this proposed cut in IDA.

I want to compliment the distinguished Senator from Pennsylvania for his percentage limitations which he successfully had included in the bill regarding international financial institutions. This is the proper way to proceed.

As I understand the proposed amendment, $150 million would be cut from the IDA recommendation. This action—and the Senator knows this as well or better than I—would seriously erode the credibility of the United States in the eyes of many. We would be unilaterally repudiating an agreement. I would hope we would resist this amendment.

Mr. President, have the yeas and nays been ordered on the floor for this amendment?

Mr. INOUYE. No.

Mr. BROOKE. If the Senator would not object, I would like to ask for the yeas and nays. I strongly think this is a matter the Senate ought to vote on. It is a very important one, and I would hope the Senate would reject the proposal.

Mr. INOUYE. Is the Senator asking for the yeas and nays?

Mr. BROOKE. Yes, 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. INOUYE. I yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, I would like to impress upon the Members of the Senate that this amendment is an integral part of an informal agreement among Members, not binding on anyone not a party to the agreement, that would bring this matter to a close, the whole bill, some time today.

The whole house of cards will collapse if this very important amendment is defeated, so we will just be back where we were.

I hope the amendment will be agreed to.

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

Mr. ALLEN. Yes.

Mr. BROOKE. I am aware, as the distinguished Senator from Alabama has said, that there has been an informal agreement. I know of the desire of the committee to complete action on this very important appropriations bill before the recess of the Congress. But I, for one, feel so strongly not only about this particular item, which was the subject, as I understand it, of the informal agreement. but of other items which are the subject of the informal agreement which I cannot in good conscience support.

Had there been a request for a unanimous-consent agreement I would have objected to that unanimous-consent agreement.

It is my intention not only to ask for the yeas and nays on this particular item, and I want to be fair with the distinguished Senator from Alabama, who has always been fair with me. but also to ask for the yeas and nays on every item with which I disagree.

I do not feel obliged to support any informal agreement that was made because of my strong feeling about the need to adequately fund these particular programs.

I trust the Senator from Alabama understands and respects my position as much as I understand and respect his.

Mr. ALLEN. I certainly understand the Senator's position, and I commend him for it.

I would not only not resist his right to call for the yeas and the nays, but I would insist upon his right to call for a yea and a nay vote on any such amendment or make any arguments against it.

I am merely pointing out this amendment has been agreed to by the distinguished manager of the bill, the distinguished ranking minority member, and the custom here in the Senate, when people have an amendment, is to clear that amendment with the manager and the ranking minority member and have that recommendation go to the Senate. No one is precluded from speaking out against any such amendment. I merely am pointing out if this amendment is defeated, it would be the loss of an integral cog in the informal understanding that may well result in the passage of this bill before nightfall here in the Senate.

But we go back to a catch-as-catch-can basis if this amendment is defeated.

Mr. INOUYE. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Virginia, the proposer of the amendment, has 10 minutes remaining, and the Senator from Hawaii has 5 minutes remaining.

Mr. INOUYE. Mr. President, I yield to the Senator from Pennsylvania.

Mr SCHWEIKER. Mr. President, I rise in support of this amendment.

I was part of the informal meeting that we had, and I feel this is a reasonable amendment. I feel also it goes to the heart of the matter, that the administration before making new obligations has to consult with Congress on the basis of commitments already made. I think this is one way of giving a clear warning without wrecking anything because IDA 5 continues, IDA 5 we agreed to, and every dollar of IDA 5 is in here. So we are meeting the good faith of the administration.

We are also saying in the future we would like them to respect the limits of Congress financially.

I do want to say that the Senator from Massachusetts is right. He was part of no agreement. That is true. I respect his right to do what he is doing.

I do want him to understand that he was invited to attend this meeting, and in view of the fact he was tied up we did not invite his staff.

I do not want anyone to feel we made an agreement in which Senators were not given a chance to participate in the matter.

Mr. MATHIAS. Mr. President, will the Senator say where the meeting was? I received no notice of any meeting.

Mr. BROOKE. I was not invited to the meeting.

Mr. SCHWEIKER. It was in the minority leader's office, and we mainly invited the principals who had amendments pending before us. We could have invited the Senate, but we did not.

Mr. MATHIAS. But as to the members of the subcommittee who have an interest in this I think it would have been helpful if we had known such an agreement was pending.

Mr. SCHWEIKER. I think the Senator has made a good point, and we could have reconvened the whole committee. Perhaps we should have. We were trying to resolve some 39 amendments that are before us plus another 30-some committee amendments that Senators were going to talk at length on. So this was done in the interest of resolving the impasse.

The Senator is quite right, and his rights still are protected. As I said to the Senator from Massachusetts, he has a right to do what he is doing. I do not question that at all.

I do think that it is fair to ask for a vote on it, but I do want Senators who were in the meeting to understand that I am going to support the amendment of the Senator from Virginia, and I think everyone is free to express his rights right now.

Mr. HARRY F. BYRD, JR. Mr. President, I yield such time as he may desire to the Senator from Hawaii.

Mr. INOUYE. Mr. President, we often tend to miss the important aspects of a project because of minor irritants or minor issues that serve to cloud the picture.

I believe that we are now witnessing such a situation. I believe that the majority of the Members of the Senate would agree that the real purposes of the banks are good, rational, and reasonable. It serves to bring about a better life for the billions of people on this earth. It served to bring about better health, better education, and better nutrition.

However, all of these good things become clouded because of issues such as the following:

The executive director of the bank, who represents the United States, receives a gross salary of $83,830, which is more than the Secretary of the Treasury, his superior, and which is more than the Assistant Secretary of the Treasury, his immediate superior.

We have other items. These banks have presently liquid assets in excess of $10 billion deposited throughout the world. This committee has always felt that the location of these funds should be public information, that the public should know where these funds are presently being deposited. Yet, the public is being denied this information. I would hope a change would come about.

Third, we find that all of the working sessions of the boards of the banks are closed to outside observers and loan documents and supporting materials are classified. The Senator from Virginia asked this morning what are the purposes of these loans? As manager of this bill, I would like to stand here and provide the information. That is not possible, Mr. President, because many of these documents are classified.

But I ask you, Mr. President, what are the secrets involved? As far as I am concerned there are none. But our hands are tied.

We have also had occasion to ask for information relating to salaries, travel costs, and other benefits that individuals are receiving, and they are classified also. We have had to take circuitous routes to find out whatever information we have at the present time.

We have found that most of the employees of these banks, whenever they travel abroad, do so first class. Not only that, Mr. President, many use the most expensive travel, the SST. I do not know how many Senators have traveled on a Concorde, but it happens to cost considerably more than first class travel on conventional jets. We have been trying to bring a halt to this excess.

Some of the banks allow employees to take spouses along at the expense of the bank. We in the Senate have been accused of using public funds for traveling abroad, but our rules dictate that, if our spouses come along, we pay. Not so with the banks, Mr. President.

They all have subsidies which are provided for dining and recreational facilities. Some provide low-cost housing and personal loans and sometimes the use of limousines. Mr. President, I could go on and on and on but it should suffice to insert into the record relevant portions of the committee report and I ask unanimous consent that this be done.

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

*Hiring of Retired United States Government Personnel by the International Financial Institutions.*—Not only have the international banks adopted salary schedules and other benefits which are higher than United States government salaries but they have attracted at least 39 retired United States government employees who enjoy not only the high salaries and benefits of the banks but in addition draw full retirement benefits from the banks' largest contributor. From limited checks we have learned that at least one employee has passed the $100,000 mark in combined annual compensation from both systems. As an issue "double dipping" is one on which honest men can disagree but there can be little argument that the banks should not be allowed to recruit from those Federal employees who have held policy making positions relative to United States participation in these same institutions.

*Disclosure and Public Accesss to Information Regarding IFI Operations.*—Again, for more than five years the Committee has pressed the banks to open their doors and encourage both their supporters and the media to make informed judgments as to how well and how efficiently they are carrying out their international mandate. It is apparent that our exhortations have fallen on deaf ears for:

As of December 31, 1976 (January 31, 1977 for the IBRD) well over $10 billion in liquid assets of the banks were held in various securities and in sundry commercial and governmental financial institutions throughout the world. It is true that a large portion of these funds, which are surplus to current needs, earn interest, but we see no reason why the location of depositories and the rates of interest should not be made public. Indeed, most of our own state and local money managers have learned that when such funds have been openly and competitively placed there is a substantial increase in return. We believe the same result could be achieved by the International Financial Institutions.

All working sessions of the boards of the banks are closed to outside observers and loans documents and supporting materials are classified.

Information regarding salaries, travel costs, and other benefits of individual employees of the IFIs is closely held in institutional channels. When requested by the Committee, related information was only reluctantly provided and after numbers had been assigned to individual records. An extreme illustration of the aura of secrecy surrounding the operations of these institutions was the unwillingness of officials of one of these institutions, over a period of several months, to provide the Committee with a copy of its telephone directory.

*IFI Development Assistant Through the Private Sector.*—The Committee believes that there can be little development without fully exploiting the initiative, the efficiency and the competitive spirit of the private sector in each of the developing nations of the world. We are, therefore, greatly concerned that only 5.3 percent of the lending by the International Financial Institutions is made directly to the private sector. We note that an additional 16.8 percent is made to the private sector, but this is only indirectly through intermediate credit institutions. We believe there is much to be gained by encouraging development of the non-governmental capacity of developing nations and strongly urge that this be done by the IFIs as a matter of primary importance. The following table reflects present lending patterns:

TABLE I.—IFI LENDING TO THE PRIVATE SECTOR FOR 1976

[Dollar amounts in millions]

| | IBRD | IDA | IFC | ADB | IDB | AFDF | Total | Percent of total |
|---|---|---|---|---|---|---|---|---|
| I. Loans direct to private sector | $171.2 | $8.0 | $170.9 | $70.0 | $54.9 | ..... | $475.0 | 5.8 |
| II. Loans through official intermediate credit institutions | 898.0 | 72.6 | 34.1 | 123.5 | 385.5 | $0.2 | 1,513.9 | 16.3 |
| Subtotal | 1,069.2 | 80.6 | 205.0 | 193.5 | 440.4 | .2 | 1,988.9 | 22.1 |
| III. Total loans | 5,288.6 | 1,206.7 | 205.0 | 776.0 | 1,443.9 | 79.0 | 8,999.2 | 100.0 |
| IV. Private as a percent of total lending | 20.2 | 6.7 | 100.0 | 24.9 | 30.5 | ..... | 22.1 | ..... |

Note: International Bank for Reconstruction and Development (IBRD), International Development Association (IDA), International Finance Corporation (IFC), Asian Development Bank (ADB), Inter-American Development Bank (IDB) and African Development Fund (AFDF)

Source: OIDB/Department of Treasury.

*Support of Mutual Credit Institutions.*—The Committee believes that the International Development Banks have afforded meager support and encouragement to mutual credit institutions, particularly credit unions, savings and loan associations, and cooperatives which are independent of government control. We believe that there is extensive justification for extending support to such institutions and that much leverage can be gained for development dollars in doing so. We request a detailed report on this matter from the United States Department of the Treasury. When it comes before the Committee to justify fiscal year 1978 contributions to the International Financial Institutions it should be prepared to speak to this issue.

*Control of Administrative Costs.*—Over the years, we have documented many expenditures by the IFIs which lead us to the conclusion that there are substantial sums to be saved by a tightening of administrative practices and an encouragement of cost consciousness among bank officials and employees. It is our understanding that an extensive review of these costs is now underway. We welcome this initiative and hope that it will give priority to such items as:

The justification for first class and SST travel;

The propriety of spouse travel at bank expense;

Subsidies which are provided for dining and recreational facilities;

Retirement costs and benefits.

Use of limousines.

These are the irritants that cloud the picture. These are the concerns that make it almost impossible for Members of Congress to focus upon the true nature of these banks and the good they do. Because of the cloud of these excesses, we are now witnessing a reduction from $950 million to $800 million for the International Development Association.

If anything, I think this should serve a good purpose. I would hope that the banks will note the action that the Senate is taking today and reconsider the reluctance they have shown to us in the past. I would hope they will tell us where the $10 billion is now being deposited. I would hope they will resist traveling on the SST. I would hope they will cut down recreational and dining subsidies. I would hope that they will open up their meetings so at least a congressional observer, such as the Senator from Virginia, can attend and learn for himself the justification for these loans.

These are the irritants, Mr. President, and as long as these irritants remain, Congress year after year will be reluctant to provide contributions to the international development banks.

Mr. President, just to indicate what I am talking about, Bretton Woods, one of the fanciest country clubs in the world, is the recreation center for the International Monetary Fund.

I think the time has come. Reluctant as I am to support this amendment, I do so for one purpose: With the hope that the action taken by the chairman of the subcommittee and by the ranking minority member will be looked upon as a message that, if these banks insist upon continuing these excesses, we will continue to oppose appropriations.

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

Mr. INOUYE. I yield.

## EMERGENCY DROUGHT RELIEF

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1935.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate the amendment of the House of Representatives to the bill (S. 1935) to amend Public Law 95–18, providing for emergency drought relief measures, as follows:

Page 1, after line 10, insert:

Add to section 8 of Public Law 95–18:

"(d) The Secretary may condition grants, or may waive all or a portion of the repayment of loans made under this Act, upon the agreement of a recipient to undertake a program of water conservation and efficient management meeting standards established by the Secretary. The Secretary shall report to Congress on measures which he has undertaken to institute such conservation and management procedures."

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

I might say this has been cleared on the minority side. It involves certain amendments to the Emergency Drought Relief Act that we passed last spring. It does not add any more funds; it simply makes available funds that are now categorized and cannot be moved from one category to the other. We do have some very serious drought problems in our farming communities throughout the country.

I regret very much that the House of Representatives has seen fit to amend this measure. The program which is involved here is a 1-year program which has been underway for some time. Only a few months are left to implement the intent of the program and to make the rather small amounts of funds available for critical drought relief measures.

The intent of this measure is to waive some internal administrative requirements which have proven in practice to be impeding the program. As the bill passed the Senate, that was its only purpose. The House amendment on the other hand, establishes new criteria which were not included in the initial bill which are ill-defined and the purpose of which is not clear. It seems to me inappropriate to take this kind of action when only a few months remain. I am recommending that the Senate agree to these amendments only because we face an extended recess and because we cannot afford to lose a month out of the short remaining time for the implementation of the program.

It is my hope that the Secretary of the Interior and the administration will view the amendments constructively and will not permit these rather vague directions to result in any extensive changes in the established implementation of the program. I am concerned that changes in the guidelines and the approach being taken in this program at this time might nullify the effort which this bill intended to expedite. I will urge the Secretary of the Interior to make every administrative effort to avoid any delay from being occasioned by the House language. Therefore, Mr. President, I recommend that the Senate agree to the amendments of the House and clear the bill for the President's signature.

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

The motion was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Hawaii yield to me?

Mr. INOUYE. I yield.

## SAFE DRINKING WATER AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, this is a matter that has been cleared on both sides. It is imperative that the Senate act quickly; the other body is about to go out, and asks that the papers be returned.

Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1528.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate the amendment of the House of Representatives to the bill (S. 1528) to amend section 2 of the Safe Drinking Water Act (Public Law 93–523) to extend and increase authorizations provided for public water systems, as follows:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Amendments of 1977".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 1442(a) of the Public Health Service Act is amended by inserting "other than subsection (a)(2)(B) and provisions relating to research" after "section"; by striking out "and"; and by striking out the period at the end thereof and substituting "; and $17,000,000 for each of the fiscal years 1978 and 1979. There are authorized to be appropriated to carry out subsection (a)(2)(B) $8,000,000 for each of the fiscal years 1978 and 1979.".

(b) Section 1443(a)(5) of such Act is amended by striking out "and" and by inserting before the period at the end thereof: ", $35,000,000 for fiscal year 1978, and $45,000,000 for fiscal year 1979".

(c) Section 1443(b)(5) of such Act is amended by striking out "and", and by inserting before the period at the end thereof: ", and $10,000,000 for each of the fiscal years 1978 and 1979".

(d) Section 3(c) of the Safe Drinking Water Act is amended by striking out "and" and by inserting "; and $1,000,000 for each of fiscal years 1978 and 1979" after "1977".

(e) Nothing in this Act shall be construed to authorize the appropriation of any amount for research under title XIV of the Public Health Service Act (relating to safe drinking water).

STUDIES

SEC. 3. (a) Section 1442(a)(3) of the Public Health Service Act is amended by inserting "(A)" after "(3)" and by adding the following at the end thereof:

"(B) Not later than eighteen months after

the date of enactment of this subparagraph, the Administrator shall submit a report to Congress which identifies and analyzes—

"(i) the anticipated costs of compliance with interim and revised national primary drinking water regulations and the anticipated costs to States and units of local governments in implementing such regulations;

"(ii) alternative methods of (including alternative treatment techniques for) compliance with such regulations;

"(iii) methods of paying the costs of compliance by public water systems with national primary drinking water regulations, including user charges, State or local taxes or subsidies, Federal grants (including planning or construction grants, or both), loans, and loan guarantees, and other methods of assisting in paying the costs of such compliance;

"(iv) the advantages and disadvantages of each of the methods referred to in clauses (ii) and (iii);

"(v) the sources of revenue presently available (and projected to be available) to public water systems to meet current and future expenses; and

"(vi) the costs of drinking water paid by residential and industrial consumers in a sample of large, medium, and small public water systems and of individually owned wells, and the reasons for any differences in such costs.

The report required by this subparagraph shall identify and analyze the items required in clauses (i) through (v) separately with respect to public water systems serving small communities. The report required by this subparagraph shall include such recommendations as the Administrator deems appropriate.".

(b) Section 1442 of such Act is amended by redesignating subsection (c) as (e) and by inserting the following new subsection after subsection (b):

"(c) Not later than eighteen months after the date of enactment of this subsection, the Administrator shall submit a report to Congress on the present and projected future availability of an adequate and dependable supply of safe drinking water to meet present and projected future need. Such report shall include an analysis of the future demand for drinking water and other competing uses of water, the availability and use of methods to conserve water or reduce demand, the adequacy of present measures to assure adequate and dependable supplies of safe drinking water, and the problems (financial, legal, or other) which need to be resolved in order to assure the availability of such supplies for the future. Existing information and data compiled by the National Water Commission and others shall be utilized to the extent possible.".

(c) Section 1412(e)(2) of such Act is amended by inserting before the period at the end of the first sentence thereof the following: ", and revisions thereof reflecting new information which has become available since the most recent previous report shall be reported to the Congress each two years thereafter".

(d) Section 3(b) of the Safe Drinking Water Act is amended by striking out "for transmittal" and inserting "and" in lieu thereof.

(e)(1) Section 1442(a) of such Act is amended by adding the following new paragraphs at the end thereof:

"(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

"(11) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamination. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.".

(2) Nothing in this Act shall be construed to alter or affect the Administrator's authority or duty under title 14 of the Public Health Service Act to promulgate regulations or take other action with respect to any contaminant.

TRAINING

SEC. 4. Section 1442 of the Public Health Service Act, as amended by section 3(b) of this Act, is further amended by inserting the following new subsection after subsection (c):

"(d) The Administrator shall—

"(1) provide training for, and make grants for training (including postgraduate training) of (A) personnel of State agencies which have primary enforcement responsibility and of agencies of units of local government to which enforcement responsibilities have been delegated by the State, and (B) personnel who manage or operate public water systems, and

"(2) make grants for postgraduate training of individuals (including grants to educational institutions for traineeships) for purposes of qualifying such individuals to work as personnel referred to in paragraph (1).

Reasonable fees may be charged for training provided under paragraph (1)(B) to persons other than personnel of State or local agencies but such training shall be provided to personnel of State or local agencies without charge.".

GRANTS FOR STATE PROGRAMS

SEC. 5. (a) Section 1443(a) of the Public Health Service Act is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraphs:

"(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

"(A) the State is making a diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

"(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

"(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under this paragraph may not exceed 75 per centum of the allotment which the State would have received for such fiscal year if it had assumed and maintained such primary enforcement responsibility. The remaining 25 per centum of the amount allotted to such State for such fiscal year shall be retained by the Administrator, and the Administrator may award such amount to such State at such time as the State assumes such responsibility before the beginning of fiscal year 1980. At the beginning of each fiscal years 1979 and 1980 the amounts retained by the Administrator for any preceding fiscal year and not awarded by the beginning fiscal year 1979 or 1980 to the States to which such amounts were originally allotted may be removed from the original allotment and reallotted for fiscal year 1979 or 1980 (as the case may be) to States which have assumed primary enforcement responsibility by the beginning of such fiscal year.

"(6) The Administrator shall notify the State of the approval or disapproval of any application for a grant under this section—

"(A) within ninety days after receipt of such application, or

"(B) not later than the first day of the fiscal year for which the grant application is made,

whichever is later.".

EXTENSION OF DEADLINE FOR STATE UNDERGROUND INJECTION CONTROL PROGRAMS

SEC. 6. (a) Section 1422(b)(1)(A) of the Public Health Service Act is amended by inserting the following new sentence at the end thereof: "The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.".

(b) Section 1421(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(3)(A) The regulations of the Administrator under this section shall permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State.

"(B) Nothing in this section shall be construed to alter or affect the duty to assure that underground sources of drinking water will not be endangered by any underground injection.".

EXTENSION OF AUTHORITY TO ASSURE AVAILABILITY OF CHEMICALS NEEDED FOR WATER TREATMENT

SEC. 7. Section 1441(f) of the Public Health Service Act is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1979".

FEDERAL AGENCIES

SEC. 8. (a) Section 1447(a) of the Public Health Service Act is amended to read as follows:

"FEDERAL AGENCIES

"SEC. 1447 (a) Each Federal agency (1) having jurisdiction over any federally owned or maintained public water system or (2) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 1421(d)(2)) shall be subject to, and comply with, all Federal, State, and local requirements, administrative authorities, and process and sanctions respecting the provision of safe drinking water and respecting any underground injection program in the same manner, and to the same extent, as any nongovermental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process or sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply, notwithstanding any immunity of such agencies, under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty under this title with respect to any act or omission within the scope of his official duties.".

(b) Section 1401(12) of such Act is amended to read as follows:

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency).".

(c) Section 1449(e) of such Act is amended by adding the following at the end thereof: "Nothing in this section or in any other

law of the United States shall be construed to prohibit, exclude, or restrict any State or local government from—

"(1) bringing any action or obtaining any remedy or sanction in any State or local court, or

"(2) bringing any administrative action or obtaining any administrative remedy or sanction,

against any agency of the United States under State or local law to enforce any requirement respecting the provision of safe drinking water or respecting any underground injection control program. Nothing in this section shall be construed to authorize judicial review of regulations or orders of the Administrator under this title, except as provided in section 1448. For provisions providing for application of certain requirements to such agencies in the same manner as to nongovernmental entities, see section 1447.".

(d) Section 1447 of such Act is further amended by inserting at the end thereof a new subsection (c):

"(c)(1) Nothing in the Safe Drinking Water Amendments of 1977 shall be construed to alter or affect the status of American Indianlands or water rights nor to waive any sovereignty over Indian lands guaranteed by treaty or statute.

"(2) For the purposes of this Act, the term 'Federal agency' shall not be construed to refer to or include any American Indian tribe, nor to the Secretary of the Interior in his capacity as trustee of Indian lands.".

EMERGENCY ASSISTANCE

SEC. 9. Section 1442(a)(2) of the Public Health Service Act is amended by inserting "(A)" after "(2)" and by adding the following new subparagraph at the end thereof:

"(B) The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviating any emergency situation respecting drinking water which the Administrator determines (i) may reasonably be anticipated to endanger public health, and (ii) arises from unknown conditions or conditions which such entity is unable to remedy without such emergency assistance.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 10. (a) Section 1416(b)(1) of the Public Health Service Act is amended by striking out "containment" wherever it appears therein and by inserting in lieu thereof "contaminant".

(b) Section 1442(b)(3)(C) of such Act is amended by striking out "1443(d)" and by inserting in lieu thereof "1443(c)".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives to S. 1528, with amendments which I sent to the desk. I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without obligation, it is so ordered. The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes, en bloc, unprinted amendments numbered 745, as follows:

On page 9, in section 6(b), insert a new subparagraph (B) as follows and redesignate the succeeding subparagraph accordingly:

"(B) In establishing regulations under this section, the Administrator shall consider existing State requirements governing underground injection control and avoid the promulgation of requirements which unnecessarily disrupt or duplicate existing State requirements."

On page 13, add at the end thereof the following new sections:

"OFFICERS AND EMPLOYEES OF THE ENVIRONMENTAL PROTECTION AGENCY

"SEC. 11. In the performance of his functions under the authorities administered by the Administrator of the Environmental Protection Agency, the Administrator is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code, except to the extent the Administrator deems such action necessary to the discharge of his functions, he may appoint not more than one hundred and fifty of the scientific, engineering, professional, legal, and administrative personnel of the Agency without regard to such laws, and may fix the compensation of such personnel not in excess of the rate for grade 18 of the General Schedule specified in section 5332 of title 5, United States Code. Not more than 100 of such personnel shall be appointed in fiscal year 1977 and the remaining personnel shall be appointed in fiscal year 1978.

SEC. 12. There are authorized to be appropriated to the Environmental Protection Agency for research and development activities under the Safe Drinking Water Act $16,000,000 for the fiscal year ending September 30, 1978.".

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

The motion was agreed to.

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## FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION BILL, 1978

The Senate continued with the consideration of H.R. 7797.

Mr. BROOKE. Mr. President, will the Senator from Hawaii yield?

Mr. INOUYE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Hawaii has 2 minutes remaining. The Senator from Virginia has 3 minutes.

Mr. INOUYE. I yield it to the Senator from Massachusetts (Mr. BROOKE).

Mr. BROOKE. I thank the distinguished Senator.

Mr. President, I take very seriously, as does the distinguished chairman of the subcommittee and the distinguished ranking minority member of the subcommittee, the actions taken by our subcommittee and the full Committee on Appropriations on this important bill. I was present at the subcommittee markup and participated in it, and I was present at the full committee markup and participated in that.

I think it is important that we stand firm on the action taken by the subcommittee and the full committee of the Appropriations Committee. I recognize that there was this "informal agreement" which I am just now beginning to understand, entered into, as was stated, informally by certain Senators who had interests in this bill. In the so-called informal agreement, it was agreed to accept a $150 million reduction in the Committee's recommended level of funding for the International Development Association. It was also agreed that a vote on the recommendation of a 5-percent overall cut in funding of all the amounts finally included in the final version of the bill would take place. This means, in other words, that the committee gave up $150 million, and the other side on this issue still has an opportunity to take a vote on a 5-percent cut, so there could be even a further cut in addition to the $150 million which we have already given up.

As I look at this so-called compromise, I just wonder what the consideration is, what the quid pro quo is for this compromise agreement. I just fail to see it. I cannot see where anything is actually gained, for those who would like to defend the committee position.

Moreover, on Jamaica, the opponents of the bill still intend to seek the deletion of assistance for that country. Where is the compromise? As I go down item after item, it is incredible to me that this is even called a compromise agreement. It is not a compromise agreement, and I want it to remain crystal clear that Senator MATHIAS, if I may presume to speak for him, a member of the committee, and I were never consulted about this. We did not agree with it. We do not agree with it now; and we would hope that the committee would stand firm and not live up to a so-called compromise agreement which in fact, in my opinion, is a capitulation.

Mr. CLARK. Mr. President, will the Senator yield me 3 minutes?

Mr. INOUYE. I yield the Senator from Iowa 3 minutes on the bill.

Mr. CLARK. Mr. President, I want to read this statement into the RECORD on behalf of the distinguished Senator from Minnesota (Mr. HUMPHREY), the chairman of the Foreign Assistance Subcommittee, and the administration, in opposition to the pending amendment:

The Administration strongly opposes the proposed amendment to reduce substantially the FY 78 appropriation for IDA. This amendment, if adopted, would seriously harm U.S. relations with the developing world and would force an embarrassing renegotiation of an already—completed international agreement.

IDA is the principal vehicle for transferring resources and effecting constructive change in the poorest countries of the world. It is also a symbol of the concern of the developed nations of the world for the poorest people on this planet. The United States has long been in the forefront of those seeking to help the underprivileged and downtrodden. We were instrumental in IDA's establishment in 1960. We have maintained the largest single country share, although in the interests of fiscal prudence our share has been declining.

The proposed amendment, if approved, would provide only about one half of the Administration's FY 78 request for IDA. It would represent a clear signal to the developing world that the United States has lost interest in the fate of million of starving and illiterate people in the world. The developing world would undoubtedly read our signal to mean we desire conflict, rather than cooperation and understanding.

In practical terms the proposed amendment would prohibit the U.S. from fulfilling its commitment under the recently completed Fifth Replenishment agreement. This would force a renegotiation of the agreement only recently negotiated among twenty-two donor countries. If the United States, as the

leading donor, were to reopen these negotiations on a reduced basis, other countries would, undoubtedly also seek to reduce their contributions. A downward cycle would begin, leading to a much smaller IDA and a significant reduction in the resources available for the world's poorest countries. The United States would receive the blame for this decline and would probably face increased pressures in North/South talks for more costly concessions in other areas. It would be argued by some countries that moderation in dealing with the United States does not produce results.

Mr. President, I yield the remainder of my time to the Senator from Hawaii.

Mr. HARRY F. BYRD, JR. Mr. President——

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. (Continuing). I do not know who got up that memorandum or letter which has just been read by the Senator from Iowa, but whoever it was does not understand the amendment. The amendment does not touch the fifth replenishment. The administration sought $800 million for fiscal year 1978 for the fifth replenishment. This is almost double what has been done in the past. The Senator from Virginia would like to cut the fifth replenishment, but the amendment does not do that. The amendment gives exactly what the administration sought in regard to the fifth replenishment. What the amendment does is to cut $150 million from the request for a fourth replenishment to make up, presumably, for what the Congress refused to do in the past.

This is a reasonable request, as the Senator from Hawaii pointed out in his excellent remarks.

The Senator from Hawaii also emphasized a very important point. The international financial institutions have $10 billion in liquid assets. They are on deposit in various large banks throughout the world. Yet the Committee on Appropriations of the Senate cannot find out from the World Bank where those deposits are, in which banks they are located, and in what amounts.

The PRESIDING OFFICER. The Chair will say that all time has expired.

Mr. HARRY F. BYRD, JR. The Senator from Virginia has a great deal of time left on the bill which he can yield himself, but at this time I will not.

Mr. JAVITS. Will the Senator yield me 5 minutes?

Mr. INOUYE. I yield 5 minutes from the bill.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I rise in opposition to the amendment. Mr. President, I had one other point I wished to make which is rather procedural and which deeply concerns me. I believe a good many Members have left and we may be lucky if we have a quorum. I intend to find out whether we do, in due course.

As I understand it, this bill does not have to be rushed right now, notwithstanding the paucity of attendance in the Senate.

From my own experience, Mr. President, in the last couple of months with the developing countries, I think it would represent a great error to rush this matter, which we must remember now is not strictly a domestic matter where we suit ourselves. We hear lots of speeches about the interdependence of the world, the fact that we have hundreds of millions of dissatisfied peoples to deal with, that the state of our armaments and the progress of the Communist ideology, and the state of trade of the United States, all very heavily depend on these relations. So we cannot assume that we are making a cut, if we do, in some measure relating to a domestic concern where we fight it out among ourselves.

We must remember that whatever we do represents a signal which goes out to the whole world as to where the United States stands. It may affect us not only in our security but even in money terms, in terms of billions of dollars. So we have to be provident.

I have spent a little time in Paris in the so-called north-south dialog, Mr. President. The degree of tension, resentment, heat and hostility which was there demonstrated indicates that it would be the height of imprudence for the United States to go back on an international commitment such as is contemplated in this particular amendment.

The very point which was just made I believe is very significant. We are not talking about the fifth replenishment. We are talking about the fourth replenishment. In other words, a replenishment in which we have agreed upon in given installments, Mr. President.

My own experience over 30 years in this field, capped by my experience in Paris in the recent CIEC conference, my experience at Nairobi where we had the UNCTAD meeting, indicates that we can count our costs, Mr. President, in terms of security and in terms of money in the billions if we do not have an eye very clear to the international implications of what we do and what we do not do in reference to our aid program.

Mr. President, I think this is highly improvident. I think it is highly unwise for the United States, and it is certainly unwise in order to get this bill passed today, which is really what this is all about.

A Member fully within his rights has presented an enormous kit of amendments. Any Member who has the skill, the will, and the conviction can keep the Senate in business here on a particular measure for some days. That is a right we all cherish. Each of us have it and each of us clings to it like life itself in terms of our political future and our political ideas.

But that does not mean that policy has to be made by that standard.

So, Mr. President, I really urge upon my colleagues those two points:

First, are we justified in order to get this bill adopted, or to try to get it adopted within a modest time compass today, to make these changes which have the most portentious influence on the future of our own security and the money we spend in the world?

Second, do we have any right to consider going back on a solemn international commitment upon which many other nations had a right to rely in terms of their own contribution and in terms of their opportunity to participate in the International Development Association, which is the principal resource of the really poor nations of the world under the circumstances which we face this afternoon?

My answer is decidedly in the negative, Mr. President, and I hope very much the Senate will, when the time comes, reject this amendment.

Mr. BROOKE. Mr. President, I move to table this amendment.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is it in order to suggest the absence of a quorum before a vote?

The PRESIDING OFFICER. The Senator has a right to suggest the absence of a quorum.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum and I wish to advise the leadership it will be live.

Mr. INOUYE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. INOUYE. Whose time will be affected by the quorum call?

The PRESIDING OFFICER. Nobody's time.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. ALLEN. I object.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not object.

Mr. ALLEN. I understood the Senator to say it would be a live quorum.

Mr. ROBERT C. BYRD. No, it will not.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I have no objection.

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

Mr. JAVITS. Mr. President, I ask unanimous consent that I may be recognized for 1 minute.

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

Mr. JAVITS. Mr. President, my reason for calling the quorum was to see how many Members are present. I have now checked to find that we have 80 or so Members here, which is certainly adequate for the purpose. That is why I withdrew the request for the quorum.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. BROOKE. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered; the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ANDERSON (after having voted

in the negative). On this vote, I have a pair with the distinguished Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. THURMOND), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

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

The result was announced—yeas 33, nays 49, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—33

| | | |
|---|---|---|
| Baker | Gravel | Packwood |
| Bayh | Hart | Pell |
| Biden | Haskell | Ribicoff |
| Brooke | Hatfield | Riegle |
| Case | Humphrey | Sarbanes |
| Chiles | Javits | Stafford |
| Church | Kennedy | Stevens |
| Clark | Magnuson | Stevenson |
| Culver | Mathias | Stone |
| Danforth | McGovern | Weicker |
| Glenn | Metzenbaum | Williams |

NAYS—49

| | | |
|---|---|---|
| Allen | Goldwater | Metcalf |
| Bartlett | Hansen | Morgan |
| Bentsen | Hatch | Nelson |
| Bumpers | Hathaway | Nunn |
| Burdick | Hayakawa | Proxmire |
| Byrd, Harry F., Jr. | Helms | Randolph |
| | Hollings | Roth |
| Byrd, Robert C. | Inouye | Sasser |
| Cannon | Jackson | Schmitt |
| Curtis | Johnston | Schweiker |
| DeConcini | Laxalt | Stennis |
| Dole | Leahy | Talmadge |
| Domenici | Long | Tower |
| Durkin | Lugar | Wallop |
| Eagleton | Matsunaga | Young |
| Ford | McIntyre | Zorinsky |
| Garn | Melcher | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Anderson, against.

NOT VOTING—17

| | | |
|---|---|---|
| Abourezk | Heinz | Pearson |
| Bellmon | Huddleston | Percy |
| Chafee | McClellan | Scott |
| Cranston | McClure | Sparkman |
| Eastland | Moynihan | Thurmond |
| Griffin | Muskie | |

So the motion to lay Mr. HARRY F. BYRD, JR's amendment on the table was rejected.

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

Mr. SCHWEIKER. I move to lay that motion on the table. The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. DECONCINI). The question recurs on agreeing to the amendment.

Mr. MATHIAS. Mr. President, on that, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BAKER (after having voted in the negative). On this vote I have a pair with the distinguished Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. SPARKMAN), the Senator from Maine (Mr. MUSKIE), would each vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE), is absent due to a death in the family.

The result was announced—yeas 49, nays 32, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—49

| | | |
|---|---|---|
| Allen | Garn | Morgan |
| Anderson | Hansen | Nelson |
| Bartlett | Hatch | Nunn |
| Bentsen | Hathaway | Proxmire |
| Bumpers | Hayakawa | Randolph |
| Burdick | Helms | Roth |
| Byrd, Harry F., Jr. | Hollings | Sasser |
| | Inouye | Schmitt |
| Byrd, Robert C. | Jackson | Schweiker |
| Cannon | Johnston | Stennis |
| Curtis | Laxalt | Stevens |
| DeConcini | Long | Talmadge |
| Dole | Lugar | Tower |
| Domenici | Magnuson | Wallop |
| Durkin | Matsunaga | Young |
| Eagleton | McIntyre | Zorinsky |
| Ford | Melcher | |

NAYS—32

| | | |
|---|---|---|
| Bayh | Hart | Packwood |
| Biden | Haskell | Pell |
| Brooke | Hatfield | Ribicoff |
| Case | Humphrey | Riegle |
| Chiles | Javits | Sarbanes |
| Church | Kennedy | Stafford |
| Clark | Leahy | Stevenson |
| Culver | Mathias | Stone |
| Danforth | McGovern | Weicker |
| Glenn | Metcalf | Williams |
| Gravel | Metzenbaum | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Baker, against.

NOT VOTING—18

| | | |
|---|---|---|
| Abourezk | Griffin | Muskie |
| Bellmon | Heinz | Pearson |
| Chafee | Huddleston | Percy |
| Cranston | McClellan | Scott |
| East.and | McClure | Sparkman |
| Goldwater | Moynihan | Thurmond |

So the amendment of Mr. HARRY F. BYRD, Jr., was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, as the record will indicate, we set aside—

Mr. JAVITS. Mr. President, we cannot hear.

The PRESIDING OFFICER. The Senator will please suspend for a moment. The Senate is not in order. Senators will clear the well. If you care to carry on conversations please retire to the cloakroom.

Mr. INOUYE. Mr. President, I yield 1 minute to the Senator from New Hampshire.

The following Senators requested and, by unanimous consent were granted, the privilege of the floor on behalf of the following staff members: Mr. DURKIN: Harris Miller; Mr. JAVITS: Jacque Gorlin; Mr. CLARK: Constance Freeman, Frank Ballance, Dick McCall, and Rudolph Rousseau; Mr. MATHIAS: Cassimir Yost; Mr. BARTLETT: Ron Lehman; Mr. LEAHY: Doug Racine; Mr. GLENN: Len Bickwit; Mr. DANFORTH: Mark Edelman; Mr. DOMENICI: Kay Davies.

Mr. INOUYE. As the record will indicate, by prior unanimous consent we set aside temporarily consideration of amendments relating to sections 107, 114—these appear on pages 14 and 15 of the bill—and section 506 appearing on page 28.

I have discussed these amendments with the distinguished Senator from Virginia. On section 107 we will have a 30-minute debate divided equally, 15 minutes on each side. But on section 114 I ask unanimous consent that the debate on the amendment relating to section 114 and section 506 be reduced to 10 minutes, 5 minutes on each side.

Mr. JAVITS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will report the next committee amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield briefly?

Mr. INOUYE. Yes.

Mr. HARRY F. BYRD, JR. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, in order to clarify the situation may I once again repeat the unanimous-consent request?

Mr. President, I ask unanimous consent that as to all amendments relating to section 114 and section 506, the debates thereon be limited to 10 minutes, 5 minutes on each side.

The PRESIDING OFFICER. Each of the three amendments?

Mr. INOUYE. On all amendments.

The PRESIDING OFFICER. On all amendments.

Mr. JAVTIS. "All amendments" meaning what, Mr. President?

Mr. INOUYE. Relating to sections 114 and 506 but on section 107 the previous order will prevail, the 30 minutes.

Mr. JAVITS. Just to clarify that, "All the amendments" may mean any amendment that anyone wants to tack onto either section, Mr. President. As I understand it, the unanimous consent applies to the committee's amendment.

The PRESIDING OFFICER. The three committee amendments.

Mr. JAVITS. The three committee amendments.

The PRESIDING OFFICER. And amendments thereto.

Mr. JAVITS. Not that. "And amendments thereto" can be anything. I would not consent to that. It could be any part of the bill.

Mr. INOUYE. I say to the Senator from New York I am referring to amendments that Senator CLARK proposes to offer.

Mr. JAVITS. I have no objection to a 5- or 10-minute limitation to the committee amendments on those two sections and to Senator CLARK's amendment to one of the sections.

The PRESIDING OFFICER. Will the Senator from Hawaii repeat the unanimous-consent request?

Mr. INOUYE. Mr. President, I ask unanimous consent that the debate on section 114 and section 506 be limited to 10 minutes and that all other amendments thereto be also limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. There is objection, Mr. President. Reserving the right to object, all I am trying to do is confine it to what we know.

A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is it not a fact that under that unanimous consent any amendment one may have to either of those sections would have a 10-minute limitation?

Mr. INOUYE. I will repeat it again, Mr. President.

The PRESIDING OFFICER. No, that is not correct. For the information of the Senator from New York under this unanimous-consent agreement any amendment thereto would not be debatable at all.

Mr. JAVITS. That is even worse, Mr. President.

May I beg the Senator to make his request to the sections and to the Clark amendment, and then we will know what we are doing.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest we take up section 107 and get to these unanimous-consent agreements later, because I am not willing to exempt one individual from a time limitation and not exempt anyone else.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Byrd amendment to section 114 be limited to a 10-minute debate.

Mr. HARRY F. BYRD, JR. Mr. President, may I interrupt the Senator there.

Mr. INOUYE. Yes.

Mr. HARRY F. BYRD, JR. There is no Byrd amendment at the moment to section 114.

Mr. INOUYE. But there will be.

Mr. HARRY F. BYRD, JR. It is a committee amendment.

Mr. INOUYE. But there will be a Byrd amendment to that.

Mr. HARRY F. BYRD, JR. I had not prepared one at the moment. But I might.

[Laughter.]

Mr. JAVITS. Make it germane to those, may I suggest, and solve it.

Mr. INOUYE. I suggest we just take up 107 at the present time under the previous order.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 14, line 6, strike "or indirectly";

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from South Carolina (Mr. THURMOND).

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

STATEMENT BY MR. THURMOND

I oppose the Committee amendment striking the word "indirectly" from line 6 of page 14 of H.R. 7797. The effect of this Committee amendment is to open the door to pouring the dollars of American taxpayers into the Communist countries of Vietnam, Cambodia, and Laos. Mr. President, I find it hard to believe that any Senator would approve the funding of Communist governments in Southeast Asia. I am certain that the vast majority of Americans would not approve such a measure.

Everyone is familiar with the character of these governments. They are repressive and inhumanitarian; they are totalitarian and stand for the denial of basic human rights and freedoms.

Mr. President, we owe Vietnam nothing. Absolutely nothing. The tables provided in the Committee Report on this bill show that during the period of 1946–1976, the United States sent more American dollars to Vietnam than any other country in the world. In fact, the amount spent on Vietnam is nearly twice that of that of the country that is number two on the list. Why should we now send more money to what is an avowedly Communist country?

I urge my colleagues to search their consciences and consider the American people and the ideals and beliefs which the American people hold dear. How many of us could go home and ask our constituents if they would like their tax dollars going to Communist countries and come back with an affirmative response? I dare say, not a single Senator would find that kind of feeling among his people.

Mr. President, I strongly urge the defeat of the Committee amendment.

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

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. Mr. President, have the yeas and nays been ordered on this committee amendment?

The PRESIDING OFFICER. They have been ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent request that Len Parkinson of my staff, be accorded the privilege of the floor.

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

Who yields time?

Mr. INOUYE. Mr. President, I move the adoption of the committee amendment.

The PRESIDING OFFICER. Is all time yielded back?

The PRESIDING OFFICER (Mr. DE CONCINI). The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the committee amendment would change the legislation approved by the House of Representatives, I will read section 107 as passed by the House of Representatives:

SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly or indirectly any assistance or reparations to Uganda, Cambodia, Laos, or the Socialist Republic of Vietnam.

The committee amendment would eliminate the words "or indirectly."

I oppose the committee amendment in favor of the House position, because if the committee amendment is adopted, the international banking institutions can then use U.S. tax funds for the benefit of Uganda, Cambodia, Laos, or the Socialist Republic of Vietnam.

As one Senator, I think it is a mistake to take funds out of the pockets of the working people of this country, turn those funds over to international banking institutions, and permit those institutions, those international banks, to use those funds and send that tax money to Uganda, Cambodia, Laos, or the Socialist Republic of Vietnam.

Of course, there is difference of views on that subject; I recognize the committee's position. I am merely stating the position of one Senator, and giving my reasons as best I can for opposing the committee amendment.

I reserve the remainder of my time.

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

Mr. HARRY F. BYRD, JR. I yield to the Senator from Alabama.

Mr. ALLEN. The net effect is that with the Senate amendment knocking out the words "or indirectly," funds of the United States appropriated by this bill could end up with the nations that the Senator mentioned, North Korea, Vietnam, and the other countries, whereas with the House language, those funds could not go to those enemy nations of the United States?

Mr. HARRY F. BYRD, JR. That is correct, I will say to the Senator, except that North Korea is not involved in this.

Mr. ALLEN. I see. What countries are involved?

Mr. HARRY F. BYRD, JR. Uganda;

that is a fine country, but I am not certain——

Mr. ALLEN. Is that Mr. Idi Amin's country?

Mr. HARRY F. BYRD, JR. Yes, the country of Idi Amin. If Senators approve the committee amendment, the World Bank can turn money over to Idi Amin. The money would not go to individual citizens, I might say; it goes to the government, to the leaders of the government, and in this case it would be Idi Amin, and all Senators know about his views about the United States and about human rights.

The other countries involved are Cambodia, Laos, and the Socialist Republic of Vietnam.

Mr. ALLEN. But if we vote against the committee amendment, we can be assured that the funds appropriated by this bill will not end up with the heads of the governments of the countries the Senator named?

Mr. HARRY F. BYRD, JR. The Senator from Alabama is correct. As I see it, the House of Representatives has a better grasp on the sentiments of the people of our country. At least in the judgment of the Senator from Virginia, the House of Representatives has a better grasp, than does this committee, which would knock out the House proposal and would permit U.S. funds to go to the heads of those nations.

Mr. ALLEN. It seems that the issue is pretty clearly defined, is it not?

Mr. HARRY F. BYRD, JR. It appears to the Senator from Virginia, as it does to the Senator from Alabama, that it is a very clear-cut issue.

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

Mr. HARRY F. BYRD, JR. I yield the Senator from Kansas such time as he may require.

Mr. DOLE. Mr. President, I appreciate the distinguished Senator from Virginia for yielding.

I do not think there is much doubt about the purpose of the committee amendment. The purpose of the committee amendment is to allow AID dollars to flow to Vietnam, Laos, Cambodia, and Uganda. We are talking about indirect aid, through some international bank. I think we have all received a letter, as of this morning, from Representative YOUNG of Florida. Attached to it was the following notation: International Bank for Reconstruction and Development, International Development Association, and, as a part of that summation, under loans now pending, are two loans to Vietnam. One is with reference to coal mining, and the other is with reference to irrigation and drainage.

They make it very clear that they are only in the preliminary stage, but there is no doubt about it; there is an effort to make a direct loan.

Mr. President, we are still having difficulty in the Midwest with respect to loans from the Government to build irrigation ditches and other things we think are necessary. We have had an economy move in this country to strike out certain water projects across this land because of the claim it was not economical. I cannot understand how any strategy of the administration would now say we should put money into the IDA, which in turn would be available for loans to Vietnam, Cambodia, Laos, and Uganda.

The Senator from Kansas feels very strongly about another point. I still do not understand the rush to normalize relations with Vietnam. I have not seen any rush on the part of Vietnam to identify the Americans still missing in action in Southeast Asia. There have been many amendments offered in Congress that would do this very same thing. However, it seems we adopt them in the Senate only to be lost in conference.

It seems to me it is time the Senate spoke, and spoke very clearly, to those who may go to conference, on how we feel about direct or indirect aid to Vietnam, Cambodia, Laos, and certain other countries. I do not know of any taxpayer who wants to send money to Vietnam. I know of no taxpayer who wants to send money to any bank or anywhere else if it ends up going to Uganda, Laos, or Cambodia. I understand all the arguments about healing wounds and getting back together with those countries. It means we get back together so we can channel more money into these countries.

The administration has had conferences and much negotiation; the State Department is very much concerned about this matter. In fact, I have had a memorandum come into my hands stating that if the committee amendment is not adopted, President Carter would veto the bill.

Well, that is too bad, if he vetoes the bill. President Carter has been talking about vetoing something all year. Maybe it is time he vetoes a bill. He was going to veto the farm bill; he was going to veto other bills; this would not be a bad bill to veto. I think we could probably sustain his veto.

This is a letter that was addressed to the distinguished chairman of the Budget Committee. It says:

> A Dole amendment to restore the House-passed language prohibiting use of U.S. contributions to the IFIs for aid to Indochina, Uganda, or Cuba (Amdt. No. 580) is given a fair chance of passage. The President has been advised to veto H.R. 7797 if the Dole amendment is accepted by the Senate. A letter on the consequences from World Bank President McNamara to Secretary Blumenthal is attached for your information.

I do not have that letter, but I understand they would favor the committee amendment. So we can talk about the humanitarian objectives. We should not talk about human rights, though, when we talk about Vietnam, Laos, or Cambodia, because they do not believe in human rights. They have several thousand prisoners locked up over there, political prisoners.

No one seems concerned. No one is on this floor moralizing and agonizing, as they did back in the Vietnam war days about all those prisoners the South Vietnamese had locked up. No one has said a word about what prisoners Vietnam has locked up, or about turning those prisoners loose. We do not say anything; we just want to give them our money.

Not with my vote; and I doubt with the votes of the majority of the Members of the Senate.

Mr. President, my opposition to this committee amendment takes into consideration the extremely repressive and inhumane character of the current governments of Vietnam, Laos, Cambodia, and Uganda. Defeat of this amendment would insure that the aid we would not give these countries directly does not reach them just the same through indirect channels such as the World Bank, Asian Development Bank, and the International Development Association. It would do this by keeping the words "or indirectly" to sections 107 and 506 of the bill, which were already approved by the House of Representatives.

HUMANITARIAN OBJECTIVES

Mr. President, my thinking is closely in accord with the pronounced objective of this administration and this Congress to promote the cause of human rights wherever we have a voice of influence in the world. The administration has already suggested that we curtail U.S. aid and commerce with traditional allies in Latin America and Southern Africa who violate certain human rights principles. The Congress has already complied with that recommendation in certain instances—most recently, with respect to the termination of remaining trade transactions with the Rhodesian Government.

In attempting to advance the cause of human rights abroad, it is important that Congress insure consistency in U.S. trade and aid policies, and avoid a hypocrisy that undermines that cause. This is important whether U.S. aid is extended directly or indirectly through an international loan organization like the World Bank or the Asian Development Bank.

APPLICATION TO VIETNAM, LAOS, CAMBODIA, AND UGANDA

Were I an American representative to one of these international monetary institutions, it would be clear to me that the Governments of Vietnam, Laos, Cambodia, Cuba, and Uganda, do not qualify for consideration of assistance because of their representative natures. Not only do they violate the rights to hundreds of thousands of their own citizens, but some have refused to comply with the most basic principle of full cooperation in accounting for missing American servicemen.

The defeat of this amendment would make it clear that—under present conditions—the Governments of Vietnam, Laos, Cambodia, Cuba, and Uganda are in violation of internationally recognized human rights, and no American dollars are to reach those corrupt regimes through indirect means.

It is my understanding that the Socialist Republic of Vietnam has active aid requests pending before two of these institutions at the present time, and it is likely that decisions will be made on those requests in the very near future. Therefore, it is vital that we take affirmative action in this direction immediately.

Under the previous language of the bill, the present U.S. agreement to contribute to these financial organizations is conditioned upon the understanding that none of our appropriated funds are to be used if aid agreements are reached for any of these five governments.

By this means, Congress can maintain better control over U.S. contributions to international lending institutions. As duly designated trustees of taxpayer's dollars, we should do no less. A full 69 percent of the $24.9 billion in foreign aid dispersed by American agencies and by the U.S.-supported international agencies in fiscal year 1976 was allocated without congressional review. This fact was revealed through a study conducted by the center for international policy here in Washington, and released last January. This erosion of congressional authority over the use of foreign aid funds is deplorable, as it enables use of those funds for purposes totally alien to the American people.

Defeat of this amendment will be more in the right direction towards restoring a portion of the authority, and will insure that American dollars are not being used to prop up the Communist regimes now ruling Vietnam, Cambodia, Laos, Cuba, or Uganda.

JUSTIFICATION FOR DENIAL

Mr. President, there is a clear-cut basis for leveling sanctions against Vietnam, Laos, and Cambodia at this time. First, there is ample evidence that all three Communist regimes are in extensive violation of the human rights of their own people. It is no secret that these regimes have total control of the press, elections, and education within their countries. There are credible reports that as many as 200,000 political prisoners are being held in "re-education camps" within Vietnam, and the Vietnamese Ambassador to France himself admitted that about 50,000 were being "detained" because of political crimes. Tens of thousands are reported to be in forced labor camps in both Laos and Cambodia, and some sources indicate that hundreds of thousands of Cambodians may have died during mass relocation movements in that country since 1975. This physical and psychological cruelty should be thoroughly condemned by all those who would promote the cause of freedom and justice.

The harsh regimes of Cambodia, Laos, and Vietnam have tried to stifle information coming out of their countries about atrocities against their own people. Even so, we have seen reports of how those dictatorships have executed a great many of their citizens simply for political reasons. We have heard reports of torture and repressive measures.

Untold numbers of Vietnamese, Cambodians, and Laotians have died at the hands of their countrymen trying to escape the inhuman dictatorships of their homelands. By comparison, the human rights violations in those nations far outweigh the acts of some nations the administration has already censured.

It would be inconceivable that we should allow Vietnam, Cambodia, and Laos to receive U.S. assistance through indirect means. If our foreign policy is to be fair and consistent and is to have any credibility, we urge rejection of this amendment.

Furthermore, it is no insignificant matter that these governments have refused to cooperate in providing a full accounting for missing American servicemen in Southeast Asia. Laotian and Cambodian assistance has been nonexistent. Although Vietnam has given lip service to "full cooperation."

In accounting efforts, they have provided next to nothing in tangible results. The President insisted throughout the campaign, and during the early days of this administration, that there would be no reconciliation with the Communist Vietnamese Government until as full an accounting as possible had been made for our MIA's. Yet, on May 2, "normalization" talks were opened in Paris, and the administration last week supported U.N. membership for Vietnam. At the same time, Vietnamese officials have hardened their position towards the United States, insisting that U.S. aid is still a precondition to cooperation in accounting for missing American servicemen. Their stubbornness has increased, while the Carter administration's resolve has diminished.

The fact is that there has been no visible progress in accounting for the 2,500 missing Americans in Southeast Asia, and the lack of full cooperation by these four governments is undoubtedly one of the grossest forms of human rights violations by any government. The cruel manner in which Vietnamese officials have held back MIA information and remains in the past, and the manner in which they continue to utilize the accounting issue as leverage in seeking U.S. financial aid, has extracted immeasurable amounts of suffering and anxiety on the part of relatives and friends. It has constituted a violation of common decency and respect for the MIA's themselves, as well.

IMPORTANCE OF ECONOMIC SANCTIONS

It seems clear to me that the Communist Governments of Vietnam, Laos, Uganda and Cambodia should be ineligible for economic assistance, direct or indirect, from any nation or international organization that cherishes humane principles. Economic sanctions seem to be the only language that Communist autocrats understand, and the only authority they respect. We have repeatedly told these governments that they would receive no American aid until they comply with an MIA accounting, and we must convince them that we intend to abide by this commitment, even with respect of U.S. aid through international organizations. Congressional approval of my amendment will give our representatives in Paris greater leverage in insisting upon further accounting for MIA's and it will also discourage other members of the World Bank and Asian Development Bank from approving loans to these Communist regimes.

Such loans would undermine our efforts to gain cooperation from Communist leaders. As the largest single contributor to these lending institutions, the United States should have the unchallenged authority to have a predominant voice in the aid policies of those organizations.

UGANDA

Similarly, Uganda's regime of terror, headed by Idi Amin, has caused the death and imprisonment of countless hundreds—perhaps thousands—of African citizens. Despite the absence of hard information regarding the total extent and nature of Ugandan repression, we know from numerous reports that it has been a bloody situation.

Idi Amin's regime has been condemned by a number of governments throughout the world, and certainly would never receive any aid directly from our Government.

I can see no excuse whatsoever for providing these governments indirectly what we would not provide directly, in the form of economic aid. In doing so, we defeat our purpose, and contradict our high moral standards in the conduct of foreign policy.

Congress, as the duly authorized representative of the American people, has a solemn responsibility to place reasonable restrictions on authorized funding, in accordance with public opinion. My contact with the citizens of my home State and in other parts of the country as well, convinces me that sentiment is strong among American taxpayers to reject any form of U.S. aid to the totalitarian governments. It would be a proper exercise of our legitimate responsibility to legislate against the use of American tax dollars for loans to these countries. It would be our duty to reestablish control over those funds which could be used to subsidize aid extended by these international organizations. It would tell the other members of these monetary institutions that we do not intend to allow our national policy to be subverted by institutional policy.

A POSITIVE INFLUENCE

Until the Congress of the United States, and the American people, are convinced—by action as well as word—that these totalitarian governments in Asia and Africa are living up to the same human rights standards which we expect of other nations, they should be positively excluded from any form of U.S. financial aid provided by the American taxpayer.

The House of Representatives reaffirmed this policy on June 22, when it overwhelmingly voted to prohibit use of any funds in the foreign assistance appropriations bill for any form of aid, direct or indirect, to these five nations.

At present, the United States has a 23-percent subscription share in the financing of the World Bank, and a 15-percent share in the Asian Development Bank. If ever there is an opportunity for this administration, and this Congress to provide a positive influence for the furthering of human rights observance, it is through these channels. Defeat of the committee amendment ensures that our message on human rights and MIA's gets through loud and clear to the Governments of Vietnam, Laos, Cambodia, and Uganda. I urge my colleagues to vote the will of their constituents, and

to vote against the committee amendment.

Mr. President, if we can figure out some other way to support Vietnam, Cambodia, and Laos, and take care of Idi Amin, maybe it ought to be done. Perhaps through private contributions; we will pass the hat in the Senate and see how much we pick up that way. But let us not do it to the American taxpayers. Let us have a little gesture on the part of the Vietnamese. It has been suggested before that perhaps they were being paid blackmail. They announced they have the remains of 20 more Americans, and we are supposed to be overjoyed, because after all this time, and all the agony, and all of the pain of the American families, they announced that the remains of 20 Americans are going to come home.

It does not make this Senator feel very happy, many of the families, many of the children, or many of the mothers. How many more do they have in the body bank? How many are they going to release next week if we put up $1 million, or give them other forms of aid or reparations? It seems to me, as one who has been consistently opposed to this, that there is no rush. The day may come, but I do not think this is the day in August to be talking about indirect aid to any of the countries mentioned.

I certainly support the efforts of the distinguished Senator from Virginia.

Mr. BUMPERS. Let me say that I believe many are prepared to support the administration's request on this amendment. Which countries does the Senator's amendment exclude?

Mr. HARRY F. BYRD, JR. The Senator from Virginia has no amendment. If the committee amendment is rejected, the following countries would be excluded from indirect aid: Uganda, Cambodia, Laos, and the Socialist Republic of Vietnam.

Mr. BUMPERS. My next question is this, and perhaps I should direct this to the manager of the bill sponsoring the committee amendment: Have any loans been made to Uganda by any of these financial institutions in the last year or in the last 2 years. Quite frankly, I will find it very difficult to vote for an amendment which would permit any American tax dollars, directly or indirectly—certainly not directly, but indirectly through the World Bank or any other institution—to go to Uganda.

Mr. INOUYE. If I may respond, as far as our records are concerned, during the last 12 months none of the banks have provided any loans to Uganda, Cambodia, Laos, or Vietnam.

Mr. BUMPERS. On page 1269 of the Senate hearings before the Committee on Appropriations, there is a chart shown of various commitments. It reads this way:

Cumulative commitments by the international development lending institutions to individual countries as of December 31, 1976.

If we go down the list we come to Uganda. Under World Bank Group, the International Bank for Reconstruction and Development apparently has committed $8.4 million as of that date, IDA—I do not know, but I understand that is the soft loan window of the World Bank—$42.5 million, and IFC, which I do not know about——

Mr. INOUYE. The International Finance Corporation.

Mr. BUMPERS [continuing]. They have committed $4.6 million. Then the African Development Fund is $15.2 million. That is a total of $70.7 million to Uganda.

Mr. INOUYE. These are cumulative figures from the birth of Uganda, actually. These represent loans that were made many, many years ago.

Mr. BUMPERS. So the Senator's previous answer that none of these other financial institutions have made commitments or loans to any of these countries, especially Uganda, in the last 2 years is that correct?

Mr. INOUYE. The Senator is correct, in the past 12 months no loans have been made.

Mr. CLARK. Will the Senator yield 2 or 3 minutes with regard to what Senator BUMPERS has said, or does he wish to proceed?

Mr. INOUYE. If I may, I would like to proceed at this time.

Mr. President, without debate it would appear that this is a "motherhood" amendment. How can anyone be in favor of Uganda; or after going through a horrible war, be in favor of loans to Vietnam, Cambodia, or Laos? However, I believe we should remind ourselves that there are 138 countries which are presently contributing to the World Bank. Granted, some are large contributors, like the United States, and others are very small; the smallest contribution is $100,000 a year. But there are 138 countries participating in the World Bank. None of these countries have attached strings to their contributions to the Bank. If one country is permitted to attach strings, all others will do the same, and the World Bank will go out of business.

Sensing this, the World Bank, obviously, will not accept any contribution as a matter of policy from any country which would attach strings.

I think we are missing the point here, Mr. President. When we say no assistance may be made directly or indirectly, it does not cover just the World Bank, but all of the U.N. programs: the refugee assistance programs, the health programs, the education programs. Is the United Nations to stand aside mute, immobile, if there is a huge disaster in Uganda, just because Idi Amin happens to be the boss man? Are we going to close our eyes and say, "Let those people suffer"? Once we do that, the U.N. is out of business.

Are we going to close our eyes now to the Cambodian refugees? This is reality today. They are leaving Cambodia. They are leaving Laos.

This amendment would make it impossible for the United Nations to come to their aid to help them leave.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. INOUYE. I am happy to yield.

Mr. HARRY F. BYRD, JR. If they are leaving Cambodia and Laos they would not benefit by funds which are given to the countries which they are leaving. Funds go to the leaders of the countries, not to the refugees.

Mr. INOUYE. They are Cambodians, sir.

Mr. HARRY F. BYRD, JR. They are Cambodians, but this speaks of the Government of Cambodia.

Mr. INOUYE. It does not.

Mr. HARRY F. BYRD, JR. That is clearly the intent of it.

Mr. INOUYE. It just says any assistance.

Mr. HARRY F. BYRD, JR. Any assistance or reparations to Cambodia as a country, Uganda as a country, Laos as a country, or the Soviet Socialist Republic of Vietnam. Obviously they are countries.

Mr. INOUYE. If there is a recurrence of plague, and it could happen in some of these Southeast Asian countries, are we to stand mute and ignore the pleas of these people?

Oftentimes our concern for the oppressor makes us forget the oppressed. We should be concerned with the oppressed. This is not aid to provide them with guns, grenades, and whips. The type of aid we are speaking of is food, shelter, clothing, health assistance; if the committee amendment is not accepted, the World Health Organization would be completely tied up, the UNDP program—

Mr. HUMPHREY. Will the Senator yield?

Mr. INOUYE. I am happy to yield.

Mr. HUMPHREY. Even UNICEF, the children's program, would be tied up, as well as the most humanitarian programs we have.

The chairman is to be congratulated for what he has done and I hope the Senate will support him.

Mr. McGOVERN. Will the Senator yield?

Mr. INOUYE. I am happy to yield.

Mr. McGOVERN. How much money are we talking about in these little countries? Can the Senator give us some idea what the total amount is?

Mr. INOUYE. There are no moneys in this bill to support these countries. The language the Senator from Virginia wishes to restore, the so-called House language, would make it impossible for any future assistance. Let us say there is an epidemic in Laos and the United Nations wanted to send the World Health Organization there. That organization would be unable to move.

Mr. McGOVERN. We are talking at best about a comparatively small amount of money in terms of what the U.S. Government does abroad, are we not?

Mr. INOUYE. That is correct.

Mr. McGOVERN. I mean, even the worst case situation is really a very modest expenditure.

It just occurred to me, listening to this discussion, that some of the same Senators who are waxing so eloquent about protecting the taxpayers' money against going to Vietnam were not heard on that concern a few years ago when we were sending $25 billion a year in American taxpayers' money to Vietnam, not to feed the hungry, not to provide housing for

the homeless, not to take care of the wreckage of the war, but to conduct a totally pointless effort in destruction in that part of the world that we are going to be paying for years to come. I do not like to get into a debate on this issue. I had hoped we had put it behind us years ago.

If Senators are going to come on this floor and beat their chest talking about how they are protecting the American taxpayer against sending needless funds to Vietnam, Cambodia and Laos, I wish they would jog their memories a little bit and think about the debates we held on this floor for 10 or 15 years trying to stop that hemorrhage of American tax dollars that were flowing out there to Southeast Asia in an effort that accomplished nothing, except the destruction of hundreds of thousands of people in that part of the world, and the killing of some 50,000 young Americans, and the imprisoning for long periods of time for others. And for what?

What did we accomplish in that whole effort?

Now we come here, after the whole tragedy has run its course, and we have legislation before us that opens the way for maybe a minimum amount of humanitarian aid to go to help repair some of this terrible damage. I do not understand this belated concern about taxpayers' dollars, when we should have been raising this concern 10 or 15 years ago.

I thank the Senator for yielding.

Mr. MELCHER assumed the chair.

Mr. INOUYE. Mr. President, it has not been mentioned in this debate, nor is it referred to in the report, but this document is an instrument of foreign policy. I believe all of us agree on that. Too often, we find ourselves forcing countries into the hands of an adversary. We force them to go there because we tell them to their faces, "We do not want you."

We do not agree with the policy of Mr. Amin. I doubt if there are any of us here who would. But what about the people of Uganda? Are we, by this measure, to tell the Ugandans, "We do not want you at all?"

This will just give Mr. Amin an abundance of ammunition for demagoguery and rhetoric, to say, "See those Americans? You cannot get any help from them. Stick with me."

Let us give them some hope. Let us, at least, say, "Sure, we don't like your government, we hate it, we despise its acts. But if the God Lord should say there will be devastation in your land, we stand ready to help you; not directly, but through the multinational banks, through the multinational organizations such as the World Health Organization of the United Nations."

I do not think we should close the door completely. I hope that members of the Senate will abide with the decision we have reached, after much soul-searching. Believe me, it was not an easy decision to reach, because we realized the political realities. I do not wish to go home and have the headlines read, "INOUYE supports Idi Amin; INOUYE supports Ho Chi Minh."

This is no political plus here, but if we are to conduct ourselves as responsible Senators, acting on an instrument of foreign policy, I say we have no choice but to support the committee amendment. I hope it will be done.

Mr. CLARK. Will the Senator yield?

Mr. INOUYE. I am very happy to yield.

Mr. CLARK. I think one other essential point needs to be made. The distinguished Senator from Hawaii, I think, has made most of the essential points, but I wish to add to them just briefly.

To me, the issue is not the amendment before us, not whether we are going to discontinue loans to Uganda, to Cambodia, to Laos, or to Vietnam. That is not the issue at all. The issue is whether we are going to participate in the World Bank. That is the issue.

Obviously, if this amendment is passed and we offer the money to World Bank, it is going to be affected. It is not going to affect Laos, Cambodia, Vietnam, or Uganda. It would have absolutely no effect, one way or the other, if this amendment is adopted, because we know from the letter from the President of the World Bank to the President of the United States, after the House took this action, that the World Bank would not accept money from us on that basis, just as they would not accept it from any other country in the world.

I quote a couple of sentences from the letter from Mr. McNamara to Secretary Blumenthal:

> If these provisions become law the United States would have to condition its commitment and its subscriptions on a requirement that these funds not be used to finance loans to certain countries or for certain agricultural commodities. The question arises, therefore whether IDA could accept a United States commitment to the Fifth Replenishment and the Bank and IFC could accept United States subscriptions to their capital stock if they were made subject to such conditions or others of similar effect.
>
> The answer is that IDA, the Bank and IFC could not accept the funds, so conditioned, * * *.

There is no doubt, then, that the amendment that is before us does not have as its goal to affect American loans in these countries. That is not at issue. Whether the amendment passes or not, it would have no effect there. What it would do is have the effect of driving us out of all those organizations.

I am not surprised that there are people in this body who want to do that. That is their view. A person is entitled to the view that we should not participate in international organizations, the World Bank, the IMF. Fine, but I hope that people will see this issue for what it is: whether or not we are going to continue to participate in the World Bank and in these world organizations. For those people who believe in these institutions, certainly, I do not see how they could support an amendment that would, in no case, have anything to do, whether we pass it or not, with the countries mentioned in this amendment.

Mr. CHURCH. Will the Senator yield to me?

Mr. CLARK. I do yield if the Senator from Hawaii agrees.

Mr. INOUYE. Certainly.

Mr. CHURCH. Mr. President, I want to underscore what the distinguished Senator from Iowa has said.

I oppose foreign aid from the United States to Vietnam. I have so voted. I would oppose it to Idi Amin's government. The issue is not whether we should extend aid to such governments. The issue is whether we want to continue to participate in the World Bank.

I believe that the role of the World Bank is an essential one; that our participation is in the best interests of the United States. World Bank financing does more toward helping poor countries throughout the world than any bilateral program. I think that the Senator is absolutely right in the position he takes. The issue ought not to be obscured by the false implication that those of us who favor the committee amendment somehow approve of the governments named.

Mr. CLARK. Exactly.

Mr. HUMPHREY. I just want to make this general observation: Once we start to lay down conditions such as some of our colleagues would like, we open up a Pandora's box. For example, the main effort of our Government is to get a larger contribution from the OPEC countries into the World Bank and into the international financial institutions, thereby cutting down our percentage of contribution and increasing the percentage of the OPEC countries that have surplus capital.

What if the OPEC countries said, what if Saudi Arabia says, no money, directly or indirectly, to Israel—which they easily could do. As a matter of fact, they have been at odds with Israel longer than we have been with Idi Amin.

Let me tell you, the day we start to open up that Pandora's box of trouble, we can forget the entire international financial institution picture. Once that happens, may I say, the hope for peace in this world is seriously damaged, because, as Pope John once said: "The new name for peace is development."

These world banks and these international financial institutions represent an effort at development.

Mr. RIBICOFF. Will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. RIBICOFF. One of the great problems confronting international organizations is trying to politicize them. The United States has been complaining, in the United Nations and every international organization, of the fact that the United States stands alone—whether it is ILO, UNESCO, or World Health Organization; that one-third of practically all international arrangements are international organizations. It ill behooves the United States to complain about politicizing of international organizations if we now try to do it. By trying to politicize the World Bank to conform

with only American thinking and not world thinking, we make it impossible for the United States, in its fight in the United Nations and all international organizations, to inveigh against this type of procedure.

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

Mr. MAGNUSON. Will the Senator yield?

Mr. INOUYE. Do I have any time left on the amendment?

The PRESIDING OFFICER. The Senator's time has just expired.

Mr. INOUYE. I yield from my time on the bill to the Senator from Washington.

Mr. MAGNUSON. I thank the Senator. I want to ask another question.

I understand that the World Bank is a business organization. Is that correct?

Mr. INOUYE. Yes.

Mr. MAGNUSON. It makes loans on the idea that they are going to get the money back. Is that not correct?

Mr. INOUYE. There are two windows, the hard window and the soft window. The soft window is long-term, up to 40 years on concessionary terms. There may be times when the very poorest countries may not be able to meet the terms.

Mr. MAGNUSON. On the hard loans, they have a good fiscal record, do they not?

Mr. INOUYE. Absolutely, better than some of our banks.

Mr. MAGNUSON. They are not going to lend money to places on hard loans, whether it be any of these countries mentioned or other countries, unless they hope to get it back, like any other bank. Is that correct?

Mr. INOUYE. The Senator is absolutely correct.

Mr. MAGNUSON. It seems to me that that is a factor, too. That would police the loan itself to a country that is not going to pay it back.

Mr. HARRY F. BYRD, JR. Mr. President, I yield such time as the Senator may wish.

Mr. DOLE. I thank the Senator.

The Senator did not say whether they would go to the soft or hard window on Vietnam. Are they looking for hard loans or soft loans?

Mr. INOUYE. I am not privy to information from Vietnam, so I would assume, if they are seeking loans, they would try their best to go to the soft window.

Mr. DOLE. They surely will, and that is my understanding.

I will say to my distinguished colleague, whom I respect very much, it seems to me it would not be such a bad idea to serve notice on the World Bank. Is there something sacrosanct about it, or some other lending institution, or some other organization?

Let us just look at Uganda. They received assistance in 1976 from IDA and UNDP and will be receiving aid from UNDP over the next 5 years.

We know the ruler, and where they get support—the Soviet Union and Cuba.

Uganda police units receive advisers from Russia and the Palestinians.

They are gross violators of human rights.

On just 1 day—February 6, 1977—in just one entry in a long list of human rights violations, women were beaten to death by Ugandan police in one incident and businessmen were beaten in another.

We all know about Entebbe, and Amin's involvement with terrorists.

On April 29, 1977, we know what happened when they announced Americans could not leave.

And all this for the Ugandan people? And we free up funds for Amin. No matter how much of it is ours, it will be more for Mr. Amin.

Mr. CLARK. If the Senator will yield for 10 seconds, I would question that IDA loaned money to Uganda in 1976.

I may be wrong, but I would like to know the source of that information.

Mr. DOLE. My information is that they provided $48 million in 1976 to Uganda.

Mr. CLARK. That is a cumulative figure from the past year. Most of it, not all, prior to the time Amin came to power.

Mr. INOUYE. The Senator is correct.

Mr. DOLE. I certainly have the highest respect for Senator HUMPHREY, who can hardly wait to get up, and others who are leaning forward in their chairs I know their good work, but let us consider a few things.

As I remember, they were the enemy in Vietnam. It was not the U.S. Senate. I do not know anybody here that killed any Americans. I thought they did it.

What have they done? Are they going to set up loans for our country, for our poverty areas?

I just ask about Cambodia, Laos, or Uganda, do they have programs floating around in which we could participate? Will they cooperate on accounting for the missing in action? I think we should ask ourselves those questions.

I do not question anyone's motives. I understand the deep commitment the Senator from Hawaii has. I know his great outstanding record. I do not quarrel with that at all.

But I say, the rest of us have a right to another view without being looked down upon as against human rights.

What about the rights of the Vietnamese people and the thousands of political prisoners?

As far as I can find, they will be receiving aid from IDA, UNDP, at the soft window. If that is what we want to do, I think we ought to go into it knowingly.

Mr. HUMPHREY. The Senator and I are cosponsors of an amendment to extend the Commodity Credit Corporation credit to the very countries we are talking about right now so they can buy our wheat, on our money, direct loans, and the Senator and I want to sell them wheat.

Mr. DOLE. No.

Mr. HUMPHREY. Let us get the record clear.

Mr. DOLE. Right.

Mr. HUMPHREY. Right.

Mr. DOLE. No, wrong.

Mr. HUMPHREY. We can go the whole way, when it comes to getting rid of that Kansas wheat——

Mr. DOLE. No.

Mr. HUMPHREY. Not Minnesota wheat.

We have an amendment that says, "Boys, if you want to borrow money from us to buy our wheat, we'll sell it You don't have to go to the World Bank, just come to us, we'll deliver it. We'll give you the money, we'll give you the wheat, and we'll hope and pray you will pay," with no assurance whatsoever, and it is good business.

Mr. DOLE. No, it is not good business.

Mr. HUMPHREY. Second, the Israelis are in the World Bank and they are the ones that had their plane hijacked—Idi Amin—they did not cut it off to Uganda.

All we are doing is cutting off our nose to spite our face.

I know it makes a good speech, just as I made one on the Commodity Credit Corporation. I thought I would even it out.

Mr. DOLE. Let me say to my good friend from Minnesota, who always makes a good speech, that I was asked to cosponsor the bill this morning but I turned it down. I do not want to trade with all of those countries.

Mr. HUMPHREY. Which ones does the Senator want to trade with? As I understand it, the Senator wanted to trade with China.

Mr. DOLE. Right.

Mr. HUMPHREY. Now, China is not exactly a bastion of world democracy, is that not right?

The Senator and I know that is sensible, we ought to be selling. I am for selling them anything they cannot shoot back.

Mr. DOLE. I will say to the Senator from Minnesota, as he knows, he introduced the bill to provide the very things he said, but not with the name of the Senator from Kansas on it.

I respectfully suggest that probably the Senator will have hearings on the bill in the Agriculture Committee and work out some of the problems he suggested.

I appreciate the efforts to link me with the Senator from Minnesota because we find ourselves in agreement about 90 percent of the time on some things.

Mr. HUMPHREY. Yes.

Mr. DOLE. But when it comes to principles, sometimes we disagree.

Mr. HUMPHREY. That is correct.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. Five minutes remain on the amendment for the Senator from Pennsylvania.

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. INOUYE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the committee amendment.

The yeas and nay have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BAKER (when his name was called). On this vote I have a pair with the distinguished Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "nay."

If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Maine (Mr. MUSKIE) and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

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

The result was announced—yeas 47, nays 29, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—47

| | | |
|---|---|---|
| Anderson | Gravel | Metcalf |
| Bayh | Hart | Metzenbaum |
| Bentsen | Haskell | Nelson |
| Biden | Hatfield | Nunn |
| Brooke | Humphrey | Packwood |
| Bumpers | Inouye | Ribicoff |
| Chiles | Jackson | Riegle |
| Church | Javits | Roth |
| Clark | Johnston | Sarbanes |
| Culver | Kennedy | Sasser |
| Danforth | Leahy | Schweiker |
| DeConcini | Magnuson | Stafford |
| Durkin | Mathias | Stevenson |
| Eagleton | Matsunaga | Stone |
| Ford | McGovern | Williams |
| Glenn | McIntyre | |

NAYS—29

| | | |
|---|---|---|
| Allen | Garn | Morgan |
| Bartlett | Hansen | Proxmire |
| Burdick | Hatch | Randolph |
| Byrd, Harry F., Jr. | Hayakawa | Schmitt |
| | Helms | Scott |
| Byrd, Robert C. | Hollings | Tower |
| Cannon | Laxalt | Wallop |
| Curtis | Long | Weicker |
| Dole | Lugar | Young |
| Domenici | Melcher | Zorinsky |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Baker, for.

NOT VOTING—23

| | | |
|---|---|---|
| Abourezk | Hathaway | Pell |
| Bellmon | Heinz | Percy |
| Case | Huddleston | Sparkman |
| Chafee | McClellan | Stennis |
| Cranston | McClure | Stevens |
| Eastland | Moynihan | Talmadge |
| Goldwater | Muskie | Thurmond |
| Griffin | Pearson | |

So the committee amendment on page 14. line 6, was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

Mr. JOHNSTON and Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The second assistant legislative clerk read as follows:

On page 15, line 25, following "finance" strike the comma and "directly or indirectly," and insert "directly";

## MILITARY CONSTRUCTION APPROPRIATIONS, 1978—CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, I submit a report of the committee of conference on H.R. 7589 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The second 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. 7589) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, 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 all 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 House proceedings of the RECORD of August 3, 1977.)

Mr. JOHNSTON. Mr. President, this conference agreement provides $2,977,720,000 in new fiscal year 1978 budget authority for military construction and family housing programs of the Department of Defense. This amount is $152,910,000 below the level passed by the Senate, but $158,219,000 above the House bill. I might add that it is also $37,880,000 below the budget request and $483,677,000 lower than last year's appropriations.

I ask unanimous consent that a table displaying these comparisons by military department be inserted in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. JOHNSTON. In arriving at the almost $3 billion recommended for new appropriations in fiscal year 1978, the conferees considered some 283 items in disagreement, totaling over $597 million. While I will be glad to address any specific points raised by the Senators, I do not plan to elaborate on the details of this agreement; these are contained in House Report 95–560, which was also printed in the CONGRESSIONAL RECORD of August 3.

I would like to say in general that while the agreement does not contain all of the items recommended by the Senate, it represents a fair compromise which I do not hesitate to endorse. During conference, we were able to satisfactorily resolve the most critical of our differences. In particular, I am gratified that the conferees agreed to almost $94 million of the pollution abatement and energy conservation measures proposed by the Senate.

In short, this was a very productive conference, in large measure due to the competence and integrity of my House counterpart, the Honorable GUNN MCKAY of Utah. I would be seriously remiss if I did not publicly thank Congressman MCKAY for the spirit of cooperation he exhibited throughout the conference.

I would also like to express my appreciation to the distinguished Senator from Alaska, TED STEVENS, for his untiring support as ranking minority member of the Senate conferees. I do not know how he keeps up the pace, but I am grateful, and look forward to continuing our association.

In conclusion, Mr. President, I urge that the Senate adopt the conference report on military construction appropriations for fiscal year 1978.

This is the military construction conference report which was agreed to unanimously by the Members of the Senate. There was one major item in disagreement, Mr. President. That had to do with the barracks and the reception center at Fort Benning, Ga., and that, in turn, brought into focus the question of one-station unit training, a concept of combining both basic and advanced infantry training.

After considerable dealing with the House, we came up with a compromise whereby we would have a test of one-station unit training at Fort Benning, followed by a report by the Secretary of the Army.

The House conferees agreed that this would satisfy their concerns, provided they concurred that the report of the Secretary of the Army was reasonable. In other words, we expect to finally put to rest the question of one-station unit training based upon the report of the Secretary of the Army, provided he comes up with a reasonable report, which we would expect he would.

I want to thank the ranking minority member on the subcommittee, Senator STEVENS from Alaska, and Senator YOUNG from North Dakota, for their help and strong support in this matter, along with Congressman GUNN MCKAY, the chairman of the House Military Construction Subcommittee.

EXHIBIT 1

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

| | New budget authority | | | | | Conference compared with— | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Enacted, fiscal year 1977 | Estimates, fiscal year 1978 | House, fiscal year 1978 | Senate, fiscal year 1978 | Conference, fiscal year 1978 | Fiscal year 1977 enacted | Fiscal year 1978 estimate | House bill | Senate bill |
| Military construction, Army | 597,664,000 | 601,800,000 | 483,659,000 | 583,059,000 | 527,769,000 | −69,895,000 | −74,031,000 | +44,110,000 | −55,290,000 |
| Military construction, Navy | 570,265,000 | 465,600,000 | 425,686,000 | 523,279,000 | 463,056,000 | −107,209,000 | −2,544,000 | +37,370,000 | −60,223,000 |
| Military construction, Air Force | 808,079,000 | 398,900,000 | 379,044,000 | 451,233,000 | 406,986,000 | −401,093,000 | +8,086,000 | +27,942,000 | −44,247,000 |
| Military construction, Defense agencies | 41,396,000 | 34,400,000 | 32,314,000 | 59,659,000 | 58,009,000 | +16,613,000 | +23,609,000 | +25,695,000 | −1,650,000 |
| Transfers, not to exceed | (20,000,000) | (20,000,000) | (20,000,000) | (20,000,000) | (20,000,000) | | | | |
| Military construction, Army National Guard | 61,128,000 | 49,400,000 | 49,400,000 | 49,400,000 | 49,400,000 | −11,728,000 | | | |
| Military construction, Air National Guard | 37,200,000 | 43,300,000 | 43,300,000 | 43,300,000 | 43,300,000 | +6,100,000 | | | |
| Military construction, Army Reserve | 53,804,000 | 50,500,000 | 50,500,000 | 50,500,000 | 50,500,000 | −3,304,000 | | | |
| Military construction, Naval Reserve | 23,600,000 | 21,700,000 | 21,700,000 | 21,700,000 | 21,700,000 | −1,900,000 | | | |
| Military construction, Air Force Reserves | 10,773,000 | 11,200,000 | 11,200,000 | 11,200,000 | 11,200,000 | +427,000 | | | |
| Total, military construction | 2,203,909,000 | 1,676,800,000 | 1,496,803,000 | 1,793,330,000 | 1,631,920,000 | −571,989,000 | −44,880,000 | +135,117,000 | −161,410,000 |
| Family housing, Defense | 1,370,035,000 | 1,451,640,000 | 1,435,538,000 | 1,451,640,000 | 1,460,140,000 | +90,105,000 | +8,500,000 | +24,602,000 | +8,500,000 |
| Portion applied to debt reduction | −112,547,000 | −115,840,000 | −115,840,000 | −115,840,000 | −115,840,000 | −3,293,000 | | | |
| Subtotal, family housing | 1,257,488,000 | 1,335,800,000 | 1,319,698,000 | 1,335,800,000 | 1,344,300,000 | +86,812,000 | +8,500,000 | +24,602,000 | +8,500,000 |
| Homeowners assistance fund, Defense | | 3,000,000 | 3,000,000 | 1,500,000 | 1,500,000 | +1,500,000 | −1,500,000 | −1,500,000 | |
| Grand total, new budget (obligational) authority | 3,461,397,000 | 3,015,600,000 | 2,819,501,000 | 3,130,630,000 | 2,977,720,000 | −483,677,000 | −37,880,000 | +158,219,000 | −152,910,000 |

Mr. YOUNG. Mr. President, the distinguished Senator from Alaska (Mr. STEVENS), the ranking minority member of the committee, could not be here today, so I am handling the bill, speaking for him. This bill should be passed. It is a good bill. It is about $38 million below the President's request, and I understand it was approved unanimously by the committee. I hope the Senate will approve it.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will report the amendment in disagreement.

The second assistant legislative clerk read as follows:

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: $1,460,140,000

Mr. JOHNSTON. Mr. President, I move the Senate concur in the amendment of the House to the amendment of the Senate numbered 5.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. BAKER. Mr. President, will the Senator yield to me briefly?

Mr. INOUYE. I will be happy to yield.

## ASSOCIATE ADMINISTRATOR FOR WOMEN'S BUSINESS ENTERPRISE WITHIN THE SMALL BUSINESS ADMINISTRATION

Mr. BAKER. Mr. President, I cleared this with the majority leader, whom I do not see on the floor at this time, and it has been cleared at this time.

I ask unanimous consent that it be in order at this time to call up a bill by the distinguished Senator from Oklahoma (Mr. BARTLETT), and that no time be charged against either party in respect of the foreign aid appropriations bill for the few moments it will take to dispose of this matter.

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

The clerk will state the bill by title.

The second assistant legislative clerk read as follows:

A bill (S. 1526) to establish an Associate Administrator for Women's Business Enterprise within the Small Business Administration.

The PRESIDING OFFICER. Is there objection to the Senate's considering the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Small Business with an amendment on page 3, beginning with line 6, insert the following:

SEC. 3. Section 5316 of title 5, United States Code, is amended by striking from paragraph (11) "(4)" and by inserting the figure "(5)".

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Section 4 (b) of the Small Business Act is amended by adding after the last sentence, "One of the Associate Administrators shall be designated an Associate Administrator for Women's Business Enterprise, whose duties shall be to—

"(1) increase participation of women in all Administration programs by—

"(a) organizing Administration seminars and workshops to inquire into the problems facing women business enterprises and to inform operating and potential businesswomen of available assistance programs;

"(b) assisting women's business enterprises in developing markets for goods and services;

"(c) providing management assistance, marketing assistance, technical assistance, and training for such enterprises;

"(d) assisting in the generation of venture capital for such enterprises;

"(e) assisting such enterprises in complying with Federal, State, and local laws;

"(f) providing information on economic and social developments which affect such enterprises;

"(g) evaluating the efforts of Federal agencies which have programs, goals, or objectives affecting such enterprises;

"(h) evaluating the efforts of business and industry to assist such enterprises;

"(i) doing such other things as may be appropriate to assist and strengthen the development of such enterprises; and

"(2) report regularly to the Administrator on the findings from these inquiries and on proposals for implementing these policy objectives.".

SEC. 2. The fourth sentence of section 4(b) of the Small Business Act is amended by striking the word "four" and inserting in lieu thereof the word "five".

SEC. 3. Section 5316 of title 5, United States Code, is amended by striking from paragraph (11) "(4)" and by inserting the figure "(5)".

ADDITIONAL COSPONSORS

The Senator from South Dakota (Mr. ABOUREZK), the Senator from Tennessee (Mr. BAKER), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Montana (Mr. METCALF), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Oregon (Mr. HATFIELD), the Senator from Michigan (Mr. RIEGLE), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER) and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 1526.

Mr. BARTLETT. Mr. President, This bill, which creates the position of Associate Administrator for Women's Business Enterprise within the Small Business Administration, has been cleared for action on both sides of the aisle.

I think the creation of such a position at the policymaking level of the SBA will convey to America's growing number of women entrepreneurs a clear and unmistakable signal that the Government of the United States is concerned about their growth, development, and success.

In repeated hearings before the Small Business Committee we heard the com-

mon complaint that the Government generally and the SBA specifically, were not actively enough geared to the special needs of women business owners.

As Mr. Weaver, the Administrator of the SBA, said in testimony before the Small Business Committee, "Women do face unique problems and barriers" to entry and survival in the small business world.

While women face many of the same problems as men do in the business community, it is undeniably true that they also must overcome additional problems because they are women. The reluctance of many banks to make business loans to women, the lack of basic knowledge and experience by women concerning business that many men acquire early, the general lag between women's expectations and our society's ability to properly prepare them to realize those expectations, and a widespread lack of resources and management experience to get into, and stay in, business are some of the unique problems facing women today.

On Wednesday, August 3, the White House and the SBA announced the initiation of a "National Women's Business Ownership Campaign" designed to attract more women to ownership of businesses, to increase women's awareness of programs and services available, and to support the efforts of women already in business. Mr. President, I cannot too strongly commend this action of the Administration's—it is long overdue and it is welcome. But I think it, as nothing else could have, underlines the necessity of establishing, by law, a position to insure their continuity from administration to administration.

Mr. President, I ask unanimous consent to print in the RECORD a letter dated August 5, 1977, addressed to Senator NELSON, from the Director of the Congressional Budget Office, Alice M. Rivlin, with a cost estimate of S. 1526.

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

CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., August 5, 1977.*

The Honorable GAYLORD NELSON,
*Chairman, Select Committee on Small Business, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congresssional Budget Office has prepared the attached cost estimate for S. 1526, a bill to establish an Associate Administrator for Women's Business Enterprise within the Small Businesss Administration.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
*Director.*

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COST ESTIMATE

1. Bill Number: S. 1526

2. Bill Title: To establish an Associate Administrator for Women's Business Enterprise within the Small Business Administration.

3. Bill Status: As ordered reported by the Senate Select Committee on Small Business.

4. Bill Purpose:

The purpose of this bill is to establish a new administrator, within the Small Business Administration, who shall be designated an Associate Administrator for Women's Business Enterprise. The duties of the position include increasing participation of women in all SBA programs, providing women's business enterprises with management and technical asssistance and training, and offering assistance as may be appropriate to aid and strengthen the development of women's business enterprises.

5. Cost Estimate:

(Thousands of dollars)

| | |
|---|---|
| FY 1978 | 59 |
| FY 1979 | 60 |
| FY 1980 | 60 |
| FY 1981 | 61 |
| FY 1982 | 62 |

Estimated costs: The costs of this bill fall within budget function 400.

6. Basis for Estimate:

Associate administrators at the SBA are paid at the Level V salary rate of $47,500.

The costs for this legislation are based on that salary level plus a personnel benefits and overhead rate of 25 percent yearly, with benefits and overhead adjusted for inflation in future years.

7. Estimate Comparison: None.

8. Previous CBO Estimate: None.

9. Estimate Prepared By: Toby Radasky (225–7760).

10. Estimate Approved By: C. G. Nuckols.

JAMES L. BLUM,
*Assistant Director for Budget Analysis.*

Mr. BARTLETT. Mr. President, I understand this has been agreed to by both sides. I yield back the balance of my time.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1526) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Section 4(b) of the Small Business Act is amended by adding after the last sentence, "One of the Associate Administrators shall be designated an Associate Administrator for Women's Business Enterprise, whose duties shall be to—

"(1) increase participation of women in all Administration programs by—

"(a) organizing Administration seminars and workshops to inquire into the problems facing women business enterprises and to inform operating and potential businesswomen of available assistance programs;

"(b) assisting women's business enterprises in developing markets for goods and services;

"(c) providing management assistance, marketing assistance, technical assistance, and training for such enterprises;

"(d) Assisting in the generation of venture capital for such enterprises;

"(e) assisting such enterprises in complying with Federal, State, and local laws;

"(f) providing information on economic and social developments which affect such enterprises;

"(g) evaluating the efforts of Federal agencies which have programs, goals, or objectives affecting such enterprises;

"(h) evaluating the efforts of business and industry to assist such enterprises;

"(i) doing such other things as may be appropriate to assist and strengthen the development of such enterprises; and

"(2) report regularly to the Administrator on the findings from these inquiries and on proposals for implementing these policy objectives.".

SEC. 2. The fourth sentence of section 4(b) of the Small Business Act is amended by striking the word "four" and inserting in lieu thereof the word "five".

SEC. 3. Section 5316 of title 5, United States Code, is amended by striking from paragraph (11) "(4)" and by inserting the figure "(5)".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

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## FOREIGN ASSISTANCE APPROPRIATIONS, 1978

The Senate resumed the consideration of the bill (H.R. 7797).

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, are we now on section 114?

The PRESIDING OFFICER. The Senator is correct, and the amendment has been stated.

Mr. INOUYE. Mr. President, I move that the committee amendments relating to section 114 appearing on page 15 be agreed to.

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

Mr. INOUYE. I am happy to yield.

Mr. DOLE. This amendment applies to which country?

Mr. INOUYE. To Angola and Mozambique.

Mr. DOLE. Based on the vote we just had, I do not know of any reason to delay the vote; I just object to it and move on. It is on Angola and Mozambique?

Mr. INOUYE. Yes.

Mr. DOLE. The Senator from Kansas has the same objection as do others. Certainly I think we had a test of the strength of the Senate.

Mr. INOUYE. The principle involved is the same.

Mr. DOLE. Right.

Mr. INOUYE. It is just the countries are different.

Mr. DOLE. Right.

Mr. INOUYE. And if there are no others wishing to speak on it, Mr. President, I am prepared to yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. HAYAKAWA. Mr. President, will the Senator yield for unanimous consent requests?

Mr. INOUYE. I am happy to yield to the Senator.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that Jim Streeter of Mr. MCCLURE's staff be accorded the privilege of the floor through the remainder of the debate and votes on this bill.

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

Mr. HAYAKAWA. I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the committee amendments en bloc.

Without objection, the committee amendments are agreed to en bloc.

The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 28, line 6, strike "or indirectly";

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I move that the committee amendment relating to section 506 be agreed to.

Mr. DOLE. Mr. President, will the Senator from Hawaii yield?

Mr. INOUYE. I am happy to yield.

Mr. DOLE. This is the same principle involving another country; is that correct?

Mr. INOUYE. The same principle. The country in this case is Cuba.

Mr. DOLE. Mr. President, this amendment is similar to previous ones where the Committee seeks to give U.S. aid indirectly to a government that is repugnant to American ideals—in this case, Cuba.

Mr. President, again my opposition to this committee amendment takes into consideration the extremely repressive and inhumanitarian character of the current Government of Cuba. The goal of my opposition is to insure that the aid we would not give these countries directly does not reach them just the same through indirect channels such as the World Bank, Asian Development Bank, and the International Development Association. The committee seeks to remove the words "or indirectly" from section 506 of the bill, which were already approved by the House of Representatives.

HUMANITARIAN OBJECTIVES

Mr. President, the committee amendment is totally contrary to the pronounced objective of this administration and this Congress to promote the cause of human rights wherever we have a voice of influence in the world. The administration has already suggested that we curtail U.S. aid and commerce with traditional allies in Latin America who violate certain human rights principles. The Congress has already complied with that recommendation in certain instances.

In attempting to advance the cause of human rights abroad, it is important that Congress insure consistency in U.S. trade and aid policies. And avoid a hypocrisy that undermines that cause. This is important whether U.S. aid is extended directly or indirectly through an international loan organization like the World Bank.

CUBA

In the context of current international concern about the appropriate observance of human rights by governing institutions, the Carter administration should insist upon significant progress in this area by the Castro regime. Credible reports indicate that as many as 15,000 to 20,000 Cuban citizens are imprisoned in Cuban jails, and at least some of these are incarcerated on charges of espionage or similar allegations of a political nature. Others are held on charges relating to drug use or hijacking activity. In line with a perfectly natural sense of concern by the United States about repressive actions against our own citizens, as well as Cuban citizens. We must insist that tangible steps be taken by the Cuban regime to resolve that concern. It is vital that U.S. policymakers apply the same human rights criteria to Cuba which has been applied to other nations with whom we maintain friendly relations. It is nothing short of ironic that the Carter administration proposes to improve relations with Cuba at the same time that it suggests that we reduce or eliminate interaction with traditional allies in Latin America and other parts of the globe.

I can see no excuse whatsoever for providing the Government of Cuba indirectly what we would not provide directly, in the form of economic aid. In doing so, we defeat our purpose, and contradict our high moral standards in the conduct of foreign policy.

Congress, as the duly authorized representative of the American people, has a solemn responsibility to place reasonable restrictions or authorized funding, in accordance with public opinion. My contact with the citizens of my home State and in other parts of the country as well, convinces me that sentiment is strong among American taxpayers to reject any form of U.S. aid to the totalitarian governments. It would be a proper exercise of our legitimate responsibility to legislate against the use of American tax dollars for loans to Cuba. It would be our duty to reestablish control over those funds which could be used to subsidize aid extended by these international organizations. It would tell the other members of these monetary institutions that we do not intend to allow our national policy to be subverted by institutional policy.

I thank the distinguished Senator from Hawaii.

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from South Carolina (Mr. THURMOND).

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

STATEMENT BY MR. THURMOND

I wish to express my strong opposition to the Committee amendment deleting the word "indirectly" on line 6 of page 28 of H.R. 7797. This effectively opens the way for American dollars to be sent to Cuba, our Communist back-door neighbor.

How can the Senate in good conscience tolerate any American money going to Cuba—or, for that matter, even the remote possibility that U.S. dollars may be funneled into that country? Cuba, because of its "nationalization" of U.S. industry and properties by the Castro regime in the 1960's, owes the people of this country nearly $4 billion. Let me repeat: nearly $4 billion. Now, considering that fact, is it not foolish to allow even one American dollar to go to Cuba?

Preliminary negotiations are now under way to establish what the administration calls "normalization" of relations with the Cuban government. I am informed that the American negotiators are instructed to seek reparations to Americans whose properties were seized by the Castro regime. Well, that is fine, but we should await the outcome of those negotiations before considering allowing the hard-earned tax dollars of the American people to go to this repressive dictatorship.

Mr. President, let us not be deluded by the recent overtures of friendship by Mr. Castro. His government remains the militaristic, Communist dictatorship it has always been. Cuba, our closest neighbor other than Canada and Mexico, remains one of our most serious foes. The rumblings coming from Havana recently about resuming trade relations are not from the heart—they are from the stomach of a hungry foe. All Mr. Castro wants to do is sell sugar and cigars to America.

Mr. President, I strongly urge my colleagues to defeat this Committee amendment. We would do a service to the American people in doing so.

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

Mr. INOUYE. I yield.

Mr. KENNEDY. Mr. President, I ask unanimous consent that West Coghlan, of my staff, be accorded the privilege of the floor during consideration of the bill.

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

Mr. INOUYE. Mr. President, I am prepared to yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Several Senators addressed the chair.

The PRESIDING OFFICER. The clerk will state the last committee amendment.

The assistant legislative clerk read as follows:

On page 28, beginning with line 7, strike through and including line 12;

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I hope that Senators present will agree with the committee in adopting the committee amendment. Is there anyone against the committee amendment?

Mr. ALLEN. Yes.

This is the one we agreed we will submit to a rollcall vote, as the Senator recalls.

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

The PRESIDING OFFICER. Yes.

The Senator from Alabama.

Mr. ALLEN. Mr. President, the House of Representatives passed a very fine amendment, or at least this was their bill, that provided in section 511 for a 5-percent reduction across the board in the total amount of appropriation provided by the bill, and it goes on and provides that not more than 10 percent of any appropriation could be taken out of a particular account. In other words, there would be a 5-percent overall reduction but it could not come out of just

one particular appropriation. There would be a 10-percent ceiling on the amount that was to be charged against any one account, any one recipient.

Actually, the Senate raised the House figure by almost $400 million. The amount of this bill as reported to the Senate was $7,074,000,000.

We have cut by agreed amendments possibly as much as $250 million, possibly as much as $300 million from the Senate bill. It still, however, has this approximately $100 million over the House figure. So what this provision of the House would do would be to provide for approximately $350 million reduction, which would get it down some $250 million then below the House figure.

But as I stated, you could not charge any one account more than 10 percent. In other words, if there were a $50 million appropriation, to a given country, given activity, that could not be lowered below $45 million, 10 percent.

So I believe there is enough fat in this $7 billion foreign aid bill to easily absorb the $350 million reduction that the House provision calls for. The Senate committee did not like that cutback and as a result they knocked it out. As you see on page 28, starting with line 7, they knocked out this very fine provision that the House had.

So it is a question of whether we want to save the taxpayers of the Nation approximately $350 million from where we stand right now. This is an economy measure, a budget deficit reduction measure, a reduction that can easily be absorbed from this $7 billion appropriation. I hope that the amendment will be defeated so that we can return to the House language.

The time has been yielded back in order that the matter will be presented to the Senate in an easily understood manner. I am going to move to table the Senate committee amendment. In other words, those who want to save the taxpayers $350 million would vote "yea." Those who would like to charge the taxpayers an additional $350 million would vote "nay." But at the proper time I will offer that motion to table. Unless someone wishes to speak in opposition to the committee amendment, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, last night we began our debate at about 7:30 p.m. We resumed the debate this morning at 10:30 a.m. and we have been here diligently. It is now 5:50 p.m. During all these many hours and during all the many hours of consideration and deliberation by the Appropriations Committee we have studied each item and each account.

In each case, we have decided whether to accept the House figure, reject the House figure, add to it, or subtract from it. We feel that this is the proper and responsible way to deal with appropriations requests—not an across-the-board slash, whether it is 5 percent, 10 percent, or 20 percent.

Mr. President, this reminds me of something that happened not too many years ago. There was a time when I had the privilege of serving as chairman of the Subcommitee on Appropriations dealing with the District of Columbia. I was advised that one of my predecessors who had served on that committee did not care to spend too much time on the District of Columbia account. The District of Columbia was a semicolony of the United States. The people were subject to the laws that we had promulgated here, and so, because of his many other requirements, one year when the bill was called up, he spent exactly 30 minutes on the hearings, instructed his clerk to make a 10-percent cut right across the board, had a markup by the subcommittee, the following day the full committee voted on that, and 2 days later it was adopted by the Senate. The committee did not take into consideration whether this account was essential or that account was not essential.

Mr. President, we have during these many hours this afternoon, for example, lopped off $150 million from the IDA. This amendment would now go beyond that and lop off 5 percent more. We have, as a result of committee deliberations, reduced the President's requests for population planning, for health assistance, for food and nutrition, and here we come across another 5 percent.

If we were to accept this 5-percent cut, then I think the committee should just have submitted the President's request, have the Senate lop off 5 percent, and be done with it. But I would like to contend, and I hope my colleagues will agree, that that is not the responsible way to deal with any appropriation measure. I believe that all of these items are deserving of individual treatment, as we have done. To now go beyond that and lop off 5 percent more is not a responsible way.

If the Senate wished to reduce this bill by another $350 million, I think we should have done so by going through individual accounts. To do it across the board may have effects which some of us never intended. So I hope the Senate will adopt the committee amendment.

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

Mr. INOUYE. I yield.

Mr. ALLEN. The Senator states that this is an across-the-board 5-percent reduction. That is not correct.

It does not reduce all appropriations 5 percent. It would provide that as to the total budget authority, there must be a 5-percent reduction, but that is not necessary as to individual items, and the conference committee, in its wisdom, could apply no reduction where there is no fat in the program, and apply up to a 10-percent reduction in a program where there is money wasted.

So it does not entail reducing every appropriation by 5 percent. It would leave the distinguished chairman with considerable influence on the manner of the reductions in arriving at the total $300 million reduction. So it is not a 5-percent reduction of every line item. I call that to the Senator's attention.

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

Mr. INOUYE. I yield.

Mr. JAVITS. Mr. President, I am very pleased to have heard the Senator's statement, which is most responsible.

The reason why I have never supported these across-the-board cuts with the cutlass instead of the fine scalpel—and that is really what it comes down to—is because it means we are transferring authority to someone else. Even if we take Senator ALLEN at his word, he is transferring authority to the conference committee. In practical essence, the across-the-board cut transfers authority to the President. So the fight which the Senator from Hawaii and I and others like us have been making all these years to finally assert our right to really meaningfully participate, we would give up if we adopt that technique.

That has been my reasoning. I have held that way for years, and my constituents seem to agree.

I just wish to add that to the very responsible argument made by the Senator from Hawaii.

Mr. INOUYE. I thank the Senator from New York.

### A FOREIGN AID PROGRAM WE CAN SUPPORT

Mr. DOLE. The foreign aid program of the United States has never really been popular with the American people, especially since they have had little or no recourse in preventing excessive and/or unjustified U.S. assistance to the entire world.

Mr. President, I do not wish to see the foreign aid program dismantled, but rather to make it a better program, one we can support and most important, one the people of our country can support. While the bill before us today has many legitimate and worthwhile features, there are a number of provisions in this bill and the whole foreign aid program which are not representative of the goals and values of the United States.

### BALANCING THE BUDGET

Mr. President, it seems to me if we are truly serious about balancing the budget by fiscal year 1981, we are going to have to start doing something about it now.

As you know, the foreign assistance bill appropriation has increased to the tune of $1.5 billion over the current fiscal year. The defeat of this committee amendment would save the American people $373 million, leaving still however, an increase of $1.1 billion.

### BORROWING MONEY TO GIVE TO OTHERS

Since 1946 we have had close to $200 billion American tax dollars going to some 134 countries and 8 territories around the world. In addition, the American people are currently faced with an $800 billion national debt with a $129 million daily interest rate. One of the major reasons for this debt is that the U.S. Government has gotten into the habit of borrowing money to give to other countries.

Over the past 30 years we have allocated West Germany over $3.75 billion. They in turn have lent us $22.3 billion to help pay our national debt: and on that we paid $1.3 billion in interest last year.

Mr. President, the Senator from Kansas believes the American people are generous and would support a realistic foreign aid program. At the same time, I know that they do not support the program as currently constructed and proposed.

DEVELOPMENT ASSISTANCE

There are several countries which will be receiving substantial increases in their program levels for development assistance in fiscal year 1978. As an example, in 1977, Peru received $11,416,000 in development assistance; this year Peru will receive $21,522,000, nearly a doubling of the program.

There are others. In fiscal year 1977 Panama received $7,945,000 in development assistance, this year their allocation has been tripled to $23,774,000. The Dominican Republic has gone from $662,000 in fiscal year 1977 to $10,591,000—the list goes on and on.

Mr. President, these major increases in program levels in just one year have simply not been justifid. When a country's program has increased by fourfold in 1 year's time, as in the case of Rwanda, or 16 times as in the case of the Dominican Republic, how effectively can these increases in aid be absorbed to avoid waste and abuse and still make a significant contribution to the development process?

INTERNATIONAL FINANCIAL INSTITUTIONS

On May 25, 1977, Secretary of State Cyrus Vance advised us of the administration's desire to seek a doubling of our foreign aid program within 5 years. The current foreign aid request is $7.6 billion, that would mean an annual appropriation of roughly $15 billion by 1982.

The Senator from Kansas does not believe that the American people support the current level of foreign aid let alone a $15 billion annual foreign aid program. The fact that the administration wants to put even more of these American tax dollars into multilateral aid programs will remove even further congressional control of these moneys.

Furthermore, it should be noted that some top executives of international financial institutions, which this bill will appropriate $2,123,000 in fiscal year 1978, receive salaries of over $100,000 a year. Some of these international bank employees make as much as 57 percent more than comparable positions in the U.S. Civil Service. Additionally, over 40 percent of the World Bank Group are earning more than $36,000 tax-free salaries a year while only 1.5 percent of all U.S. Civil Service employees are earning over $36,000.

Mr. President, as we can clearly see from case after case, we need to begin to seriously address the ever-increasing budget of our foreign aid programs.

Mr. President, I urge my colleagues to vote against the committee amendment which I believe is a step in the right direction if we are truly serious in our support of the President's stated objective to balance the budget by 1981.

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. ALLEN. Mr. President, I move to table the committee amendment.

Mr. JAVITS. 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.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CANNON (after having voted in the affirmative). Mr. President, on this vote, I have a pair with the senior Senator from Maine (Mr. MUSKIE). If he were here and could vote, he would vote "nay." I have already voted "aye." I therefore withdraw my vote.

Mr. STAFFORD. Mr. President, on this vote, I have a live pair with the Senator from South Carolina (Mr. THURMOND). If he were here, he would vote "aye." If I were allowed to vote, I would vote "nay." Therefore I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Missouri (Mr. EAGLETON), the Senator from Wisconsin (Mr. NELSON), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

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

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

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

The result was announced—yeas 28, nays 45, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS—28

| | | |
|---|---|---|
| Allen | Garn | Proxmire |
| Bartlett | Hansen | Randolph |
| Bentsen | Hatch | Roth |
| Burdick | Hayakawa | Schmitt |
| Byrd, Harry F., Jr. | Helms | Scott |
| | Laxalt | Tower |
| Curtis | Long | Wallop |
| DeConcini | Lugar | Young |
| Dole | Melcher | Zorinsky |
| Domenici | Nunn | |

NAYS—45

| | | |
|---|---|---|
| Anderson | Gravel | Matsunaga |
| Baker | Hart | McGovern |
| Bayh | Haskell | McIntyre |
| Biden | Hatfield | Metcalf |
| Brooke | Hathaway | Metzenbaum |
| Bumpers | Hollings | Morgan |
| Byrd, Robert C. | Humphrey | Packwood |
| Chiles | Inouye | Ribicoff |
| Church | Jackson | Riegle |
| Clark | Javits | Sarbanes |
| Culver | Johnston | Sasser |
| Danforth | Kennedy | Schweiker |
| Durkin | Leahy | Stone |
| Ford | Magnuson | Weicker |
| Glenn | Mathias | Williams |

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Cannon, for Stafford, against

NOT VOTING—25

| | | |
|---|---|---|
| Abourezk | Heinz | Percy |
| Bellmon | Huddleston | Sparkman |
| Case | McClellan | Stennis |
| Chafee | McClure | Stevens |
| Cranston | Moynihan | Stevenson |
| Eagleton | Muskie | Talmadge |
| Eastland | Nelson | Thurmond |
| Go'dwater | Pearson | |
| Griffin | Pell | |

So the motion to lay on the table the committee amendment on page 28, line 6 was rejected.

The PRESIDING OFFICER (Mr. SASSER). The question now occurs on the last committee amendment.

The committee amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

The Chair recognizes the Senator from Arizona (Mr. DECONCINI).

UP AMENDMENT 746

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes unprinted amendment No. 746.

On page 28, line 7, insert the following new section:

"Section 507. It is the sense of the Congress that, where other means have proven ineffective in promoting international Human Rights, and except where the President determines that the cause of international human rights is served more effectively by actions other than voting against such assistance or where the assistance is directed to programs that serve the basic needs of the impoverished majority of the country in question, United States representatives

to the International Bank for Reconstruction and Development, the International Development Association, the African Development Fund, the Asian Development Bank, and the Inter-American Development Bank should oppose loans and other financial or technical assistance to any country that persists in a systematic pattern of gross violations of fundamental Human Rights."

Mr. DECONCINI. Mr. President, before discussing the actual merits of this amendment, I want to take one moment to compliment the chairman of the Subcommittee on Foreign Operations of the Appropriations Committee. Chairman INOUYE has consistently demonstrated real leadership and has exercised great patience and fairness to all concerned. I want him to know that it is a privilege for me to serve on that committee with him. I thank him sincerely.

Mr. President, I offer this amendment in the belief that the President has chosen the correct course in making the fundamental ideals and values espoused by the term, "Human Rights," one of the touchstones of American foreign policy. Respect for the dignity and integrity of the individual human being is at the very core of our experience as a people.

It is imperative that Congress go on record with a consensus for the dignity of each individual human being. This particular amendment does just that.

When our forefathers, after repeated attempts to restore comity with colonial authorities, finally were driven to revolt against the English crown, it was not for want of material necessities wrought by confiscatory taxation nor because compliance with English law and regulations was onerous—though it was. These were only the superficial reasons, the surface irritants, that helped to impel our ancestors on their revolutionary course. The real reason had to do with precisely the sort of issues to which we now refer as human rights. The arbitrary and capricious rule of the English sovereign was endured until its excess became an affront to their dignity as free men.

It is this commitment to individual liberties and to a decent respect for what the 18th century called the "Rights of Man" that distinguishes us as Americans. It is our political birthright and joins us together as one national community, regardless of other differences. I am not ashamed of these beliefs and values, Mr. President, and commend the President for his forceful and eloquent articulation of them and for his effort to find some avenue by which they may be given meaningful expression in the conduct of our foreign relations. The amendment I have introduced is entirely consistent with the President's efforts in this regard and is designed to make clear that Congress shares his dedication to advancing the cause of human rights in the context of our relations with other countries. It is meant to strengthen his hand in this endeavor rather than encumbering him with inflexible directives.

I think it is imperative that the Congress express the will and the concern that each of us has. We have, on many occasions, talked about human rights. The President should be applauded for his continuous effort to bring this to bear in every aspect of our foreign policy. I applaud him for this effort.

This particular amendment has been cleared with the administration. They feel that they can live with this wording without hampering the ability of these international funds and associations to work toward the advancement of people in their deliberations and lending money when the applications are made.

Mr. President, I hope that the Senate will join in this consensus. I reserve the remainder of my time.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. DECONCINI. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I commend the Senator from Arizona for his keen understanding of this matter.

Mr. HELMS. Mr. President, may we have order? I cannot hear the Senator.

THE PRESIDING OFFICER. The Senate will be in order.

Mr. HARRY F. BYRD, JR. I support the position of the Senator from Arizona. I shall vote for the amendment. My only fear is that it will not accomplish what he seeks. I think it is worth making the effort, and I hope it will accomplish what the Senator from Arizona seeks to do. He holds the same view as that held by the Senator from Virginia. I shall support him.

Mr. SCHWEIKER. Will the Senator from Arizona yield?

Mr. DECONCINI. Yes.

Mr. SCHWEIKER. Mr. President, I want to associate myself with the Senator's amendment. I think it is a good amendment and is a good policy direction for the bill. I support it.

I ask unanimous consent that Jack Robertson, of Senator HATFIELD's staff, may be accorded the privilege of the floor.

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

Mr. INOUYE. Mr. President, the amendment has been discussed with all interested parties. We should keep in mind that this is a sense of the Congress amendment. It does not bind the hands of the administration in any way. However, it provides, in clear language, guidance for our U.S. representatives to these banks.

Second, I think it clearly sets forth the position of Congress on the matter of human rights.

I am prepared to yield back the remainder of my time and suggest that we accept this amendment.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. INOUYE. I am happy to yield.

Mr. JAVITS. Mr. President, certainly, the sentiments in the amendment are entirely satisfactory and agreeable. I do wish to call to the manager's attention the fact that the authorizing bill, which is now law, in section 701(f), under the heading, "Human Rights," says just about what this amendment says. The only thing I would like to suggest is that the managers be careful in conference to be sure—because it is much too quick to do it here on the floor—that there is nothing in this amendment that cancels out or confuses what we have already said in the authorizing legislation. So long as they are consistent—and, as I say, this is all too quick to compare here—I certainly think the amendment is fine and adequate.

Mr. INOUYE. I would like to assure the Senator from New York that we have studied the amendment and we find no inconsistency with the provisions in the authorizing bill.

Mr. JAVITS. I thank the Senator.

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. McINTYRE. Vote!

The PRESIDING OFFICER. Does the Senator from Arizona yield back his time?

Mr. DECONCINI. I yield back the remainder of my time.

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

The amendment was agreed to.

UP AMENDMENT NO. 747

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CLARK) proposes an unprinted amendment No. 747:

On page 15, Sec. 114, line 26, change the period to a comma and add the following: "except that the President may waive this prohibition with respect to any such country if he determines (and so reports to Congress) that furnishing such assistance to that country would further the foreign policy interests of the United States."

Mr. CLARK. Mr. President, I can explain the amendment, I think, in just 4 or 5 minutes.

Mr. President, I would offer this unprinted amendment to H.R. 7797 which would permit the President to provide foreign assistance to Mozambique or Angola, if he determines that such action would be in the foreign policy interests of the United States. This accords with the provision in the fiscal year 1978 International Security Assistance Act—our authorization act—which grants such a waiver to the President.

We put such a waiver in the authorization, and I think it is appropriate that we put such a waiver here. After all, we are very much involved now in the initiatives in southern Africa with regard to both Namibia and Rhodesia.

I think certainly, if, in the opinion of the President, it would be beneficial in the foreign policy interests of this Nation to extend assistance to a country, let us say, like Mozambique, with whom we have diplomatic relations, that that should not be prevented.

There is no money in this bill for either country. I would be, frankly, surprised if any money were spent there.

Given particularly the five-power demarche with regard to Namibia, in which these five security powers are working with South Africa to try to find a peaceful solution to a transition of

power in that country and, indeed, South Africa has agreed now that there should be a new government there by the end of 1978, just to say that any of these affairs should be set aside simply because of this restriction seems to me to be inappropriate.

So, Mr. President, I would hope the committee would accept this same presidential waiver as we have done in the authorization bill and I ask for support for that amendment.

Mr. President, as we know, President Nyerere of Tanzania is in the United States at this very moment to carry on discussions with the President on fresh Anglo-American initiatives which are aimed at bringing about peaceful solutions to the conflicts in southern Africa. President Nyerere is chairman of the group of five frontline states whose role in this initiative will be crucial. Mozambique and Angola are two members of the frontline group, and an unconditional prohibition of assistance to them at this time will appear to Nyerere and others to be a punitive and hostile act by the U.S. Congress that will certainly not contribute toward creating an atmosphere for cooperative negotiations. There is no money in this bill for either country.

These discussions come at an especially important period in the administration's efforts to resume negotiations on Rhodesia and to carry forward the demarche by five Western nations—United States, Great Britain, France, Germany, and Canada—to achieve an equitable solution, under the auspices of the United Nations, in Namibia.

The role of the frontline states is pivotal, with Mozambique bordering Rhodesia, and Angola bordering Namibia. Apart from Uganda, which is a separate case, the appropriations bill singles out only these two countries in Africa as ineligible for foreign assistance—a great injustice when one considers that many other nations that are worse violators of human rights or closer allies of the Soviet Union are not only eligible, but actually receiving assistance. We still have an AID program in Ethiopia and the administration has announced that it will supply military assistance to Somalia. Are these countries more worthy of U.S. assistance than those in southern Africa?

The administration does not now contemplate assistance to either Mozambique or Angola. What my amendment would do is simply provide the President with the option to do so in the future, if he considers it to be in the foreign policy interests of the United States. We cannot responsibly deny him that option and still convey the message to Africa that America is sincere in its desire to bring about peaceful solutions to the conflicts in the region, and is willing to play a significant development role in the continent. The prohibition on assistance denies the President the flexibility that is needed in a very delicate situation.

Apart from hindering the President, the prohibition has the effect of contradicting other actions taken by Congress. The security assistance authorization bill provided for $115 million in security supporting assistance for southern Africa, including $1 million for the development of a comprehensive economic strategy for the region. Southern African states are closely interconnected and no development plan can reasonably approach the economic problems of the region without including two countries on whom many landlocked states including Zaire, Zambia, Malawi, and Rhodesia depend for outlets to the sea. Even South Africa has reached a pragmatic accommodation with Angola and Mozambique and is maintaining economic ties with both states, to the point of running the railways and harbors of Mozambique and buying electric power from hydroelectric projects in both countries.

We cannot deny the reality of economic interdependence that all the states—black and white—have recognized in the region. The prohibition on assistance to Angola and Mozambique prevents the United States from playing a responsible development role in the region, from improving relations with these countries, and from responding to basic humanitarian needs—such as refugee aid—in a direct way.

Mr. President, I ask my distinguished colleagues to support my amendment. To fail to do so would be a severe blow to the talks now in progress on southern Africa. It would tie the hands of the administration in what may be the last opportunity to bring about a peaceful solution to the conflict in Rhodesia. Congress should not compromise this country's credibility at the very time that it may be able to overcome the legacy of mistrust created by previous failures.

This provision is in the authorizing legislation.

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

Mr. CLARK. I do yield to the Senator.

Mr. INOUYE. The prohibition will stand, however, if the President should determine, and so report to the Congress, that the national interests of the United States would be better served to set aside the prohibition, he can do so?

Mr. CLARK. That is correct.

Mr. INOUYE. He must make a determination and report it in writing to us?

Mr. CLARK. That is correct.

Mr. INOUYE. It must be certified by the President?

Mr. CLARK. That is correct.

Mr. INOUYE. I have discussed this matter with the distinguished Senator and, as manager of the bill, I find no objection to it, Mr. President.

I gather the Senator from Alabama wishes to say something about this.

Mr. ALLEN. Mr. President, I hope the distinguished Senator will not insist on this amendment.

I thought we were moving forward or, at least, in the direction of final passage of this bill.

I do not feel that this is necessary to the peace of the world or to the furtherance of democratic aims and goals. The distinguished Senator said that no money is provided in the bill for Angola and Mozambique and that he doubts very seriously if any money would be provided.

I hate to see this bill extended further. What we have been trying to do is cut back on it. I think with the cooperation of the distinguished Senator from Hawaii and the distinguished Senator from Pennsylvania and, indeed, the distinguished Senator from Iowa (Mr. CLARK), we have been able to make some progress along that line.

I believe the bill right now—though I, of course, will vote against it—is in better condition than it was when it came to us.

I am hopeful that the Senator will not insist on this amendment. I will not say we had any agreement that such an amendment could not be offered, but the general spirit of the accord that was reached by some who were opposing the bill and those who were advocating the bill indicated that some slight concessions were going to be made on the matter of money spent in this bill and certain other areas of limitation.

Now we come forward with something extending our liability and extending the possibility of giving funds to Communist or Communist-leaning countries, despotic countries.

Mozambique has the worst dictatorship in the entire world, and just to open a crack in the door for giving money to that dictatorship, certainly makes me recoil.

When the time has been yielded back on this amendment, I am going to offer a motion to table this amendment and I hope it will carry.

I might state that if the motion to table does not carry—and I believe it will—then I will have to consider very seriously the possible use of one of my no-time limitation amendments to this amendment.

Under the unanimous consent agreement, I have three such amendments that can be offered, and under the unanimous consent agreement no tabling motion can be made on any such amendment that I introduce.

That was agreed to by unanimous consent of the Senate, that I be given that privilege.

So I am going to move to table, I will ask for the yeas and nays, and I am hopeful that Senators will table this amendment that the author says, in all likelihood, will not result in money going to these dictatorships. But if the Senate wants to open that crack in the door, then we will be put to consideration of whether it will be well to seek to amend this amendment.

With that, I am willing to yield back the remainder of my time.

Mr. CLARK. Mr. President, how much time do I have remaining on my amendment?

The PRESIDING OFFICER. The Senator from Iowa has 13 minutes remaining.

Mr. CLARK. I thank the Chair.

Mr. President, I find it very interesting to listen to this threat of keeping the Senate in session tonight if we do not agree to vote in the way in which the Senator from Alabama would prefer to have us vote.

Let me say, for my part, that I made no agreement, as the Senator said, with regard to this amendment or any other amendment that has been considered here with regard to Africa or anyplace.

I want to say right here and now that, for one Member of this Senate, I resent the idea that the Foreign Relations Committee and the Foreign Assistance Subcommittee spend months studying each of these items. I wish we had the record of the hearings that we have gone through in the weeks and months studying each of these issues.

In addition, the Appropriations Committee holds its hearings. Here are their hearings. There are 1,400 pages of careful consideration that the committee has given to the bill before us. That is the kind of background we have had in getting this bill—both the authorization and now this bill—to the floor for consideration.

As one Member of the Senate, I resent the idea that anybody can come down here—any one or two or three Members—and simply not agree to a time agreement and say, "If you don't vote the way I want, then we'll keep you here all night or until next month." So far as I am concerned, I will stay here all night, next month, and the month after, because I am going to vote my conscience, and I hope every other Member will not succumb to that kind of pressure.

Mr. ALLEN. Mr. President, will the Senator yield me 3 minutes?

Mr. INOUYE. I yield.

Mr. ALLEN. The distinguished Senator makes an interesting point, and he holds up a thick book, indicating the hearings on this subject. But I am just wondering, with all these months of work going into this bill, why the committee did not find the wisdom to put in this provision that the Senator now seeks to insert.

Mr. CLARK. If the Senator will yield, we did.

Mr. ALLEN. I have only 3 minutes.

I wonder why it is necessary at this late date to offer this amendment. After months of study, it seems to me that that would have been in the bill reported by the committee.

So I do not feel that this amendment has a great deal of standing, inasmuch as the committee did not see fit to report it in the bill before us.

Mr. CLARK. I yield myself 1 minute.

Mr. President, We considered this matter very carefully in the Foreign Assistance Subcommittee and in the Foreign Relations Committee, and we wrote precisely this waiver in the bill in authorization. Precisely this bill. In fact, that is where the wording comes from.

Mr. ALLEN. If it is in the bill, what is the need to offer the amendment?

Mr. CLARK. As the Senator knows, I said it was in the authorization measure. So it was not something that was considered at the last moment. It was considered in both the Foreign Assistance Subcommittee and the Foreign Relations Committee.

Mr. ALLEN. Why did not the Appropriations Committee put it in, then?

Mr. CLARK. I must say to the Senator from Alabama that if we were to limit amendments on the floor only to those that were in the bill, none of the Senator's amendments that sit at the desk would be in order.

Obviously, we are permitted to offer amendments on the floor, just as the Senator is doing and has done. I think there are 43 of them, or something like that, which, in the wisdom of the committee, were not put in. I come here to offer this amendment because we considered it carefully in the committee, and I believe it is the right action.

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

Mr. CLARK. I yield.

Mr. ALLEN. The Senator from Alabama has foregone putting in some 40 amendments. It seems that the Senator from Iowa could forgo putting in one amendment.

Mr. CLARK. Is the Senator precluding any further amendments on his behalf?

Mr. ALLEN. No. I may offer some more.

Mr. CLARK. Exactly. The Senator is entitled to offer those 43 and 143 more.

So far as this Senator is concerned, I am not going to succumb to the idea that we are going to stay here all night and come back here in September and vote the way the Senator desires us to vote.

Mr. INOUYE. Mr. President, most of us have been here now for more than 8 hours, and I know that we are tired. Most of us have not had lunch, so I gather that we should be hungry. If we are not, we should be. Under these conditions, it is understandable, if we appear a bit more irritated than we should be.

We have reached this point on this day because by informal agreement we have been able to resolve many differences. We have been able to forgo the necessity of long debate. I hope that the spirit of comity and understanding can prevail for the remainder of the evening.

I assure my dear friend from Alabama that if we had had the wisdom of the Foreign Relations Committee before us when we considered this matter, I am certain that, as one Senator, I would have moved to adopt the Foreign Relations Committee language. Unfortunately, as I indicated when we opened the debate, we had to proceed with the appropriations bill, nothwithstanding the fact that none of the authorizing bills had become law. In fact, there are six authorizing bills related to this measure, and none of them is law. We had before us the Budget Act. We had before us the specter of October 1, the beginning of the fiscal year. So we decided to proceed.

I assure the Senator from Alabama that when this matter was brought to my attention, I did not accept it offhand. I gave it careful study. The study indicated to me that if we are desirous of preventing bloodshed in South Africa, if we are desirous of bringing about peace, if we are desirous of bringing about some understanding between the black people and the white people there, we should provide to our President and his agent, the Secretary of State, the flexibility which I believe is necessary between now and the end of fiscal year 1978.

In 1978, conditions may very well change in Mozambique. Conditions may very well change in Angola. If these signs should appear, then I think the President of the United States should be given the flexibility to make the necessary changes in our assistance programs.

Right now, under the present circumstances, it has been stated clearly that there is no intention on the part of the administration or of Congress, for that matter, to provide any aid or assistance to Angola or Mozambique. But something could happen in December of 1977, something could happen in March of 1978, and if that something happens, I think the Clark proviso would be absolutely necessary.

So I hope the Senator from Alabama will not look upon this as an amendment that was considered without much thought. Much thought was given to this matter. I assure my dear friend that if the authorizing bill had been before us, he would find this language in the bill.

So I hope this amendment can be treated as any other amendment and that we will be able to vote it up or down—up, I hope—and proceed with the remainder of the amendments.

I do not believe this amendment is cause for acrimony. I hope my colleagues will continue to carry out their responsibilities in the spirit we adopted some time earlier this day—the spirit of understanding—and move on with the passage of this measure.

Mr. CLARK. Mr. President, I am prepared to yield back the remainder of my time.

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

Mr. INOUYE. I yield.

Mr. ALLEN. The Senator knows that we have been up this hill and down again many times with regard to Mozambique, and of course the same situation is true with respect to Angola.

I am not willing to open the door to taking care of these Communist governments. I would say in the case of an emergency we would have no difficulty seeing some money found in one of the State Department's or the UN's many repositories of money. They are able to reprogram something any time they want to and find the money in some fund, and I would think they would have no difficulty finding money for these countries in the unlikely event it would be for the best interests of the people of the United States.

The attitude of the State Department in this regard is well known because they, in the past, have requested money for Mozambique. So I do not think there is any certainty, I do not feel by any means, it is sure that the day after the bill is passed the President might not find it to our best interest to send the funds over there.

I am not in favor of supporting these despotic governments or opening the door to supporting them. So I do not feel I am being arbitrary in the matter. I feel I have yielded, and those opposed to this bill have yielded, on practically every amendment they have had except a very few we have insisted we vote on.

Then, at the last minute, to come again with this amendment that aside from the money involved, there is the principle that is involved that I am not willing to see, if I can prevent the door from opening for us, supporting these despotic governments.

Mr. INOUYE. If I may say, Mr. President, to the credit of the U.S. Congress we decided many years ago not to put all the Communist countries in one little basket. If we had done that, the relationship we are now maintaining with Communist governments in Romania, in Yugoslavia, Poland, and Czechoslovakia may not be as friendly as we find them today

If we had insisted upon initial prohibitions and had set forth in the law "Thou shalt not deal with these countries," I doubt the situation would have improved to what it is today.

I think the same principle can apply to Mozambique and Angola. With this amendment, the door is kept open. It keeps the door open to bring about better understanding with these countries.

I would hope the Senator from Alabama would go along and just permit an up-and-down vote. He knows where I stand. I know where he stands. I do not know where the others here stand. For all I know, the Senator's position may prevail. But I would hope the Senator will permit the Senate to exercise its will without having to go through an unfortunate exercise of many, many hours of debate and frustration, sir.

I yield back the remainder of my time.

Mr. CLARK. Mr. President, let me simply say I think the merits or demerits of the amendment have been adequately discussed. I am not suggesting for a moment that everybody in this body ought to support this amendment or oppose it. That is not what is at issue as far as I am concerned on this amendment.

It just seems to me that people ought to make the decision based on the merits of the amendment. If they feel it is a good amendment they ought to vote for it. If they feel it is a bad amendment they ought to vote against it.

My suggestion was simply that we ought not to vote against it simply under the threat of a filibuster or simply under the threat of staying here half the night or putting it over until September or October. I do not think we have to succumb to that kind of pressure, and I urge the Members of this body not to do so.

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

Mr. CLARK. I yield.

Mr. ALLEN. I think, by the same token, the distinguished Senator from Iowa coming here at the last minute and dumping this garbage in the laps of the Senate I feel is not quite the right procedure to follow either, I will say.

Mr. CLARK. Will the Senator explain to me exactly what is wrong with the procedure I have followed in offering an amendment for the Senate to vote on? Is that somehow an inordinate procedure in this body?

Mr. ALLEN. No, the Senator has that privilege of coming in at the last minute, when we are about to come to a final vote, with this amendment that the Senator knew I would be strongly opposed to, because this is the very issue we have fought here on the Senate floor time and time again.

Mr. CLARK. I would be willing to make an arrangement with the Senator. I will withdraw this amendment if he is opposed to it on the same basis that he will withdraw all amendments he introduces late in legislation to which I am opposed. Is that a fair enough agreement? If the Senator is agreeable——

Mr. ALLEN. It is an offer I can well refuse.

Mr. CLARK. I would think so. [Laughter.] I would think so.

Mr. ALLEN. I move to table the amendment, and I call for the yeas and nays.

Mr. CLARK. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to lay on the table the amendment of the Senator from Iowa. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. FORD (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from Michigan (Mr. RIEGLE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) and the Senator from Rhode Island (Mr. PELL) would each vote "nay."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. THURMOND), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 34, nays 40, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—34

| | | |
|---|---|---|
| Allen | Domenici | Proxmire |
| Baker | Garn | Schmitt |
| Bartlett | Hansen | Schweiker |
| Burdick | Hatch | Scott |
| Byrd, Harry F., Jr. | Hayakawa | Stafford |
| Cannon | Helms | Stone |
| Chiles | Johnston | Tower |
| Curtis | Laxalt | Wallop |
| Danforth | Long | Weicker |
| DeConcini | Lugar | Young |
| Dole | Melcher | Zorinsky |
| | Nunn | |

NAYS—40

| | | |
|---|---|---|
| Anderson | Hart | McGovern |
| Bayh | Haskell | McIntyre |
| Bentsen | Hatfield | Metcalf |
| Biden | Hathaway | Metzenbaum |
| Brooke | Hollings | Morgan |
| Bumpers | Humphrey | Packwood |
| Byrd, Robert C. | Inouye | Randolph |
| Case | Jackson | Ribicoff |
| Church | Javits | Roth |
| Clark | Kennedy | Sarbanes |
| Culver | Leahy | Sasser |
| Durkin | Magnuson | Williams |
| Glenn | Mathias | |
| Gravel | Matsunaga | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Ford, for.

NOT VOTING—25

| | | |
|---|---|---|
| Abourezk | Huddleston | Riegle |
| Bellmon | McClellan | Sparkman |
| Chafee | McClure | Stennis |
| Cranston | Moynihan | Stevens |
| Eagleton | Muskie | Stevenson |
| Eastland | Nelson | Talmadge |
| Goldwater | Pearson | Thurmond |
| Griffin | Pell | |
| Heinz | Percy | |

So the motion to lay Mr. CLARK's amendment on the table was rejected.

Mr. KENNEDY and Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, is the pending business now the amendment of the Senator from Iowa?

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Iowa.

UP AMENDMENT 748

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. Allen) proposes an unprinted amendment numbered 748 to the Clark amendment:

Add after the word "President" the follow-

ing: "with the concurrence of both Houses of Congress."

Mr. ROBERT C. BYRD. Mr. President, will the distinguished manager of the bill yield me 30 seconds for a unanimous-consent request?

Mr. INOUYE. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the next rollcall vote, any further rollcall votes today be limited to 10 minutes each, with the warning bell to be sounded after the first 2½ minutes.

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

Mr. JACKSON. Mr. President, will the distinguished manager of the bill yield me 1 minute to take up another matter?

Mr. INOUYE. I yield.

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## SENATE RESOLUTION 252—TRANSITIONAL ACCOMMODATIONS IN CONNECTION WITH ABOLITION OF JOINT COMMITTEE ON ATOMIC ENERGY

Mr. JACKSON. Mr. President, I call up Senate Resolution 252, which is at the desk, 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. 252) providing transitional accommodations needed in anticipation of abolishment of the Joint Committee on Atomic Energy.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

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

Mr. JACKSON. Mr. President, the resolution before the Senate covers basically the provisions in a bill that we passed and sent over to the House of Representatives earlier this year to abolish the Joint Committee on Atomic Energy. These provisions are in substance identical to the provisions for the transition period following abolishment of the Joint Committee on Atomic Energy which were included in S. 1153 as passed by the Senate on March 31.

The House of Representatives has amended the bill to remove portions which deal entirely with the business of the U.S. Senate. We are proposing to incorporate those Senate provisions in this Senate resolution. It will then be possible for the Senate to concur in the amendments of the House and clear S. 1153 for the President's signature. The intention of the provisions in this Senate resolution will be carried out as Senate business entirely.

Of course, the Senate has the duty and responsibility of passing on its own rules and regulations, and I ask that this resolution be adopted. It has been cleared on both sides of the aisle.

Mr. BAKER. Mr. President, will the Senator from Hawaii yield me 15 seconds?

Mr. INOUYE. Yes.

Mr. BAKER. Mr. President, I think this is not only in order, but I think it is urgently necessary to take care of routine details in connection with the closing up shop of the Joint Committee on Atomic Energy, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed to, as follows:

*Resolved*, that the committees of the Senate which receive the records, data, charts, and files of the Joint Committee on Atomic Energy may utilize the Office of Classified National Security Information established by this resolution or make other suitable arrangements for safeguarding such records, data, charts, or files.

Sec. 2. (a) There is established for the period beginning on the date on which this resolution is agreed to and ending March 31, 1979, an office of the Senate to be known as the "Office of Classified National Security Information" (hereafter referred to as the "Office"). The Office shall be under the policy direction of the majority leader, the minority leader, and the chairman of the Committee on Rules and Administration of the Senate, and shall be under the administrative direction and supervision of the Secretary of the Senate. The Office shall have the responsibility for safeguarding such restricted data and such other classified information as any committee of the Senate may from time to time assign to it.

(b) The Office shall have authority—

(1) upon application of any committee of the Senate, to perform the administrative functions necessary to classify and declassify information relating to the national security considerations of nuclear technology in accordance with guidelines developed for restricted data by the responsible executive agencies;

(2) to provide appropriate facilities for hearings of committees of the Senate at which restricted data or other classified information is to be presented or discussed; and

(3) to establish and operate a central repository in the United States Capitol for the safeguarding of restricted data and other classified information for which such Office is responsible.

(c) The Secretary of the Senate, with the approval of the majority leader, the minority leader, and the chairman of the Committee on Rules and Administration of the Senate, is authorized to appoint and fix the compensation of not more than two professional staff members and three clerical staff members for the Office. One of such professional staff members may be paid compensation at a rate not to exceed the rate provided for the two employees of a standing committee of the Senate referred to in section 105(e)(3)(A) of the Legislative Branch Appropriation Act, 1968, as amended and modified (2 U.S.C. 61–1), and the other professional staff member may be paid compensation at a rate not to exceed the rate provided for professional staff members of a standing committee of the Senate by section 105(e)(1) of such Act. The clerical staff members may be paid compensation at a rate not to exceed the rate provided for the four clerical assistants of a standing committee of the Senate referred to in section 105(e)(A) of such Act.

(d) The salaries and expenses of the Office shall be paid from the contingent fund of the Senate pursuant to appropriations made to the contingent fund for such purpose. Until funds are first so appropriated, such salaries and expenses shall be paid from the contingent fund out of funds appropriated for "Miscellaneous Items". Such salaries and expenses shall be paid out of the contingent fund upon vouchers approved by the Secretary of the Senate, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

(e) Within thirty days of the date on which this resolution is agreed to, the Office shall furnish the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Foreign Relations of the Senate with a listing of all those records, data, charts, and files of the Joint Committee on Atomic Energy which are to be transferred to such committees, indicating which committee or committees may have jurisdiction over each item. The chairman of the committees involved shall be responsible for resolving any case of doubt regarding jurisdiction over particular records, data, charts, or files.

Sec. 3(a) For purposes of this section, the term—

(1) "effective date" means the date on which the Joint Committee on Atomic Energy is abolished;

(2) "eligible staff member" means an individual who is a member of the staff of the Joint Committee on Atomic Energy on the day prior to the effective date and had served continuously (except for any period of four days or less) as a member of the staff of the Joint Committee on Atomic Energy since October 1, 1976;

(3) "new committee" means the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Foreign Relations of the Senate; and

(4) "transition period" means the period beginning on the effective date and ending on the ninetieth day after the effective date of such act.

(b) On the effective date, those eligible staff members who are required to carry out the provisions of section 2 of this resolution as designated by the majority and minority leader and the chairman of the Committee on Rules and Administration of the Senate in accordance with such section, shall be transferred to the Office of Classified National Security Information.

(c) On the effective date, each eligible staff member not transferred to the Office of Classified National Security Information under subsection (b) shall be transferred to the staff of a new committee. The determination of the eligible staff members transferred to the staff of each of the new committees shall be made by the Committee on Rules and Administration in consultation with the chairmen and ranking minority members of the new committees. The chairman of each new committee (and the ranking minority member with respect to minority employees) shall notify the Secretary of the Senate of the eligible staff members transferred to that new committee.

(d) During the transition period, each eligible staff member transferred to a new committee—

(1) shall, notwithstanding the limitations contained in section 105(e) of the Legislative Branch Appropriation Act, 1968, as amended and modified, receive compensation at a rate not less than the rate of compensation such staff member was receiving on March 1, 1977; and

(2) may not be removed, except for cause, as a member of the staff of the new committee.

(e) Subsection (d)(2) shall not apply in the case of an eligible staff member who would be entitled to an annuity under section 8336(d) of title 5, United States Code, upon his involuntary removal from service

as an employee of the Senate if such staff member (but not for the provisions of this Resolution) would be subject to involuntary removal from such service and such staff member elects to have the provisions of this resolution apply.

(f) The Committee on Rules and Administration shall report a resolution which authorizes expenditures out of the contingent fund of the Senate during the transition period by the new committees sufficient to enable each new committee to pay the compensation and expenses of the eligible staff members transferred to its staff under this resolution.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

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## ABOLISHMENT OF THE JOINT COMMITTEE ON ATOMIC ENERGY

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1153.

The PRESIDING OFFICER (Mr. SASSER) laid before the Senate the amendment of the House of Representatives to the bill (S. 1153) to abolish the Joint Committee on Atomic Energy and to reassign certain functions and authorities thereof, and for other purposes, as follows:

Strike out all after the enacting clause, and insert:

That the Atomic Energy Act of 1954 (Public Law 83-703), as amended, is amended to read as follows:

"CHAPTER 20. JOINT COMMITTEE ON ATOMIC ENERGY ABOLISHED; FUNCTIONS AND RESPONSIBILITIES REASSIGNED

"SEC. 301. JOINT COMMITTEE ON ATOMIC ENERGY ABOLISHED.—

"a. The Joint Committee on Atomic Energy is abolished.

"b. Any reference in any rule, resolution, or order of the Senate or the House of Representatives or in any law, regulation, or Executive order to the Joint Committee on Atomic Energy shall, on and after the effective date of this Act, be considered as referring to the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matter of such reference.

"c. All records, data, charts, and files of the Joint Committee on Atomic Energy are transferred to the committees of the Senate and House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matters to which such records, data, charts, and files relate. In the event that any record, data, chart, or file shall be within the jurisdiction of more than one committee, duplicate copies shall be provided upon request.

"SEC. 302. TRANSFERS OF CERTAIN FUNCTIONS OF THE JOINT COMMITTEE ON ATOMIC ENERGY AND CONFORMING AMENDMENTS TO CERTAIN OTHER LAWS.—

"a. Sections 201, 202, 203, 204, 205, 206, and 207 of the Atomic Energy Act of 1954, as amended, are repealed.

"b. Section 103 of the Atomic Energy Community Act of 1955, as amended, is repealed.

"c. Section 3 of the Congressional Budget Act of 1974 is amended by—

"(1) striking the subsection designation '(a)'; and

"(2) repealing subsection (b).

"d. Section 252(a)(3) of the Legislative Reorganization Act of 1970 is repealed.

"SEC. 303. INFORMATION AND ASSISTANCE TO CONGRESSIONAL COMMITTEES.—

"a. The Energy Research and Development Administration and the Nuclear Regulatory Commission shall keep the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the functions of the Administration or the Commission, fully and currently informed with respect to the activities of the Administration and the Commission.

"b. The Department of Defense and Department of State shall keep the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over national security considerations of nuclear energy, fully and currently informed with respect to such matters within the Department of Defense and Department of State relating to national security considerations of nuclear technology which are within the jurisdiction of such committees.

"c. Any Government agency shall furnish any information requested by the committees of the Senate and House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, with respect to the activities or responsibilities of such agency in the field of nuclear energy which are within the jurisdiction of such committees.

"SEC. 304. The committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, are authorized to utilize the services, information, facilities, and personnel of any Government agency which has activities or responsibilities in the field of nuclear energy which are within the jurisdiction of such committees: *Provided, however,* That any utilization of personnel by such committees shall be on a reimbursable basis and shall require, with respect to committees of the Senate, the prior written consent of the Committee on Rules and Administration, and with respect to committees of the House of Representatives, the prior written consent of the Committee on House Administration."

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

The motion was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the motion to concur in the House amendment was agreed to.

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

The motion to lay on the table was agreed to.

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## FOREIGN ASSISTANCE AND RELATED PROGRAMS—APPROPRIATION BILL, 1978

The Senate continued with the consideration of H.R. 7797.

Mr. ALLEN. Mr. President, I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays on final passage.

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

The yeas and nays were ordered.

Mr. ALLEN. That may be premature, I will say to the Senator from Virginia.

Mr. FORD. Mr. President——

Mr. ALLEN. Mr. President, I believe I have the floor.

Mr. FORD. Mr. President, a point of information. What did we get the yeas and nays on?

Mr. ALLEN. Final passage.

UP AMENDMENT NO. 748

Mr. ALLEN. Mr. President, how often have we heard the cry here in the Senate that Congress should have a part in shaping foreign policy? I bet 25 Senators, at a very minimum, have voiced that sentiment: "Let us let Congress have a part in shaping foreign policy. Let us not delegate everything to the President."

We have all heard the argument. I dare say half the Senators here have made that argument.

In line with that thought, Mr. President, in order to give Congress an opportunity to participate in the foreign policy decisions, it is an important bit of foreign policy to decide that it is in the national interest, Mr. President, to give money, to give supplies, to give military equipment to dictatorships because it is in the best interests of our Nation.

Should not Congress have an opportunity to decide that? I believe it should. That is all that this amendment does.

If Senators were interested enough to read the amendment of the distinguished Senator from Iowa, it says—this is added on to the section forbidding aid to certain dictator nations:

Except that the President may waive this prohibition with respect to any such country if he determines (and so reports to Congress) that furnishing such assistance to that country would further the foreign policy interests of the United States.

My amendment would add in words after "President" so that it would read, if my amendment is adopted:

Except that the President with the concurrence of both Houses of Congress may waive this prohibition with respect to any such country if he determines (and so reports to Congress) that furnishing such assistance to that country would further the foreign policy interests of the United States.

Mr. HELMS. Mr. President, may we have order? I hope the Senator will suspend until we do have order.

The PRESIDING OFFICER (Mr. HASKELL). The Senate will be in order. The Senator from Alabama will suspend until order is restored.

The Senator may proceed.

Mr. ALLEN. I will start over.

By the way, Mr. President, I designate this as the first of my three amendments as to which there will be no time limit, and as to which no motion to table will be in order.

The amendment of the Senator from Iowa, as amended by my amendment, would read:

Except that the President with the concurrence of both Houses of Congress may waive this prohibition with respect to any such country if he determines (and so reports to Congress) that furnishing such as-

sistance to that country would further the foreign policy interests of the United States.

So we would give Congress an opportunity to participate in this important decision.

I do not see why Congress would not want to reserve that right unto itself, rather than do what we have all criticized ourselves for; namely, delegating too much power to the President.

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

Mr. ALLEN. Yes.

Mr. JOHNSTON. If the Clark amendment passes, with or without the Senator's amendment, what is the maximum amount of money that could be given to Angola or Mozambique?

Mr. ALLEN. I do not know. I imagine the Senator from Iowa, inasmuch as he is trying to open the door, would know how much might proceed through the door.

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

Mr. ALLEN. Yes.

Mr. CLARK. As the manager of the bill has indicated earlier, there is no money in the bill for either Mozambique or Angola.

Mr. JOHNSTON. Is there not a fund for Africa in the neighborhood of $100 million? Do I recall that correctly?

Mr. INOUYE. The Senator is correct, but Mozambique and Angola are not included.

Mr. JOHNSTON. So I am asking, is it a fact that if this amendment were adopted, then up to $100 million from that fund could be given to Mozambique or Angola?

Mr. INOUYE. No, the Senator is not correct, because the amounts have been designated for countries such as Zaire, et cetera.

Mr. JOHNSTON. What is the maximum amount that could be given to Mozambique or Angola, if the Clark amendment was agreed to?

Mr. INOUYE. The maximum amount would be that which is in the President's contingency account, $5 million.

Mr. JOHNSTON. $5,000,000.

Mr. INOUYE. And that could be spent, for example, under the following conditions: Let us say there is a grave emergency in Angola, a huge wave inundates the country, thousands of people lose their lives and shelters. Then the President may decide that it would be in our national interest to provide emergency assistance to Angola.

Mr. JOHNSTON. There are no other accounts from which any expenditures could be made other than the $5 million contingency account?

Mr. INOUYE. The Senator is correct. And if the administration should decide to use funds which have been justified and agreed upon for purposes other than in Angola, that would constitute a reprograming. Under the arrangement at which we have arrived, the President will have to submit the reprograming request to the Appropriations Committee, and it will be up to us to approve it or disapprove it.

Mr. JOHNSTON. On our reprograming—and I hope the Senator does not mind this——

Mr. ALLEN. We have plenty of time.

Mr. JOHNSTON (continuing). On some of these accounts can they be reprogramed if the chairman of the subcommittee agrees, or do we have to take a vote of the committee? What is the latest?

Mr. INOUYE. The chairman and the ranking minority member, because it is understood the subcommittee has authorized the two of us to act. This authority can be taken away from us at any time. The two of us have exercised this authority, I hope, with prudence. Congress has agreed with us to date.

Mr. JOHNSTON. Suppose the subcommittee would put it to the full committee. Would the full committee have the veto, the full committee of either house?

Mr. INOUYE. Absolutely.

In a case such as Angola, let us assume the President should decide 6 months from now to stop a project somewhere in Africa and use those funds for Angola. I would hope the Senate will consider me sufficiently sophisticated to act upon this not unilaterally but through the committee. I will most certainly ask the chairman of the full Appropriations Committee to fully debate this and decide upon it, and, if necessary, by resolution, bring it to the Senate itself. I would not attempt to take any action as an individual. I can assure the Senator of that.

Mr. JOHNSTON. As one who supported the Senator from Alabama on his motion to table, and as one who is not anxious for money to go to Angola or Mozambique, I am just wondering whether the Senator was aware of that. If that understanding is not sufficient, we could specifically write into the statute that it is subject to the veto of the Appropriations Committee in either house. If looks to me as if that would be sufficient. Would the Senator agree to that?

Mr. ALLEN. I believe the amendment route is the best way to do it.

On this matter of saying there is $5 million, the Senator from Hawaii spoke about we know he would be sophisticated enough to know that he would do thus and so. Well, he is sophisticated enough to know that if they want to find $50 million for Mozambique and Angola, they can find it in all the fat that is in this $7 billion bill.

Mr. JOHNSTON. I am wondering if the Senator is willing to write into this, instead of subject to the approval of both houses of Congress, to say subject to the veto of the full Appropriations Committee of either house, and then from whatever fund it would come would constitute a reprograming.

Mr. INOUYE. If the Senator will yield, I think that would make the situation worse. I do not think it would improve the situation. At the present time, we have assurances, not just gentlemen's assurances but written assurances, that if an objection is heard from the Appropriations Committee the administration will stop all action on the reprograming I believe that is sufficient.

Mr. JOHNSTON. I have utmost and absolute confidence——

Mr. INOUYE. I do not want to use the word "veto," because, constitutionally, I think we may be treading on very dangerous ground to say we can veto an action taken by the President.

Mr. JOHNSTON. Actually, this would simply be writing into the statute, if we did this, that which is the explicit understanding right now. If that language were unconstitutional, so would be the explicit understanding. But it would give assurance to Senators like the Senator from Alabama, if he were willing to accept it, that action would not be taken unless approved by the Appropriations Committee of either House. It would go beyond the $5 million contingency fund to whatever account.

Mr. ALLEN. I appreciate the very fine suggestion of the distinguished Senator from Louisiana. It certainly has considerable merit.

I never did too much like the idea of action merely through committees. I feel that raises a committee up to a status to which it is really not entitled. I think the people of the country need to act not through committees with some 15 to 18 members; they need to act through their duly elected representatives in the Halls of Congress.

I would not be willing to leave anything up to any committee, no matter with whom it is constituted.

I do believe this amendment would offer us a good solution of the impasse we have briefly met, because it would give to the distinguished Senator from Iowa his amendment. His amendment would be the Clark amendment to this bill.

It would give the President the authority to waive this requirement on getting his coequal branch of the Government to exercise the role that it is entitled to in our foreign policy that we have all sought and all demanded. It would seem to me it would have this power pretty well spread.

The President could tell the Congress that he felt this was necessary. If the Congress agreed with him, the goods could be loaded on a ship, and, if that is not enough, the goods could be loaded upon a jet plane to be sent over there. So I believe we would get the goods there as soon as they were needed, or as soon as required.

I feel this is a good solution to the problem. It would be the exercise of joint management by the Congress and the President of our foreign policy.

Mr. President, that is all I have to say on the amendment. I hope it will be agreed to.

I might say I have no further amendments.

Mr. HUMPHREY. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. HUMPHREY. I just want to say to my good friend from Alabama, who I know has a very sincere and deep in-

terest in these matters, how is the Senator sure that the Government of Angola 6 months from now is going to be the same as it is today? Or the Government of Mozambique? Just a few months ago Ethiopia was considered one of the best allies we had. A few months ago Somalia was considered to be a very risky proposition.

The whole thing has made a 180-degree turn.

Three months ago Somalia was an ally of the Soviet Union. Today the Soviet Union is lined up with Ethiopia. Today, the Somalians are attacking the Ogaden Province in Ethiopia.

Maybe somebody here has such incredible, omniscient wisdom that he can see how all these leaders in Africa are going to stay in power for months and months. If there is any characteristic today of the states that are emerging from colonialism, that are coming out of this long, dark period of their past, it is the uncertainty of leadership. I am not predicting it, but right at this very hour, the UNITA forces are at war in Angola, one of the three factions that was in that struggle. That war is not over right now.

Right now, the United States of America is looking to Somalia as a friend. Only a few months ago, it was the other way around.

That is why we have a President. We have to give the President some discretionary authority. I think that, with the President having to certify to Congress why he is taking an action, if he does, and that it has to be in our vital national interest, that is reasonably good protection. He may make a mistake, that is true. He could make a mistake.

I say to the Senator, there is no intention, from all of the testimony of the witnesses before the authorizing committee and the Appropriations Committee, of helping either Mozambique or Angola. That is No. 1.

No. 2, I think that Mr. Carter, President of the United States, would be the first one to tell us if he thought he had to do anything like this and would be up here asking the committee, the chairman of the Appropriations Subcommittee, and also, may I say, notifying the whole Foreign Relations Committee. Senator SPARKMAN surely is a trusted Member of this body. Senator CASE, the ranking Republican member, would have to be notified. I just cannot imagine that we are running any such great risk here.

First of all, we have our Mozambique and Angola. There is not any money in the bill for Mozambique and Angola. We have prohibitions on the use of money for Mozambique and Angola. Both nation states are unstable. One of them has a guerrilla, a civil war going on right now.

Here we are, trying to say, well, we can look right down the road through the whole next fiscal year and we know that in the entire next fiscal year, the same ruler will be in Angola that is there today. I want to say that if you want to place that kind of bet, you had better be sure that you have a lot of money that you want to fool around with. There is no reason to believe that at all, any more than there was, by the way, about Uganda.

Not long ago, they almost assassinated the fellow, Idi Amin, or whatever it is. Who knows what is going to happen, unless you have a pipeline to God up there. Mine has been shortcircuited somewhere along the line.

Mr. ALLEN. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. ALLEN. I believe the Senator misconstrues the amendment.

Mr. HUMPHREY. No, I do not misconstrue it.

Mr. ALLEN. Let me finish. I believe he misconstrues the amendment when he talks about looking down to the end of the fiscal year. That is hardly correct. If the President decides at 6 o'clock one morning that he wants to send supplies over there, he need not wait until the end of the fiscal year. He could talk to his partner, Congress, and, by joint resolution, get permission, probably, in 1 day.

So the Senator makes an unfair or not well-thought-out conclusion in saying that he is going to have to wait until the end of the fiscal year. There is nothing about the fiscal year in here. It just says the President can waive it with the concurrence of Congress.

Mr. HUMPHREY. I remember one President, a short time ago, thought he was going to send some money to Angola. I was here. Senator JOHN TUNNEY, right here in the back row, fought it. The next thing you and I knew, no money went to Angola.

Mr. ALLEN. Was that not right, or was it?

Mr. HUMPHREY. I was with him. But it took more than a day, even then. I believe Congress can operate with a reasonable degree of speed but, having been here a few years, may I say that in a race with a turtle, it will come in second.

Mr. INOUYE. Mr. President, I have listened to this debate with deep interest, because the Senator's amendment touches upon a matter close to my heart. Throughout the consideration of the bill, we have attempted our best to exert the prerogatives and the authority of the Congress of the United States. We have insisted that all accounts be justified before us before being obligated. So I must say that, although I find this amendment a departure from tradition, it may be a good idea. I shall ask my colleagues here to permit me to accept the amendment.

I know the conference is not going to be held tomorrow. It will be held sometime in September. Give us a full month to study this and we can have a good discussion on it in conference.

If that is agreeable to my colleagues here, I wish to announce that I am ready to accept the amendment and take it to conference and, during the month of August, give it the most thorough consideration that we can, because there is a fundamental principle involved in this.

Mr. ROBERT C. BYRD. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ALLEN. Just a moment.

Mr. President, are we agreeing to my amendment to the Clark amendment?

Mr. INOUYE. Yes.

Mr. ALLEN. I think that is a very wise decision. I say, however, that I realize that lots of things happen in conference. This being in conference would give the conferees an opportunity to knock out this proviso and leave the Clark amendment as is. I have no control over that and I shall have to accept the Senator's proposal.

Mr. INOUYE. It can knock out the Clark amendment itself.

Mr. ALLEN. One thing I do recognize is that, in the conference, this saving clause can be dropped. I recognize that, but if that is what the conferees want to do, I have no control over that.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Iowa, as amended.

The amendment, as amended was agreed to.

UP AMENDMENT NO. 749

Mr. HELMS. Mr. President, I have an amendment at the desk which I call up and ask to have considered.

The PRESIDING OFFICER. The clerk will state it. The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes unprinted amendment No. 749.

At the end of the bill insert the following: *"Provided,* That no part of any appropriation for 'International organizations and programs' may be available to make any contribution of the United States to the United Nations Decade for Women".

Mr. HELMS. Mr. President, this amendment would prohibit any U.S. contribution to the United Nations Decade for Women.

Mr. President, the phrase "United Nations Decade for Women" has a nice ring to it. It makes one ask how anyone could be opposed to any program that purports to assist women in overcoming the difficulties and barriers which they often face in today's world.

To be against the U.N. Decade for Women almost sounds like being against women in general and even motherhood in particular. Yet there is plenty of evidence that the so-called U.N. Decade for Women will have a devastating effect on the moral and social values of motherhood. The end results of the program are more political and philosophical than humanitarian. One of the program's goals is to fix a price tag on a wife's devotion to her home and family. The philosophy of the U.N. Decade for Women, Mr. President, would assert that marriage is essentially a financial arrangement instead of one based on love and trust.

If we look behind the deceptive rhetoric of such a program, Mr. President, we can see that the $3 million of the taxpayers' money to be appropriated here is really to be spent propagandizing one view of womanhood that is the view of a narrow and partisan group of women

who are attempting to impose this revolutionary view and lifestyle on all women, whether they like it or not. The taxpayer's funds should not be used for spreading propaganda.

The Senator from North Carolina submits this amendment at the request of several hundred women who have written to me expressing their indignation that their tax money is being spent to subsidize elitist groups that exclude women who do not agree with their views.

The United Nations Decade for Women is simply the extension of the so-called International Women's Year of 1975 sponsored by the United Nations. The 1975 conference in Mexico City is expanding in two ways—Senators may recall that conference. First we have witnessed the U.S. International Women's Year conferences which have generated such bitter controversy among U.S. women and will culminate in a so-called National Women's Conference to be held November 18–21 in Houston. That conference is sure to result in polarization—if the National Commission on International Women's Year allows the elected delegates representing views opposed to stated International Women's Year goals to receive adequate consideration in all discussions and resulting resolutions.

But second, it now appears that the United Nations IWY apparatus, which held the Mexico City conference, is seeking to perpetuate itself. If we do not stop these funds now, we will be making similar appropriations every year for the next ten years. And that is a rip-off on the women of America.

As any schoolboy knows, 3 times 10 are 30, $30 million, and that is a ripoff on the taxpayers of this country, and particularly, the majority of women who have been excluded deliberately and brusquely from participating in this program financed by the taxpayers of the United States.

What we can expect from the U.N. Decade for Women is clearly evident. We have already seen at close hand what its offspring—the U.S. National Commission on International Women's Year—has been doing. On July 1 and July 21 of this year, in statements on this floor, I sought to inform my distinguished colleagues of the widespread pattern of obvious and intended discrimination by IWY and its state affiliates against those women who do not agree with the negative ideology and partisan biases of the militant International Women's Year organizers.

The legitimacy of these conferences, Mr. President, is under direct attack from women who were denied representation and denied a voice in the decision-making processes for their State conference. Indeed, legal action is pending in at least one State and is being considered in numerous others as women unite to reveal alleged irregularities and violations of Federal statutes.

I doubt, Mr. President, that I need remind my distinguished colleagues of the event at which the concept of a "decade for women" was heralded as a means by which the problems facing women in their struggle for equality could be solved. The International Women's Year Conference itself—held in Mexico City in June 1975—was described as a "consciousness-raising exercise" and a time during which—according to the distinguished Senator from Illinois (Mr. PERCY):

The international women's movement toughened * * * and began * * * building the informal associations and networks so important in the exercise of influence and power.

Mr. President, it is indeed obvious that the so-called women's movement has toughened and is bent on obtaining and exercising whatever influence and power are necessary to implement the World Plan of Action. This plan was one of the major policy documents hammered out at the Mexico City Conference and is intended "to promote guidelines for national action over the 10-year period up to 1985."

Now, Mr. President, the World Plan of Action—formulated and adopted by some of the most militant and revolutionary of women's representatives—is the embodiment of concepts which have provided both the theoretical and pragmatic bases for the recommendations of the U.S. National Commission on International Women's year. These recommendations are found in the book "To Form a More Perfect Union."

Mr. President, given the World Plan's assertion that "in our times, women's role will increasingly emerge as a powerful revolutionary social force" in the creation of a new social order, perhaps it would be well to illustrate several aspects of the disturbing relationship between the U.N. program and the U.S. National Commission.

I. From the World Plan of Action: "The rights of women and all the various forms of the family, including the nuclear family, the extended family, consensual union and the single parent family should be legally protected."

From "To Form a More Perfect Union": "The Reproductive Freedom Committee acknowledges that sexual patterns are changing and that the traditional nuclear family of mother, father, and children is no longer perceived . . . as the only acceptable model. Therefore, all programs must take into account changing sex roles and new lifestyles, and teachers must recognize and accept the many differences in contemporary family structure."

II. From the World Plan of Action: "Individuals and couples have the right . . . to determine the number and spacing of their children and to have the information and the means to do so."

From "To Form a More Perfect Union": "The IWY Commission condemns any interference, open or subtle, with a woman's right to control her reproduction."

III. From the World Plan of Action: "Child-care centers and other child-minding facilities are means to supplement the training and care that children get at home. . . . Governments have therefore a responsibility to see to it that such centres and facilities are available."

From "To Form a More Perfect Union": "The IWY Commission asserts that the Federal Government should assume the major role in directing and providing for universal voluntary child development programs as a valuable service to parents, as essential to a child's best interest, and as society's obligation to avoid the cost of neglect. Therefore, the Administration should support and request adequate funding for comprehensive child development legislation."

IV. From the World Plan of Action: "Governments should guarantee non-discrimination on grounds of sex and equal rights . . . and should review and update all national legislation."

From "To Form a More Perfect Union": "The National Commission on the Observance of International Women's Year, as its first public action and highest priority, urges the ratification of the Equal Rights Amendment."

Mr. President, I could go on to list many more characteristics of kinship between these organizations, but the above are representative of the entire picture. Now, such similarity is no mere accident.

Mr. President, the pattern is evident as one recognizes, throughout the history of U.S. involvement in International Women's Year, the name of Ms. Bella Abzug. As a congressional adviser to the U.S. delegation to the U.N. Conference on International Women's Year in Mexico City, as a member of the first U.S. National Commission on the Observance of International Women's Year, and as the presiding officer of the current U.S. National Commission on International Women's Year, Ms. Abzug has made an all-out attempt to implement the World Plan of Action in the United States.

However, Mr. President, the forced acceptance and implementation of the proposals in the World Plan lead not to equality, but to more inequality. More discrimination, and an increased loss of freedom. Concrete evidence of that observation has been witnessed at many of the International Women's Year State conferences held throughout the United States.

Feminist groups, Mr. President, have organized to stack workshops, to deny equal representation and freedom of speech to anti-ERA/pro-life groups, and to proclaim that these federally financed conferences are their conferences—and theirs alone, and no one else need apply.

This kind of conduct was demonstrable in my own State of North Carolina where one point of view prevailed to the total intended exclusion of all other points of view.

Mr. President, that is not the proper expenditure of Federal funds in any amount and, certainly, not the proper expenditure of $5 million of the taxpayers' money which has already been used to create what has proved to be a program of inequality.

The voices of concerned women across this Nation have been ignored. The evidence to that effect is undeniable. I submit, Mr. President, that this is a corruption of the professed intent at the time this program was approved by Congress and funds for it were voted by Congress. Therefore, for Congress to appropriate even more of the taxpayers' money to finance the World Plan of Action and another international fiasco in 1980, which is the date set for a second women's international conference, would be evidence only of congressional insensitivity to the real issues of women's rights.

Mr. President, I have asked the Comptroller, Mr. Staats, to investigate this program, and such an investigation is underway. Evidence abounds that this is, at a minimum, a flagrant waste of the taxpayers' money. It is at worst a deliberate attempt to use public financing to stifle equality, to stifle the expression of contrary views.

It is time, Mr. President, to stop supporting activities which display such a fundamental disregard for the views of the majority of American women.

Mr. President, 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. INOUYE. Mr. President, I have listened to the discussion of my dear friend from North Carolina.

It is true that many of the women involved at these gatherings throughout the world may be looked upon by some as revolutionaries and militants. But I think the time has come for women of the world to be a little more militant, a bit more revolutionary. It was not too long ago that a young lady in the United States named Susan B. Anthony stood up and fought all the men of the United States. She was insulted by the women of this Nation because she stood fast and said that, as a citizen of the United States, she was deserving of participating in the affairs of this country by casting a vote. She was a revolutionary. She was a militant. Today, we honor her. We have postage stamps with the portrait of Susan B. Anthony on them.

The United States has taken a role of leadership throughout the world in raising the status of women, and we have felt that we cannot sit by and close our eyes to the conditions we find in other countries, where women get married not on the basis of love but on the basis of contracts—for sale. I suppose it will take many decades before these women come to our stage.

We have found from practice that in every country where women are given a greater voice and greater authority, it always adds to the benefit of that country. No country has suffered from the militancy of women. No country has been hurt because it has had women revolutionaries.

The amount here is not large. Instead of wiping it out completely, would my dear friend consider cutting it in half?

Mr. HELMS. Mr. President, if the Senator will yield, he has said nothing with which I disagree.

If he will forgive me, I think the point has been eluded. What the Senator from North Carolina wants is a representation of the views of all women, not just the militant, not just those who favor abortion, not just those who favor homosexuality, not just those who favor the ERA, but those on both sides.

This is no reckless observation. I have looked into it very carefully. On a board of 33, only one lady who was opposed to the ERA was permitted to come, and the same ratio existed on the abortion question.

The Senator from North Carolina does not like to see anything railroaded, particularly with the taxpayers' money. That is the reason why I have asked the General Accounting Office to investigate the improprieties involved.

If I can do no better, I say to the Senator, I will accept a reduction of funds, because that will reduce by one-half what I consider to be the arrogant disregard for fair play by those in control of this movement. I would rather see it all cut out, because I think the taxpayers of America are entitled to have it all cut out. But if the Senator is persuaded that the best he can do is to reduce it by 50 percent, I will accept that, and I will ask that the order for the yeas and nays be vitiated.

Mr. INOUYE. We will do that.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

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

Mr. HELMS. Provided that the amount is cut in half.

Mr. INOUYE. Does the Senator withdraw his amendment?

Mr. HELMS. If the Senator will disclose to me how he will——

Mr. INOUYE. I will ask unanimous consent that on page 4, line 19, the amount $3 million be changed to $1.5 million.

Mr. HELMS. Mr. President, I withdraw the amendment.

Mr. INOUYE. Mr. President, I ask unanimous consent that on page 4, line 19, the amount $3 million be reduced to $1,500,000.

The PRESIDING OFFICER. Without objection, the amendment is in order and is agreed to.

Will the Senator from North Carolina withdraw his amendment?

Mr. INOUYE. He did.

Mr. HELMS. I did withdraw it.

UP AMENDMENT NO. 750

Mr. GLENN. Mr. President, at this time I call up an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 750:

On page 23, line 24, after "country" insert "other than a nuclear-weapon State as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons".

On page 24, strike all after "explosive" on line 2 and through the end of line 3 and substitute in lieu thereof "after the date of enactment of this Act".

Mr. GLENN. Mr. President, this amendment has been cleared with both sides of the aisle. The floor managers of the bill are in agreement with respect to it.

Mr. President, this amendment would modify a proviso on page 23 of the bill relating to Export-Import Bank loans.

The purpose of that proviso is to bar the use of Export-Import Bank funds for the export of nuclear equipment or fuel to a country which has detonated a nuclear explosive and has neither signed nor ratified the Nuclear Nonproliferation Treaty. This language was added by the House Appropriations Committee and was aimed at controlling nuclear exports to India. The House committee report states:

This provision is directed specifically at India and fulfills the Committee's desires to prohibit U.S. financing of nuclear exports to a country that has taken little action to help its own poor and has diverted scarce capital to the development of a nuclear explosive.

The new Indian government has not given any indication of renouncing development of nuclear explosives and no nuclear export financing should be provided to India while that nation insists on squandering scarce capital resources on capital intensive programs or on nuclear weapons development.

The language of the House committee which has remained intact in the bill reported by our own Appropriations Committee would prohibit nuclear export financing to India during fiscal year 1978 unless that country were to sign the Treaty on the Nonproliferation of Nuclear Weapons. Mr. President I submit that this approach is not a workable one. The State Department is presently engaged in delicate negotiations with the Indian Government on the nuclear proliferation question. If the Congress at this point singles out India with respect to restrictions under this bill, it is my opinion that we may well hinder these negotiations. The State Department joins me in this assessment and strongly opposes the language in the bill as reported.

My amendment, would change the nature of the restriction imposed on nuclear export financing. Under the terms of the amendment such financing by the Eximbank would be denied to any non-nuclear weapons state which detonated a nuclear device after the date of the bill. India would not be singled out for special attention but, of course, would be cut off—as would any other country—if it chose to explode a nuclear device after enactment.

This approach parallels that taken in two other pieces of legislation which have been before Congress this year. The foreign military assistance authorization bill which the President signed today contains a provision which would cut off military and economic assistance under the Foreign Assistance Act of 1961 and the Arms Control Act to any country which detonates a nuclear device after enactment unless the restriction is waived under the conditions specified in the bill. A similar restriction on nuclear exports is provided in the nuclear nonproliferation legislation reported this week by the Senate Governmental Affairs Committee. My amendment today would simply extend this concept to the area of Eximbank nuclear export financing.

Mr. President I firmly believe that this approach will help us in our efforts to control the risks of nuclear proliferation and will do so in a way that will not disturb our current negotiations with

India. I urge the floor managers and my other colleagues to support the proposal.

I do not require a record vote. I would be glad to have a voice vote.

Mr. INOUYE. Mr. President, this amendment has been discussed with both managers of the bill, and we find this amendment not only clarifies the situation but it gives the President of the United States the flexibility he requires. It will not in any way weaken our desire to stop the proliferation of nuclear devices in the world. So I stand ready to accept the amendment, and I do so.

I yield back the remainder of my time.

Mr. GLENN. I yield back the remainder of my time.

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

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 818

Mr. KENNEDY. I call up my amendment 818.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. HUMPHREY, proposes amendment No. 818.

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 28, between lines 12 and 13, insert the following new title:

TITLE VI—ROMANIAN RELIEF AND REHABILITATION

SEC. 601. For expenses necessary to carry out the provisions of section 495D of the Foreign Assistance Act of 1961, as amended, $13,000,000 for the fiscal year 1977 for Romanian relief and rehabilitation assistance, to remain available until expended.

Mr. KENNEDY. Mr. President, this just adds the necessary resources to conform with the authorization statute for Romanian earthquake assistance. These resources are going to be devoted solely for humanitarian purposes.

We basically had made a commitment here in this body to provide some small degree of help and assistance to meet an enormous human tragedy in Romania last March. This amendment will provide the necessary resources to fulfill our commitment.

The President has requested these resources. The Secretary of State and the Administrator of AID support this amendment on an urgent basis. This was done in recent letters to the Appropriations Committee of both Houses.

I think the amendment is self-explanatory, Mr. President.

I talked to the manager of the bill, and I believe he is willing to take it to conference.

Mr. INOUYE. The distinguished Senator from Massachusetts has discussed this amendment with the managers of the bill, and we find it very difficult to disagree with this proposal. Therefore, we stand ready to accept it. We yield back the remainder of our time.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. Yes.

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

The amendment was agreed to.

AMENDMENT NO. 819

Mr. KENNEDY. Mr. President, I call up my amendment 819 on behalf of myself, the Senator from Iowa (Mr. CLARK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PELL), and the Senator from Maryland (Mr. MATHIAS). I ask that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 17, line 13, strike out "$53,054,000" and insert in lieu thereof "$63,554,000".

Mr. KENNEDY. Mr. President, this amendment provides full funding for the migration and refugee assistance account up to the authorization of $63,554,000. The full amount is required to meet anticipated emergency refugee needs in Africa and to help the voluntary agencies resettle in the United States refugees from Chile and Latin America, the Middle East, Eastern Europe, and Asia.

The amount now appropriated in the bill, $53,054,000, reflects the authorization contained in the House version of the Department of State authorization bill, which was prior to Senate action, and the filing of the conference committee report on July 26.

Since the House action, Mr. President, the Senate has acted, and the conference committee has incorporated in the final version of the authorization bill, provisions of an amendment which Senator CLARK and I offered that increased the authorization for migration and refugee assistance by $10,500,000. This additional authorization—which our amendment seeks to fund—is necessary to meet the needs of two separate sets of refugee problems not now adequately provided for in the appropriations bill.

The first problem relates to the growing needs of displaced persons and refugees in Africa. As the conference committee noted in its report on the authorization bill (H.R. 6689), "Current funding for the African refugee program is inadequate." All across Africa refugees are on the move, outpacing the ability of governments and the international community to fully respond to their needs. As the following table shows—which I ask unanimous consent to have printed in the RECORD—there are some 1,853,000 refugees in Africa, and the total increases every day.

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

TABLE I.—PRINCIPAL REFUGEE AND DISPLACED PERSON PROBLEMS IN AFRICA (ESTIMATED AS OF JULY 28, 1977)

| | Estimated number |
|---|---|
| Host country and refugee source: | |
| Angola: Internally displaced | 500,000 |
| Algeria: From Western Sahara | 50,000 |
| Botswana: | |
| South Africa | 500 |
| Angola | 100 |
| Namibia | 70 |
| Zimbabwe | 2,300 |
| Total | 2,970 |
| Burundi: Rwandese | 49,500 |
| Central African Nations: [1] | |
| Angolans | 5,000 |
| Equatorial Guinea | 90,000 |
| Miscellaneous | 10,000 |
| Total | 105,000 |
| Djibouti: Ethiopia | 1,000 |
| Ethiopia: | |
| Sudan | 8,000 |
| Miscellaneous | 200 |
| Total | 8,200 |
| Guinea-Bissau: Refugee repatriates receiving aid | 150,000 |
| Kenya: | |
| Ethiopia | 700 |
| Uganda | 3,000 |
| Total | 3,700 |
| Lesotho: South Africa | 25 |
| Mozambique: Zimbabwe | 32,000 |
| Namibia: Angola | 6,000-11,000 |
| Rwanda: Burundi | 7,400 |
| Senega : Remaining from Guinea-Bissau | 46,000 |
| Soma ia: Ethiopia | 20,000 |
| Sudan: Ethiopia (mostly Eritreans) | 150,000 |
| Swaziland: South Africa | 120 |
| Tanzania: | |
| Burundi | 110,500 |
| Rwandese | 23,000 |
| Ugandans | 3,000 |
| South Africa | 300 |
| Total | 136,800 |
| Western Africa: Scattered movement | 4,000 |
| Zaire: | |
| Angola | 510,000 |
| Cabinda | 35,000 |
| Burundi | 18,500 |
| Total | 563,500 |
| Zambia: | |
| Angola (in camps) | 12,000 |
| Namibia | 3,500 |
| Zimbabwe | 13,500 |
| Miscellaneous | 2,100 |
| Tota | 31,100 |
| Grand total | 1,872,315 |

[1] Principally Central African Republic.

Mr. KENNEDY. Mr. President, refugee problems are particularly acute in Zaire, in southern Africa, in the western Sahara, in the Sudan and, most recently, in Kenya with refugees from Uganda and Ethiopia. The escalating conflict in Zimbabwe is especially producing a steady flow of refugees and displaced persons, and this will likely continue in the months ahead.

All these refugees are fleeing into neighboring African countries which simply are unable to cope with the problem. Given their meager resources and the poverty of their own people. Especially hard pressed today in southern Africa are Botswana, Lesotho and Swaziland. Refugee problems are also growing in Zaire, Zambia, Tanzania, and Kenya.

The principal burden for helping refugees in all of these countries falls mainly upon the U.N. High Commissioner for

Refugees, UNHCR, and U.S. contributions in support of his program are financed principally through the Department of State's migration and refugee assistance account.

This year, the UNHCR program in behalf of African refugees is running close to $50 million, and next year's budget will also be high. Clearly, the funds currently available—from the refugee and migration assistance account, as well as other sources—are inadequate to provide an appropriate American contribution to these refugee programs.

To date, the United States has provided very little support to the Expanding UNHCR programs in Africa—despite urgent appeals from the UNHCR. These needs, coupled with the escalating problems in Zaire, Sudan, and Kenya, call for greater contributions by the United States—not only to UNHCR, but also in support of activities by the International Red Cross and several American voluntary agencies.

The International Rescue Committee, ICR, for example, has just started a program in Kenya to assist refugees from Uganda. The IRC is also working with other voluntary agencies among refugees in Zaire. These agencies are using their own private resources but could do a great deal more with our help.

According to the language of the conference committee report on the authorization bill, some $7 million appropriated by this amendment will provide additional funds necessary to support the work of the UNHCR, as well as other international agencies, in responding to the growing needs of refugees and displaced persons throughout Africa. These additional funds will also enable the United States to respond in an expeditious way to future appeals by the United Nations Secretary General Kurt Waldheim, or the UNHCR, for emergency funds to meet the growing crisis of people in southern Africa and elsewhere.

The second purpose of this amendment is to provide needed funding for resettlement grants to private American voluntary agencies assisting in the resettlement of refugees in the United States.

Traditionally, most of the total cost of resettling refugees in the United States has been borne by the private voluntary agencies. However, in the recent instances of massive refugee movement into this country, beginning with the Cuban parole program and most recently with the Indochina refugee resettlement effort, the voluntary agencies have necessarily looked to the Government for assistance. The provision of resettlement grants has also been given in recent years to refugees from Eastern Europe and the Soviet Union, who have been the only refugees receiving resettlement grants on a regular basis.

Recently, however, the Senate appropriations committee, during its consideration of the recent supplemental appropriations bill, broadened the scope of the refugee and migration assistance account as it relates to the resettlement of refugees in the United States. By eliminating language that restricted funding for refugee resettlement, the committee took an important step toward treating equally all refugees entering the United States, and I commend the action of the distinguished Senator from Hawaii, (Mr. INOUYE).

However, funds now appropriated in the refugee and migration assistance account are insufficient to help meet the anticipated needs of the voluntary agencies in resettling refugees now entering the United States. These refugees include "boat people" from Indochina entering under the conditional entry program, Kurdish refugees and other Middle East refugees, Chileans and others from Latin America, Chinese refugees in Hong Kong, and refugees from Eastern Europe and the Soviet Union—especially Soviet Jews. It is anticipated that up to 30,000 refugees will enter the United States this coming year, and that $6 million is a basic minimum that will be required to help the voluntary agencies in resettling the refugees.

The amendment has broad support within the voluntary agencies. It is not opposed by the Administration.

I was wondering if the manager will be able to take this amendment to conference?

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

Mr. KENNEDY. Yes.

Mr. CLARK. I would just like to associate myself with the remarks of the Senator from Massachusetts. In fact, I offered this amendment in the Subcommittee on Foreign Assistance, and it was adopted on that occasion, as the Senator has said. It was in the authorization bill.

Obviously, since the appropriation bill was market up prior to the completion of the authorization, there was no opportunity for this committee to consider it.

But in traveling particularly in southern Africa in 1976—$8 million of this deals with Africa—I visited a number of refugee camps where people were in very, very desperate circumstances, with only corn meal or mealy meal to eat, and very, very bad provisions. So I certainly support the Senator from Massachusetts.

Mr. INOUYE. Mr. President, at this late hour it is very tempting for the managers to accept all amendments and take them to conference. But to do this would be a rather dishonest exercise, knowing that some of these are going to be falling by the wayside as we approach the conference.

As a matter of practice this manager, whenever he accepts an amendment, has made a serious attempt to fight for that amendment in conference. I cannot fight for this amendment in conference. It just happens that I feel according to our studies that the funds presently available are sufficient. The funds in the South African Special Fund can be used for this purpose, if necessary. You also have a contingency fund. Furthermore, I will assure my distinguished friend from Massachusetts that if events in the future months should indicate the funds are insufficient, this subcommittee will not only welcome but will support a supplemental request for additional funds. So I would hope that, in order to leave this place at a decent hour, the Senator will withdraw his amendment.

Mr. KENNEDY. I thank the Senator from Hawaii. With those assurances I look forward to working with the Senator and the committee with respect to emergency requirements and the supplemental. All of the funds for this year have expired, but we are talking about next year's appropriation, and we will look forward to working with the committee to make the case on that particular matter.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment of the Senator from Massachusetts is withdrawn.

Mr. INOUYE. I thank the Senator very much.

AMENDMENT NO. 817

Mr. KENNEDY. I call up my amendment No. 817.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment No. 817:

On page 12, line 7, strike out "$30,000,000" and insert in lieu thereof the following: "$29,400,000: *Provided*, That none of the funds appropriated under this heading may be used for the Republic of Nicaragua".

On page 16, line 14, strike out "$688,350,000" and insert in lieu thereof "$685,850,000".

On page 16, line 17, immediately before the period insert a colon and the following: "*Provided further*, That none of the funds appropriated under this heading may be used for the Republic of Nicaragua".

Mr. KENNEDY. Mr. President, this amendment is a very simple amendment. It basically strikes out the military aid and assistance for next year for Nicaragua.

Mr. President, last year the Congress provided in the Foreign Assistance Act that it is the policy of the United States not to provide military assistance to "any country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights." By this provision, we have committed our country to a fundamental proposition—not only do we refuse to sacrifice our own liberties to political expediency, but we also refuse to allow our military support to be the mainstay of those who would suppress the civil liberties of others.

We have been asked to appropriate $3.1 million in military assistance to Nicaragua—$600,000 for military training and $2.5 million for foreign military sales credits. This is in addition to $15 million in new economic assistance and over $58 million currently in the pipeline. The amendment I am now calling up would strike only the $3.1 million in military aid from the bill. It would therefore leave untouched the over $70 million in economic aid, but it would terminate our material support and implied moral condonement of that nation's brutal military establishment.

Last month, this body responded to the human rights standards of the Foreign Assistance Act by terminating military aid to Ethiopia and Argentina, just as it had 1 year ago to Chile. My friend and colleague, Senator CHURCH, joins me in calling for military aid cutoff on the same grounds today in the case of Nicaragua, as we did last month in the case of Argentina and as I, and my cosponsors, did in 1975 and 1976 in the case of Chile.

The United States has a special historic responsibility to the people of Nicaragua. It was U.S. Marines who established and trained what the State Department has referred to as "the personal instrument" of the Somoza family for 40 years—the Nicaraguan National Guard and its auxiliary paramilitary formations. It has been the U.S. Agency for International Development that has provided the Somoza regime with almost 15 percent of its annual governmental expenditures. It has been U.S. Security assistance that has both trained and maintained the present national guard and its paramilitary auxiliaries, and it is our continuing military aid in particular that indicates to the Somoza regime and the world that we continue to condone prevailing conditions of arbitrary arrest, political suppression, murder, and atrocity.

Why do I call on this body to terminate military assistance to the regime of President Somoza? Because of the recent wave of Government-organized political suppresssion waged by the national guard against the people of that country.

While Nicaragua has never been a model of democratic rule in Latin America, represssion and terrorism has intensified since early 1975, primarily in response to a terrorist raid by Cuban-backed Sandinist National Liberation Front insurgents otherwise known as Sandinistas, in which four persons were killed.

The immediate response of the Nicaraguan authorities was prompt, forceful, and at that time perhaps even justified. A state of siege was declared and martial law imposed. But the "emergency measures" undertaken by the Nicaraguan Government, most of which are still in force, have gone far beyond those needed to deal with what close observers now regard as a minimal security threat.

At the present time, civil rights have been suspended and the right of habeas corpus no longer exists. Justice in Nicaragua is now dispensed almost solely through the military courts, which have been empowered to hear any case. Defendants' rights have been arbitrarily limited by martial law and the absolute censorship of the media. Indictments against defendants are based on their own "confessions" and extracted under shocking conditions of torture and violence.

Current Amnesty International evidence, based on its latest mission to Nicaragua, has documented a policy of systematic torture and atrocities against detainees of the Nicaraguan National Guard. It has recorded continuing incidents of prolonged beatings with fists, rubber hoses, and rifle butts. Using cattle prods or wires connected to regular household current, severe electric shocks are applied to the most sensitive parts of the body.

One particularly sadistic torture is referred to by national guard interrogators as "el telephono", or "the telephone", where prisoners' ears are struck so hard as to explode the eardrums, causing total or partial deafness.

Then, there are the detention camps—characterized by one religious source as little more than "corrals with the addition of armed guards"—where hundreds of campesinos have been imprisoned. Such allegations have been corroborated by a letter signed by 31 Capuchins missionaries—all American citizens—who cite the "disappearance" of over 200 campesinos over the past 2 years.

In addition, there have been numerous reports of attacks by the national guard against the church. Last year 26 chapels were commandeered for the use of the national guard as barracks or to store supplies. Church services have been arbitrarily disbanded, priests have been harassed and beaten, and Catholic lay leaders have been singled out for arrest and subjected to unspeakable torture. The list of tortures documented by amnesty international goes on and on.

It is against this horrifying background that the seven Roman Catholic bishops of Nicaragua took the unprecedented step this past January of accusing the Nicaraguan Government in writing of a systematic campaign of torture, rape, and mass killings of civilians by the national guard.

The Government censors blocked publication of their letter, which was read instead from the pulpits of the country. In it, the Nicaraguan bishops condemned the utilization of methods "which are humiliating and inhuman; from tortures to rapes to executions without a previous civil or military trial."

The collective consciences of the bishops of Nicaragua can hardly be called a Cuban-backed Communist element—they have been unanimously characterized as "conservatives" by sources ranging from Time magazine to the pro-Somoza witnesses at hearings held in April by the House Foreign Operations Subcommittee.

How is it possible that our Nation can condone and, in reality, actively support such crimes? And let us not delude ourselves—American material support and political backing have been and continue to be constituent elements of the present situation in Nicaragua.

The Somoza family has for 40 years relied on the American-trained national guard as its brutal means to power—State Department witnesses have referred to it as the "personal instrument" and the "principal power base" of the Somozas. The national guard depends on the United States for its military equipment, weapons and the training of its officer corps.

All graduates of the Nicaraguan Military Academy receive postgraduate studies at the School of Americas—the American-run, staffed, and financed college of military science located in the Canal Zone. How can we possibly disclaim any responsibility for the national guard's role in the current state of affairs in Nicaragua, when 75 percent of its officer corps has received training from our own military?

I am therefore convinced that we should end military aid to Nicaragua if we are to abide by the human rights provisions of the Foreign Assistance Act. Indeed, I believe that the use of American tax dollars to shore up the Nicaraguan National Guard—acknowledged by the administration to be a combined military and police force—raises serious questions in terms of the prohibition of U.S. assistance to foreign police forces and prisons under section 660 of the act.

The primary arguments for continuing American military support of Nicaragua are threefold: That such assistance enhances U.S. security and prevents a Cuban-inspired takeover in Nicaragua; that the Somoza government is one of our strongest supporters in Latin America; and that severing this link eliminates a key bargaining chip for future efforts to foster respect for human rights in Nicaragua. I remain completely unconvinced by each of these arguments.

When asked on March 24, 1977, "What would be lost to the United States and what security interests would be violated if the committee suspended all aid to Nicaragua in view of some of the gross violations of human rights in that country", Under Secretary of State Lucy Benson told the House Foreign Operations Subcommittee: "I cannot think of a single thing." The threat of Cuban intervention is minimal, according to all reasonably objective observers. Insurgent strength is estimated at only 50 men in Nicaragua—this is hardly a serious threat to a nation of 2.3 million with a military force of around 7,000. Surely the proponents of the Nicaraguan regime cannot be considering that Nicaragua might "go Communist"?

The second argument is that Nicaragua under the Somoza family has been "our closest friend" in South America. It is true Nicaraguan foreign policy has been closely alined with our own, from support during the Korean war to providing bases for the Bay of Pigs invasion. But are we going to tell the world that American morality in foreign policy is for sale, that the closer you aline your foreign policy with ours the more guns we will give to oppress your peoples—and to better the bargain, we will even look the other way?

This is not hyperbole. We have just learned that 5,000 M–16 rifles have been shipped to the 7,000–man Nigaraguan National Guard, financed by foreign military sales credits for fiscal year 1977. This is the result of an executive branch decision made during the transition period between the Ford and Carter administrations. The House did not have this information when it voted to appro-

priate military aid to Nicaragua. All it was told was that the administration would not approve further security assistance agreements until the Nicaraguan human rights situation improved. I submit that this shipment makes a mockery of those assurances.

We should examine the friendship of our "closest ally in Latin America" in some detail. Following allegations of theft and corruption in the allocation of international disaster funding in the wake of last years' earthquake, the Agency for International Development commissioned a report by a reputable firm of Nicaraguan lawyers which revealed the "direct participation of government employees in the land transactions, prior knowledge of land transfers and gain thereof by government officials, inflated land values of up to 1,156 percent over a 3-month period, and lack of any ethics in transactions in which the public sector was involved." What this represents in plain and simple language is a well-documented, and government sanctioned rip-off of millions of dollars of taxpayers' money by the "best friend" of the United States in Latin America.

Nor can I accept the reasoning of the third proposition—that terminating military aid eliminates a key U.S. bargaining chip for human rights in Nicaragua. Over $70 million in economic aid remains unimpaired, including $185 million appropriated for fiscal year 1978. This surely is a legitimate source of diplomatic leverage.

At the same time, termination of military assistance—the most intimately related to the Nicaraguan National Guard—will serve as an unequivocal signal that we disapprove of its repressive practices.

The State Department has urged the Congress to give the administration this $3.1 million military appropriations as a blank check, stating that such assistance will be withdrawn if the human rights situation does not "improve". But what have past improvements really consisted of? Eleven times in the past 15 months we are told the State Department has made formal representations to the Somoza government—with no results.

What can we expect on the 12th and 13th representations without some meaningful sign that we mean what we say? Yet the administration continues to disburse previously appropriated military aid to Nicaragua.

Let there be no mistake about American identification with the repressive practices of Somoza's national guard—how could there be, when eyewitnesses have documented the Nicaraguan troops are purposefully dressed in American uniforms complete with American insignia, and drive American made vehicles emblazoned with U.S. Army markings.

Such links with the United States are fostered by President Somoza to promote an image of close personal ties with the powerful United States, not caring whether our name is tarnished by the atrocities of his regime. Is this a friend of the United States? Are these acts destined to win the support of the Nicaraguan people for the American ideals of democracy and friendship with Latin America?

What would be the reaction of any Senator here today if the President were to establish a family dynasty, gut the judicial system and replace it with military courts, harass, jail, torture, and execute innocent individuals out of hand? Without question, one would seek an immediate and effective change of the system. And if all viable democratic avenues were seen to be closed, one would resort to other measures—and eventually violent, revolutionary ones. In Nicaragua, and elsewhere in the world, our foreign assistance policy must be to meet human needs, not to repress human aspirations; to encourage democratic change, not to subsidize brutal dictatorships.

We cannot afford to ignore the impact of any decision to provide further military aid to Nicaragua. I have in my hand a copy of Novedades, the press mouthpiece of Somoza. It headlines the House appropriation last month of more military aid for Nicaragua. It gloats over the gagging of Somoza's critics in this country and misrepresents the House action as direct support for Somoza. At the same time. Nicaragua has suppressed a U.S. Embassy statement that the administration will not provide any military assistance funds until there has been improvement in the human rights situation in Nicaragua. Do we want to be unwilling partners once again to Somoza's proclamation of American support for his internal practices?

Mr. President, in 1930 the great American commentator Will Rogers asked a very pertinent question: "Why are we in Nicaragua, and what the hell are we doing there?"

This question applies today, to this debate on military aid to Nicaragua.

Our true interests—including those in the humanitarian and security sphere—should rest with the broad masses of people—not with narrowly based and repressive elites. Let us remain true to the precepts that we ourselves live by. I therefore urge that the 1978 appropriations presently before us be amended to strike the $3.1 million in military assistance to Nicaragua.

Mr. INOUYE. Mr. President, once again at this late hour I am tempted to accept this amendment. Nevertheless, I cannot in good conscience accept it. Not because I disagree with the description of the conditions in Nicaragua provided by the Senator from Massachusetts, but because we are singling out one country. The subcommittee has tried its very best to be consistent throughout this bill in keeping out all restrictive language relating to individual countries. We have gone through a whole exercise this afternoon deleting prohibitions against Cuba, Angola, Mozambique, Uganda, South Korea, Laos, and Cambodia. For this manager to accept this amendment now would be not keeping faith with the subcommittee.

However, I can assure the Senator from Massachusetts that we have been monitoring this military program very carefully. We are satisfied that the administration is not only sincere but has applied the muscle to make certain that human rights throughout the world are held.

To accept the Senator's amendment would be, if I may suggest, to tie the hands of the administration, an administration that is doing a good job, as the Senator has indicated.

I would hope that we will give the President of the United States the diplomatic flexibility that is necessary in convincing these wayward countries to follow the democratic path, and hopefully in that spirit the Senator will be willing to withdraw his amendment.

Mr. KENNEDY. Mr. President, what concerns me is that we have very substantial bargaining power at the present time, some $70 million for Nicaragua at this very moment. All we are talking about is really a very limited amount, which is $3.5 million, which is one-sixth of this year's appropriation.

So we have a good deal of leverage at the present time. The leverage argument I am not sure really amounts to much, and I am troubled by the fact that we effectively have had some 11 different missions that have traveled to Nicaragua by the Department to urge progress in this area of human rights.

As I indicated, I supported what I understood to be the policy of the administration in terms of prohibiting the sale of these weapons to Nicaragua, and now we have these exceptions that I mentioned earlier in my statement.

I realize however that we do have a new administration and the President is making sincere efforts, but I want to give every indication both to the Senate and to the committee that we will follow this particular country very closely.

The Senator makes an argument in terms of trying not to target specific countries in different provisions of different sections of the bill. Of course, we have in this body in the period of the last 4 years voted the termination of military sales to Chile and more recently to Argentina. I think we have made an important impression in a number of countries of the seriousness with which we take this issue.

The Senate has gone on record with regard to Chile and Argentina, and I think it should be very clear to the government of Nicaragua that we are going to watch extremely closely the activities of their government, and I am sure we will be effective in terminating military aid and assistance if there is no further progress.

So I am prepared to see that we pass over this particular amendment. We will have further opportunity in the next several months to consider it as well and will see what progress can be made. And let me reiterate: I intend to watch, and I am sure that all of my colleagues intend to watch, the human rights situation in Nicaragua very carefully. While

we cannot interfere within the sovereign domain of another state, we cannot continue to be a constituent element of foreign repression. Let me make it clear—if the situation in Nicaragua has not improved, I will undertake to prohibit U.S. military assistance to that country in the near future.

I appreciate the assurances of the chairman of the committee that he will work closely with us on this particular measure and in monitoring this policy paticularly in Nicaragua, and with those assurances, I shall withdraw the amendment. Just before making that statement however, I yield time to the Senator from Idaho.

Mr. CHURCH. Mr. President, I certainly do concur with the action being taken by the distinguished Senator from Massachusetts. We all know of President Carter's deep commitment to human rights. As I understand it, the policy of the administration is to deny or terminate military assistance to foreign governments engaged in the gross violation of human rights. Any list of such governments in this hemisphere would have to include Nicaragua.

It was for this reason that the House Appropriations Committee voted, 22 to 21, to withhold military assistance from Nicaragua, and only after receiving the assurance of the administration that no such assistance would be extended unless conditions there were corrected was that action abandoned.

So the distinguished Senator, in withdrawing his amendment, expresses his confidence in President Carter. I have no doubt the President intends to keep his pledge, but past experience has taught us that sometimes zealous administrators find ways to justify the continued shipment of arms, despite the best of intenions.

I think that it is good to give notice that if this turns out to be the case in Nicaragua, then Congress is prepared to later consider an amendment of this kind. After all, it was only after Congress did take such action that we finally brought an end to the shipment of arms to countries like Argentina and Chile. We always must stand ready to adopt a prohibition of this kind if experience shows it to be necessary. But we all have faith in the President's desire to promote human rights, and I am confident that the commitment of the administration will be kept in the case of Nicaragua.

Mr. SCHWEIKER. Mr. President, I call up my amendment—

The PRESIDING OFFICER (Mr. STONE). There is an amendment pending.

Mr. KENNEDY. Mr. President, I think it ought to be very clear from the record and the statements made by the chairman of the committee that this country is going to be watched with great care in the next several months. I want to assure the Senate and our cosponsors that we are deadly serious in the pursuit of this particular issue. We will pursue it in the committee and on the floor. We are going to cooperate with our administration in insuring that progress is made.

With those assurances, I withdraw the amendment.

Tht PRESIDING OFFICER. The amendment is withdrawn. The Senator from Pennsylvania is recognized.

AMENDMENT NO. 705

Mr. SCHWEIKER. Mr. President, I call up my amendment No. 705, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Schweiker) proposes an amendment numbered 705: At the appropriate place in the bill, insert the following—

Mr. SCHWEIKER. 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 appropriate place in the bill, insert the following:

Sec. . It is the sense of the Senate that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974.

Mr. SCHWEIKER. Mr. President, my amendment, very simply, deals with the case of Dr. Halla Brown, who was permanently paralyzed from the neck down in an automobile accident caused by a diplomat, and now she is a paralyzed cripple. So far her medical costs have totalled $250,000 or more, and it is costing $50,000 a year or more to keep her.

My amendment would simply request, in a sense of the Senate resolution, the Secretary of State to submit a report on the adequacy of insurance provided by accredited diplomatic missions to the United States within 6 months of the enactment of this section, and would request within 1 year a report on what efforts the executive branch has made to encourage the provision of such coverage, and a report within 6 months on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown.

Mr. President, I am very disturbed about the nature of our laws governing foreign diplomats in the United States. Recent media reports regarding the case of Dr. Halla Brown, who was permanently paralyzed from the neck down in an automobile accident involving a Panamanian diplomat, and the refusal of the Panamanian Government to assume full responsibility are shocking. Under the terms of the 1970 law by which diplomats are immune from civil action, Dr. Brown is personally responsible for about $50,000 per year for her around-the-clock nursing care and medical expenses as a result of this tragedy. So far these have amounted to more than $250,000.

This case not only demonstrates the need for a thorough-going revision of U.S. law governing foreign diplomats, but also the need for at least a minimal assumption of responsibility by foreign embassies for their diplomatic personnel. Therefore, Mr. President, I am offering an amendment which would draw attention to this issue by urging that diplomatic missions be adequately insured and that the Government of Panama provide satisfactory restitution to Dr. Brown. Specifically, my amendment would request the Secretary of State to submit to the House and Senate a report on the adequacy of insurance provided by accredited diplomatic missions to the United States within 6 months of the enactment of this section; would request within 1 year a report on what efforts the executive branch has made to encourage the provision of such coverage; and would request within 6 months a report on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown.

While Dr. Brown's case may have been the most tragic, hers is not the only situation where our outdated laws governing diplomatic immunity has resulted in great hardship to American citizens, who usually find themselves without legal recourse. By requiring that foreign diplomats be adequately covered by insurance, we will prevent the kind of financial difficulties confronted by Dr. Brown. It is my strong belief that the American taxpayer should not be responsible for the negligence of foreign diplomats—either directly or by the passage of private relief legislation. As an immediate step in this direction, and as a recognition of responsibility, I would hope that the Government of Panama would respond to the concern of the Senate by providing satisfactory restitution to Dr. Brown.

Frankly, Mr. President, I had originally a little tougher approach than this, but after talking with our distinguished chairman, I feel this is the best way to proceed to put people on notice that we intended to get serious about this matter.

Before asking the chairman of the subcommittee some questions concerning my amendment, I would like to thank him for making some constructive suggestions concerning this issue. As you will recall, I originally thought I would approach this matter by offering an amendment to eliminate the military assistance for Panama, with report language saying that the subcommittee would reconsider the request for assistance to Panama should that Government make satisfactory restitution to Dr. Brown. However, because of my belief that the bigger pic-

ture regarding diplomatic immunity should be looked at, I took some of the chairman's suggestions and instead am offering this amendment.

Mr. President, I would like to ask the chairman if he would be willing to consider next year the cutoff of funding to countries that do not require their mission personnel here in the United States to carry sufficient liability insurance as is encouraged in my amendment after we have allowed adequate time for the report to Congress.

The reason I ask that question is that it would be my intention to offer such amendments next year unless it is certain that American citizens are protected from the results of wrongdoing or negligence by diplomatic personnel.

Mr. INOUYE. Mr. President, I think not only is the Senator's proposal worthy of serious consideration, but if, after due notice, these countries refuse to cover their diplomatic representatives with adequate insurance, I believe steps should be taken.

Mr. President, the amendment of the distinguished Senator from Pennsylvania is deserving of unanimous support by the Senate. The U.S. Government makes sure that all of our diplomats throughout the world are appropriately and adequately covered by insurance. I would think the least we should expect of other countries which have drivers here, is that they do the same.

Unfortunately, in this case the diplomat involved was not insured. As a result, an American citizen, because of diplomatic immunity, has to suffer almost in silence. I think that is grossly unfair, and we hope, through this sense of the Senate amendment, the Secretary of State will be encouraged to take steps to bring about a change in the situation.

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

Mr. INOUYE. I yield.

Mr. MATHIAS. Mr. President, I thank the Senator from Pennsylvania for bringing this amendment to the Senate. I think it highlights a very important problem, a problem of great importance to people who live in the Washington metropolitan area, where there are some thousands of diplomats, most of whom are licensed to drive automobiles and many of whom are not insured. I think the Senator's amendment will help crystallize thinking in the State Department.

I would say to the Senate, and particularly the members of the Foreign Relations Committee—I believe the Senator from Minnesota is here, the Senator from New York, and the Senator from Iowa—that there are pending in the Foreign Relations Committee two bills, one which would repeal the total diplomatic immunity that was granted by Congress in 1790, and which is obviously inappropriate in the automobile age, and would substitute the provisions of the Vienna Convention, which most of the civilized countries of the world agree on, as the proper status of diplomatic immunity; and a second bill which would require compulsory automobile insurance for diplomats who do any driving in this country, and would prevent the insurance companies from pleading the immunity of diplomats when there is, in fact, an accident, which is a common occurrence today.

So what the Senator from Pennsylvania has done is extremely useful in helping focus attention on this problem, and I hope the Foreign Relations Committee will pick up the ball which has been dropped over in their court.

Mr. SCHWEIKER. Mr. President, I thank the distinguished Senator from Maryland. I know he himself has been very active in this area, in the legislation he has sponsored to go that route. I certainly concur in hoping the Foreign Relations Committee will be forthcoming.

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

Mr. INOUYE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

UP AMENDMENT NO. 751

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 751:

"SEC. . None of the funds appropriated or made available pursuant to this Act shall be available for any action or activity which has or would tend to have adverse effect on industries, including agriculture, and employment in the United States, either by reducing demand for goods produced in the United States or by increasing imports to the United States.

Mr. HELMS. Mr. President, this amendment, of course, is very simple. It would prohibit the use of funds provided by the taxpayers of the United States for any foreign assistance program that has the effect of subsidizing competition with industries, businesses, agriculture, and so forth, in the United States.

I do not have any objection to competition with American industries or agriculture when that competition is fair. But I do not think it is fair when we find that foreign operators can get capital at 1 percent per year, while American business people must pay 10 percent. I do not think it is fair competition when the farmers of the United States must bear high borrowing costs, and then pay taxes to the Federal Government to finance an international aid institution so that foreign farmers can have low-cost or even no-cost capital to compete against them. That is going a little bit too far, Mr. President, and the people of this country are becoming increasingly fed up with it.

If there is an economic reason for some nation to set up an independent industry which might put American workers out of jobs, then the Senator from North Carolina feels that capital for that independent industry should be raised in the private market at market rates without U.S. taxpayers' money or U.S. guarantees.

To put it in perspective, Mr. President, maybe Senators would want to put themselves in the position of a woman who has worked in a clothing factory all of her life. This lady of whom I am thinking has dutifully paid her taxes to her Federal Government every year. Some of her tax money has gone to support the World Bank, the Inter-American Development Bank, and all the rest. But unbeknownst to her, the U.S. director of one of these banks votes to approve a loan at 1 percent interest rate for a clothing manufacturer in a foreign country. Because of the cheap capital and dirt-cheap wages, a flood of inexpensive imports begins to flow into the United States.

As a direct result, the company this lady has worked for years and years finds itself unable to sell its goods. Therefore, it must lay off its workers, and our hypothetical lady is one of the casualties.

This may not be a typical case, and I hope it is not, but I do think we have reached the point where we ought to draw the line. I think we would never want to say that the Congress approved legislation which taxed working Americans to pay for programs which were responsible for the elimination of their jobs.

That is all this simple amendment seeks to accomplish, Mr. President. I think it is entirely reasonable and entirely fair to the working people of this country, and the businesses and industries who are struggling to survive.

Some would point out that the Labor Department administers a program which will provide assistance to our unemployed seamstress, to whom I alluded, and other unfortunate workers who are laid off because of unfair foreign competition financed in part by tax funds provided by the people of this country. Indeed, the President has requested trade adjustment assistance to the tune of $270 million for this fiscal year. This is a great deal of money to help a large number of workers. But is it not ironic, Mr. President, that today the American taxpayers are being asked to cough up about $7 billion for projects which might well, in fact, contribute to the unemployment of American workers?

If American workers are going to wind up being put out of their jobs because we make the judgment to allow vast amounts of cheap imports into our country, at the very least let us make sure that those imports are not subsidized by the American taxpayers.

Mr. President, I will refer to some projects funded by the World Bank and by IDA which might have been affected by the amendment to prohibit loans to industries which compete directly with the United States:

In fiscal year 1975–76, there was an $18 million loan made by IDA for cotton development overseas; a $12 million loan by the World Bank for the fishing industry in the Philippines; $50 million in loans from the World Bank for fer-

tilizer and chemical industries in Brazil; $60 million loaned by the World Bank to iron and steel producers in Brazil; $52 million loaned by the World Bank for textile production in Egypt.

To look back a little further, in fiscal year 1974–75, would you believe, Mr. President, that the World Bank loaned $12.5 million to the fishing industry in Iran? The World Bank loaned $95 million to iron and steel producers in Brazil; $70 million to iron and steel producers in Romania, and $12.5 million to the airline industry in Jamaica.

I could go further. I have a whole list of examples of low cost loans beginning at 1 percent. I believe the distinguished occupant of the chair would be hard-pressed to find a 1 percent loan in his State of Florida to start any sort of enterprise.

Mr. President, I think this amendment might just be titled the fairplay amendment—fairplay for the workers of America, fairplay for the taxpayers of America, fairplay for the businessmen of America—and I urge its adoption.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. HUMPHREY. Of course, Mr. President, the language of this amendment is very tempting, as our distinguished manager of the bill says. It is the kind of an amendment which, on first look, you would ask, "Why not?"

I think it well to consider a couple of things.

Eighty percent of all the funds appropriated in our bilateral aid program are spent in the United States, in American industry, in American agriculture, in American technical services, for American personnel.

That is not a bad package for American industry.

Secondly, our commercial exports to the less developed countries, many of whom are the countries which we are aiding, are larger in amount than our exports to all of Western Europe and all of the socialist bloc countries put together.

If we really just want to give ourselves a good rooking, vote for this amendment. This is really cutting off our noses to spite our faces.

Here are people who buy more from us than our friends in Western Europe and all of the countries of Eastern Europe put together.

Here is a program that is, if anything, not only a foreign aid program, but I happen to think that many of the American industries look with great favor on this program because approximately 80 percent of the entire sum of money provided is made available to American industry.

Let me give some other facts relating to the World Bank and the operations on the U.S. balance of payments. In the 30 years of the Bank Activities, there has been a net favorable impact on the U.S. balance of payments of $1.6 billion.

That is not bad. Those figures are the kinds of figures which make a person sort of feel it is all worthwhile.

There is not any doubt but what we do help other countries with low-interest loans. Some of those loans are very low. The Senator is eminently correct. But the real truth is that these countries have to make a living. When they generate capital from their little industries, whatever they be, a mill, a fishing operation, they spend it, and they spend a great deal of it in the United States of America.

Our problem on balance of payments is not with the less developed countries today; it is with OPEC, it is with oil. That is where our problem is.

These little countries in western Africa, eastern Africa, southern Africa, and in Latin America are some of the best commercial customers we have.

I am not talking about giveaway programs but commercial customers, financed through American commercial banks at prevailing rates of interest for American goods produced in America by Americans so Americans can have the highest standard of living in the world.

I urge the defeat of this amendment.

Mr. INOUYE. Mr. President, after listening to the Senator from Minnesota, I cannot see how any Senator can support this amendment. I associate myself with his remarks and wish to add a few of my own.

At the present time, Mr. President, we are spending millions of dollars in the Public Law 480 program. This program is not part of the bill. It is part of the agriculture bill, but it is an important aspect of foreign aid. It provides food, it provides sustenance for many hungry people in the world. We can continue to carry on this program, keeping these poor people in a perpetual bondage of poverty. By doing that, our farmers will continually produce grain and sell.

But that is not the purpose of our foreign policy. We are trying our best to help some of these downtrodden people to learn to grow their own grain. We are providing aid for that purpose. By providing this aid, we may be reducing Public Law 480 demands; but I think that is in the right path. That is the path we should be following.

We should not insist that these people be perpetually dependent upon the United States, that they be perpetually forced to purchase wheat from Kansas, or from Minnesota. If we believe in equality of mankind, if we believe in justice, the least we can do is make certain that these people be given a fair chance to raise their status.

We are providing funds here so that some of these farmers can purchase farm implements. I am not talking about tractors. I am talking about a pick, a shovel, a hoe. In the year of the Lord 1977, there are thousands upon thousands of farmers throughout the world who are still using sticks. So they are dependent, by this bondage of poverty, to Public Law 480 grains for nutrition.

Mr. HUMPHREY. Will the Senator yield to me?

Mr. INOUYE. Yes.

Mr. HUMPHREY. One of the greatest improvements in America was the rural electrification program. It took the Amercan countryside out of the lantern and the kerosene lamp age and put it into electrical energy and the electric light. It was financed with 2 percent money, far below the going rate. But it has yielded incredible results in a higher standard of living, paid for itself a thousand and one times in revenues to the Government and in the improved productivity of our agriculture.

May I say with equal candor that, even though we may provide low interest rates for some of these loans to these countries that we will call less developed, once they get their production up, once they get their people at work, like anybody else, they want more. They want to eat more, they want to dress better, they want to have a better place in which to live, they want better things. The results are very significant. An example: Taiwan.

Taiwan was one of the largest recipients of American aid at low rates of interest under the developmental assistance program of this Government. It received hundreds of millions of dollars of developmental assistance. Today, Taiwan is one of our best customers. Today, Taiwan has one of the higher standards of living. Today, Taiwan is highly productive in its enterprise and has the finest land reform program in the world. I am here to tell that it was mostly financed out of the early days of American foreign aid.

Taiwan is making its payments back to the United States. Taiwan, today, is an importer from the United States of far more than it exports to us.

Our problems are not exports, Mr. President. That is very, very simple. As long as we are going to have 100 million automobiles on the road, as long as we are going to consume gasoline as if it were never going to run out, and as long as we are not going to provide the kind of conservation that we need in this country for fuel, we are going to have a $25 billion balance of payments deficit.

Mr. HANSEN. Will the Senator yield for one question?

Mr. HUMPHREY. Of course.

Mr. HANSEN. What is the administration's position toward Taiwan? Is it worth saving?

Mr. HUMPHREY. I do not know what it is, I say to the Senator. I do not think it has been worked out. The last position we had was Mr. Nixon's, who said "One China." That is the last position I know of.

Mr. HANSEN. I thank the Senator.

Mr. HELMS. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. HELMS. Maybe Taiwan's problem is that they paid back the loans to us. We are going to kick them in the teeth because of it.

Mr. HUMPHREY. Not with my help, I say to the Senator.

Mr. HELMS. Mr. President, I move the adoption of the amendment. I ask for the yeas and nays on it.

The PRESIDING OFFICER. Is there a sufficient second? There is not now a sufficient second.

Mr. HELMS. All right, I will suggest the absence of a quorum. We will vote one way or another.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I yield back the remainder of my time.

Mr. INOUYE. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from North Carolina.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New York, (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from Michigan (Mr. RIEGLE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from Delaware (Mr. BIDEN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from Michigan (Mr. RIEGLE) would each vote "nay."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE) is absent due to a death in the family.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Alaska (Mr. STEVENS). If present and voting the Senator from South Carolina would vote "yea" and the Senator from Alaska would vote "nay."

The result was announced—yeas 11, nays 56, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—11

| | | |
|---|---|---|
| Allen | Garn | Helms |
| Byrd, Harry F., Jr. | Hansen | Laxalt |
| Curtis | Hatch | Scott |
| | Hayakawa | Zorinsky |

NAYS—56

| | | |
|---|---|---|
| Anderson | Durkin | Matsunaga |
| Baker | Ford | McIntyre |
| Bartlett | Glenn | Melcher |
| Bayh | Hart | Metzenbaum |
| Bentsen | Haskell | Morgan |
| Brooke | Hatfield | Nunn |
| Bumpers | Hathaway | Packwood |
| Burdick | Hollings | Pro'mire |
| Byrd, Robert C. | Humphrey | Randolph |
| Cannon | Inouye | Roth |
| Case | Jackson | Sarbanes |
| Chiles | Javits | Sasser |
| Church | Johnston | Schmitt |
| Clark | Kennedy | Schweiker |
| Culver | Leahy | Stone |
| Danforth | Long | Tower |
| DeConcini | Lugar | Wallop |
| Dole | Magnuson | Williams |
| Domenici | Mathias | |

NOT VOTING—33

| | | |
|---|---|---|
| Abourezk | Huddleston | Ribicoff |
| Bellmon | McClellan | Riegle |
| Biden | McClure | Sparkman |
| Chafee | McGovern | Stafford |
| Cranston | Metcalf | Stennis |
| Eagleton | Moynihan | Stevens |
| Eastland | Muskie | Stevenson |
| Goldwater | Nelson | Talmadge |
| Gravel | Pearson | Thurmond |
| Griffin | Pell | Weicker |
| Heinz | Percy | Young |

So Mr. HELM's amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

U.S. PARTICIPATION IN INTERNATIONAL ORGANIZATIONS

Mr. ALLEN. Mr. President, I want to call to the attention of the Senate a report by the Committee on Government Affairs entitled "U.S. Participation in International Organizations"—February 1977, No. 95–50. The report is concerned with the major international financial institutions and the other international organizations which each year receive massive contributions from the U.S. Treasury.

Mr. President, I would direct Senators' attention to the statement in the report that during the time for which data is now available, 1970–75, "the amount of funds contributed by the United States to international organizations has shown a marked increase." (See report at page 3.)

In fact, Mr. President, the Committee on Governmental Affairs discovered in its analysis of U.S. contributions to international financial institutions that the overall increase in the rate of contributions by the United States to all such organizations during the period 1970–75 was 54 percent. But of even greater interest is the massive rate of increase during that period to the international development banks which we are here once again asked to replenish by the appropriations contained in H.R. 7797.

Mr. President, the Governmental Affairs Committee report shows that U.S. contributions to the International Bank for Reconstruction and Development increased by 166 percent during the period of the study, contributions to the Asian Development Bank increased by an astounding 132 percent, and contributions to the Inter-American Development Bank increased by 65 percent. The International Monetary Fund received an increase of 111 percent.

How long can our Treasury continue to support not only present loan replenishment levels but the predictable massive future requirements of these bloated world financial organizations?

Mr. President, I would recommend to the Senate a close study of the Report of the Committee on Governmental Affairs before final action is taken on the appropriations in H.R. 7797. A careful reading of the committee's report ought to convince any Member of this body of the folly of the continued unquestioned funding of whatever replenishment or contribution is sought. Surely, we should draw the line with something stronger than a "Sense of the Senate" resolution. We should instead express a sense of outrage by refusing to pay out another cent.

SEVERAL SENATORS. Third reading.

The PRESIDING OFFICER (Mr. MATSUNAGA). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. INOUYE. Mr. President, the last business before us is final passage. But before that, I take this opportunity to thank my colleagues in the Senate for their patience and understanding and for the spirit with which they approached this measure. Without this spirit, I think we would be here until October. I am most grateful to all Senators.

I am also very grateful for the assistance which has been provided me by my very able vice chairman, if I may call him that, the distinguished Senator from Pennsylvania (Mr. SCHWEIKER). Without his help, I think we would be swimming around here in the dark.

However, most important—and I am certain Senator SCHWEIKER will agree with me—if it were not for the help of the staff, I think we would all be lost. So I say thank you very much to Helen Dackis, Richard Collins, Jim Bond, Chris Visher and Bill Jordan.

Incidentally, Mr. President, today is Mr. Jordan's birthday. This is a horrible way to spend a birthday. [Laughter.]

Happy birthday, Bill.

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

Mr. INOUYE. I yield.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ALLEN. Mr. President, I commend the distinguished manager of the bill and the ranking minority Member, Mr. SCHWEIKER, and the staff for their fine work on this bill. I am going to vote against it, as the Senator might imagine, but I do feel that the distinguished Senator from Hawaii and the distinguished Senator from Pennsylvania, with their conciliatory attitude in seeking to reach some sort of accommodation to

allow the matter to come on for a vote, have done an excellent job.

I commend the Senator from Hawaii for his courtesy and for his dedication and for the fact that he is a gentleman in every sense of the word. I commend him for his fine work and his knowledge and expertise in this field.

Mr. INOUYE. I thank the Senator.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. INOUYE. I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

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## ADJOURNMENT OF THE TWO HOUSES PURSUANT TO PROVISIONS OF HOUSE CONCURRENT RESOLUTION 317—HOUSE CONCURRENT RESOLUTION 330

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 330.

By way of explanation, this resolution will waive the Saturday session. So that Senators may not debate this matter too long, I thought they should be informed. [Laughter.]

The PRESIDING OFFICER. The Chair lays before the Senate, House Concurrent Resolution 330, which will be stated.

The assistant legislative clerk read as follows:

H. CON. RES. 330

*Resolved by the House of Representatives (the Senate concurring)*, That when the Senate adjourns on Friday, August 5, 1977, or on Saturday, August 6, 1977, it stand adjourned pursuant to the provisions of House Concurrent Resolution 317.

Mr. ROBERT C BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 330) was agreed to.

## FOREIGN ASSISTANCE APPROPRIATIONS, 1978

The Senate continued with the consideration of H.R. 7797.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

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

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Sentor from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), and the Senator from Alabama (Mr. SPARKMAN), would each vote "yea".

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. CHAFEE), is absent due to a death in the family.

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

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting, the Senator from Alaska would vote "yea" and the Senator from South Carolina would vote "nay".

The result was announced—yeas 40, nays 27, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—40

| | | |
|---|---|---|
| Anderson | Ford | Mathias |
| Baker | Glenn | Matsunaga |
| Bayh | Hart | McIntyre |
| Bentsen | Haskell | Metzenbaum |
| Brooke | Hathaway | Morgan |
| Bumpers | Humphrey | Packwood |
| Case | Inouye | Sarbanes |
| Chiles | Jackson | Sasser |
| Church | Javits | Schweiker |
| Clark | Johnston | Stone |
| Culver | Kennedy | Tower |
| Danforth | Leahy | Williams |
| DeConcini | Lugar | |
| Durkin | Magnuson | |

NAYS—27

| | | |
|---|---|---|
| Allen | Garn | Nunn |
| Bartlett | Hansen | Proxmire |
| Burdick | Hatch | Randolph |
| Byrd, Harry F., Jr. | Hatfield | Roth |
| | Hayakawa | Schmitt |
| Byrd, Robert C. | Helms | Scott |
| Cannon | Hollings | Wallop |
| Curtis | Laxalt | Zorinsky |
| Dole | Long | |
| Domenici | Melcher | |

NOT VOTING—33

| | | |
|---|---|---|
| Abourezk | Huddleston | Ribicoff |
| Bellmon | McClellan | Riegle |
| Biden | McClure | Sparkman |
| Chafee | McGovern | Stafford |
| Cranston | Metcalf | Stennis |
| Eagleton | Moynihan | Stevens |
| Eastland | Muskie | Stevenson |
| Goldwater | Nelson | Talmadge |
| Gravel | Pearson | Thurmond |
| Griffin | Pell | Weicker |
| Heinz | Percy | Young |

So the bill (H.R. 7797) was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 7797.

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

Mr. INOUYE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. INOUYE, Mr. PROXMIRE, Mr. CHILES, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. SCHWEIKER, Mr. BROOKE, Mr. HATFIELD, and Mr. MATHIAS conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to express my personal appreciation and my compliments to Senator INOUYE and to Senator SCHWEIKER. We have seen here a remarkable display of teamwork and cooperation by these two fine Senators in the handling of a very difficult piece of legislation. It is in many respects a thankless task.

They are entitled to the commendations of their colleagues, and I personally again thank them and salute them for a job well done.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I thank the majority leader for yielding so that I can associate myself with his remarks, and extend my congratulations to the distinguished manager of the bill, and the distinguished manager on behalf of the minority. Both the Senator from Hawaii (Mr. INOUYE) and the Senator from Pennsylvania (Mr. SCHWEIKER) have shown not only diligence but good judgment in bringing this matter to a final conclusion. This is the sort of bill that could have kept us here late into the night and, indeed, until tomorrow. I think they have done a magnificent job of accommodating to the diverse views and ideas of the Members of this body, and were able to still bring us a bill that is fully worthwhile and in the best traditions of the Senate. I thank them for it.

Mr. SCHWEIKER. Mr. President, I just want to thank the distinguished majority leader and the distinguished minority leader because at a very criti-

cal time when it looked like we had 70 amendments and 20 hours of debate they both gave us the full resources of their leadership positions to help resolve some of the issues. I know, frankly, without their backing in a bipartisan way we would not have been able to break through today and pass this bill.

Finally, as I said in my opening remarks, I commend the Senator of Hawaii, my distinguished chairman, who I felt had a very reasonable, a very rational, and a very logical approach to resolving a number of these difficult issues so that it was easy to work with him. I commend his leadership on the bill.

Mr. INOUYE. Mr. President, I feel I have said too much in the past 2 days. But I must add a final word in thanking my leaders, Senator ROBERT C. BYRD and Senator BAKER, for not only the kind words but for the meaningful assistance they gave us in bringing this bill to final passage.

As I said earlier, without the assistance of Senator SCHWEIKER I think we would be here until October.

I thank the Senator very much.

## FURTHER ROUTINE MORNING BUSINESS

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, 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.)

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, August 5, 1977, he presented to the President of the United States the following enrolled bills:

S. 1235. An act to authorize appropriations for the Peace Corps for fiscal year 1978;

S. 1377. An act to amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians;

S. 1765. An act for the relief of the Federal Life and Casualty Company of Battle Creek, Mich.; and

S. 2001. An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, water conservation, recreation, hydroelectric power and other purposes.

## MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:03 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1377. An act to amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians.

The enrolled bill was subsequently signed by the President pro tempore.

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At 11:27 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 1135. An act to abolish the Joint Committee on Atomic Energy and to reassign certain functions and authorities thereof, and for other purposes; and

S. 1935. An act to amend Public Law 95–18, providing for emergency drought relief measures.

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At 4:30 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 7589, making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The message also announced that the House has agreed to House Concurrent Resolution 330, relating to the adjournment of the Senate until September 7, 1977, in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1952. An act to amend the corporate name of AMVETS (American Veterans of World War II), and for other purposes;

H.R. 4991. An act to authorize appropriations for activities of the National Science Foundation, and for other purposes;

H.R. 6179. An act to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1978, and for other purposes;

H.R. 6370. An act to authorize appropriations to the U.S. International Trade Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes; and

H.J. Res. 372. A joint resolution to authorize the President to issue a proclamation designating the week beginning on November 20, 1977, as "National Family Week."

The enrolled bills and joint resolution were subsequently signed by the Deputy President pro tempore.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–1797. A letter from the Secretary of Agriculture transmitting, pursuant to law, a report concerning studies to determine the reasons for extensive loss of livestock sustained while being transported in interstate commerce for commercial purposes (with an accompanying report); to the Committee on Agriculture, Nutrition, and Forestry.

EC–1798. A letter from the Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report of the actions taken by the Export-Import Bank of the United States under the authority of Public Law 90–390 during the quarter ended June 30, 1977 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–1799. A letter from the Chairman of the Federal Power Commission transmitting, pursuant to law, the Commission's annual report for the fiscal year July 1, 1975 through June 30, 1976, and for the transition quarter July 1 through September 30, 1976 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–1800. A letter from the Secretary of the Panama Canal Company transmitting, pursuant to law, a report on a proposed new system of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–1801. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Government Agency Transactions with the Federal Financing Bank Should Be Included on the Budget" (PAD–77–70) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1802. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Government Agency Transactions with the Federal Financing Bank Should Be Included on the Budget" (PAD–77–70) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1803. A letter from the Commissioner of Education transmitting, for the information of the Senate, recommendations adopted by the National Advisory Committee on the Handicapped at a recent meeting held in Washington, June 8–10 (with accompanying papers); to the Committee on Human Resources.

EC–1804. A letter from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation, as well as a list of the persons involved (with accompanying papers); to the Committee on the Judiciary.

EC–1805. A letter from the Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report of the actions taken by the Export-Import Bank of the United States under the authority of Public Law 90–390 during the quarter ended March 31, 1977 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

EC–1806. A confidential communication from the Comptroller General of the United States transmitting, pursuant to law, a report on how the Army planned for three new divisions and how this can be improved (LCD–76–454) (with an accompanying report); to the Committee on Governmental Affairs.

EC–1807. A letter from the Secretary of Labor transmitting, pursuant to law, a report on the administration of title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, through December 1976 (with an accompanying report); to the Committee on Human Resources.

EC–1808. A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, a report on the high school equivalency program and the college assistance migrant program (with an accompanying report); to the Committee on Human Resources.

EC–1809. A letter from the Executive Secretary of the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of a document concerning community service and continuing education—special programs and projects that has been

transmitted to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

## PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM-292. A petition from the Honorable Corrada, Resident Commissioner, Puerto Rico, concerning H.R. 7200 providing for the extension, on a limited basis, of the benefits payable under the supplemental security income program to the United States citizens residing in Puerto Rico; to the Committee on Finance.

POM-293. House Concurrent Resolution No. 290 adopted by the Legislature of the State of Michigan requesting the Federal Aviation Administration to keep the flight Inspection Field Office at Kellogg Airport, in Battle Creek; to the Committee on Commerce, Science, and Transportation:

"HOUSE CONCURRENT RESOLUTION No. 290

"A concurrent resolution requesting the Federal Aviation Administration (FAA) to keep the flight inspection field office at Kellogg Airport in Battle Creek

"Whereas, The Federal Aviation Administration (FAA) is studying possible consolidations involving four of its seven flight inspection field offices, including an option of closing its forty-eight-employee operation in Battle Creek; and

"Whereas, The inspection office has been based at Kellogg Airport for more than twenty years. Its staff includes pilots, procedure specialists, mechanics, electronic technicians, clerical workers, and a supply technician; and

"Whereas, At Kellogg Airport, the flight inspection field office has a hanger, maintenance shop, and office, all leased from the City of Battle Creek for about $75,000 a year. The closing of the facilty would mean a payroll loss of $983,000 a year; and

"Whereas, It is alleged that the Federal Aviation Administration is considering the possibilty of combining the two flight inspection field offices—Battle Creek and Minneapolis—at one of the present sites; now, therefore, be it

*"Resolved* by the House of Representatives (the Senate concurring), That the Michigan Legislature hereby strongly request the Federal Aviation Administration to keep the flight inspection field office at Kellogg Airport in Battle Creek; and be it further

*"Resolved*, That copies of this resolution be transmitted to the Federal Aviation Administration, the Secretary of Transportation, the President of the Senate, the Speaker of the House of Representatives, and to each member of the Michigan delegation to the Congress of the United States.

"Adopted by the House of Representatives, June 13, 1977.

"Adopted by the Senate, June 30, 1977."

POM-294. House Concurrent Resolution No. 285 adopted by the Legislature of the State of Michigan memorializing the Congress and the President of the United States to accept the overland arctic gas project; to the Committee on Energy and Natural Resources:

"HOUSE CONCURRENT RESOLUTION No. 285

"A concurrent resolution memorializing the Congress and the President of the United States to accept the Overland Arctic Gas Project

"Whereas, A decision will be made this year concerning the selection of a transportation system to deliver new supplies of natural gas found in Alaska to consumers in the lower forty-eight states; and

"Whereas, The proved reserves at Prudhoe Bay are the largest ever discovered on the North American continent and are equivalent to at least five percent of the Nation's natural gas consumption for the next quarter century; and

"Whereas, Among the three competing projects for delivery of natural gas supplies is the overland Arctic Gas Project, the only plan favored by the Michigan Gas Association, a trade organization comprised of ten member gas utility companies serving 2.5 million residential, commercial, and industrial consumers in the State of Michigan; and

"Whereas, The Arctic Gas Project is the only plan which directly represents the gas interests of Michigan. Additionally, it has engineering, the environmental, and efficiency advantages as well. The other methods include delivery via tanker ship and by pipeline, the latter with substantial differences from the Arctic Gas Project; and

"Whereas, The Arctic Gas Project consists of a buried pipeline which would be constructed during winter months to avoid damage to the delicate Arctic surface. It would be routed to collect gas found in Canada for use there, thus helping both nations with their energy needs and, in so doing, sharing the costs between America and Canadian consumers. The gas from Alaska would be delivered to the Midwest; and

"Whereas, Following more than a year of hearings concerning methods of gas delivery, the Federal Power Commission as well as FPC Judge Nahum Litt recommended the Arctic Gas Project. Earlier this month, however, the FPC divided 2-2 of selecting between Arctic Gas and another delivery method in its recommendation to President Carter; and

"Whereas, Extensive feasibility studies have proven that a conventional buried pipeline across Alaska's North Slope, through Canada and into the contiguous United States, such as the Arctic Gas Project, is the most environmentally responsible, economical, and energy efficient transportation system; now, therefore, be it

*"Resolved* by the House of Representatives (the Senate concurring), That the Michigan Legislature urge the Congress and the President of the United States to accept and authorize construction of the Arctic Gas Project; and be it further

*"Resolved*, That copies of this resolution be transmitted to the President of the United States and to the Speaker of the United States House of Representatives, the President of the United States Senate, and every member of the Michigan delegation in the United States Congress.

"Adopted by the House of Representatives, June 27, 1977.

"Adopted by the Senate, June 30, 1977."

POM—295. Senate Concurrent Resolution No. 208 adopted by the General Assembly of the Commonwealth of Pennsylvania memorializing the Congress of the United States to change the Federal law, to liberalize the excess earnings provision of the social security law; to the Committee on Finance:

"RESOLUTION

"Whereas, Many retired people receive only Social Security benefits; and

"Whereas, Some people also have substantial investment income, in addition to Social Security, and

"Whereas, People under the age of 72 without other income desiring to increase their standard of living are penalized when the individual earns over $3,000 a year because Social Security Benefits are reduced; and

"Whereas, In contrast, people over the age of 72 and those with substantial income from sources other than wages are not penalized; and

"Whereas, Something more should be done for these citizens who have already paid their dues to the Nation's economic well-being; therefore be it

*"Resolved*, (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the Congress of the United States to change the Federal law to liberalize the excess earnings provision of the Social Security Law, and be it further

*"Resolved*, That copies of this resolution be transmitted to the presiding officers of each House of the Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States and the President of the United States and to the Federal Council on Aging."

POM-296. House Concurrent Memorial 2006 adopted by the Legislature of the State of Arizona praying that the Congress and Secretary of State of the United States exert all reasonable efforts to effectuate the granting of exit visas for the Alexander Roisman family and others similarly affected by the actions of the Union of Soviet Socialist Republics; to the Committee on Foreign Relations.

"HOUSE CONCURRENT MEMORIAL 2006

"A Concurrent Memorial urging the Congress and Secretary of State of the United States to exert all reasonable efforts to effectuate the granting of exit visas for the Alexander Roisman family and others similarly affected by the actions of the Union of Soviet Socialist Republics

"To the Congress and Secretary of State of the United States:

Your memoralist respectfully represents:

"Whereas, many Jewish families including the Alexander Roisman family of Novosibirsk, Siberia, Union of Soviet Socialist Republics, have been waiting for years for exit visas to emigrate to Israel; and

"Whereas, as the result of first applying for exist visas, many of these people have lost their jobs and have been refused the opportunity for gainful employment; and the families of Jews seeking to emigrate have been harassed and ostracized in school and in the streets; and

"Whereas, their only desire is to leave the Union of Soviet Socialist Republics and live in Israel or elsewhere; and

"Whereas, the desire to emigrate is part of a movement comparable historically to the exodus from Egypt; and

"Whereas, few Jewish families have been allowed to emigrate from the Union of Soviet Socialist Republics in recent years; and

"Whereas, the Soviet refusal to allow the Roisman and other Jewish families to emigrate is in violation of numerous international agreements and basic humanity.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the Congress and Secretary of State of the United States exert all reasonable efforts to effectuate the granting of exit visas for the Alexander Roisman family and others similarly affected by the actions of the Union of Soviet Socialist Republics.

"2. That the Secretary of State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the House of Representatives of the United States, each Member of the Congress of the United States, the Secretary of State of the United States, the American Ambassador to the Union of Soviet Socialist Republics and to Alexander Roisman."

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOYNIHAN, from the Committee on Foreign Relations, with amendments to the preamble:

S. Res. 152. A resolution expressing the sense of the Senate that the President bring to the attention of the Government of Canada the adverse effect on the U.S. broadcasting industry of certain provisions of the

Canadian tax code (Rept. No. 95–402).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with an amendment:

S. 1626. A bill to amend title 5, United States Code (Rept. No. 95–403).

By Mr. McINTYRE, from the Committee on Banking, Housing, and Urban Affairs:

S. Res. 250. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. ———. Referred to the Committee on the Budget.

By Mr. NELSON, from the Select Committee on Small Business, with an amendment and an amendment to the title:

S. 972. A bill to authorize the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning and development, and domestic and international market development, and for other purposes (Rept. No. 95–404).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Report of the Committee on Banking, Housing, and Urban Affairs pursuant to House Congressional Resolution 133, 94th Congress, 1st Session, on the conduct of monetary policy (Rept. No. 95–405).

By Mr. NELSON, from the Select Committee on Small Business, with an amendment:

S. 1526. A bill to establish an Associate Administrator for Women's Business Enterprise within the Small Business Administration (Rept. No. 95–406).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

William H. Shaheen, of New Hampshire, to be U.S. attorney for the district of New Hampshire.

(They 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.)

## 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. CRANSTON:

S. 2020. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the Act's coverage to employees engaged in the manufacture, repair, servicing or sale of recreational boats; to the Committee on Human Resources.

By Mr. BAKER (for himself and Mr. TOWER):

S. 2021. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax to an individual who constructs, purchases, or rehabilitates a principal residence in a revitalization area and to a lending institution which provides financing for such an individual, and for other purposes; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 2022. A bill for the relief of Goldhorn Cheng, Cheng-Hwa Lee Cheng, Shih-Chuang Cheng, Shih-Huang Cheng and Sih-Kang Cheng; to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 2023. A bill to authorize nonmarket economy countries to participate in certain programs of the Commodity Credit Corporation; to the Committee on Finance.

By Mr. STEVENS:

S. 2024. A bill to prohibit the Secretary of the Navy from requiring an employment contract in excess of 1 year for civilian employees at Adak Naval Station; to the Committee on Armed Services.

By Mr. MATHIAS:

S. 2025. A bill to provide for station license renewal by the Federal Communications Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATHIAS (for himself and Mr. MUSKIE):

S. 2026. A bill entitled Lobbying Disclosure Act; to the Committee on Governmental Affairs.

By Mr. TOWER:

S. 2027. A bill for the relief of Daid Ng and Dorothy Ng; to the Committee on the Judiciary.

By Mr. METCALF:

S. 2028. A bill to amend the Internal Revenue Code of 1954 to provide that income derived from the regulated sale of electrical energy will be exempt from income taxes, to impose an excise tax on the purchase of electrical energy from a public utility, and for other purposes; to the Committee on Finance.

By Mr. BROOKE:

S. 2029. A bill to provide for the payment of losses incurred as a result of the ban on the use of TRIS in children's wearing apparel, and for other purposes; to the Committee on the Judiciary.

By Mr. MELCHER:

S. 2030. A bill to designate certain lands in the Gallatin and Beaverhead National Forests, Mont., as the Spanish Peaks Wilderness; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 2031. A bill for the relief of Chaiwat Sangsukwirasathien; to the Committee on the Judiciary.

By Mr. HAYAKAWA:

S. 2032. A bill for the relief of Ionica Moldoveanu Nicolaica; to the Committee on the Judiciary.

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

S. 2033. A bill to provide for conveyance of certain lands in the Wenatchee National Forest, Wash., by the Secretary of Agriculture; to the Committee on Energy and Natural Resources.

S. 2034. A bill to authorize the Secretary of the Interior to further consider the Liberty townsite petition; to the Committee on Energy and Natural Resources.

By Mr. McCLURE:

S. 2035. A bill to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness certain lands in the Nezperce National Forest, Idaho; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself, Mr. CULVER, and Mr. STONE):

S. 2036. A bill to promote and coordinate amateur athletic activity in the United States, to provide for the resolution of disputes involving national governing bodies, to create certain rights and privileges for U.S. amateur athletes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 2037. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit the recovery by units of local government of surplus property donated by them to the U.S. Government, and subsequently declared to be surplus; to the Committee on Governmental Affairs.

By Mr. TOWER:

S. 2038. A bill to provide Federal financial assistance to local educational agencies in order to assist such agencies to provide public education to immigrant children, and for other purposes; to the Committee on Human Resources.

By Mr. ANDERSON:

S. 2039. A bill to amend the Internal Revenue Code of 1954 to allow a variable rate investment credit with respect to a newly constructed section 1250 property and to allow such credit to individuals in connection with their investment in newly constructed principal residences; to the Committee on Finance.

By Mr. JAVITS (for himself and Mr. WILLIAMS):

S. 2040. A bill to amend the Federal Food, Drug, and Cosmetic Act and related provisions of law; to the Committee on Human Resources.

By Mr. BROOKE:

S. 2041. A bill to reform utility regulation of residential conditions of service; to the Committee on Energy and Natural Resources.

By Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. HAYAKAWA, Mr. KENNEDY, Mr. PERCY, Mr. RIEGLE, and Mr. SCHWEIKER):

S. 2042. A bill to amend the Rehabilitation Act of 1973 to improve the formula for State allotments under part B of that Act, and for other purposes; to the Committee on Human Resources.

By Mr. BAKER (for Mr. THURMOND):

S. 2043. A bill to provide for a separate agency within the Department of Labor to be known as the Veterans' Employment Service, to authorize the appointment of an Assistant Secretary of Labor for Veterans' Employment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 2044. A bill to establish the Federal Legal Aid Corporation, and for other purposes; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 2045. A bill to repeal the Foreign Agents Registration Act of 1938, as amended, and to establish new procedures for the effective registration of foreign agents in the United States; to the Committee on Foreign Relations.

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 2046. A bill to enable Alaska Natives to maintain and consolidate tribal governing bodies, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. DURKIN (for himself and Mr. HATFIELD, Mr. PELL, Mr. KENNEDY, Mr. ANDERSON, Mr. METCALF, Mr. GRAVEL, Mr. McGOVERN, Mr. LEAHY, and Mr. HATHAWAY):

S. 2047. A bill to amend the Federal Power Act to provide for the encouragement of the licensing and development of small hydroelectric power projects in connection with existing dams on the waterways of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 2048. A bill to offset the job loss by youth that accompanies an increase in the minimum wage, and to encourage youth employment generally by establishing a 6-month entry wage period at 85 percent of the regular minimum wage for youths under the age of 19; to simplify the currently underutilized student rate provisions in order to facilitate their use and make them consistent with the youth opportunity wage; to the Committee on Human Resources.

By Mr. DECONCINI (for himself and Mr. WALLOP):

S. 2049. A bill to establish fees and allow per diem and mileage expenses for witnesses before U.S. courts; to the Committee on the Judiciary.

By Mr. BROOKE:

S. 2050. A bill to amend the Internal

Revenue Code of 1954 to provide a credit for amounts contributed to an individual housing account; to the Committee on Finance.

By Mr. CHURCH (for himself and Mr. McCLURE):

S. 2051. A bill to designate certain lands in the Nezperce National Forest as the Gospel-Hump Wilderness Area, to return other contiguous lands to multiple use management, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY:

S. 2052. A bill to extend the supervision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment; to the Committee on Rules and Administration.

By Mr. METCALF:

S. 2053. A bill to promote the orderly exploration for and commercial recovery of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto; to the Committee on Commerce, Science, and Transportation, and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

By Mr. METCALF (for himself, Mr. JACKSON, Mr. HANSEN, Mr. HATFIELD, Mr. JOHNSTON, and Mr. MELCHER):

S. 2054. A bill to amend the Federal Water Project Recreation Act, relating to the provision of uniform policies with respect to recreation and fish and wildlife benefits and costs of Federal multiple-purpose water resource projects; to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON:

S. 2020. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the act's coverage to employees engaged in the manufacture, repair, serving or sale of recreational boats; to the Committee on Human Resources.

Mr. CRANSTON. Mr. President, in 1972 the Congress enacted into law amendments to the Longshoremen's and Harbor Workers' Compensation Act of 1927 designed to provide a uniform compensation system for those engaged in what had traditionally come to be known as "maritime employment."

This 1972 amendment greatly improved benefits available to those workers in the industry who were injured on the job and to their beneficiaries. That industry includes longshoremen and harbor workers engaged in loading and unloading, building, repairing or dismantling large commercial ships.

One purpose of the 1972 amendments was to resolve the difficulties caused by the prior limits on coverage to only those who were injured on or over the navigable waters of the United States. Under the law in force prior to 1972, a longshoreman was covered by the Federal act while working on the deck of a ship, but not covered when he shifted his activities to the dock—a change of situation which might occur several times each day. In addition, with the new methods used in international shipping, involving container vessels and roll-on/roll-off unit cargos, an increasing amount of longshore work is performed on docks and a lesser amount on ships.

The Congress agreed that compensation coverage for such workers should not depend on the fortuitous circumstance of whether the injury occurred on land or over water.

To eliminate this arbitrary distinction, Congress amended the defintion of "navigable waters" under this act to include any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other area adjoining navigable waters customarily used by a maritime employer in loading, unloading, repairing, building, or dismantling a vessel.

A second purpose of the 1972 amendments was to clarify the definition of "employee" under the act, so that a determination of coverage could be made from that definition. Previously, the act defined an employee as one engaged in maritime employment who was not an employer, a standard which was considered too vague to be useful. The old standard thus required the determination of coverage to be made on the basis of whether the injured worker was working for a covered employer.

In 1972, the Congress adopted what it believed to be simple, straight-forward language to accomplish the two purposes that I have just enumerated. The record is ample that Congress desired to have the act apply uniformly to all workers engaged in the industry traditionally known as "maritime employment." However, the record is barren of evidence that Congress intended to expand or otherwise alter the universally understood concept of what constitutes "maritime employment." In fact, there is considerable evidence to the contrary to be found in the committee reports and other pieces of legislative history leading to the 1972 amendments, as several courts have noted.

It is fundamentally clear and nearly universally conceded that Congress never intended to expand the coverage of the Federal Longshoremen's and Harbor Workers' Compensation Act to employees of small boat marinas, shoreside restaurants, fuel and ice dealers, fish-processing plants, oyster shucking operations, skindiving schools, recreational boat manufacturing and repair shops, and other waterfront activities normally, completely and appropriately covered by State workers' compensation laws—except to the extent that these occupations were already covered under Federal law prior to 1972. And that extent involves only those very few workers in such operations who actually work on or over the navigable waters of the United States who for that reason may be denied the coverage of State compensation laws. Previously, employers obtained L and H workers' compensation coverage to protect these workers with a simple, relatively inexpensive rider to their State workers' compensation insurance policy.

In 1974, the Dapartment of Labor, in its notice No. 21, with respect to the 1972 amendments to this act, reached the conclusion—with which I disagree—that in adopting the 1972 amendments to the act, Congress intended to expand the definition of "maritime employment" to include the entire pleasure boat industry including small recreational boat builders and repairers, marinas, services of small commercial fishing boats, and other shoreside or nearby operations.

The effect of this decision has been to impose a crippling financial burden on the numerous small businesses affected by it, who previously were covered by State workers compensation laws. Testimony taken by the House Subcommittee on Compensation, Health and Safety of the Committee on Education and Labor indicates that compensation insurance premiums among some small employers jumped by as much as 500 percent in less than 2 years, from, for example, $6.05 per $100 of payroll to more than $30 per $100 of payroll.

The tremendous increase in insurance costs for the recreational boat industry is not related to the risk of injury, but to other factors. The act was designed to cover shipbuilding and longshoring operations which are highly dangerous and involve as much as four times the risk of injury as ordinary manufacturing operations. Recreational boatbuilding or repair, on the other hand, involves no more risk of industrial injury than that involved in comparable occupations like cabinetmaking or auto mechanics, which are covered by State compensation laws.

The high premiums faced by the employers newly brought under the act by the DOL decision apparently result from a combination of factors mostly unrelated to the actual claims experience of these employers.

These factors are:

First, the very small usual size of these operations, averaging around seven employees—meaning that the premium cost per employee must be much higher to cover the possibility of even a single serious accident. Large shipyards have, of course, many more employees, reducing the cost/payroll dollar. In addition, because the total premium for a shipyard is so substantial, there is some evidence that carriers are willing to rebate some premium costs in order to keep the business. Because the premiums have apparently been calculated industry-wide, this may be responsible for even higher premiums imposed on the small employers, even though their risk of accident is substantially less.

Second, the combination of uncertainty as to cost/risk, given the new and, in some instances, unlimited benefits available under the Federal act, combined with the fact that insurance premiums are based on the worst potential risk conceivable.

Third, the unwillingness of private carriers in many areas to write coverage under the Federal act, except for preferred customers. In California, coverage was virtually unavailable in 1975, until emergency State legislation temporarily opened the State compensation fund to employers seeking coverage under the L and H Act. The statute authorizing the fund to be used for this purpose will expire in December, and is unlikely to be renewed.

While the most dramatic examples of hardship imposed on recreational boaters and related pleasure craft industries have surfaced in California—as a result

of the State's unusual insurance rate structure—the negative impact of DOL's decision is becoming apparent in every State with a recreational boat industry on or near U.S. navigable waters.

Faced with unbearably great increases in the costs of insurance now required by Federal law—as a result of DOL's interpretation of the 1972 amendments to the act—these small businessmen are confronted with a series of unattractive alternatives unless Congress acts to rectify the harm the DOL decision has caused. These are:

To pass the costs onto their customers, where possible, creating serious inflationary pressures in harbor communities heavily dependent on shoreside business activity. This alternative is not even available where the business is competing with off-water sales or service operations—not subject to the Federal act—or where demand is very price-responsive.

To absorb the increased cost by lowering the profit margin. But the recreational boat industry, and particularly its repair and marina components, usually operates on a slim margin of profit. Insurance cost increases can fully eat up that small profit.

To operate illegally, without required insurance, at high risk of financial and criminal liability. Clearly, no one wants this.

To close down. And, in California many long-established businesses already have closed, with many more facing imminent closure.

This needless dilemma has been created by a DOL interpretation of the 1972 amendments to the act in a way that Congress never intended. Exhaustive attempts have been made to correct that decision administratively without success. The Department is apparently prepared to await the eventual outcome of judicial review of its decision, which will come years too late to correct the harm done various businesses.

It is for that reason that I am today introducing legislation which will clarify the intent of Congress in enacting the 1972 amendments to this act, so that none of the intended beneficial consequences of congressional action will be lost, while the harm done by the DOL's misinterpretation of the congressional action will be alleviated.

My bill will retain the exemptions from the applicability of the act that predated the 1972 amendments, which apply to a master or member of a crew of any vessel, and to any person engaged by the master to load or unload or repair any small vessel under 18 tons net.

It will add exemptions for workers engaged in the manufacture, repair, servicing or sale of recreational boats—except for those who work on or over U.S. navigable waters, or who are not otherwise covered by State workers' compensation.

Recreational boats are defined for the purposes of this section as of a type or class designed, manufactured, or used primarily for noncommercial purposes, and not required to have a valid marine document as a vessel of the United States.

My amendment would also exempt workers manufacturing, repairing, selling or servicing commercial fishing boats 72 feet in length or smaller, who are employed by employers with 20 or fewer employees. Again, the exemption will not apply to workers actually engaged on, under or over U.S. navigable waters, or who are not otherwise covered by State compensation.

I am perfectly aware that any line which one attempts to draw between boats and ships or between large and small commercial fishing boats involves some borderline cases. It is my belief that the definitions in my bill represent carefully considered, but tentative judgments, about where those lines might best be drawn. These definitions may need to be revised as the committees responsible develop more testimony on these issues.

I do believe, however, that prompt resolution of this issue is urgently needed, and I urge the Congress, and particularly the committees who will consider this legislation, to give it their most expeditious attention.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 2020

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2(3) of the Longshoremen's and Harbor Workers' Act (33 U.S.C. 902(3)) is amended by striking out the remainder of the sentence appearing after the word "include" and inserting in lieu thereof the following:

"(A) a master or member of a crew of any vessel;

"(B) any person engaged by the master to load or unload or repair any small vessel under 18 tons net;

"(C) any person engaged in the manufacture, repair, servicing or sale of recreational boats, unless actually engaged on, under or over the navigable waters of the United States (as defined prior to the enactment of Public Law 92-576) and unless not otherwise covered by state workers' compensation law; and

"(D) any person engaged in the manufacture, repair, servicing or sale of fishing boats and employed by an employer with twenty or fewer employees, unless actually engaged on, under or over the navigable waters of the United States (as defined prior to the enactment of Public Law 92-576) and unless not otherwise covered by state workers' compensation law.".

SEC. 2. Section 2 of the Longshoremen's and Harbor Workers' Compensation Act is amended by redesignating paragraph (22) as paragraph (24) and by inserting after paragraph (21) the following new paragraphs:

"(22) The term 'recreational boat' means any vessel which is of a type or class designed, manufactured, or used primarily for non-commercial purposes, and not required to have a valid marine document as a vessel of the United States.

"(23) The term 'fishing boat' means any vessel which is 72 feet in length or less and is of a type or class designed, manufactured or used primarily for commercial fishing purposes.".

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By Mr. BAKER (for himself and Mr. TOWER):

S. 2021. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax to an individual who constructs, purchases, or rehabilitates a principal residence in a revitalization area and to a lending institution which provides financing for such an individual, and for other purposes; to the Committee on Finance.

TAX INCENTIVES FOR NEIGHBORHOOD REVITALIZATION ACT OF 1977

Mr. BAKER. Mr. President, I am introducing the "The Tax Incentive For Neighborhood Revitalization Act of 1977."

Mr. President, this legislation is designed to aid in the preservation and revitalization of designated low and moderate income residential areas throughout the country. It would seek to do so by employing the tax credit mechanism as a means of involving local governments, lending institutions, and neighborhood residents in a common and concerted effort.

For the past 30 years, the trend in residential housing has been toward expansion of the suburbs. While this fundamental shift in the national housing pattern generally has provided Americans with the best housing in the world, it has also had a profound negative impact upon the physical, economic, and social character of many of our cities. Countless neighborhoods in or nearby cities are experiencing or have experienced various stages of economic decline.

Although "decline" is evidenced in many ways, the effect of decline is that higher income homeowners are replaced by progressively lower income residents. On occasion, the neighborhoods will stabilize and prosper after the initial change in character. However, more often than not, the first signs of economic decline in an area undermine confidence in the future of the neighborhood and decline becomes a self-fulfilling prophecy.

As the income level falls, lending institutions lose their incentive to make loans; builders, realtors, and developers invest elsewhere; and the local government may cut back on the quality of certain city services so as to reflect the reduction in property tax revenues from the area. The city might also increase the property tax rate in an effort to recapture losses suffered in other categories of tax revenues by the movement to the suburbs.

It is this sequence of events which our legislation would attempt to prevent or at least overcome. Since the preservation and revitalization of these areas is principally the responsibility of local governments, we would give them the responsibility for taking the initiative.

Local governments would be charged with the right to designate areas within their jurisdiction that were deserving of revitalization and new investment. However, before they could do so, they would have to commit themselves to maintain or upgrade basic city services to the area and to make the necessary changes in building codes and zoning ordinances such that their enforcement was consistent with the goal of revitalization. If that commitment were made by a local government, then the proposed designation would be communicated to the Department of Housing and Urban Development. The designation would become final within 60 days unless expressly objected to by HUD.

The effect of the designation is to make two essential parties to the effort eligible for certain tax credits. Those parties are the lending institutions and borrowers who either live in the designated area or are moving in.

With respect to the borrowers, who already live in the area, they would be eligible for a tax credit equal to 3 percent of any loan for rehabilitation up to $10,000; 2 percent of a loan for rehabilitation up to $20,000; and 1 percent of a loan for rehabilitation up to $30,000. This credit would only be available to families whose adjusted gross income does not exceed $40,000 per year, $20,000 in the case of a married person filing a separate return. Clearly, we are attempting to encourage both minor and major rehabilitation. If it appears necessary to provide residents a small incentive to rehabilitate even though no loan is required, that might be added to the bill.

With respect to those interested in buying a house that they will use as their principal residence in a designated area, we would provide a tax credit equal to 3 percent of a mortgage up to $40,000; 2 percent of a mortgage from $40,000 to $50,000; and 1 percent of a mortgage of $50,000 to $60,000. No borrower would be entitled to more than one credit in a taxable year.

We believe this economic incentive is necessary to encourage residents or purchasers to revitalize the area. However, the lending institutions also need this incentive so they, too, would be eligible for a sliding tax credit.

Lending institutions that make loans for new construction, purchase, or rehabilitation of houses in designated areas would receive a credit equal to three percent of the amount invested in such areas up to 15 percent of all new loans in a given year; 2 percent of the amount invested in such areas where such loans constitute from 15 to 30 percent of all loans in a given year; and 1 percent of the amount invested in the area where such loans constitute over 30 percent of all loans made in a given year.

No lending institution would be entitled to claim a credit more than once with respect to the same owner-occupant. Moreover, the aforementioned sliding credit is not cumulative. In order to tie the credit provided lending institutions to a requirement for large down payments on houses, we state that the lending institution offer a purchaser a mortgage on no less than 90 percent of the purchase price before claiming a credit on the loan. In this way, lending institutions are encouraged to provide low down payment mortgages and purchasers are able to obtain mortgages they cannot afford.

Another important reason why so many residents of low- and moderate-income areas are unwilling to rehabilitate their homes is because of the inevitable increase in property taxes which will occur. We would address this problem by providing owner-occupants an additional credit equal to 50 percent of the increase in property taxes levied as a result of a reassessment of the property after rehabilitation had been undertaken. After 2 years, this credit would be reduced to 25 percent of the increase which would continue for an additional 2 years and then terminate.

The obvious question, Mr. President, is what will this program cost in lost tax revenues. I sought an estimate from the Joint Committee on Internal Revenue Taxation, but was told that there is no national data on either the aggregate amount of loans made for the purchase or rehabilitation of low- and moderate-income housing, or the aggregate demand for such loans. Therefore, all we have to go on is the fact that both lending institutions and present or future residents of areas that are declining economically or show signs of economic decline, lack sufficient incentive to preserve and revitalize these communities. Also, it is clear that no major effort to revitalize an area will succeed without the support and commitment of the local government.

It may be determined in public hearings on this bill that the size of the tax credits are too large or too small for a particular party. Such a finding is quite likely and we certainly are not wedded to these specific figures. We merely seek to provide enough economic incentive to prompt the affected parties to do something which is necessary and which is not now being done.

To a great extent, the success or failure of this approach depends upon "market forces" or the will of the private sector. In my judgment, that is the way it should be. I do not believe that direct subsidies are necessary to solve this problem. Nor do I believe that extensive Federal involvement or supervision is required. And most important, I am convinced that the Federal Government should not get into the business of forcing, directly or indirectly, lending institutions to allocate credit on a legislative or administrative basis. The private sector, in cooperation with the local governments, can solve this problem if they are given the proper economic incentive; and that is precisely what this legislation attempts to do.

Mr. TOWER. Mr. President, there is no question that we are the best housed nation in the world. Since World War II, housing production has steadily increased, improving and expanding our supply of adequate, decent shelter. But, while we were building new suburbs, a major resource for housing stock, our cities were decaying. Houses were abandoned by the thousands in our urban areas, and abandonment persists. Neighborhoods that were several years old began showing signs of decay and blight, the first steps that would result in slums and abandonment.

This pattern need not continue. Our cities, however large or small, are drawing people back. No longer do people want to commute an hour or more to work. People are finding that cities and urban neighborhoods can be very pleasant places in which to live and rear families.

We are discovering, however, that the supply of decent housing is woefully inadequate. This proposal, The Tax Incentive for Neighborhood Revitalization Act of 1977, is designed to increase the availability of decent housing in our cities.

One part of the bill would provide a tax credit to persons who purchase or rehabilitate a home in a qualified revitalization area. To be eligible for a credit, a person must have an adjusted gross income of $40,000 or less, The credit would be computed on a sliding scale from 3 percent of the mortgage up to $40,000, down to 1 percent of a $60,000 mortgage. For example, a $40,000 mortgage would result in a credit of $1,200 and a $50,000 mortgage would mean a $1,000 credit. Likewise, a credit would be granted to a person who renovates the home he or she owns. Rehabilitation credits range from 3 percent of a rehabilitation loan up to $10,000 to 1 percent of a loan up to $30,000.

The purpose of these credits is quite obvious. They are designed to preserve and rehabilitate existing housing in our neighborhoods. Additionally, they are designed to encourage new construction where conditions permit. Credits are chosen, rather than deductions, because many who would utilize this program would have incomes which are not high enough to effectively utilize deductions. This is especially true of retirees and other fixed income families that might have no other financial incentive to improve their home, but for these tax credits.

This bill would provide a further encouragement to elderly persons to rehabilitate their homes. In many cases, families might have lived in a neighborhood for 25 or 30 years. Many would be retired and most would own their home. If one lives on a fixed income, there is little money left for home maintenance. Yet, after 30 years, most homes need some kind of fixing-up. In addition to having little income to rehabilitate the home, a further disincentive is that once the home is rehabilitated, reassessment occurs which results in increased property taxes.

To avoid the financial strain of increased property taxes and to further encourage rehabilitation of existing homes, an owner would be eligible for a tax credit equal to 50 percent of the increase in property taxes levied as a result of that owner improving his or her home. It is hoped that this will encourage many owners in our older neighborhoods to rehabilitate their homes in order to prevent further deterioration, which deterioration could lead to instability in the neighborhood and ultimately, abandonment.

While individuals might want to utilize this program, we think there should be incentives for financial institutions to make mortgage credit available in qualified revitalization areas. Consequently, a financial institution would be eligible to receive a tax credit for loans made in such areas. The credit ranges from 3 percent of the loans made in a revitalization area, if such loans do not exceed 15 percent of the total loans made by the lender, to 1 percent of the loans made in an area if such loans do not exceed 40 percent of the total loans made by the lender. It should be noted that the

loans upon which a credit is granted must be held by the lender who bears the sole risk for them. If the lender disposes of the loan within 36 months, the credit attributable to that loan will be recaptured.

Mr. President, this proposal is not perfect. It undoubtedly has some flaws and I would welcome comments on its merits. I would hope that hearings could be held in the Banking and Finance Committees in the near future. I am excited about the proposal, however. We have so much good, existing housing stock in this country that is rapidly deteriorating. Many, if not most, of the owners do not have the financial resources to preserve this stock. I hope that this proposal would provide an effective means to save this very valuable supply of housing.

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By Mr. HUMPHREY:

S. 2023. A bill to authorize nonmarket economy countries to participate in certain programs of the Commodity Credit Corporation; to the Committee on Finance.

LIBERALIZING CCC CREDIT

Mr. HUMPHREY. Mr. President, no matter how vigorously we try to protect America's farm producers with effective farm programs, it is becoming increasingly clear that we must fight more aggressively for a greater share of international markets. It is not only our producers who need expanding markets; it is our country's economy. Our trade deficit and its pressure on the dollar make it imperative that we move more aggressively into international marketing of our farm commodities, and quit sitting back and becoming just a residual supplier to the rest of the world.

We are the world's most efficient producers. Let us also see if we cannot become the most efficient—and aggressive—marketers.

To do that we are going to have to press vigorously to eliminate every obstacle to expanded trade.

We have authorities on the statute books that have become ineffective in many instances because we have hamstrung them with other legislative restrictions, or made them ineffective by such timid and conservative administrative policies that we are not competitive in the marketplace. This is particularly true of credit for commodity sales. I am not talking here about concessional credit such as under Public Law 480. I am talking about solid commercial credit for countries who can and will pay for commodities, but are understandably going to buy from countries offering financing terms before they buy from countries requiring cash on the barrelhead.

It is time we recognized that financing facilities have become an established and recognized part of international trade in farm commodities. When you buy an automobile in the United States, you automatically expect financing as part of the transaction so that you do not tie up all of your capital investment at the outset. The same thing is true now in world markets for consumables; countries want and expect financing terms as part of a transaction. Our competitors are taking away a great deal of our markets because they offer such financing. We are not matching them.

Much more can be done than is being done with the Commodity Credit Corporation's authority to provide such financing. When CCC credit is offered, commodities are restricted to U.S. origin. If multinational grain companies have to turn to private financing, they usually buy from worldwide sources rather than just the United States and they do not hesitate to take advantage of government credit programs in other countries.

It is to the credit of Secretary of Agriculture Bergland and Assistant Secretary for International Affairs and Commodity Programs Hathaway that they have both indicated an understanding of this need and an intention to aggressively pursue it. I know from experience with the staff people directly involved in the CCC credit program that they are eager to liberalize and expand these facilities. However, somewhere in between the new top command and the operating people are too many layers of conservative nitpicking getting in the way of broadening and using the authority they now have. I am serving notice that I intend to aggressively pursue this, and will be watching what is done administratively to improve and liberalize CCC credit, and use it more aggressively to go after markets.

In the meantime, the least the Congress can do besides emphasizing this desire is to remove any roadblocks it can to making us competitive for markets.

For that purpose, I am introducing legislation to authorize nonmarket economy countries to participate in such credit programs of the Commodity Credit Corporation.

Let me make it clear. I am willing to sell to any country wanting to buy, whether we happen to like them or not or whether we agree with them on everything politically at any given time. Business and trade is a world of its own that cannot be turned on and off just because of shifts in political views. We need trade, and I want to see us go after it. I am willing to sell anything they cannot shoot back at us. We are only cutting off our own noses to spite our face when we put restrictions on sales of farm commodities they can buy elsewhere in the world to our financial loss.

I am introducing this legislation to enable USDA to go after more markets for our farm products, and to use whatever credit facilities are required to make us competitive. I hope my colleagues will consider this during the recess period so we can move on it when we return.

The struggle we have just been going through to work out a decent farm bill adds emphasis to the urgency of this effort to expand our foreign marketing, by every means we can.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 2023

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law denying nonmarket economy countries eligibility to participate in programs of the Government of the United States, such countries shall be eligible to participate in any program carried out by the Commodity Credit Corporation (other than under the Agricultural Trade Development and Assistance Act of 1954) under which credit or credit guarantees or investment guarantees are extended, directly or indirectly.

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By Mr. STEVENS:

S. 2024. A bill to prohibit the Secretary of the Navy from requiring an employment contract in excess of 1 year for civilian employees at Adak Naval Station; to the Committee on Armed Services.

Mr. STEVENS. Mr. President, today I am introducing a bill to provide much needed relief for civilian employees who work at the U.S. Naval Station in Adak, Alaska. Adak, as you know, is a small island near the end of the Aleutian chain. It is one of our forward naval bases and is, therefore, a vital link in our national defense system. There is no outside civilian community on Adak and civilians living there are effectively confined to the military base as far as the cultural and community aspects of their lives are concerned.

Because of their civilian status, however, these people are unable, under present Federal law, to receive routine medical and dental care at the naval base. As a result, they have to go some 1,200 miles to the nearest available medical and dental facilities, in Anchorage, at the end of each tour of duty to receive those items of medical and dental care that the rest of the military community on Adak takes for granted.

To cap off the whole situation, the Navy Department has recently increased the tour of duty for new employees going to Adak to 24 months. One effect of this condition of employment, which in some cases will not be realized by new employees until they get out to Adak, is that they are being asked to go 24 months without normal medical or dental care, even though they may have full health insurance coverage.

I regard this as an intolerable situation and therefore seek, by virtue of this bill, to limit the tour of duty on Adak to 12 months, so as to enable new civilian employees there to get the routine medical and dental care to which they are entitled. It is clear to me that the well-being of civilian employees at vital defense locations such as Adak ought to be of major concern to us all and I therefore urge your support for this simple, but vital bill.

Mr. President, I ask unanimous consent that the text of the bill be inserted in the RECORD.

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

S. 2024

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law or regulation, the Secretary of the Navy or his delegate shall not require any individual who is to perform services as a civilian em-

ployee at the U.S. Naval Station, Adak, Alaska, to enter into an employment contract for a term of service in excess of one year.

SEC. 2. The provisions of the first section of this Act shall apply to contracts entered into after the date of the enactment of this Act.

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By Mr. MATHIAS (for himself and Mr. MUSKIE):

S. 2026. A bill entitled "Lobbying Disclosure Act"; to the Committee on Governmental Affairs.

LOBBYING DISCLOSURE ACT OF 1977

Mr. MATHIAS. Mr. President, today I am introducing a bill to require the public disclosure of lobbying activities. I am pleased to have the distinguished Senator from Maine (Mr. MUSKIE) as a cosponsor. In the last Congress, both the Senate and the House passed lobbying disclosure bills as part of the effort to cleanse the legislative process. The bill I and my colleagues are introducing today provides for the disclosure of lobbying activities without infringing on the individual's right to petition the Government.

We must never forget that the lobbyist is exercising the constitutional right to petition the Government for redress of grievances. The first amendment, which forbids abridgment of this right, confers broad immunity upon the activities of persons and organizations who attempt to present their points of view to elected officials.

The fact that the Constitution recognizes and protects lobbying as a vital component of the democratic process does not mean that Congress is absolutely prevented from protecting itself against corrupting influences. Indeed, Congress is obliged to take reasonable measures in this regard. Because it seeks to regulate constitutionally protected activity, however, the efforts of Congress to protect itself must be drawn narrowly and meet several constitutional tests.

First, there must be a compelling governmental interest demonstrated by factual record of abusive conduct.

Second, there must be a relevant correlation between compelling governmental interest and the type of regulation.

Finally, the Congress must use the least drastic means to effectuate the legislative purpose.

Some legislative approaches have been drawn so broadly that they sweep within the scope of regulation efforts to educate the general public or segments of the public on pending legislation. The Supreme Court has never sanctioned regulation of indirect efforts to influence the legislative or political process. The thresholds of other approaches in organizations which are small and whose lobbying activities are not widespread enough to significantly affect the legislative process and on whom the burden of legislative reporting would fall so heavily that people could be frightened away from lobbying. Requirements which have this effect might directly abridge the right to petition the government for redress of grievances.

On the other hand, the legislation I propose regulates only direct contacts with Members, officers or employees of the Congress. Activities aimed at the general public are not within the scope of the bill. Moreover, my bill would not bring within the scope of regulation small organizations which lobby on intermittent basis and which have slight impact on the legislative process.

More specifically, other proposals contain a requirement that lobbying solicitations be disclosed. Lobbying solicitations typically include the efforts by organizations to require, encourage, or solicit others to make direct contacts with Members of Congress or their staff. Some proposals would make amounts spent on lobbying solicitations a threshhold for the registration reporting provisions. This would mean that organizations which never contact Members of Congress, but only try to affect legislation through appeals to the public, would be swept within the lobbying statute.

Apart from direct contacts with Congress, American citizens must be allowed to exercise their first amendment rights without the threat of substantial criminal sanctions for failure to disclose their political literature with the Government. The Supreme Court has never permitted Government regulation of such indirect efforts to influence the legislative or elective process. Decisions of the Court in both the Warren and the Burger eras make it quite clear that the Court might well strike down this effort to regulate lobbying solicitations.

In the past, unfettered by Government regulation, lobbying solicitation played an essential role. The Federalist Papers were lobbying solicitations. And the civil rights movement gained its support in large part through lobbying solicitation. In the end, there has been no factual demonstration of the need for regulations which in effect would require organizations to file copies of their political literature with the Government. This is an unprecedented attempt to monitor constitutionally protected political activity of organizations.

A second problem area of some other proposals is the threshold for triggering the act's obligations. My bill requires substantial expenditures of money and time in directly contacting legislators or their staffs. Thus, only those groups who significantly affect the legislative process, by direct lobbying activities, would be forced to register and report.

The registration and reporting provisions in my bill are straightforward. Compliance will be relatively easy. Organizations which lobby must describe the organization, its size, and the amount of money it spends on lobbying communications. It must supply the names and salaries of its employees who lobby. It must identify any outside lobbyist hired by the organization and identify the issues on which the lobbyist works and the money which the lobbyist spends.

Under my bill, organizations would have to spend $2,500 a quarter on lobbying activities and either retain an outside lobbyist or have at least one salaried employee who spends an average of 8 hours per week of his or her time lobbying. Other proposals would require registration and reporting from organizations for contacting less than one committee of the Congress on one issue. This would mean that literally thousands of organizations would have to register and report.

It is only where groups are large enough to engage in lobbying on a sustained or widespread basis that the interest of Congress is sufficient to meet the constitutional test. My bill, which requires the quarterly expenditure of $2,500, provides such a measure. Organizations of a size large enough to have one regularly salaried employee which then spends employee time and organization money in this amount are generally engaging in substantial lobbying and are well enough organized for the registration and reporting requirements not to be so bewildering, intimidating or costly that they would consider refraining from lobbying at all.

Some proposals have required the disclosure of contributors to lobbying organizations. Believing that no individual should be forced to disclose his or her associational ties without sufficient cause, my bill does not require organizations to disclose identity of their members or contributors and the amounts of their contributions.

Disclosure of members can have a significant deterrent effect on the right of association, especially for those individuals involved with unpopular causes.

The Supreme Court first recognized the right of associational privacy in *NAACP* v. *Alabama ex rel Patterson*, 357 U.S. 449 (1958), where it reversed a conviction for contempt for failure to disclose the membership of the NAACP. Speaking for a unanimous court, Justice Harlan said that "the inviolability of privacy in group associations may, in many circumstances, be indispensable to the preservation of freedom of association."

The principle of the NAACP case has been applied to ther situations. In *Shelton* v. *Tucker*, 364 U.S. 479 (1960), the Court invalidated an Arkansas statute which compelled teachers to disclose all of their organizational affiliations for the past 5 years. And in *Talley* v. *California*, 362 U.S. 16 (1960) the Court ruled unconstitutional on its face a Los Angeles ordinance prohibiting the anonymous distribution of a handbill. In *Buckley* v. *Valeo*, 242 U.S. 1 (1976), the Supreme Court made it clear that it would not tolerate a contributor-disclosure statute that affected the general funds of every conceivable general-interest organization whose lobbying activities only made up a small percentage of its total.

Moreover, the contributor-disclosure provisions are overbroad because they require disclosure of all contributors over a certain amount without regard to the actual utilization of funds. In a general-interest organization, only a small percentage of each contribution is devoted to lobbying. A $2,500 contribution to the Sierra Club, for example, would be used to finance a variety of activities that had nothing to do with lobbying. Moreover, such a contribution would be utilized in

a different way from a $2,500 contribution to a smaller or different organization such as a local Better Business Bureau. Disclosure of these contributions has little, if any, correlation to the apparent purposes of the act, thus does not conform to the standards set by the Supreme Court.

A fourth problem area in most proposals is that they include within the definition of lobbying contact with the executive branch. This would mean the logging of contacts with thousands of executive branch officials. I believe that the lobbying disclosure bill should be confined to legislative activity. I am skeptical of any attempt to include contacts with the executive branch in a definition of lobbying. The nature of the administrative process demands, at the very least, treatment of this activity in separate legislation.

A final problem in all the proposals which is lessened, though not entirely eliminated, by my bill, is the discretionary administration and enforcement vested in the Comptroller General. The Comptroller General for the first time will be given wide powers to monitor the political activities of organizations. One of the lessons we have learned over the past 5 years is the tremendous potential for abuse when government officials are given access to organizational records. For this reason the Comptroller General's powers must be carefully defined and limited.

My bill would apply the Administrative Procedures Act, the Freedom of Information Act, and the Privacy Act to the Comptroller General, and all the records he maintains on lobbying. It would not permit the Comptroller General to have access to contributor or membership lists. It would require the Comptroller General to give notice under all circumstances to any organization under investigation for violation of the act. Finally, this legislation would not permit any presumptions to be created against an organization which does not comply with an opinion rendered by the Comptroller General.

CONCLUSION

As a final note I would like to draw an analogy between our effort to reform the Federal electoral process and this effort to bring reform to lobbying. When we wrote the Federal Election Campaign Act we had factual record of abuse to base the legislation on. Even with this factual record, the U.S. Court of Appeals for the District of Columbia, and later the Supreme Court of the United States, invalidated large portions of the act because of the significant chilling effect it would have on the free exercise of constitutional rights.

In lobbying legislation, we have no record of the various types of lobbying that organizations engage in—no record of systematic abuses. What we have is a record of excessive gifts by certain lobbyists. That problem has been cured to a large extent by our new Ethics Code. Thus the need for lobbying disclosure legislation has been significantly lessened. Thus, before we legislate in this area of important constitutional rights, I think there should be a further investigation of the lobbying process in order to more carefully define which areas require legislation.

I believe if we are to regulate lobbying as part of the effort to reform, then we must be sensitive to the prohibitions and limitations the Constitution places on our power to regulate the rights of individuals to freely associate and express political ideas. I believe:

First, Congress must not regulate indirect efforts to influence the legislative process;

Second, Congress must not regulate lobbying activities of small local organizations which have a slight impact on the legislative process;

Third, Congress must not require the disclosure of contributors.

The regulation and disclosure of the above activities, I believe, will raise serious constitutional questions. On the other hand, my bill provides for the disclosure of lobbying activities within the contours of the Constitution.

In our quest for reform we must not constrain the fundamental rights of the American democratic system—freedom of speech and freedom of association and the right to petition the Government for redress of grievances.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2026

*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 "Lobbying Disclosure Act of 1977".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds—

(1) that the enhancement of responsible representative government requires that the fullest opportunity be afforded to the people of the United States to exercise their constitutional right to petition their Government for a redress of grievances, to express their opinions freely to their Government, and to provide information to their Government; and

(2) that the identity and extent of the activities of organizations which pay others, or engage on their own behalf, in efforts to influence Members of Congress on issues through direct communications should be publicly and timely disclosed in order to provide the Congress and the public with an understanding of the nature and source of such activities.

(b) It is the purpose of this Act to provide for the disclosure to the Congress and to all members of the public of such efforts without interfering with the right to petition the Government for a redress of grievances, and with other constitutional rights.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "affiliate" means—

(a) organizations which are associated with each other through a formal relationship based upon ownership or an agreement (including a charter, franchise agreement, or bylaws) under which (A) the governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or (B) the governing board of one such organization includes persons who—

(i) are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and

(ii) by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The term "direct expenses" means—

(A) the total of all expenses for mailing, printing, advertising, telephones, consultant fees, educational materials, gifts or the like, directly attributable to lobbying communications, but not including—

(i) exempt travel expenses; or

(ii) the cost of general operating overhead such as the costs of office equipment, basic utilities, and monthly rental or mortgage payments;

made to or by any person described in section 4;

(B) a contract, promise, or agreement, whether or not legally enforceable, to make, disburse, or furnish any item referred to in paragraph (A).

(4) The term "exempt travel expenses" means any sum expended by any organization in payment or reimbursement of the cost of any transportation for any agent, or employees plus such amount of any sum received by such agent, employee, or other person as a per diem allowance for each such day as is not in excess of the maximum applicable allowance payable under section 5702 (a) of title 5, United States Code, to Federal employees subject to such section.

(5) The term "identification" means—

(A) in the case of an individual, the name, occupation, and business address of the individual and the position held in such business; and

(B) in the case of an organization, the name and address of the organization, the principal place of business of the organization and a general description of its business or activities.

(6) "influence" means to affect, or attempt to affect, through lobbying communications with a member, officer, or employee of the Congress, the disposition of any issue whether by initiating, promoting, opposing, delaying, altering, amending, withdrawing from consideration, or otherwise.

(7) "issue before the Congress" means the totality of all matter, both substantive and procedural, relating to any pending or proposed bill, resolution, report, nomination, treaty, hearing, investigation, or other similar matter in Congress (excluding any investigation by the Comptroller General authorized by the provisions of this Act).

(8) The term "lobbying communication" means an oral or written communication directed to a member, officer or employee of the Congress to influence an issue before the Congress, but does not include—

(A) a communication by an individual, acting on his own behalf, for redress of his personal grievances to express his own personal opinion;

(B) a communication which deals only with the existence or status of any issue;

(C) testimony given before a committee or subcommittee or office of the Congress or submitted to a committee or office of the Congress for inclusion in the public record of a hearing conducted by such committee or office, or a communication made at the request of a member, officer or employee of the Congress, and made to such member, officer, or employee of the Congress.

(D) a communication made through a speech or address, through a newspaper, book, periodical, or magazine published for distribution to the general public or to the membership of an organization, or through a radio or television broadcast;

(E) a communication by, or on behalf of, a candidate, as defined in section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)), or by, or on behalf of, a

candidate for a State or local office, including a communication, by, or on behalf of, an organization in its capacity as a political committee, as defined in section 301(A) of such Act (2 U.S.C. 431(d)).

(F) a communication by an organization on any subject to a Member of the Senate or of the House of Representatives or to an individual on the staff of such Member, if such organization's principal place of business is located—

(i) in the State or in the congressional district represented by such Member, or

(ii) in a standard metropolitan statistical area within which the State or congressional district or any portion thereof of such Member is located.

(9) The term "Member, officer or employee of the Congress" means—

(A) any member of the Senate or the House of Representatives, and the Resident Commissioner in the House of Representatives;

(B) any officer or employee of the Senate or the House of Representatives or any employee of any Member, committee or officer of the Congress.

(10) The term "organization" means—

(A) any corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, national organization of State or local elected or appointed officials and any organizational unit thereof, group of organizations, or group of individuals, which has one or more paid officers, directors, or employees;

(B) Any office located in the Washington, D.C. Standard Metropolitan Statistical Area of any agency or department of any state, city, municipality, government corporation, or local government including the executive office of any governor or mayor.

(11) "paid officer, paid director, or paid employee" means an officer, director, or employee who received income for his services, other than exempt travel expenses, at a rate in excess of standard federal minimum wage. An officer, director, or employee who is not employed on a full-time basis is included within this definition if the effective hourly rate at which such an individual is compensated exceeds the effective hourly rate of a full-time employee who receives income at a rate in excess of standard federal minimum wage.

(12) The term "quarterly filing period" means any calendar quarter beginning on January 1, April 1 or October 1.

(13) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(14) "Voluntary membership organization" means an organization composed of persons who are members thereof on a voluntary basis, and who, as a condition of membership, pay regular dues, subscribe to one or more publications, or make contributions to such organization.

APPLICABILITY OF ACT

SEC. 4. The provisions of this Act shall apply to any organization which—

(a) makes an expenditure in excess of $2500 in any quarterly filing period for the retention of another person or persons to engage in lobbying communications;

(b) spends $2500 or more in any quarterly filing period on lobbying communications and has one paid employee who spends an average of eight or more hours per week in any quarterly filing period engaged on behalf of that organization in making lobbying communications,

except that a registered organization at its discretion shall be permitted to report for an affiliate or other organization if such affiliate or other organization is engaged in the activities described in subsections (a) and (b) of this section, at the request of the registered organization.

REGISTRATION

SEC. 5. (a) Each organization shall register with the Comptroller General not later than thirty days after engaging in activities described in section 4.

(b) The registration shall be in such form as the Comptroller General shall prescribe by regulation, and shall contain the following, which shall be regarded as material for the purposes of this Act:

(1) an identification of the organization;

(2) a general description of the types of issues which the organization as of the date of filing intends to engage in lobbying communications;

(3) the approximate number of individuals and organizations who are members of the organization;

(d) an identification of any person retained under section 4(a) and of any employee described in section 4(b).

(c) A registration filed under subsection (a) shall be effective until the first day of January immediately following the date upon which the initial registration is filed. Each organization shall file a new registration under subsection (a) within thirty days after the first day of January of each year, unless the organization has ceased to engage in the activities described in section 4.

RECORDS

SEC. 6. (a) In accordance with regulations prescribed by the Comptroller General, each organization required to be registered under this Act, shall maintain records relating to the registration and reports required to be filed under this Act. In promulgating regulations, the Comptroller General is authorized to require maintenance of only such records as are essential to enable an organization to comply with the provisions of this Act, and may not by rule or regulation require an organization which is not registered pursuant to this Act to maintain or establish records, other than those records normally maintained by the organization, for the purpose of enabling him to determine whether such organization is required to register.

(b) The records required by subsection (a) shall be preserved for a period of five years after the close of the quarterly filing period to which such records relate.

REPORTS BY REGISTERED ORGANIZATIONS

SEC. 7. (a) Each organization shall, not later than thirty days after the last day of each quarterly filing period, file a report with the Comptroller General concerning any activities described in section 4 which are engaged in by such organization during such period.

(b) The report described in paragraph (a) shall be in such form as the Comptroller General shall prescribe by regulation and shall contain the following, which shall be regarded as material for the purposes of this Act—

(1) an identification of the organization filing such report;

(2) an estimate of the total direct expenses which such organization made with respect to lobbying communications during such period and for each individual described in section 4(b), a statement as to which of the following categories includes the annual salary of the individual: up to $14,999; between $15,000 and $29,000; between $30,000 and $49,000; and in excess of $50,000; *Provided*, That, at the option of the organization, it may make such statement based on that portion of the individual's salary directly attributable to lobbying communications; *Provided further*, That any organization which has elected to be treated under the provisions of § 501(i) of the Internal Revenue Code of 1954 or the corresponding provision of any future internal revenue law may file, in lieu of a statement of the total expenditures on lobbying communications, a copy of the information which it disclosed pursuant to § 6033(b)(8) of the Internal Revenue Code of 1954 as amended, or the corresponding provisions of any future internal revenue law, or the most recent annual federal tax return filed by such organization.

(3) In each instance where the organization retains a person under section 4(a), (A) an identification of such person; (B) a description of each issue which was the subject of one or more lobbying communications by such person pursuant to such retention; and (C) the total amount expended pursuant to such retention except that in reporting expenditures for the retention of such persons, the organization filing such report may elect to make such statement based on that portion expended directly for lobbying communications.

(4) a general description of the ten issues which the organization estimates accounted for the greater proportion of its time spent in making lobbying communications.

POWERS OF COMPTROLLER GENERAL

SEC. 8. (a) The Comptroller General, in carrying out the provisions of this Act, is authorized—

(1) to informally request or to require by subpena any individual or organization to submit in writing such reports, records, correspondence, and answer to questions as are essential to carry out the provisions of this Act, within such reasonable period of time and under oath or such other conditions as the Comptroller General may require;

(2) to require by subpena the attendance and testimony of witnesses and the production of documentary evidence;

(3) in any proceeding or investigation, to order testimony to be taken by deposition before any person designated by the Comptroller General who has the power to administer oaths and to compel testimony and the production of evidence in any such proceeding or investigation in the same manner as authorized under paragraph (2);

(4) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States; and

(5) to petition any United States district court having jurisdiction for an order to enforce subpenas issued pursuant to paragraphs (1), (2), and (3) of this subsection.

(b) The Comptroller General, in carrying out the provisions of this Act, is not authorized to have access to, or request or require disclosure of, in whole or in part, any membership or contributor list of any voluntary membership organization.

(c) No individual or organization shall be civilly liable in any private suit brought by any other person for disclosing information at the request of the Comptroller General under this Act.

DUTIES OF THE COMPTROLLER GENERAL

SEC. 9. (a) It shall be the duty of the Comptroller General—

(1) to develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including (A) a cross-indexing system which, for any person identified in any registration or report filed under this Act, discloses each organization identifying such person in any such registration or report, and (B) a cross-indexing system, to be developed in cooperation with the Federal Election Commission, which discloses for any such person in any report filed under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(2) to make copies of each registration and report filed with him under this Act available for public inspection and copying, commencing as soon as practicable after the date on which the registration or report involved is received, but not later than the end of the fifth working day following such date, and to permit copying of such registration or report by hand or by copying machine, or, at the request of any individual or organization, to furnish a copy of any such registration or report upon payment of

the cost of making and furnishing such copy; but no information contained in any such registration or report shall be sold or utilized by any individual or organization for the purpose of soliciting contributions or business;

(3) to preserve the originals or accurate reproductions of such registrations and reports for a period of five years from the date on which the registration or report is received;

(4) to compile and summarize, with respect to each quarterly filing period, the information contained in registrations and reports filed during such period in a manner which clearly presents the extent and nature of the activities described in section 4 which are engaged in during such period;

(5) to make information compiled and summarized under paragraph (4) available to the public and publish such information in the Congressional Record within sixty days after the close of each quarterly filing period;

(6) to conduct investigations with respect to alleged violations of any provision of this Act;

(7) to prescribe such procedural rules and regulations, and such forms as may be necessary to carry out the provisions of this Act in an effective and efficient manner; and

(8) to furnish assistance, to the extent practicable, to any person who requests assistance in the development of appropriate activities, proceedings and practices to meet the recording and reporting requirements of this Act.

(b) for the purposes of this Act, the duties of the Comptroller General shall be carried out in conformity with Chapter 5 of Title 5, United States Code, and any records maintained by the Comptroller General under this Act shall be subject to the provisions of sections 552 and 552a of Title 5.

ADVISORY OPINIONS

SEC. 10. (a) Upon written request to the Comptroller General by any individual or organization, the Comptroller General shall, within 21 days following the receipt of such request, render a written advisory opinion with respect to the applicability of the recordkeeping, registration or reporting requirements of this Act to any specific set of facts involving such individual or organization, or other individuals or organizations similarly situated.

(b) Notwithstanding any other provision of law, any individual or organization with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provisions of this Act to which such advisory opinion related. The Comptroller General may modify or revoke any such advisory opinion, but any modification or revocation shall be effective only with respect to action taken after such individual or organization has been notified, in writing, of such modification or revocation.

(c) All requests for advisory opinions, all advisory opinions and all modifications or revocations of advisory opinions shall be promptly published by the Comptroller General in the Federal Register.

(d) The Comptroller General shall, before rendering an advisory opinion under this section, provide any interested individual or organization with an opportunity, within such reasonable period of time as the Comptroller General may provide, to transmit written comments to the Comptroller General with respect to such advisory opinion.

(e) Any individual or organization who has received and is aggrieved by any advisory opinion from the Comptroller General may file a declaratory action in the United States district court for the district in which such individual resides or such organization maintains its principal place of business.

(f) Failure or refusal by an individual or organization to act in accordance with any provisions and findings of any advisory opinion rendered under subsection (a) which concerns or is directed to such individual or organization, or other individuals or organizations similarly situated, shall create no presumption of bad faith or of the knowing or willful violation of any provision of this Act on the part of such individual or organization.

(g) No advisory opinion rendered under subsection (a) shall be admitted into evidence against an individual or organization in any enforcement proceeding conducted pursuant to section 13 of this Act or used in any other manner against any individual or organization. An advisory opinion shall not be accorded substantial weight in the interpretation of this Act.

ENFORCEMENT

SEC. 11. (a) If the Comptroller General has reason to believe that any individual or organization has violated any provision of this Act, the Comptroller General shall notify such individual or organization of such apparent violation, and shall make such investigation of such apparent violation as the Comptroller General considers appropriate. Any such investigation shall be conducted expeditiously, and with due regard for the rights and privacy of the individual or organization involved.

(b) If the Comptroller General determines, after any investigation under subsection (a), that there is reason to believe that any individual or organization has engaged in any acts or practices which constitute a civil violation of this Act, he shall endeavor to correct such violation—

(1) by informal methods of conference or conciliation; or

(2) if such methods fail, by referring such apparent violation to the Attorney General.

(c) Upon a referral by the Comptroller General pursuant to subsection (b)(2), the Attorney General may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate relief in the United States district court for the district in which such individual or organization is found, resides, or transacts business. The Attorney General shall transmit a report to the Comptroller General describing any action taken by the Attorney General regarding the apparent violation involved.

(d) The Comptroller General shall refer apparent criminal violations of this Act to the Attorney General. In any case in which the Comptroller General refers such an apparent violation to the Attorney General, the Attorney General shall act upon such referral in as expeditious a manner as possible, and shall transmit a report to the Comptroller General describing any action taken by the Attorney General regarding such apparent violation.

(e) The reports required by subsections (c) and (d) shall be transmitted not later than sixty days after the date the Comptroller General refers the apparent violation involved, and at the close of every ninety-day period thereafter until there is final disposition of such apparent violation.

ATTORNEYS FEES

SEC. 12. In any action brought pursuant to sections 10(d) or 11(c) of this Act, in which the organization which is the subject of such action substantially prevails, the court may assess against the United States attorney fees and other litigation costs reasonably incurred.

REPORTS BY THE COMPTROLLER GENERAL

SEC. 13. The Comptroller General shall transmit reports to the President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Comptroller General in carrying out his duties and functions under this Act, together with recommendations for such legislative or other action as the Comptroller General considers appropriate.

SANCTIONS

SEC. 14. (a) Any individual or organization who knowingly and willfully violates section 5, 6 or 7 of this Act shall be fined not more than $5,000 for each such violation not to exceed $100,000.

(b) Any individual or organization selling or utilizing information contained in any registration or report in violation of section 9(a)(2) of this Act shall be subject to a civil penalty of not more than $100,000.

REPEAL OF FEDERAL REGULATION OF LOBBYING ACT

SEC. 15. (a) The Federal Regulation of Lobbying Act (60 Stat. 839; 2 U.S.C. 261 et seq.) is repealed.

(b) All documents, papers and other information in the custody or control of the Clerk of the House of Representatives or the Secretary of the Senate obtained or prepared pursuant to the provisions of the Federal Regulation of Lobbying Act are hereby transferred to the custody and control of the Comptroller General. The Senate and the House of Representatives consent to the transfer of such documents, papers, or other information.

EFFECT ON OTHER LAWS

SEC. 16. (a) An organization shall not be denied an exemption under section 501(a) of the Internal Revenue Code of 1954 as an organization described in section 501(c) of such Code, and shall not be denied status as an organization described in section 170(c)(2), 2055(a)(2), 2106(a)(2), and 2522 of such Code, solely because such organization complies with the requirements of sections 5, 6 and 7 of this Act.

(b) The registration, reporting, and recordkeeping requirements of the Act shall not relieve any person from the registration, reporting, recordkeeping or similar obligations of any other Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATES

SEC. 18. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the first day of the first calendar quarter which begins more than one hundred and eighty days after enactment of this Act.

(b) The provisions of this Act requiring the issuance of regulations to implement this Act shall become effective upon enactment.

SEPARABILITY

SEC. 19. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

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By Mr. METCALF:

S. 2028. A bill to amend the Internal Revenue Code of 1954 to provide that income derived from the regulated sale of electrical energy will be exempt from income taxes, to impose an excise tax on the purchase of electrical energy from a public utility, and for other purposes; to the Committee on Finance.

ELECTRIC UTILITY TAX REFORM ACT

Mr. METCALF. Mr. President, I introduce for appropriate reference a bill to exempt investor-owned electric utilities from income taxation by the Federal Government and to replace the relatively

small amount of revenue that would be lost through a usage tax.

Congressman FORTNEY H. "PETE" STARK, a member of the House Ways and Means Committee, is introducing companion legislation.

This Electric Utility Tax Reform Act of 1977 is similar to legislation I offered and described in the 94th Congress—S. 2133, CONGRESSIONAL RECORD, July 29, 1975, page 25608. I elaborated on the need for the legislation when I offered S. 2213 as an amendment to the Tax Reform Act of 1976—CONGRESSIONAL RECORD, June 14, 1976, page 17928—and in testimony before the Senate Finance Committee on August 24, 1976.

There are several reasons why this legislation should be passed:

First, the present system of taxation permits utilities to collect from customers phantom taxes which are never paid to the Government.

Second, the present tax system encourages utilities to distort their utility responsibilities to obtain tax advantage, as from the investment tax credit. This has led to more plant construction than was necessary, with consequent adverse effects on the environment and our national energy conservation goals.

Third, the present system unduly complicates utility rate regulation. Some electric utilities go before State commissions asking for almost double the amount of additional revenue they need. They argue that the extra money is needed to satisfy the demands of the Federal Government with its theoretical 48-percent corporate tax rate. Regulatory commissions are simply not equipped to cope with the sophisticated projections of utility tax experts. Often by the time a utility's accountants have computed all the tax gimmicks the utility has no tax liability, despite substantial profits, and may even have a tax credit. That is sad and expensive news for the utility customer who has been saddled with a rate based upon taxation at a 48 percent or some lesser rate.

Utility taxation, as a percentage of revenue, has decreased from almost 15 percent in the mid-fifties to just over 1 percent in recent years. Thus revenue loss by totally exempting utilities would amount to less than a billion dollars. Congressman STARK and I have added a feature to the legislation this year which would assure that enactment of the legislation would not result in revenue loss to the Treasury. This would be accomplished through a usage tax, collected by the utilities the way the telephone company collects the Federal excise tax from its customers. The tax would be at a rate of 0.0004 of a dollar per kilowatt hour of electricity. A typical user of 7,500 kWh annually would thus pay a tax of $3, rather than the larger amount which he or she would likely pay indirectly under the present system.

Under the present system, the investor-owned utilities—IOU's—have become taxkeepers, rather than taxpayers. The amount of customer money intended for Federal income taxes which is being kept by the IOU's is substantial, and is growing larger each year. At the end of 1974, the electric utilities were holding $5.4 billion in unpaid Federal taxes which had been collected from customers. That was an increase of 23 percent over the $4.4 billion which they held at the end of 1973. The money held is used to purchase utility plants, some of which is included in the rate base upon which customers must pay a rate of return.

At my request, the Federal Power Commission has provided a list of the class A and B electric utilities showing their 1975 revenues. Federal income taxes, net profits, and return on common stock. Those figures show that the profits reported by IOU's continue to dwarf the Federal income taxes they pay. Their average level of profitability has increased while their Federal tax payments have diminished drastically to insignificant levels.

In 1955, the IOU's paid about $1 billion in Federal income taxes on total operating revenues of $6.9 billion, and their return on common stock averaged 10.8 percent. By 1975, their total revenues had grown over sevenfold to almost $53 billion and their average return on common stock increased to 11.2 percent, but the total amount of Federal income taxes paid actually decreased to $698 million.

Looking at it another way, the IOU's paid 14.7 percent of their revenues for Federal income taxes in 1955, but paid only 1.3 percent of their revenues for such taxes in 1975. The Federal Power Commission reports that 58 or 27 percent of the 213 class A and B electric utilities paid no Federal income taxes at all in 1975. Instead, they collected almost $84 million in Federal tax credits to apply against past or future tax liabilities.

My bill to exempt electric utilities will correct the unnecessary complexities and inequities of existing Federal tax laws. It simply recognizes that many IOU's are paying little or no Federal income taxes, and others are actually profiting from phantom taxes paid to the utilities by their customers. The immediate benefit would be to reduce significantly the skyrocketing electric rates of hard-pressed consumers with only a relatively minor reduction in Federal tax receipts. Generally, utility income requirements are approximately doubled to compute rate increases charged customers because provisions for Federal income taxes at the theoretical 48 percent are included.

In previous years, the IOU's have complained about the burden of paying Federal income taxes which they claim puts them at a competitive disadvantage with publicly owned utilities. Enactment of this bill will benefit the IOU's by removing that burden.

This bill will also greatly simplify and expedite the ratemaking process. One of the major complications in every rate case is the proper treatment of Federal income taxes in setting electric rates. Tax provisions for utilities have become so complex and contrary to normally accepted concepts of income taxation that they make sense only to the high-priced accountants and tax lawyers hired by the IOU's. Enactment of this bill will help regulatory commissions and customers clearly understand the actual costs involved in providing electricity.

Finally, this bill will get the Federal Government out of the business of telling State regulatory commissions how to set electric rates. State commissions have the authority and responsibility to establish fair electric rates for customers within their jurisdictions. Some of them have been thwarted by the Internal Revenue Code in their attempt to prevent charging their customers for Federal income taxes which are not actually paid to the Federal Government.

Utility lobbyists have persuaded Congress to write specific directives on how Federal taxes should be treated in rate proceedings, thus usurping the power of State commissions to protect their citizens from unfair rates. Recent articles in the Wall Street Journal described the efforts of some State commissions to oppose this undue Federal invasion of their regulatory authority by refusing to recognize phantom Federal income taxes in setting electric rates. However, many others have reluctantly acquiesced because the Internal Revenue Service threatens to withhold Federal tax benefits if the IOU's are not permitted to collect and keep customers' money under the guise of paying income taxes.

Mr. President, the ultimate tax absurdity has been reached—the IOU's are using Federal income tax provisions to milk their customers for substantial amounts of cash which the Federal Government will never see. Incredibly, the system that is supposed to generate Federal revenues has become a comfortable source of cash for electric utilities. Federal income taxes are a necessary and unavoidable burden for families, individuals, and other business, but taxation has evolved into a benefit for the IOU's.

It is time for Congress to correct this absurdity and leave the determination of fair electric rates to the state regulatory commissions which are charged with that responsibiity. My bill will accomplish that result while simultaneously simplifying the ratemaking process and benefiting both the electric utilities and their customers.

I ask unanimous consent that the text of the Electric Utility Tax Reform Act of 1977 be inserted in the RECORD, along with an excellent article on phantom Federal income taxes which appeared in the December 1976 issue of the Power Line, a publication of the Environmental Action Foundation. I ask also that two Wall Street Journal articles describing the activities of the California and Maine State regulatory commissions regarding the prohibition of phantom taxes be inserted.

Mr. President, I have previously inserted data on electric utility revenues, net income, and Federal income taxes paid for 1973 and 1974 which was prepared for me by the FPC—CONGRESSIONAL RECORD, September 11, 1974, page 30756; September 10, 1975, page 28394; September 15, 1975, page 28761. I ask unanimous consent to insert the same data for 1975, along with a table provided me by the FPC which shows investment tax credits generated and

utilized by major IOU's from 1962 through 1975.

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

S. 2028

*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 "Electric Utility Tax Reform Act of 1977."

SEC. 2 (a) Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125 and by inserting after section 123 the following new section:

"SEC. 124. EXCLUSION OF AMOUNTS DERIVED FROM REGULATED SALE OF ELECTRICAL ENERGY

"(a) IN GENERAL.—In the case of a regulated public utility, gross income does not include any amount derived by such utility from a regulated electric trade or business.

"(b) REGULATED ELECTRIC TRADE OR BUSINESS.—For purposes of subsection (a), the term 'regulated electric trade or business' means a trade or business of the sale or furnishing of electrical energy if the rates for such sale or furnishing, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

"(c) GAIN FROM SALE OF PROPERTY.—For purposes of this section, gain from the sale or exchange by any regulated public utility of any property shall be treated as derived from a regulated electric trade or business only if such property was used predominantly by such utility in a regulated electric trade or business.

"(d) CROSS REFERENCES.—

"(1) For denial of deduction for amounts allocable to income excluded under this section, see section 265.

(2) For definition of reguglated public utility, see section 7701(a)(33)."

(b) Subsection (a) of section 48 of such Code (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

(10) PROPERTY USED IN A REGULATED ELECTRIC TRADE OR BUSINESS.—Any property which is used predominantly is a regulated electric trade or business (as defined in section 124 (b)) shall not be treated as section 38 property."

(c) Paragraph (33) of section 7701(a) of such Code (defining regulated public utility) is amended by inserting "and without regard to section 124" after "capital gains and losses" in the first sentence following subparagraph (H).

(d)(1) The amendments made by subsections (a) and (c) shall apply to amounts received or accrued after December 31, 1978, in taxable years ending after such date.

(2) The amendment made by subsection (b) shall apply to property placed in service after December 31, 1978.

SEC. 3. (a) Chapter 33 of the Internal Revenue Code of 1954 (relating to tax on facilities and services) is amended by inserting after subchapter C the following new subchapter:

"Subchapter D—Electrical Energy

"Sec. 4285. Imposition of tax.
"Sec. 4286. Definitions.
"Sec. 4287. Exemptions.

"SEC. 4285. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable purchase of electrical energy in an amount equal to .0004 of a dollar for each kilowatt hour of electrical energy so purchased.

"(b) BY WHOM PAID.—The tax imposed by subsection (a) shall be paid by the person purchasing the electrical energy.

"SEC. 4286. DEFINITIONS.

"(a) TAXABLE PURCHASE.—For purposes of this subchapter, the term 'taxable purchase' means any purchase of electrical energy from a public utility.

"(b) PUBLIC UTILITY.—For purposes of this subchapter, the term 'public utility' means any entity which is engaged in the sale or furnishing of electrical energy—

"(1) if such entity is a State or political subdivision thereof, the United States, or an agency or instrumentality of any of the foregoing, or

"(2) if the rates at which such entity furnishes or sells electrical energy have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

"SEC. 4287. EXEMPTIONS.

"(a) STATES, LOCAL GOVERNMENTS, AGENCIES, ETC.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4285 on any purchase of electrical energy by a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foreging, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto, or any non-profit rural electric cooperative.

"(b) PURCHASES BY PUBLIC UTILITIES.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4285 on the purchase of electrical energy by a public utility."

(c) The table of subchapters of chapter 33 of such Code is amended by inserting after the item relating to subchapter C the following new item:

"Subchapter D—Electrical Energy".

(d) The amendments made by this section shall apply with respect to electrical energy furnished after December 31, 1978.

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[From Power Line, December 1976]

UTILITY OVERCHARGE: $1.5 BILLION IN PHANTOM TAXES

With the help of Congress, the nation's 150 largest private electric utilities charged their customers almost $1.5 billion for federal income taxes which were not paid in 1975. This figure is up over half a billion from 1974.

These are among the findings of a study published this month jointly by Environmental Action Foundation and National Consumer Information Center entitled, *Phantom Taxes in Your Electric Bill.* The study is based on data filed by the electric utilities with the Federal Power Commission.

The tax overcharges exist, the groups said, because of certain accounting methods and tax breaks utilities are permitted to use under federal law. As of 1975, these loopholes have allowed private power companies to collect $7.1 billion from their customers for income taxes that were never paid.

Congress has provided new or expanded tax benefits to utilities four times in the last twenty years. In 1955, the year after their first major tax break, the nation's electric utilities paid more than $1 billion in federal income taxes. In 1975, utility tax payments had dropped to $800 million, even though utility revenues had increased more than five-fold. Thus, in the past 20 years federal income taxes as a percent of utility revenues have decreased from 12.7% to 1.8%.

Of the 150 companies surveyed by EAF & NCIC, 134 charged their customers for more taxes than they actually paid in 1975, 43 paid no federal income taxes at all, and 31 charged their customers for $194 million in federal taxes even though they received refunds from the IRS totaling $82 million.

Investigators calculated that pre-tax profits for the power industry totaled $8.9 billion in 1975. While the statutory corporate rate is 48% the electric utilities paid an average of only 8.2% of their taxable income to the federal government last year.

The tax breaks never make their way to ratepayers, though. Most state commissions permit utilities to keep two sets of books—one for the commission and one for the IRS. This process, called normalized accounting, allows utilities to charge their customers as if they received no tax breaks. Federal tax laws discourage state utility commissions from ordering utilities to pass on their tax savings to the consumer.

The two major loopholes which benefit utilities are accelerated depreciation and the investment tax credit (ITC).

Accelerated depreciation allows a utility to pay less tax in the first few years of a power facility's use, but more tax when the plant gets older. The company, in effect, is postponing its tax payments. At the same time, normalized accounting allows the utility to collect taxes from customers as though this tax break didn't exist. As long as a utility keeps growing, however, it will always have more new facilities than old ones. Thus the utility can go on postponing its tax payments indefinitely. This, in fact, is what happens. In the 21 years since accelerated depreciation was first allowed, the industry has collected $5.4 billion in taxes that have never been paid, and the amount is growing every year.

The 1975 investment tax credit simply permits a utility to subtract 10% of the cost of all new investments from the amount of taxes owed. Early in 1976, Congress passed legislation increasing the ITC to 11.5% by 1977 for companies instituting employee stock ownership plans. Hence, most utilities can expect even greater tax savings in the future.

Instead of benefiting electricity consumers, both of these tax loopholes encourage utilities to spend billions of dollars on unnecessary power plants, resulting in higher rates as well as needless environmental degradation and energy waste.

Because federal laws penalize state commissions that pass the tax savings on to customers, citizens cannot merely push for a prohibition of normalized accounting before their commissions. Federal laws, however, do allow other tax savings to be passed to ratepayers, and citizens should make sure their commissions do so.

In addition, it is important to generate public awareness of the laws which allow this incredible tax advantage to the power industry. By making an issue of phantom taxes, consumers can force their commissioners and legislators to protest against these taxes.

As California commissioner, Robert Batinovich has stated, "I think the ratepayers deserve to have rates set on the basis of taxes actually paid rather than by this exercise in illusion and mystery."

Phantom Taxes in Your Electric Bill *is available from EAF for $2.50.*

*The top ten*

The ten largest overcharges found in the investigation by EAF & NCIC of unpaid taxes were as follows:

| | *Million* |
|---|---|
| 1. Commonwealth Edison | $110.5 |
| 2. Georgia Power | 91.2 |
| 3. Duke Power | 64.3 |
| 4. Consolidated Edison | 62.5 |
| 5. Alabama Power | 57.9 |
| 6. Florida Power & Light | 53.7 |

| | |
|---|---|
| 7. Public Service Electric & Gas | 51.8 |
| 8. Philadelphia Electric | 42.6 |
| 9. Carolina Power & Light | 37.0 |
| 10. Detroit Edison | 35.9 |

*Summary of findings*

(Statistics refer to the 150 largest private electric utilities in U.S, 1975)

| | |
|---|---|
| Federal income taxes charged to customers | $2,198,770,163 |
| Federal income taxes | 727,860,518 |
| Federal income taxes charged to customers, but not paid | 1,470,909,645 |
| Net tax credits or refunds of back taxes received by utilities | 81,796,560 |
| Number of utilities which paid no Federal income taxes | 43 |
| Number of utilities receiving refunds of back taxes | 31 |
| Number of utilities charging customers for more Federal income taxes than they paid | 134 |
| Total taxable utility income | 8,908,886,760 |
| Federal income taxes paid by utilities as a percent of taxable income | 8.2% |

All the above statistics were derived from the annual reports (Form 1) for 1975 filed by the utilities with the Federal Power Commisson.

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[From the Wall Street Journal, Feb. 25, 1977]

POWER PLAY: CALIFORNIA'S REGULATORS ATTACK THE TAX BREAKS U.S. GIVES TO UTILITIES

(By G. Christian Hill)

For scores of utilities and millions of their customers, the action in California these days is worth watching.

There, state regulators and the federal government's tax agents are squaring off for a fight that could carry to the U.S. Supreme Court. If California wins, utilities across the country are likely to find themselves under pressure to disgorge billions of dollars in refunds and rate reductions. If the Internal Revenue Service gets its way, only California utilities—and possibly their customers as well—could face problems.

At issue are tax savings that have long been granted utilities under federal law. Now, a liberal, reform-minded majority of California's Public Utilities Commission wants to force power and telephone companies in the state to pass these savings on to customers. The sums are substantial. In the case of Pacific Telephone & Telegraph Co., for instance, the PUC is preparing to order the American Telephone & Telegraph Co. subsidiary to reduce rates by $50 million annually and cough up another $128.9 million in refunds.

But in its only comment so far on the PUC's actions, the IRS strongly suggests the commission is about to violate the wishes of Congress, which has declared that the purpose of the tax savings is to encourage modernization of plants and equipment, not to reduce rates. If the PUC persists, tax agents indicate, they will have no choice but to levy huge penalties against the California utilities.

A GAME OF CHICKEN?

The state regulators are betting that won't happen. "Picture whether or not AT&T or the federal government will let Pacific Telephone go belly up," says a source at the commission. "Think about whether the IRS would really demand a billion or so in back taxes. What we've got here is a gigantic game of chicken."

A number of consumer groups around the country also hope the IRS will back down. As they see it, the tax savings amount to an unfair windfall for utilities, one that regulators in other states should also pounce on. Even the utilities concede—with a distinct lack of enthusiasm—that California's action has wide appeal. "California is the only state in the union that has tried this," says Donald Redman, vice president and controller of General Telephone & Electronics Corp.'s California subsidiary. "I'm sure the other states are watching with great interest."

The tax savings in dispute are both the tax credits earned whenever a capital investment is made and the deferral of taxes that is gained by accelerating the rate at which a piece of equipment depreciates in value. The combined effect is to give a utility an interest-free, often non-repayable loan to spend on improving facilities.

That, at least, is what Congress has had in mind ever since 1954, when the first of the tax savings was approved. But for years some 13 state regulatory agencies paid no attention to what Congress wanted, insisting instead that utilities pass some of these tax benefits directly on to consumers.

CONGRESS CRACKS DOWN

In 1969 and again in 1975, however, Congress moved to stop the states' practice. Legislation was pased allowing many utility companies to place their tax savings in a special reserve; more important, the law decreed that any attempt by a regulatory agency to tap these reserves for rate-making purposes would result in complete loss of the tax credits and demand for payment of earlier tax savings.

The utilities lobbied hard for that penalty, reasoning that no regulator would be foolish enough to risk exposing the companies to huge back-tax liabilities sure to shrink earnings and, eventually, justify a need for big rate hikes. The threat was somewhat effective; six of the 13 states dropped the requirement that the tax savings "flow through" to consumers.

Some indication of what this has meant to utilities can be gleaned from two recent government reports. One, by the Federal Power Commission, shows that in 1974, the nation's electric utilities paid $528 million in federal income taxes. But the next year, according to a Library of Congress survey, state regulatory commissions granted these utilities $1.6 billion in rate hikes specifically to reflect federal taxes.

Put another way, in 1975 a company like Pacific Telephone was able to charge its customers rates based on the assumption that one of the utility's costs from its California operations was a $210 million tax bill. Yet in fact, Pacific Telephone not only didn't pay any federal income tax that year, it also received a $19 million tax refund through its parent company.

FEW OPERATIONS

A few in Congress have objected to the utilities' tax benefits. Senator Lee Metcalf, for instance, has accused his colleagues of enabling "electrical utilities to become the greatest tax evaders of all time."

Most, however, accept the utilities' argument that because of accounting practices, at least a portion of the tax savings is eventually passed on to customers. The utilities have also persuaded Congress that they do spend the tax savings to improve service for customers. Pacific Telephone, for instance, points out that 25% of its $1.35 billion capital budget for 1977 will be financed by tax credits produced by these expenditures.

But the utilities and Congress failed to reckon with the independent bent of California courts and regulators. In 1972, the California Supreme Court ruled that the tax savings constituted a "windfall" for utilities and should be shared, at least in part, with customers. The court then instructed the Public Utilities Commission to find a way to do that within the confines of U.S. tax law.

After years of trying, a majority of the PUC now claims to have found a way, devising formulas that ostensibly don't bear directly on utilities' federal tax savings but instead make various assumptions about expected revenues, and service and capital costs.

As a result, in addition to the ruling involving Pacific Telephone, the commission in recent months has ordered, or said it proposes to order, a $49.9 million refund and $10 million annual rate reduction by General Telephone Co. of California; a $6.4 million annual rate reduction by Southern California Gas Co., the nation's biggest retail gas distributor and a unit of Pacific Lighting Corp.; and an unspecified rate reduction by Southern California Edison Co., the nation's fifth largest power company.

A "TRANSPARENT RUSE"

The PUC minority—two of the agency's five members—says the rate orders amount to a "transparent ruse" and a "gimmick" to circumvent federal tax law. The utilities heartily agree. The PUC's "method is pure fiction, designed apparently to get around the law of the land," charges Arthur Latno, a Pacific Telephone vice president.

Indeed, Pacific Telephone believes that if the PUC action sticks, then the company will have to surrender $764 million in deferred taxes and interest to the IRS. General Telephone figures its tab at $200 million. The others say they would lose lesser, but still substantial, amounts.

ENFORCING THE LAW

For their part, the PUC staff and the commission majority are standing fast. Robert Batinovich, a member of the majority, cheerfully concedes that the Pacific Telephone proposal, for one, rests on a "bookkeeping fiction"—he only argues that it is perfectly legal. Nor does the PUC staff have much sympathy for the utilities' fears about paying big tax penalties that they themselves had lobbied to get. "Ma Bell can just get the law changed again, like it did in 1969," says one staff member. (Among PUC staffers, the 1969 tax legislation is known derisively as "the Bell bill.")

The IRS, however, is charged with enforcing current tax laws, and it has already indicated that it intends to do so. Southern California Gas Co. recently received a preliminary ruling from the federal agency saying that the PUC's rate order is an "impermissible accounting treatment of the (tax) credit." The ruling, made by John Hott, chief of the IRS Corporation Tax Division, also stated that the commission's order "indicates that the PUC did indirectly, and by another name, what it could not do directly without causing the (company) to lose the benefits of the investment credit."

Southern California Gas has already petitioned the California Supreme Court in an attempt to annul the PUC's rate order. Both of the telephone companies involved promise to do the same thing if the proposed PUC action affecting them is adopted in its present form. Moreover, should the state court rule against the companies, it's likely that the whole issue will then be taken to the U.S. Supreme Court.

In any case, the PUC majority would seem to welcome the confrontation. Commissioner Batinovich believes the actions by Congress to protect utilities' tax savings amount to subversion of state regulatory powers. "The IRS doesn't set rates in this state," he says, "we do." Utilities, meanwhile, suspect that the showdown being provoked by the PUC is actually designed to provide a national platform for the commission majority's own tax reform idea, which calls for abolishing all

federal tax payments by utilities and instituting instead a tax to be paid directly by the consumer to the government at monthly billing time.

If that is true, says Pacific Telephone's Mr. Latno, then the PUC is playing "a terrible game. Because if the commission's point of view is wrong, the stakes are so immense that there could be a catastrophe."

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[From the Wall Street Journal, Mar. 1, 1977]

PHONE CONCERN'S BID TO LIFT RATES BRINGS UNWELCOME SURPRISE

When Continental Telephone Co. of Maine applied for a $510,000 annual rate increase last year, it gave little thought to getting the kind of answer the Maine Public Utilities Commission recently gave it.

Not only did the state agency deny the increase, but it actually reduced the company's rates $409,000. Continental Telephone Co. of Maine is a subsidiary of Continental Telephone Corp., Merrifield, Va., and has about 25,000 subscribers scattered around Maine.

"It's unbelievable, really," says William Houman, president of the subsidiary. The possibility of a rate decrease "was never once raised during the hearings" for the proposed increase, he says. The concern has appealed the decision to the Maine supreme court.

The rate decrease is probably the first in Maine in more than five years, says Ralph Gelder, chairman of the Maine utilities commission. The subsidiary "would have been better off not filing," he says.

If unheld by the state's supreme court, the decision's effect will be to reduce rates for most residential customers a couple of dollars a month, says Mr. Gelder. The reduction is scheduled to take effect March 12, unless the court intervenes.

The decision to reduce rates stemmed in part from what Mr. Gelder says was an overstatement by Continental Telephone Co. of Maine of its tax liability. The subsidiary showed its tax liability at the full corporate rate of 48% whereas its parent Continental Telephone Corp.'s consolidated taxes were only about 5% in 1974, the year examined by the state agency, he says.

The Maine Public Utilities Commission also decided that other charges made by the parent company to the subsidiary, such as for use of a company plane, were unwarranted, says Mr. Gelder. "There was just no way of showing that Maine rate payers were getting anything out of these costs being assessed," he says.

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FEDERAL POWER COMMISSION,
*Washington, D.C., September 8, 1976.*

Hon. LEE METCALF,
*U.S. Senate, Washington, D.C.*

DEAR SENATOR METCALF: In further response to your request of June 1, 1976, enclosed are tabulations showing income taxes, return on common equity and other financial data on Classes A and B electric utilities and gas pipeline companies for calendar year 1975.

Please note that the information contained in the footnotes to the tabulations is an integral part and should be included in publication or release of this information.

It should also be noted that the figure for Federal income taxes as a percentage of net income can be derived by dividing column 11 by column 13 on the charts showing tax comparisons. You will note that this amounts to 11.3 percent for all electric utilities and 41.1 percent for interstate natural gas pipeline companies.

Sincerely,

RICHARD L. DUNHAM,
*Chairman.*

CLASSES A AND B PRIVATELY OWNED ELECTRIC UTILITIES—1975

| Company name | Rate of return on common equity: Year end | Average |
|---|---|---|
| Alabama Power Co | 10.9 | 11.6 |
| Southern Electric Generating Co | 13.4 | 13.4 |
| Alaska Electric Light & Power Co | 9.8 | 10.0 |
| Arizona Public Service Co | 12.1 | 13.5 |
| Citizens Utilities Co | 14.9 | 15.9 |
| Tucson Gas & Electric Co | 12.1 | 14.3 |
| Arkansas Missouri Power Co | 10.2 | 10.5 |
| Arkansas Power & Light Co | 7.6 | 8.1 |
| Pacific Gas & Electric Co | 9.2 | 9.7 |
| San Diego Gas & Electric Co | 5.8 | 5.9 |
| Southern California Edison Co | 9.8 | 10.0 |
| Home Light & Power Co | 8.9 | 9.2 |
| Public Service Co. of Colorado | 11.6 | 12.6 |
| Connecticut Light & Power Co | 10.7 | 11.1 |
| Connecticut Yankee Atomic Power | 7.1 | 7.2 |
| Hartford Electric Light Co | 12.5 | 13.4 |
| Millstone Point Co | 8.1 | 9.3 |
| United Illuminating Co | 13.0 | 14.7 |
| Delmarva Power & Light Co | 9.2 | 9.7 |
| Potomac Electric Power Co | 7.6 | 7.8 |
| Florida Power Corp | 12.5 | 13.4 |
| Florida Power & Light Co | 12.5 | 13.4 |
| Florida Public Utilities Co | 7.6 | 7.7 |
| Gulf Power Co | 16.8 | 17.6 |
| Tampa Electric Co | 12.6 | 13.7 |
| Georgia Power Co | 14.4 | 14.9 |
| Savannah Electric & Power Co | 13.0 | 13.5 |
| Hawaiian Electric Co., Inc | 11.2 | 11.5 |
| Hilo Electric Light Co., Ltd | 2.6 | 2.6 |
| Maui Electric Co., Ltd | 8.9 | 9.3 |
| Idaho Power Co | 8.1 | 8.7 |
| Central Illinois Light Co | 8.3 | 8.8 |
| Central Illinois Public Service | 12.0 | 13.1 |
| Commonwealth Edison Co | 10.4 | 11.0 |
| Electric Energy, Inc | 7.8 | 8.0 |
| Illinois Power Co | 12.3 | 13.2 |
| Mount Carmel Public Utility Co | 9.5 | 9.7 |
| Sherrard Power System | 8.2 | 8.5 |
| South Beloit Water, Gas & Electric | [1] 0 | [1] 0 |
| Alcoa Generating Corp | 3.4 | 3.3 |
| Commonwealth Edison Company of I | 7.6 | 7.5 |
| Indiana-Kentucky Electric Corp | [2] 0 | [2] 0 |
| Indiana & Michigan Electric Co | 10.0 | 10.7 |
| Indianapolis Power & Light Co | 11.3 | 12.4 |
| Northern Indiana Public Service | 11.2 | 12.0 |
| Public Service Co. of Indiana | 12.4 | 13.3 |
| Southern Indiana Gas & Electric | 12.8 | 13.2 |
| Interstate Power Co | 10.2 | 11.4 |
| Iowa Electric Light & Power Co | 7.7 | 7.7 |
| Iowa Illinois Gas & Electric Co | 11.0 | 11.9 |
| Iowa Power & Light Co | 13.2 | 14.3 |
| Iowa Public Service Co | 10.8 | 12.8 |
| Iowa Southern Utilities Co | 12.6 | 13.6 |
| Central Kansas Power Co., Inc | 7.4 | 7.7 |
| Central Telephone & Utilities Co | 14.7 | 15.3 |
| Kansas Gas & Electric Co | 12.2 | 13.2 |
| Kansas Power & Light Co | 11.8 | 12.1 |
| Kentucky Power Co | 7.6 | 7.7 |
| Kentucky Utilities Co | 11.6 | 12.5 |
| Louisville Gas & Electric Co | 11.8 | 12.6 |
| Union Light, Heat & Power Co | 9.3 | 9.6 |
| Central Louisiana Electric Co | 15.5 | 17.6 |
| Gulf States Utilities Co | 11.1 | 11.8 |
| Louisiana Power & Light Co | 12.5 | 13.8 |
| New Orleans Public Service Inc | 4.2 | 4.1 |
| Bangor Hydro Electric Co | 10.8 | 11.4 |
| Central Maine Power Co | 9.1 | 9.4 |
| Maine Electric Power Co., Inc | 12.4 | 11.9 |
| Maine Public Service Co | 9.4 | 9.5 |
| Maine Yankee Atomic Power Co | 10.0 | 10.0 |
| Rumford Falls Power Co | 8.9 | 9.0 |
| Baltimore Gas & Electric Co | 10.3 | 10.5 |
| Chestertown Electric Light & Power Co | 2.5 | 2.5 |
| Conowingo Power Co | 6.2 | 6.4 |
| Delmarva Power & Light Co | 7.6 | 8.0 |
| Potomac Edison Co | 12.7 | 13.1 |
| Susquehanna Electric Co | [2] 0 | [2] 0 |
| Susquehanna Power Co | 5.3 | 5.3 |
| Boston Edison Co | 7.0 | 7.5 |
| Brockton Edison Co | 11.1 | 13.7 |
| Cambridge Electric Light Co | 8.5 | 8.5 |
| Canal Electric Co | 14.8 | 15.4 |
| Fall River Electric Light Co | 12.6 | 12.5 |
| Fitchburg Gas & Electric Light | 9.0 | 9.1 |
| Holyoke Power & Electric Co | 4.1 | 4.1 |
| Holyoke Water Power Co | [2] 0 | [2] 0 |
| Massachusetts Electric Co | 11.7 | 11.7 |
| Montaup Electric Co | 8.6 | 9.3 |
| Nantucket Gas & Electric Co | 10.9 | 11.2 |
| New Bedford Gas & Edison Light | 7.1 | 7.7 |
| New England Power Co | 9.9 | 10.4 |
| Western Massachusetts Electric Co | 7.2 | 7.7 |
| Yankee Atomic Electric Co | 7.2 | 7.2 |
| Alpena Power Co | 12.5 | 13.1 |
| Consumers Power Co | 8.5 | 8.8 |
| Detroit Edison Co | 7.0 | 7.5 |
| Edison Sault Electric Co | 11.7 | 11.8 |
| Indiana Michigan Power Co | 6.4 | 7.0 |
| Michigan Power Co | 5.8 | 5.9 |
| Upper Peninsula Generating Co | [2] 0 | [2] 0 |
| Upper Peninsula Power Co | 8.6 | 8.6 |
| Cliffs Electric Service Co | 17.2 | 18.8 |
| Minnesota Power & Light Co | 12.0 | 13.0 |
| Northern States Power Co | 12.3 | 13.0 |
| Mississippi Power Co | 9.7 | 10.1 |
| Mississippi Power & Light Co | 12.6 | 12.8 |
| Empire District Electric Co | 10.9 | 11.1 |
| Kansas City Power & Light Co | 10.3 | 11.0 |
| Missouri Edison Co | 7.9 | 8.1 |
| Missouri Power & Light Co | 9.1 | 9.2 |
| Missouri Public Service Co | 11.8 | 12.2 |
| Missouri Utilities Co | 7.0 | 7.5 |
| St. Joseph Light & Power Co | 9.3 | 10.0 |
| Union Electric Co | 10.9 | 11.5 |
| Montana Power Co | 13.1 | 14.7 |
| Nevada Power Co | 9.5 | 9.8 |
| Sierra Pacific Power Co | 8.5 | 8.8 |
| Concord Electric Co | 12.7 | 13.9 |
| Connecticut Valley Electric Co | 2.7 | 2.7 |
| Exeter & Hampton Electric Co | 12.8 | 13.1 |
| Granite State Electric Co | 12.1 | 12.1 |
| Public Service Company of New Ha | 12.7 | 13.1 |
| Atlantic City Electric Co | 12.4 | 12.7 |
| Jersey Central Power & Light Co | 8.2 | 8.2 |
| Public Service Electric & Gas | 8.8 | 9.0 |
| Rockland Electric Co | 4.4 | 5.1 |
| New Mexico Electric Service Co | 13.3 | 14.0 |
| Public Service Co. of New Me | 10.6 | 11.5 |
| Central Hudson Gas & Electric Co | 9.9 | 10.4 |
| Consolidated Edison Company of N | 9.7 | 10.0 |
| Long Island Lighting Co | 12.1 | 13.4 |
| Long Sault, Inc | 9.0 | 12.3 |
| New York State Electric & Gas Co | 9.9 | 10.9 |
| Niagara Mohawk Power Corp | 11.4 | 12.2 |
| Orange & Rockland Utilities, I | 11.3 | 11.6 |
| Rochester Gas & Electric Corp | 9.5 | 10.1 |
| Carolina Power & Light Co | 10.3 | 11.7 |
| Duke Power Co | 9.1 | 9.6 |
| Nantahala Power & Light Co | 4.9 | 5.0 |
| Yadkin, Inc | 5.0 | 5.2 |
| Montana Dakota Utilities Co | 11.4 | 11.7 |
| Otter Tail Power Co | 9.5 | 9.6 |
| Cincinnati Gas & Electric Co | 10.2 | 10.8 |
| Cleveland Electric Illuminating | 11.9 | 13.1 |
| Columbus & Southern Ohio Elect | 13.5 | 15.6 |
| Dayton Power & Light Co | 11.7 | 12.4 |
| Ohio Edison Co | 12.3 | 13.0 |
| Ohio Electric Co | 12.3 | 13.0 |
| Ohio Power Co | 13.4 | 14.2 |
| Ohio Valley Electric Corp | 10.1 | 10.1 |
| Toledo Edison Co | 12.9 | 14.2 |
| Oklahoma Gas & Electric Co | 12.6 | 12.8 |
| Public Service Co. of Oklahoma | 13.2 | 14.0 |
| California Pacific Utilities Co | 7.6 | 8.0 |
| Pacific Power & Light Co | 11.4 | 12.8 |
| Portland General Electric Co | 12.7 | 13.8 |
| Citizens Electric Co | 7.2 | 7.3 |
| Duquesne Light Co | 10.2 | 10.8 |
| Hershey Electric Co | 9.8 | 10.3 |
| Metropolitan Edison Co | 10.3 | 10.2 |
| Pennsylvania Electric Co | 12.4 | 12.4 |
| Pennsylvania Power Co | 11.6 | 12.0 |
| Pennsylvania Power & Light Co | 11.9 | 12.7 |
| Philadelphia Electric Co | 8.8 | 9.4 |
| Safe Harbor Water Power Corp | 7.6 | 7.7 |
| UGI Corp | 9.2 | 9.3 |
| West Penn Power Co | 13.2 | 13.3 |
| Blackstone Valley Electric Co | 6.4 | 6.4 |
| Narragansett Electric Co | 8.2 | 8.3 |
| Newport Electric Corp | 9.4 | 9.5 |
| Lockhart Power Co | 8.3 | 8.4 |
| South Carolina Electric & Gas Co | 11.9 | 12.7 |
| Black Hills Power & Light Co | 12.9 | 13.4 |
| Northwestern Public Service Co | 7.3 | 7.2 |
| Kingsport Power Co | 5.9 | 6.0 |
| Tapoco, Inc | 4.3 | 4.1 |
| Central Power & Light Co | 12.0 | 13.0 |
| Community Public Service Co | 6.8 | 6.7 |
| Dallas Power & Light Co | 9.4 | 9.6 |
| El Paso Electric Co | 13.7 | 15.1 |
| Houston Lighting & Power Co | 10.2 | 10.8 |
| Southwestern Electric Power Co | 13.3 | 14.0 |
| Southwestern Electric Service Co | 14.3 | 14.7 |
| Southwestern Public Service Co | 17.0 | 18.5 |
| Texas Electric Service Co | 13.6 | 13.9 |
| Texas Power & Light Co | 10.6 | 11.4 |
| West Texas Utilities Co | 15.8 | 16.4 |
| Utah Power & Light Co | 9.2 | 10.2 |
| Central Vermont Public Service Co | 12.0 | 12.3 |
| Green Mountain Power Corp | 15.0 | 15.6 |
| Vermont Electrict Power Co | 7.2 | 7.8 |
| Vermont Yankee Nuclear Power Corp | 9.8 | 9.9 |
| DelMarva Power & Light Co | 11.0 | 11.3 |
| Old Dominion Power Co | 5.1 | 5.3 |
| Virginia Electric & Power Co | 9.8 | 10.5 |
| Puget Sound Power & Light Co | 12.4 | 13.4 |
| Washington Water Power Co | 11.2 | 11.8 |
| Appalachian Power Co | 13.8 | 14.6 |
| Monongahela Power Co | 13.3 | 14.1 |

| Company name | Rate of return on common equity [1] Year end | Average |
|---|---|---|
| Wheeling Electric Co | 11.3 | 11.6 |
| Consolidated Water Power Co | 4.0 | 4.0 |
| Lake Superior District Power Co | 9.6 | 9.8 |
| Madison Gas & Electric Co | 9.3 | 10.0 |
| Northern States Power Co | 12.0 | 12.8 |
| Northwestern Wisconsin Electric | 5.7 | 5.9 |
| Superior Water, Light & Power | 9.1 | 9.2 |
| Wisconsin Electric Power Co | 9.9 | 10.0 |
| Wisconsin Michigan Power Co | 7.1 | 6.9 |
| Wisconsin Power & Light Co | 9.5 | 10.3 |
| Wisconsin Public Service Corp | 11.8 | 12.0 |
| Wisconsin River Power Co | .7 | .7 |
| Cheyenne Light, Fuel & Power Co | 10.1 | 10.3 |
| Lincoln Service Corp | 4.6 | 4.7 |
| Total | 10.6 | 11.2 |

[1] Rates of return on common equity. The computed rates of return presented in this schedule are the percentage relationships of earnings available for common stock to (1) the end of year balance and (2) the average of the beginning and year-end balances of proprietary capital, excluding preferred stock. This presentation of rates of return on common equity is not considered indicative of the reasonableness of return by regulatory standards as the earnings available include both regulated and nonregulated earnings and, furthermore, the regulated portion of the earnings are from operations which are regulated partly by the Federal Power Commission and one or more State and local entities which may or may not utilize the same or similar rate making methods.

[2] Company in a net loss position

## FEDERAL INCOME TAXES—REVENUES
## CLASSES A AND B PRIVATELY OWNED ELECTRIC UTILITIES, 1975

| Company No. and company name | Total utility operating revenues account 400 (1) | Federal income tax charged to account 409.1 [1 2] (2) | F.I.T. as percent of utility operating revenues (2)÷(1) (3) | Total nonutility operating revenues (4) | Federal income tax charged to account 409.2 [1 2] (5) | F.I.T. as percent of nonutility operating revenues (5)÷(4) (6) |
|---|---|---|---|---|---|---|
| 010100 Alabama Power Co | $632,156,152 | $5,693,245— | 0.9— | $58,459,317 | $641,515 | 1.1 |
| 011700 Southern Electric Generating Co | 78,215,480 | 1,679,534 | 2.1 | 1,724,794 | 433,423 | 25.1 |
| 020250 Alaska Electric Light & Power Co | 3,882,835 | 128,500 | 3.3 | 4,784 | 0 | 0 |
| 040350 Arizona Public Service Co | 359,747,014 | 5,007,004 | 1.4 | 17,844,591 | 4,245,339— | 23.8— |
| 040540 Citizens Utilities Co | 37,440,032 | 1,727,207 | 4.6 | 12,589,693 | 274,115 | 2.2 |
| 041600 Tucson Gas & Electric Co | 166,833,106 | 971,000 | .6 | 6,722,357 | 971,000— | 14.4— |
| 050160 Arkansas Missouri Power Co | 40,970,572 | 278,725 | .7 | 336,086 | 12,188— | 3.6— |
| 050220 Arkansas Power & Light Co | 309,064,944 | 6,058,953 | 2.0 | 22,469,935 | 4,511,370— | 20.1— |
| 061090 Pacific Gas & Electric Co | 2,438,570,217 | 4,253,000— | .2— | 93,990,622 | 14,480,000— | 15.4— |
| 061240 San Diego Gas & Electric Co | 388,866,898 | 37,159 | 0 | 9,188,630 | 3,245,506— | 35.3— |
| 061490 Southern California Edison Co | 1,668,487,362 | 40,058,569 | 2.4 | 35,388,133 | 2,161,900— | 6.1— |
| 080550 Home Light & Power Co | 10,329,277 | 319,936 | 3.1 | 32,383 | 0 | 0 |
| 080880 Public Service Co. of Colorado | 436,407,235 | 11,445,470 | 2.6 | 13,894,925 | 96,470— | .7— |
| 090370 Connecticut Light & Power Co | 421,041,463 | 1,062,493 | .3 | 23,336,229 | 622,315— | 2.7— |
| 090450 Connecticut Yankee Atomic Power | 40,806,491 | 306,865— | .8— | 161,348 | 306,865 | 190.2 |
| 090760 Hartford Electric Light Co | 225,244,295 | 255,765— | .1— | 11,333,912 | 186,642— | 1.6— |
| 090900 Millstone Point Co | 21,904,425 | 211,631 | 1.0 | 680,677 | 0 | 0 |
| 091590 United Illuminating Co | 188,650,770 | 1,734,400— | .9— | 7,240,864 | 221,900 | 3.1 |
| 100150 Delmarva Power & Light Co | 212,116,453 | 970,661— | .5— | 19,043,988 | 438,035 | 2.3 |
| 110250 Potomac Electric Power Co | 492,509,585 | 9,953,000— | 2.0— | 1,774,110 | 49,000— | 2.8— |
| 120290 Florida Power Corp | 504,495,991 | 8,144,000 | 1.6 | 36,880,435 | 3,808,000 | 10.3 |
| 120380 Florida Power & Light Co | 1,182,644,366 | 52,711,267 | 4.5 | 49,806,136 | 3,343,898— | 6.7— |
| 120560 Florida Public Utilities Co | 17,621,352 | 59,104 | .3 | 140,610 | 18,738 | 13.3 |
| 120650 Gulf Power Co | 143,809,602 | 9,416,931 | 6.5 | 627,788 | 79,411 | 12.6 |
| 121190 Tampa Electric Co | 254,856,688 | 4,326,823 | 1.7 | 10,669,035 | 1,141,366— | 10.7— |
| 130450 Georgia Power Co | 1,081,621,144 | 12,935,448— | 1.2— | 91,036,629 | 12,935,448 | 14.2 |
| 131000 Savannah Electric & Power Co | 62,485,541 | 240,023— | .4— | 3,131,916 | 66,600 | 2.1 |
| 150250 Hawaiian Electric Co., Inc | 170,203,732 | 6,723,472 | 4.0 | 2,511,618 | 1,926— | .1— |
| 150280 Hilo Electric Light Co., Ltd | 18,325,574 | 479,047— | 2.6— | 113,610 | 0 | 0 |
| 151000 Maui Electric Co., Ltd | 15,895,006 | 445,267— | 2.8— | 252,410 | 0 | 0 |
| 160430 Idaho Power Co | 121,323,751 | 5,411,300 | 4.5 | 2,186,334 | 187,900 | 8.6 |
| 170290 Central Illinois Light Co | 181,468,245 | 1,944,800 | 1.1 | 12,175,311 | 567,100 | 4.7 |
| 170320 Central Illinois Public Service | 240,556,330 | 4,808,400 | 2.0 | 9,009,272 | 1,776,500— | 19.7— |
| 170410 Commonwealth Edison Co | 1,710,769,823 | 43,436,168 | 2.5 | 61,478,222 | 12,201,000— | 19.8— |
| 170590 Electric Energy, Inc | 92,351,085 | 625,375 | .7 | 94,357 | 0 | 0 |
| 170720 Illinois Power Co | 408,950,964 | 11,575,000 | 2.8 | 7,703,525 | 1,919,000— | 24.9— |
| 171010 Mount Carmel Public Utility Co | 4,933,026 | 212,845 | 4.3 | 9,521 | 0 | 0 |
| 171310 Sherrard Power System | 4,048,280 | 150,116 | 3.7 | 1,716 | 0 | 0 |
| 171340 South Beloit Water, Gas & Electric | 4,834,718 | 138,528— | 2.9— | 1,034 | 477 | 46.1 |
| 180100 Alcoa Generating Corp | 40,604,439 | 531,281 | 1.4 | 0 | 0 | 0 |
| 180250 Commonwealth Edison Co. of Indiana | 64,369,127 | 3,829,294 | 5.9 | 547,543 | 211,500 | 38.6 |
| 180450 Indiana Kentucky Electric Corp | 79,374,930 | 0 | 0 | 101,557 | 0 | 0 |
| 180570 Indiana & Michigan Electric Co | 364,499,322 | 1,183,812 | .3 | 39,087,422 | 411,914— | 1.1— |
| 180630 Indianapolis Power & Light Co | 177,876,435 | 7,030,000 | 4.0 | 9,545,063 | 2,220,000— | 23.3— |
| 180970 Northern Indiana Public Service | 536,751,558 | 12,562,962 | 2.3 | 20,221,096 | 3,652,000— | 18.1— |
| 181150 Public Service Co. of Indiana | 305,898,155 | 16,725,542 | 5.5 | 13,474,341 | 2,506,109— | 18.6— |
| 181270 Southern Indiana Gas & Electric | 82,750,651 | 6,912,950 | 8.4 | 556,056 | 16,800 | 3.0 |
| 190820 Interstate Power Co | 103,686,643 | 3,502,000 | 3.4 | 2,238,945 | 132,000 | 5.9 |
| 190890 Iowa Electric Light & Power Co | 159,367,244 | 0 | 0 | 1,000,966 | 174,500— | 17.4— |
| 190900 Iowa Illinois Gas & Electric Co | 195,743,581 | 2,779,697 | 1.4 | 4,186,802 | 16,597— | .4— |
| 190930 Iowa Power & Light Co | 162,669,919 | 5,325,500 | 3.3 | 3,442,054 | 27,800 | .8 |
| 190970 Iowa Public Service Co | 129,555,140 | 3,198,340 | 2.5 | 4,907,786 | 80,721— | 1.6— |
| 191030 Iowa Southern Utilities Co | 50,617,284 | 151,389 | .3 | 2,414,524 | 88,311— | 3.7— |
| 200280 Central Kansas Power Co., Inc | 14,571,143 | 437,906 | 3.0 | 8,521 | 3,730— | 43.8— |
| 200320 Central Telephone & Utilities Co | 115,512,881 | 7,468,800 | 6.5 | 40,718,069 | 307,400— | .8— |
| 201040 Kansas Gas & Electric Co | 126,165,853 | 5,943,000 | 4.7 | 5,154,908 | 1,650,000— | 32.0— |
| 201130 Kansas Power & Light Co | 181,582,742 | 4,393,150 | 2.4 | 2,533,987 | 194,488 | 7.7 |
| 210850 Kentucky Power Co | 72,597,795 | 11,538 | 0 | 932,879 | 0 | 0 |
| 210910 Kentucky Utilities Co | 217,750,931 | 10,386,515 | 4.8 | 5,347,236 | 693,369 | 13.0 |
| 211270 Louisville Gas & Electric Co | 198,808,233 | 10,844,000 | 5.5 | 1,894,211 | 436,591 | 23.0 |
| 211900 Union Light, Heat & Power Co | 63,320,757 | 685,792 | 1.1 | 388,341 | 25,367— | 6.5— |
| 220240 Central Louisiana Electric Co | 99,711,571 | 3,143,440— | 3.2— | 15,211,017 | 123,186 | .8 |
| 220690 Gulf States Utilities Co | 375,269,029 | 12,906,492 | 3.4 | 19,169,488 | 101,707 | .5 |
| 220930 Louisiana Power & Light Co | 264,844,393 | 4,746,244— | 1.8— | 17,074,550 | 3,612,795— | 21.2— |
| 221340 New Orleans Public Service, Inc | 176,773,581 | 156,000 | .1 | 1,504,719 | 450,000 | 32.0 |
| 230190 Bangor Hydro Electric Co | 32,313,652 | 1,116,350 | 3.5 | 622,519 | 2,125 | .8 |
| 230370 Central Maine Power Co | 146,398,575 | 3,818,095 | 2.6 | 5,166,667 | 3,863— | .1— |
| 230600 Maine Electric Power Co., Inc | 16,242,386 | 44,934 | .3 | 36,561 | 0 | 0 |
| 230940 Maine Public Service Co | 16,889,410 | 575,243 | 3.4 | 569,422 | 20,905 | 3.7 |
| 230960 Maine Yankee Atomic Power Co | 61,731,404 | 0 | 0 | 2,752,102 | 0 | 0 |
| 233100 Rumford Falls Power Co | 1,516,416 | 248,319 | 16.4 | 4,271 | 0 | 0 |
| 240110 Baltimore Gas & Electric Co | 680,041,581 | 14,344,378 | 2.1 | 21,722,678 | 200,307 | .9 |
| 240210 Chestertown Electric Light and Power Co | 2,414,683 | 7,374— | .3— | 0 | 0 | 0 |
| 240280 Conowingo Power Co | 15,127,446 | 571,289 | 3.8 | 40,862 | 14,667 | 35.9 |
| 240350 Delmarva Power & Light Co | 56,836,904 | 87,611 | .2 | 561,568 | 0 | 0 |
| 241050 Potomac Edison Co | 176,027,962 | 7,217,400 | 4.1 | 1,233,052 | 130,900 | 10.6 |
| 241470 Suquehanna Electric Co | 9,507,788 | 33— | 0 | 0 | 0 | 0 |
| 241540 Susquehanna Power Co | 6,540,098 | 1,356,359 | 20.7 | 199,384 | 66,108 | 33.2 |
| 250220 Boston Edison Co | 501,743,766 | 0 | 0 | 12,339,481 | 189,068— | 1.5— |
| 250240 Brockton Edison Co | 56,398,813 | 77,919 | .1 | 4,449,355 | 3,971 | .1 |
| 250250 Cambridge Electric Light Co | 35,687,618 | 522,426 | 1.5 | 940,666 | 42,414 | 4.5 |
| 250270 Canal Electric Co | 82,322,246 | 620,605— | .8— | 4,254,772 | 48,269 | 1.1 |
| 250440 Fall River Electric Light Co | 23,773,861 | 23,115 | .1 | 1,098,729 | 6,845— | .6— |

See footnotes at end of table.

FEDERAL INCOME TAXES—REVENUES—Continued

CLASSES A AND B PRIVATELY OWNED ELECTRIC UTILITIES, 1975—Continued

| Company No. and company name | Total utility operating revenues account 400 (1) | Federal income tax charged to account 409.1 [12] (2) | F.I.T. as percent of utility operating revenues (2)÷(1) (3) | Total nonutility operating revenues (4) | Federal income tax charged to account 409.2 [12] (5) | F.I.T. as percent of nonutility operating revenues (5)÷(4) (6) |
|---|---|---|---|---|---|---|
| 250460 Fitchburg Gas & Electric Light | $20,660,615 | $140,763 | .7 | $587,812 | $24,775 | 4.2 |
| 250570 Holyoke Power & Electric Co | 26,583,559 | 11,824 | 0 | 10,357 | 0 | 0 |
| 250590 Holyoke Water Power Co | 37,665,684 | 19,930 | .1 | 226,130 | 1,235— | .5— |
| 250780 Massachusetts Electric Co | 434,182,936 | 9,594,500 | 2.2 | 634,562 | 215,600— | 34.0— |
| 250850 Montaup Electric Co | 93,488,250 | 103,209— | .1— | 5,470,755 | 0 | 0 |
| 250900 Nantucket Gas & Electric Co | 2,362,030 | 132,014 | 5.6 | 36,297 | 15,985 | 44.0 |
| 250920 New Bedford Gas & Edison Light | 119,627,236 | 1,517,638 | 1.3 | 322,724 | 139,729— | 43.3— |
| 250950 New England Power Co | 431,757,513 | 6,432,496 | 1.5 | 8,917,227 | 302,700 | .43 |
| 251450 Western Massachusetts Electric Co | 126,513,651 | 97,719 | .1 | 8,322,206 | 338,000— | 4.1— |
| 251800 Yankee Atomic Electric Co | 15,004,435 | 1,187,600 | 7.9 | 173,117 | 300— | .2— |
| 260100 Alpena Power Co | 7,498,300 | 607,386 | 8.1 | 83,657 | 11,895 | 14.2 |
| 260210 Consumers Power Co | 1,332,795,650 | 872,245— | .1— | 44,445,012 | 2,508,428 | 5.6 |
| 260300 Detroit Edison Co | 1,062,999,188 | 639,506— | .1— | 46,432,808 | 832,000 | 1.8 |
| 260330 Edison Sault Electric Co | 7,607,853 | 110,016— | 1.4— | 93,472 | 9,500— | 10.2— |
| 260580 Indiana Michigan Power Co | 38,461,896 | 0 | 0 | 40,173,884 | 0 | 0 |
| 260870 Michigan Power Co | 38,521,401 | 2,110 | 0 | 32,757 | 0 | 0 |
| 261319 Upper Penninsula Generating Co | 53,656,610 | 0 | 0 | 0 | 0 | 0 |
| 261320 Upper Peninsula Power Co | 28,133,483 | 169,426— | .6— | 257,647 | 7,103— | 2.8— |
| 262280 Cliffs Electric Service Co | 49,213,486 | 0 | 0 | 37,432 | 1,435,341 | 3,834.5 |
| 271030 Minnesota Power & Light Co | 102,955,317 | 3,354,700 | 3.3 | 2,285,945 | 200,900 | 8.8 |
| 271210 Northern States Power Co | 632,080,415 | 21,590,000 | 3.4 | 35,064,229 | 64,000 | .2 |
| 280760 Mississippi Power Co | 141,825,087 | 38,480— | 0 | 6,542,776 | 38,480 | .6 |
| 280970 Mississippi Power & Light Co | 240,056,873 | 2,812,190 | 1.2 | 3,959,175 | 845,765 | 21.4 |
| 290460 Empire District Electric Co | 39,751,525 | 1,855,000 | 4.7 | 55,623 | 0 | 0 |
| 290700 Kansas City Power & Light Co | 210,643,037 | 4,555,445 | 2.2 | 9,394,031 | 1,068,000 | 11.4 |
| 290940 Missouri Edison Co | 21,365,874 | 83,900 | .4 | 63,911 | 6,000— | 9.4— |
| 291060 Missouri Power & Light Co | 58,745,095 | 642,300 | 1.1 | 64,109 | 4,000— | 6.2— |
| 291080 Missouri Public Service Co | 71,784,977 | 3,147,982 | 4.4 | 362,708 | 35,600— | 9.8— |
| 291210 Missouri Utilities Co | 34,118,859 | 90,000 | .3 | 97,463 | 9,000— | 9.2— |
| 291330 St. Joseph Light & Power Co | 31,874,829 | 433,940 | 1.4 | 384,269 | 17,432 | 4.5 |
| 291500 Union Electric Co | 518,633,900 | 23,537,000 | 4.5 | 31,017,796 | 469,000— | 1.5— |
| 301130 Montana Power Co | 145,392,114 | 5,695,731— | 3.9— | 17,984,943 | 744,385 | 4.1 |
| 320890 Nevada Power Co | 91,397,465 | 2,694,472— | 2.9— | 7,387,228 | 63,314 | .9 |
| 321460 Sierra Pacific Power Co | 98,070,541 | 312,162 | .3 | 1,476,816 | 346,831— | 23.5— |
| 330260 Concord Electric Co | 9,479,904 | 203,938 | 2.2 | 77,783 | 30,981 | 39.8 |
| 330350 Connecticut Valley Electric Co | 4,347,996 | 77,952— | 1.8— | 9,169 | 4,000 | 43.6 |
| 330520 Exeter & Hampton Electric Co | 10,074,922 | 142,178 | 1.4 | 31,460 | 10,055 | 32.0 |
| 330640 Granite State Electric Co | 13,948,983 | 37,400— | .3— | 4,921 | 1,300— | 26.4— |
| 331230 Public Service Co of New Hampshire | 186,392,914 | 2,038,019 | 1.1 | 4,558,712 | 158,452 | 3.5 |
| 340240 Atlantic City Electric Co | 199,079,150 | 1,035,029 | .5 | 7,911,930 | 82,640 | 1.0 |
| 340780 Jersey Central Power & Light Co | 395,111,430 | 941,984— | .2— | 17,818,389 | 863,034— | 4.8— |
| 341310 Public Service Electric & Gas | 1,630,524,965 | 1,201,823 | .1 | 45,849,241 | 48,019 | .1 |
| 341400 Rockland Electric Co | 42,280,053 | 225,666— | .5— | 701,019 | 0 | 0 |
| 351030 New Mexico Electric Service Co | 9,801,277 | 917,271 | 9.4 | 621,719 | 50,587 | 8.1 |
| 351570 Public Service Co. of New Mexico | 84,977,929 | 2,813,830 | 3.3 | 3,040,377 | 33,277— | 1.1— |
| 360350 Central Hudson Gas & Electric Co | 158,310,571 | 3,391,000 | 2.1 | 831,454 | 20,000— | 2.4— |
| 360400 Consolidated Edison Co. of New York | 2,679,411,886 | 50,000 | 0 | 38,877,522 | 0 | 0 |
| 360870 Long Island Lighting Co | 673,116,317 | 1,973,900 | .3 | 37,045,957 | 392,900— | 1.1— |
| 360930 Long Sault, Inc | 849,316 | 44,044— | 5.2— | 864 | 415 | 48.0 |
| 361000 New York State Electric & Gas Co | 340,784,881 | 1,710,000— | .5— | 10,777,113 | 724,300 | 6.7 |
| 361050 Niagara Mohawk Power Corp | 963,633,191 | 0 | .0 | 36,668,810 | 0 | 0 |
| 361150 Orange & Rockland Utilities, Inc | 193,067,534 | 899,914 | .5 | 1,963,001 | 0 | 0 |
| 361350 Rochester Gas & Electric Corp | 271,939,588 | 3,562,000 | 1.3 | 3,714,349 | 229,000— | 6.2— |
| 370360 Carolina Power & Light Co | 606,329,122 | 23,438,786 | 3.9 | 61,668,352 | 20,254,600— | 32.8— |
| 370690 Duke Power Co | 971,662,814 | 45,288,516 | 4.7 | 58,541,324 | 17,920,965— | 30.6— |
| 371170 Nantahala Power & Light Co | 9,042,794 | 688,357 | 7.6 | 6,134 | 42,276— | 689.2— |
| 374000 Yakdin, Inc | 8,513,901 | 477,577 | 5.6 | 0 | 0 | 0 |
| 380800 Montana Dakota Utilities Co | 86,535,158 | 1,024,000— | 1.2— | 6,417,536 | 743,000 | 11.6 |
| 381150 Otter Tail Power Co | 57,146,872 | 1,361,000— | 2.4— | 1,210,456 | 593,217— | 49.0— |
| 390430 Cincinnati Gas & Electric Co | 441,402,354 | 3,916,821 | .9 | 16,656,202 | 301,466 | 1.8 |
| 390470 Cleveland Electric Illuminating | 523,165,066 | 7,950,853 | 1.5 | 27,865,728 | 780,689 | 2.8 |
| 390500 Columbus & Southern Ohio Electric | 259,078,434 | 4,724,755 | 1.8 | 17,754,571 | 377,000 | 2.1 |
| 390560 Dayton Power & Light Co | 358,669,502 | 9,177,300 | 2.6 | 10,149,739 | 2,166,300— | 21.3— |
| 391330 Ohio Edison Co | 507,609,699 | 6,371,618 | 1.3 | 55,165,779 | 727,910 | 1.3 |
| 391370 Ohio Electric Co | 216,289,242 | 251,803— | .1— | 11,150,433 | 251,803 | 2.3 |
| 391410 Ohio Power Co | 660,154,209 | 1,802,767— | .3— | 56,240,171 | 196,686 | .3 |
| 391470 Ohio Valley Electric Corp | 156,691,941 | 1,157,406 | .7 | 2,522,826 | 0 | 0 |
| 391680 Toledo Edison Co | 191,564,100 | 5,885,277 | 3.1 | 20,852,178 | 288,583— | 1.4— |
| 400970 Oklahoma Gas & Electric Co | 274,424,350 | 4,871,000 | 1.8 | 7,540,311 | 534,000— | 7.1— |
| 401320 Public Service Co. of Oklahoma | 224,194,558 | 14,280,000 | 6.4 | 5,592,827 | 622,200 | 11.1 |
| 410250 California Pacific Utilities Co | 49,537,185 | 628,108— | 1.3— | 354,223 | 4,900— | 1.4— |
| 411270 Pacific Power & Light Co | 272,658,540 | 4,530,161— | 1.7— | 42,288,083 | 1,044,248— | 2.5— |
| 411390 Portland General Electric Co | 179,942,332 | 3,663,021— | 2.0— | 22,907,690 | 268,815 | 1.2 |
| 420350 Citizens Electric Co | 2,341,656 | 64,398 | 2.8 | 5,720 | 0 | 0 |
| 420520 Duquesne Light Co | 394,616,193 | 18,786,900 | 4.8 | 27,284,575 | 6,994,300— | 25.6— |
| 420850 Hershey Electric Co | 8,690,260 | 298,636 | 3.4 | 0 | 0 | 0 |
| 421140 Metropolitan Edison Co | 243,107,696 | 5,285,995 | 2.2 | 18,041,923 | 3,530,000— | 19.6— |
| 421330 Pennsylvania Electric Co | 306,315,880 | 5,689,543 | 1.9 | 13,776,217 | 2,125,000— | 15.4— |
| 421350 Pennsylvania Power Co | 87,211,899 | 2,404,335 | 2.8 | 9,657,165 | 172,219 | 1.8 |
| 421370 Pennsylvania Power & Light Co | 544,199,907 | 22,546,965 | 4.1 | 40,778,640 | 9,163,619— | 22.5— |
| 421440 Philadelphia Electric Co | 1,128,525,626 | 40,233,331 | 3.6 | 72,349,873 | 18,176,749— | 25.1— |
| 421660 Safe Harbor Water Power Corp | 4,242,086 | 509,786 | 12.0 | 198,367 | 5,124 | 2.6 |
| 421820 UGI Corp | 123,109,404 | 884,290 | .7 | 2,205,772 | 174,416 | 7.9 |
| 421870 West Penn Power Co | 312,646,514 | 16,585,900 | 5.3 | 3,580,168 | 300,500 | 8.4 |
| 440260 Blackstone Valley Electric Co | 43,753,920 | 696,630— | 1.6— | 2,097,470 | 0 | 0 |
| 440600 Narragansett Electric Co | 137,061,095 | 3,602,300 | 2.6 | 343,656 | 119,800— | 34.9— |
| 440710 Newport Electric Corp | 13,453,363 | 16,748— | .1— | 26,584 | 3,793— | 14.3— |
| 451180 Lockhart Power Co | 4,999,722 | 270,852 | 5.4 | 53,286 | 23,780 | 44.6— |
| 451320 South Carolina Electric & Gas Co | 321,131,211 | 10,222,300 | 3.2 | 11,150,081 | 2,294,100— | 20.6 |
| 460240 Black Hills Power & Light Co | 18,529,682 | 384,000 | 2.1 | 1,288,659 | 12,755— | 1.0— |
| 461110 Northwestern Public Service Co | 40,280,669 | 466,230— | 1.2— | 1,846,156 | 402,000— | 21.8— |
| 470940 Kingsport Power Co | 20,238,828 | 17,334— | .1— | 14,514 | 13,335 | 91.9— |
| 471500 Taboco, Inc | 5,217,844 | 488,883 | 9.4 | 114,911— | 46,463— | 40.4 |
| 480280 Central Power & Light Co | 286,623,780 | 13,066,000 | 4.6 | 4,620,158 | 136,000 | 2.9 |
| 480340 Community Public Service Co | 74,084,592 | 993,731 | 1.3 | 385,853 | 139,892 | 36.3 |
| 480390 Dallas Power & Light Co | 231,401,095 | 8,934,558 | 3.9 | 8,895,029 | 0 | 0 |
| 480450 Elpaso Electric Co | 91,460,725 | 2,064,256 | 2.3 | 2,383,854 | 695,256— | 29.2— |
| 480860 Houston Lighting & Power Co | 634,152,717 | 19,455,000 | 3.1 | 9,649,732 | 0 | 0 |
| 481200 Southwestern Electric Power Co | 154,798,103 | 9,725,600 | 6.3 | 3,426,456 | 79,200 | 2.3 |
| 481240 Southwestern Electric Service Co | 14,818,120 | 365,333 | 2.5 | 46,442 | 0 | 0 |
| 481320 Southwestern Public Service Co | 190,406,659 | 7,649,085 | 4.0 | 8,215,060 | 580,000 | 7.1 |
| 481380 Texas Electric Service Co | 263,401,843 | 19,955,481 | 7.6 | 15,303,049 | 0 | 0 |
| 481550 Texas Power & Light Co | 398,136,493 | 12,995,577 | 3.3 | 20,628,226 | 0 | 0 |

| Company No. and company name | Total utility operating revenues account 400 (1) | Federal income tax charged to account 409.1 [1 2] (2) | F.I.T. as percent of utility operating revenues (2)÷(1) (3) | Total nonutility operating revenues (4) | Federal income tax charged to account 409.2 [1 2] (5) | F.I.T. as percent of nonutility operating revenues (5)÷(4) (6) |
|---|---|---|---|---|---|---|
| 481900 West Texas Utilities Co | $91, 258, 557 | $9, 186, 900 | 10. 1 | $735, 385 | $271, 400 | 34. 1 |
| 491450 Utah Power & Light Co | 210, 146, 639 | 429, 305— | .2— | 8, 806, 848 | 0 | 0 |
| 500220 Central Vermont Public Service Co | 54, 934, 141 | 47, 000 | .1 | 2, 852, 290 | 0 | 0 |
| 500470 Green Mountain Power Corp | 32, 932, 738 | | 0 | 1, 457, 636 | 0 | 0 |
| 501300 Vermont Electric Power Co | 71, 449, 339 | 0 | 0 | 771, 197 | 0 | 0 |
| 501350 Vermont Yankee Nuclear Power Corp | 56, 496, 512 | 0 | 0 | 402, 683 | 0 | 0 |
| 510400 Delmarva Power & Light Co | 9, 767, 777 | 344, 707 | 3. 5 | 27, 859 | 10, 420 | 37. 4 |
| 511160 Old Dominion Power Co | 10, 990, 825 | 220, 202— | 2. 0— | 98, 457 | 1, 790— | 1. 8— |
| 511520 Virginia Electric & Power Co | 1, 033, 335, 707 | 1, 142, 498— | .1— | 67, 887, 683 | 1, 370, 975 | 2. 0 |
| 531240 Puget Sound Power & Light Co | 162, 981, 231 | 2, 738, 000— | 1. 7— | 10, 945, 837 | 108, 356 | 1. 0 |
| 531630 Washington Water Power Co | 134, 901, 619 | 3, 509, 527 | 2. 6 | 3, 059, 788 | 621, 032— | 20. 3— |
| 540120 Appalachian Power Co | 513, 842, 373 | 32, 042— | 0 | 13, 776, 814 | 35, 249 | .3 |
| 540950 Monongahela Power Co | 178, 540, 312 | 9, 004, 465 | 5. 0 | 2, 879, 803 | 35, 900— | 1. 2— |
| 541900 Wheeling Electric Co | 36, 818, 213 | 171, 256 | .5 | 26, 018 | 165, 606— | 636. 5— |
| 550330 Consolidated Water Power Co | 4, 530, 322 | 408, 680 | 9. 0 | 68, 355 | 3, 028 | 4. 4 |
| 550680 Lake Superior District Power Co | 22, 248, 596 | 270, 600 | 1. 2 | 122, 026 | 39, 400 | 32. 3 |
| 550220 Madison Gas & Electric Co | 78, 739, 274 | 1, 101, 211 | 1. 4 | 979, 966 | 59, 600— | 6. 1— |
| 550920 Northern States Power Co | 104, 455, 627 | 6, 273, 700 | 6. 0 | 1, 015, 092 | 335, 700— | 33. 1— |
| 550950 Northwestern Wisconsin Electric | 2, 086, 505 | 9, 073 | .4 | 1, 708 | 0 | 0 |
| 551420 Superior Water, Light & Power | 15, 288, 341 | 345, 600 | 2. 3 | 27, 032 | 1, 700 | 6. 3 |
| 551710 Wisconsin Electric Power Co | 352, 839, 541 | 17, 211, 600 | 4. 9 | 12, 066, 399 | 314, 400 | 2. 6 |
| 551770 Wisconsin Michigan Power Co | 75, 997, 578 | 1, 519. 700 | 2. 0 | 173, 931 | 84, 000 | 48. 3 |
| 551800 Wisconsin Power & Light Co | 195, 718, 565 | 9, 706, 371 | 5. 0 | 760, 913 | 11, 228 | 1. 5 |
| 551820 Wisconsin Public Service Corp | 219, 946, 217 | 11, 391, 000 | 5. 2 | 584, 227 | 142, 900— | 24. 5— |
| 551850 Wisconsin River Power Co | 1, 448, 305 | 33, 318— | 2. 3— | 203, 570 | 47, 600 | 23. 4 |
| 560130 Cheyenne Light, Fuel & Power Co | 14, 930, 221 | 290, 160 | 1. 9 | 72, 068 | 22, 840 | 31. 7 |
| 560280 Lincoln Service Corp | 1, 733, 909 | 24, 900 | 1. 4 | 9, 877 | 0 | 0 |
| | 0 | 0 | 0 | 0 | 0 | 0 |
| Total (National average) | 50, 744, 119, 099 | 810, 070, 189 | 1. 6 | 2, 207, 760, 457 | 116, 444, 057— | 5. 3— |

| Company No. and company name | Total extraordinary items accounts 434 and 435 (7) | Federal income tax charged to account 409.3 [1 2] (8) | F.I.T. as percent of extraordinary items (8)÷(7) (9) | Total revenues and extraordinary items (1)+(4)+(7) (10) | Total Federal income taxes (2)+(5)+(8) (11) | F.I.T. as percent of total revenues (11)÷(10) (12) | Net income (13) | Percent of net income to total revenues (13)÷(10) (14) |
|---|---|---|---|---|---|---|---|---|
| 010100 Alabama Power Co | 0 | 0 | 0 | $690, 615, 469 | $5, 051, 730— | 0. 7— | $94, 728, 833 | 13. 7 |
| 011700 Southern Electric Generating Co | 0 | 0 | 0 | 79, 940, 274 | 2, 112, 957 | 2. 6 | 4, 388, 322 | 5. 5 |
| 020250 Alaska Electric Light & Power Co | 0 | 0 | 0 | 3, 887, 619 | 128, 500 | 3. 3 | 268, 671 | 6. 9 |
| 040350 Arizona Public Service Co | 0 | 0 | 0 | 377, 591, 605 | 761, 665 | .2 | 56, 495, 520 | 15. 0 |
| 040540 Citizens Utilities Co | 0 | 0 | 0 | 50, 029, 725 | 2, 001, 322 | 4. 0 | 15, 192, 002 | 30. 4 |
| 041600 Tucson | 0 | 0 | 0 | 173, 555, 463 | 0 | 0 | 27, 640, 040 | 15. 9 |
| 050160 Arkansas Missouri Power Co | 0 | 0 | 0 | 41, 306, 658 | 266, 537 | .6 | 2, 699, 751 | 6. 5 |
| 050220 Arkansas Power & Light Co | 0 | 0 | 0 | 331, 534, 879 | 1, 547, 583 | .5 | 36, 608, 510 | 11. 0 |
| 061090 Pacific Gas & Electric Co | 0 | 0 | 0 | 2, 532, 560, 839 | 18, 733, 000— | .7— | 251, 579, 602 | 9. 9 |
| 061240 San Diego Gas & Electric Co | 0 | 0 | 0 | 398, 055, 528 | 3, 208, 347— | .8— | 25, 719, 744 | 6. 5 |
| 061490 Southern California Edison Co | 0 | 0 | 0 | 1, 703, 875, 495 | 37, 896, 669 | 2. 2 | 186, 661, 622 | 11. 0 |
| 080550 Home Light & Power Co | 0 | 0 | 0 | 10, 361, 660 | 319, 936 | 3. 1 | 746, 759 | 7. 2 |
| 080880 Public Service Co. of Colorado | 0 | 0 | 0 | 450, 302, 160 | 11, 349, 000 | 2. 5 | 57, 103, 037 | 12. 7 |
| 090370 Connecticut Light & Power Co | 0 | 0 | 0 | 444, 377, 692 | 440, 178 | .1 | 57, 746, 402 | 13. 0 |
| 090450 Connecticut Yankee Atomic Power | 0 | 0 | 0 | 40, 967, 839 | 0 | 0 | 3, 312, 231 | 8. 1 |
| 090760 Hartford Electric Light Co | 0 | 0 | 0 | 236, 578, 207 | 442, 407— | .2— | 36, 404, 795 | 15. 4 |
| 090900 Millstone Point Co | 0 | 0 | 0 | 22, 585, 102 | 211, 631 | .9 | 1, 349, 640 | 6. 0 |
| 091590 United Illuminating Co | 0 | 0 | 0 | 195, 891, 634 | 1, 512, 500— | .8— | 21, 554, 566 | 11. 0 |
| 100150 Delmarva Power & Light Co | 0 | 0 | 0 | 231, 160, 441 | 532, 626— | .2— | 32, 786, 618 | 14. 2 |
| 110250 Potomac Electric Power Co | 0 | 0 | 0 | 494, 283, 795 | 10, 002, 000— | 2. 0— | 55, 132, 369 | 11. 2 |
| 120290 Florida Power Corp | 0 | 0 | 0 | 541, 376, 426 | 11, 952, 000 | 2. 2 | 67, 043, 135 | 12. 4 |
| 120380 Florida Power & Light Co | 0 | 0 | 0 | 1, 232, 450, 502 | 49, 367, 639 | 4. 0 | 145, 221, 390 | 11. 8 |
| 120560 Florida Public Utilities Co | 0 | 0 | 0 | 17, 761, 962 | 77, 842 | .4 | 638, 036 | 3. 6 |
| 120650 Gulf Power Co | $5, 270, 262 | $2, 666, 752 | 50. 6 | 149, 707, 652 | 12, 163, 094 | 8. 1 | 20, 711, 114 | 13. 8 |
| 121190 Tampa Electric Co | 0 | 0 | 0 | 265, 525, 723 | 3, 185, 457 | 1. 2 | 28, 807, 673 | 10. 8 |
| 130450 Georgia Power Co | 0 | 0 | 0 | 1, 172, 657, 773 | 0 | 0 | 157, 580, 874 | 13. 4 |
| 131000 Savannah Electric & Power Co | 0 | 0 | 0 | 65, 617, 457 | 173, 423— | .3— | 6, 301, 507 | 9. 6 |
| 150250 Hawaiian Electric Co., Inc | 0 | 0 | 0 | 172, 715, 350 | 6, 721, 546 | 3. 9 | 18, 624, 817 | 10. 8 |
| 150280 Hilo Electric Light Co., Ltd | 0 | 0 | 0 | 18, 439, 184 | 479, 047— | 2. 6— | 821, 966 | 4. 5 |
| 151000 Maui Electric Co., Ltd | 0 | 0 | 0 | 16, 147, 416 | 445, 267— | 2. 8— | 1, 261, 320 | 7. 8 |
| 160430 Idaho Power Co | 0 | 0 | 0 | 123, 510, 085 | 5, 599, 200 | 4. 5 | 20, 638, 897 | 16. 7 |
| 170290 Central Illinois Light Co | 0 | 0 | 0 | 193, 643, 556 | 2, 511, 900 | 1. 3 | 18, 033, 625 | 9. 3 |
| 170320 Central Illinois Public Service | 0 | 0 | 0 | 249, 565, 602 | 3, 031, 900 | 1. 2 | 27, 814, 209 | 11. 1 |
| 170410 Commonwealth Edison Co | 0 | 0 | 0 | 1, 772, 248, 045 | 31, 235, 168 | 1. 8 | 206, 908, 664 | 11. 7 |
| 170590 Electric Energy, Inc | 0 | 0 | 0 | 92, 445, 442 | 625, 375 | .7 | 684, 211 | .7 |
| 170720 Illinois Power Co | 0 | 0 | 0 | 416, 654, 489 | 9, 656, 000 | 2. 3 | 56, 721, 979 | 13. 6 |
| 171010 Mount Carmel Public Utility Co | 0 | 0 | 0 | 4, 942, 547 | 212, 845 | 4. 3 | 265, 442 | 5. 4 |
| 171310 Sherpard Power System | 0 | 0 | 0 | 4, 049, 996 | 150, 116 | 3. 7 | 257, 992 | 6. 4 |
| 171340 South Beloit Water, Gas & Electric | 0 | 0 | 0 | 4, 835, 752 | 138 051— | 2. 9— | 125, 736— | 2. 6— |
| 180100 Alcoa Generating Corp | 0 | 0 | 0 | 40, 604, 439 | 581, 281 | 1. 4 | 805, 315 | 2. 0 |
| 180250 Commonwealth Edison Co. of Indiana | 0 | 0 | 0 | 64, 916, 670 | 4, 040, 794 | 6. 2 | 3, 740, 848 | 5. 8 |
| 180450 Indiana Kentucky Electric Corp | 0 | 0 | 0 | 79, 476, 487 | 0 | 0 | 0 | 0 |
| 180570 Indiana & Michigan Electric Co | 0 | 0 | 0 | 403, 586, 744 | 771, 898 | .2 | 54, 245, 944 | 13. 4 |
| 180630 Indianapolis Power & Light Co | 0 | 0 | 0 | 187, 421, 498 | 4, 810, 000 | 2. 6 | 26, 539, 228 | 14. 2 |
| 180970 Northern Indiana Public Service | 0 | 0 | 0 | 556, 972, 654 | 8, 910, 962 | 1. 6 | 53, 656, 409 | 9. 6 |
| 181150 Public Service Co. of Indiana | 0 | 0 | 0 | 319, 282, 496 | 14, 219, 433 | 4. 5 | 54, 502, 841 | 17. 1 |
| 181270 Southern Indiana Gas & Electric | 0 | 0 | 0 | 83, 306, 707 | 6, 929, 750 | 8. 3 | 10, 538, 840 | 12. 7 |
| 190820 Interstate Power Co | 0 | 0 | 0 | 105, 925, 588 | 3, 634, 000 | 3. 4 | 10, 051, 583 | 9. 5 |
| 190890 Iowa Electric Light & Power Co | 0 | 0 | 0 | 160, 368, 210 | 174, 500— | .1— | 10, 464, 900 | 6. 5 |
| 190900 Iowa Illinois Gas & Electric Co | 0 | 0 | 0 | 199, 930, 383 | 2, 763, 100 | 1. 4 | 18, 017, 720 | 9. 0 |
| 190930 Iowa Power & Light Co | 0 | 0 | 0 | 166, 111, 973 | 5, 353, 300 | 3. 2 | 17, 332, 913 | 10. 4 |
| 190970 Iowa Public Service Co | 0 | 0 | 0 | 134, 462, 926 | 3, 117, 619 | 2. 3 | 15, 063, 755 | 11. 2 |
| 191030 Iowa Southern Utilities Co | 0 | 0 | 0 | 53, 031, 808 | 63, 078 | .1 | 7, 050, 287 | 13. 3 |
| 200280 Central Kansas Power Co. Inc | 0 | 0 | 0 | 14, 579, 664 | 434, 176 | 3. 0 | 898, 635 | 6. 2 |
| 200320 Central Telephone & Utilities Co | 0 | 0 | 0 | 156, 230, 950 | 7, 161, 400 | 4. 6 | 47, 480. 352 | 30. 4 |
| 201040 Kansas Gas & Electric Co | 0 | 0 | 0 | 131, 320, 761 | 4, 293, 000 | 3. 3 | 18, 446, 164 | 14. 0 |
| 201130 Kansas Power & Light Co | 0 | 0 | 0 | 184, 116, 729 | 4, 587, 638 | 2. 5 | 16, 959, 541 | 9. 2 |
| 210850 Kentucky Power Co | 0 | 0 | 0 | 73, 530, 674 | 11, 538 | 0 | 8, 364, 887 | 11. 4 |
| 210910 Kentucky Utilities Co | 0 | 0 | 0 | 223, 098, 167 | 11, 079, 884 | 8. 0 | 24, 256, 942 | 10. 9 |
| 211270 Louisville Gas & Electric Co | 0 | 0 | 0 | 200, 702, 444 | 11, 280, 591 | 5. 6 | 24, 617, 176 | 12. 3 |
| 211900 Union Light, Heat & Power Co | 0 | 0 | 0 | 63, 709, 098 | 660, 425 | 1. 0 | 3, 149, 701 | 4. 9 |

FEDERAL INCOME TAXES—REVENUES—Continued

CLASSES A AND B PRIVATELY OWNED ELECTRIC UTILITIES, 1975—Continued

| Company No. and company name | Total extraordinary items accounts 434 and 435 (7) | Federal income tax charged to account 409.3[1 2] (8) | F.I.T. as percent of extraordinary items (8)÷(7) (9) | Total revenues and extraordinary items (1)+(4)+(7) (10) | Total Federal income taxes (2)+(5)+(8) (11) | F.I.T. as percent of total revenues (11)÷(10) (12) | Net income (13) | Percent of net income to total revenues (13)÷(10) (14) |
|---|---|---|---|---|---|---|---|---|
| 220240 Central Louisiana Electric Co | 0 | 0 | 0 | $114,922,588 | $3,020,254— | 2.6— | $22,206,208 | 19.3 |
| 220690 Gulf States Utilities Co | 0 | 0 | 0 | 394,438,517 | 13,008,199 | 3.3 | 51,426,910 | 13.0 |
| 220930 Louisiana Power & Light Co | 0 | 0 | 0 | 281,918,943 | 8,359,039— | 3.0— | 43,695,863 | 15.5 |
| 221340 New Orleans Public Service, Inc | 0 | 0 | 0 | 178,179,300 | 606,000 | .3 | 3,978,427 | 2.2 |
| 230190 Bangor Hydro Electric Co | 0 | 0 | 0 | 32,936,171 | 1,118,475 | 3.4 | 2,087,383 | 6.3 |
| 230370 Central Maine Power Co | 0 | 0 | 0 | 151,565,242 | 3,814,232 | 2.5 | 13,807,075 | 9.1 |
| 230600 Maine Electric Power Co, Inc | 0 | 0 | 0 | 16,278,947 | 44,934 | .3 | 190,624 | 1.2 |
| 230940 Maine Public Service Co | 0 | 0 | 0 | 17,458,832 | 596,148 | 3.4 | 1,449,390 | 8.3 |
| 230960 Maine Yankee Atomic Power Co | 0 | 0 | 0 | 64,483,506 | 0 | 0 | 7,807,205 | 12.1 |
| 233100 Rumford Falls Power Co | 0 | 0 | 0 | 1,520,687 | 248,319 | 16.3 | 277,845 | 13.3 |
| 240110 Baltimore Gas & Electric Co | 0 | 0 | 0 | 701,764,259 | 14,544,685 | 2.1 | 93,363,095 | 1..3 |
| 240210 Chestertown Electric Light & Power Co | 0 | 0 | 0 | 2,411,683 | 7,374— | .3— | 29,108 | 1.2 |
| 240280 Conowingo Power Co | 0 | 0 | 0 | 15,168,308 | 585,956 | 3.9 | 1,613,210 | 10.6 |
| 240350 Delmarva Power & Light Co | 0 | 0 | 0 | 57,398,472 | 87,611 | .2 | 4,820,206 | 8.4 |
| 241050 Potomac Edison Co | 0 | 0 | 0 | 177,261,014 | 7,348,300 | 4.1 | 20,981,319 | 11.8 |
| 241470 Susquehanna Electric Co | 0 | 0 | 0 | 9,507,788 | 33— | 0 | 0 | 0 |
| 241540 Susquehanna Power Co | 0 | 0 | 0 | 6,739,482 | 1,422,467 | 21.1 | 2,874,099 | 42.6 |
| 250220 Boston Edison Co | 0 | 0 | 0 | 514,083,247 | 189,068— | 0 | 33,740,147 | 6.6 |
| 250240 Brockton Edison Co | 0 | 0 | 0 | 60,848,168 | 81,890 | .1 | 5,539,229 | 9.1 |
| 250250 Cambridge Electric Light Co | 0 | 0 | 0 | 36,628,284 | 564,840 | 1.5 | 1,712,333 | 4.7 |
| 250270 Canal Electric Co | 0 | 0 | 0 | 86,577,018 | 572,336— | .7— | 3,828,633 | 4.4 |
| 250440 Fall River Electric Light Co | 0 | 0 | 0 | 24,872,590 | 16,270 | .1 | 1,613,792 | 6.5 |
| 250460 Fitchburg Gas & Electric Light | 0 | 0 | 0 | 21,248,427 | 165,538 | .8 | 1,177,554 | 5.5 |
| 250570 Holyoke Power & Electric Co | 0 | 0 | 0 | 26,593,916 | 11,824 | 0 | 30,973 | .1 |
| 250590 Holyoke Water Power Co | 0 | 0 | 0 | 37,891,814 | 18,695 | 0 | 155,044— | .4— |
| 250780 Massachusetts Electric Co | 0 | 0 | 0 | 434,817,498 | 9,378,900 | 2.2 | 19,550,672 | 4.5 |
| 250850 Montaup Electric Co | 0 | 0 | 0 | 98,959,005 | 103,209— | .1— | 4,054,354 | 4.1 |
| 250900 Nantucket Gas & Electric Co | 0 | 0 | 0 | 2,398,327 | 147,999 | 6.2 | 220,119 | 9.2 |
| 250920 New Bedford Gas & Edison Light | 0 | 0 | 0 | 119,949,960 | 1,377,909 | 1.1 | 4,603,905 | 3.8 |
| 250960 New England Power Co | 0 | 0 | 0 | 443,674,740 | 6,735,196 | 1.5 | 33,137,160 | 7.5 |
| 251450 Western Massachusetts Electric Co | 0 | 0 | 0 | 134,835,857 | 240,281— | .2— | 12,826,944 | 9.5 |
| 251800 Yankee Atomic Electric Co | 0 | 0 | 0 | 15,177,592 | 1,187,300 | 7.8 | 1,485,166 | 9.8 |
| 260100 Alpena Power Co | 0 | 0 | 0 | 7,581,957 | 619,281 | 8.2 | 849,290 | 11.2 |
| 260210 Consumers Power Co | 0 | 0 | 0 | 1,377,240,662 | 1,636,183 | .1 | 100,727,303 | 7.3 |
| 260300 Detroit Edison Co | 0 | 0 | 0 | 1,109,431,996 | 192,494 | 0 | 98,453,676 | 8.9 |
| 260330 Edison Sault Electric Co | 0 | 0 | 0 | 7,701,325 | 119,516— | 1.6— | 580,061 | 7.5 |
| 260580 Indiana Michigan Power Co | 0 | 0 | 0 | 78,635,780 | 0 | 0 | 26,700,081 | 34.0 |
| 260870 Michigan Power Co | 0 | 0 | 0 | 38,554,158 | 2,110 | 0 | 1,413,511 | 3.7 |
| 261310 Upper Peninsula Generating Co | 0 | 0 | 0 | 43,656,610 | 0 | 0 | 0 | 0 |
| 261320 Upper Peninsula Power Co | 0 | 0 | 0 | 28,391,130 | 176,529— | .6— | 1,640,546 | 5.8 |
| 262280 Cliffs Electric Service Co | 24,000 | 0 | 0 | 49,274,918 | 1,435,341 | 2.9 | 1,944,207 | 3.9 |
| 271030 Minnesota Power & Light Co | 0 | 0 | 0 | 105,241,262 | 3,555,600 | 3.4 | 12,392,516 | 11.8 |
| 271210 Northern States Power Co | 0 | 0 | 0 | 667,144,644 | 21,654,000 | 3.2 | 91,122,641 | 13.7 |
| 280760 Mississippi Power Co | 0 | 0 | 0 | 148,367,863 | 0 | 0 | 13,867,133 | 9.3 |
| 280970 Mississippi Power & Light Co | 0 | 0 | 0 | 244,016,048 | 3,657,955 | 1.5 | 20,803,445 | 8.5 |
| 290460 Empire District Electric Co | 0 | 0 | 0 | 39,807,148 | 1,855,000 | 4.7 | 3,932,248 | 9.9 |
| 290700 Kansas City Power & Light Co | 0 | 0 | 0 | 220,037,068 | 5,623,445 | 2.6 | 26,603,767 | 12.1 |
| 290940 Missouri Edison Co | 0 | 0 | 0 | 21,429,785 | 77,900 | .4 | 1,435,802 | 6.7 |
| 291060 Missouri Power & Light Co | 0 | 0 | 0 | 58,809,204 | 638,300 | 1.1 | 3,343,519 | 5.7 |
| 291080 Missouri Public Service Co | 0 | 0 | 0 | 72,147,680 | 3,112,382 | 4.3 | 7,249,099 | 10.0 |
| 291210 Missouri Utilities Co | 0 | 0 | 0 | 34,216,322 | 81,000 | .2 | 1,264,038 | 3.7 |
| 291330 St. Joseph Light & Power Co | 19,947 | 10,158 | 50.9 | 32,279,045 | 461,530 | 1.4 | 2,411,667 | 7.5 |
| 291500 Union Electric Co | 0 | 0 | 0 | 549,651,696 | 23,068,000 | 4.2 | 86,035,198 | 15.7 |
| 301130 Montana Power Co | 0 | 0 | 0 | 163,377,057 | 4,951,346— | 3.0— | 30,949,672 | 18.9 |
| 320890 Nevada Power Co | 0 | 0 | 0 | 98,784,693 | 2,631,158— | 2.7— | 12,224,974 | 12.4 |
| 321460 Sierra Pacific Power Co | 0 | 0 | 0 | 99,547,357 | 34,669— | 0 | 9,484,352 | 9.5 |
| 330260 Concord Electric Co | 0 | 0 | 0 | 9,557,687 | 234,919 | 2.5 | 540,594 | 5.7 |
| 330350 Connecticut Valley Electric Co | 0 | 0 | 0 | 4,357,165 | 73,952— | 1.7— | 73,609 | 1.7 |
| 330520 Exeter & Hampton Electric Co | 0 | 0 | 0 | 10,106,382 | 152,233 | 1.5 | 543,426 | 5.4 |
| 330640 Granite State Electric Co | 0 | 0 | 0 | 13,953,904 | 38,700— | .3— | 817,281 | 5.9 |
| 331230 Public Service Co of New Hampshire | 0 | 0 | 0 | 190,951,626 | 2,196,471 | 1.2 | 20,808,134 | 10.9 |
| 340240 Atlantic City Electric Co | 0 | 0 | 0 | 206,991,080 | 1,117,699 | .5 | 28,279,735 | 13.7 |
| 340780 Jersey Central Power & Light Co | 0 | 0 | 0 | 412,929,819 | 1,805,018— | .4— | 50,769,100 | 12.3 |
| 341310 Public Service Electric & Gas | 0 | 0 | 0 | 1,676,374,206 | 1,249,842 | .1 | 158,605,993 | 9.5 |
| 341400 Rockland Electric Co | 0 | 0 | 0 | 42,981,072 | 225,666— | .5— | 1,385,370 | 3.2 |
| 351030 New Mexico Electric Service Co | 0 | 0 | 0 | 10,422,996 | 967,858 | 9.3 | 1,750,660 | 16.8 |
| 351570 Public Service Co of New Mexico | 0 | 0 | 0 | 88,018,306 | 2,780,553 | 3.2 | 14,216,172 | 16.2 |
| 360350 Central Hudson Gas & Electric Co | 0 | 0 | 0 | 159,142,025 | 3,371,000 | 2.1 | 14,337,123 | 9.0 |
| 360400 Consolidated Edison Co. of New York | 20,350,000— | 3,000,000 | 14.7— | 2,697,939,408 | 3,050,000 | .1 | 251,383,602 | 9.3 |
| 360870 Long Island Lighting Co | 0 | 0 | 0 | 710,522,274 | 1,581,000 | .2 | 87,280,647 | 12.3 |
| 360930 Long Sault, Inc | 0 | 0 | 0 | 850,180 | 43,629— | 5.1— | 280,157 | 33.0 |
| 361000 New York State Electric & Gas Co | 0 | 0 | 0 | 351,561,994 | 985,700— | .3— | 43,678,717 | 12.4 |
| 361050 Niagara Mohawk Power Corp | 0 | 0 | 0 | 1,000,302,001 | 0 | 0 | 114,795,191 | 11.5 |
| 361150 Orange & Rockland Utilities, Inc | 0 | 0 | 0 | 195,030,535 | 899,914 | .5 | 19,718,205 | 10.1 |
| 361350 Rochester Gas & Electric Corp | 0 | 0 | 0 | 275,653,937 | 3,333,000 | 1.2 | 26,370,995 | 9.6 |
| 370360 Carolina Power & Light Co | 0 | 0 | 0 | 667,997,474 | 3,184,186 | .5 | 101,621,721 | 15.2 |
| 370690 Duke Power Co | 14,594,376— | 0 | 0 | 1,015,609,762 | 27,367,551 | 2.7 | 128,235,373 | 12.6 |
| 371170 Nantahala Power & Light Co | 0 | 0 | 0 | 9,048,928 | 646,081 | 7.1 | 897,399 | 9.96 |
| 374000 Yadkin, Inc | 0 | 0 | 0 | 8,513,901 | 477,577 | 5.6 | 583,260 | 6.9 |
| 380800 Montana Dakota Utilities Co | 0 | 0 | 0 | 92,952,694 | 281,000— | .3— | 11,382,224 | 12.2 |
| 381150 Otter Tail Power Co | 0 | 0 | 0 | 58,357,328 | 1,954,217— | 3.3— | 6,216,277 | 10.7 |
| 390430 Cincinnati Gas & Electric Co | 0 | 0 | 0 | 458,058,556 | 4,218,287 | .9 | 49,736,323 | 10.9 |
| 390470 Cleveland Electric Illuminating | 0 | 0 | 0 | 551,030,794 | 8,731,542 | 1.6 | 64,768,061 | 11.8 |
| 390500 Columbus & Southern Ohio Electric | 0 | 0 | 0 | 276,833,005 | 5,101,755 | 1.8 | 42,421,946 | 15.3 |
| 390560 Dayton Power & Light Co | 0 | 0 | 0 | 368,819,241 | 7,011,000 | 1.9 | 41,168,279 | 11.2 |
| 391330 Ohio Edison Co | 0 | 0 | 0 | 562,775,478 | 7,099,528 | 1.3 | 83,420,728 | 14.8 |
| 391370 Ohio Electric Co | 0 | 0 | 0 | 227,439,675 | 0 | 0 | 36,957,686 | 16.2 |
| 391410 Ohio Power Co | 0 | 0 | 0 | 716,394,380 | 1,606,081— | .2— | 115,377,211 | 16.1 |
| 391470 Ohio Valley Electric Corp | 0 | 0 | 0 | 159,214,767 | 1,157,406 | .7 | 1,012,500 | .6 |
| 391680 Toledo Edison Co | 0 | 0 | 0 | 212,416,278 | 5,596,694 | 2.6 | 35,381,639 | 16.7 |
| 400970 Oklahoma Gas & Electric Co | 0 | 0 | 0 | 281,964,661 | 4,337,000 | 1.5 | 39,405,658 | 14.0 |
| 401320 Public Service Co of Oklahoma | 0 | 0 | 0 | 229,787,385 | 14,902,200 | 6.5 | 28,907,926 | 12.6 |
| 410250 California Pacific Utilities Co | 0 | 0 | 0 | 49,891,408 | 633,008— | 1.3— | 3,258,082 | 6.5 |
| 411270 Pacific Power & Light Co | 0 | 0 | 0 | 314,946,623 | 5,574,409— | 1.8 | 72,444,135 | 23.0 |
| 411390 Portland General Electric Co | 0 | 0 | 0 | 202,850,022 | 3,394,206— | 1.7— | 46,003,033 | 22.7 |
| 420350 Citizens Electric Co | 0 | 0 | 0 | 2,347,376 | 64,398 | 2.7 | 121,881 | 5.2 |
| 420520 Duquesne Light Co | 0 | 0 | 0 | 421,900,768 | 11,792,600 | 2.8 | 71,521,335 | 17.0 |
| 420850 Hershey Electric Co | 0 | 0 | 0 | 8,690,260 | 298,636 | 3.4 | 358,589 | 4.1 |
| 421140 Metropolitan Edison Co | 0 | 0 | 0 | 261,149,619 | 1,755,995 | .7 | 47,599,374 | 18.2 |
| 421330 Pennsylvania Electric Co | 0 | 0 | 0 | 320,092,097 | 3,564,543 | 1.1 | 48,492,654 | 15.1 |

Footnotes at end of table.

| Company No. and company name | Total extraordinary items accounts 434 and 435 (7) | Federal income tax charged to account 409.3[1][2] (8) | F.I.T. as percent of extraordinary items (8)÷(7) (9) | Total revenues and extraordinary items (1)+(4)+(7) (10) | Total Federal income taxes (2)+(5)+(8) (11) | F.I.T. as percent of total revenues (11)÷(10) (12) | Net income (13) | Percent of net income to total revenues (13)÷(10) (14) |
|---|---|---|---|---|---|---|---|---|
| 421350 Pennsylvania Power Co | 0 | 0 | 0 | $96,869,064 | $2,576,554 | 2.7 | $15,385,142 | 15.9 |
| 421370 Pennsylvania Power & Light Co | 0 | 0 | 0 | 584,978,547 | 13,383,346 | 2.3 | 97,541,371 | 16.7 |
| 421440 Philadelphia Electric Co | 0 | 0 | 0 | 1,200,875,498 | 22,056,582 | 1.8 | 143,925,472 | 12.0 |
| 421660 Safe Harbor Water Power Corp | 0 | 0 | 0 | 4,440,453 | 514,910 | 11.6 | 829,375 | 18.7 |
| 421820 UGT Corp | 0 | 0 | 0 | 125,315,176 | 1,058,706 | .8 | 9,618,579 | 7.7 |
| 421870 West Penn Power Co | 0 | 0 | 0 | 316,226,700 | 16,886,400 | 5.3 | 39,165,053 | 12.4 |
| 440260 Blackstone Valley Electric Co | 0 | 0 | 0 | 45,851,390 | 696,630— | 1.5— | 1,465,409 | 3.2 |
| 440600 Narragansett Electric Co | 0 | 0 | 0 | 137,404,751 | 3,482,500 | 2.5 | 6,951,668 | 5.1 |
| 440710 Newport Electric Corp | 0 | 0 | 0 | 13,479,947 | 20,541— | .2— | 459,251 | 3.4 |
| 451180 Lockhart Power Co | 0 | 0 | 0 | 5,053,008 | 294,632 | 5.8 | 367,903 | 7.3 |
| 451320 South Carolina Electric & Gas Co | 0 | 0 | 0 | 332,281,292 | 7,928,200 | 2.4 | 38,422,299 | 11.6 |
| 460240 Black Hills Power & Light Co | 0 | 0 | 0 | 19,818,341 | 371,245 | 1.9 | 3,031,082 | 15.3 |
| 461110 Northwestern Public Service Co | 0 | 0 | 0 | 42,126,825 | 868,230— | 2.1— | 3,124,542 | 7.4 |
| 470940 Kingsport Power Co | 0 | 0 | 0 | 20,253,342 | 30,669— | .2— | 505,526 | 2.5 |
| 471500 Tapoco, Inc | 0 | 0 | 0 | 5,102,933 | 442,420 | 8.7 | 536,887 | 10.5 |
| 480280 Central Power & Light Co | 0 | 0 | 0 | 291,243,938 | 13,202,000 | 4.5 | 29,164,315 | 10.0 |
| 480340 Community Public Service Co | 1,262,995— | 0 | 0 | 73,207,450 | 1,133,623 | 1.5 | 2,776,610 | 3.8 |
| 480390 Dallas Power & Light Co | 0 | 0 | 0 | 240,296,124 | 8,934,558 | 4.7 | 28,460,374 | 11.8 |
| 480450 E. Paso Electric Co | 0 | 0 | 0 | 93,844,579 | 1,369,000 | 1.5 | 10,097,890 | 10.8 |
| 480860 Houston Lighting & Power Co | 0 | 0 | 0 | 643,802,449 | 19,455,000 | 4.0 | 70,385,384 | 10.9 |
| 481200 Southwestern Electric Power Co | 0 | 0 | 0 | 158,224,559 | 9,804,800 | 6.2 | 24,468,692 | 15.5 |
| 481240 Southwestern Electric Service Co | 0 | 0 | 0 | 14,864,562 | 365,333 | 2.5 | 1,145,130 | 7.7 |
| 481320 Southwestern Public Service Co | 39,757— | 0 | 0 | 198,581,962 | 8,229,085 | 4.1 | 31,333,503 | 15.8 |
| 481380 Texas Electric Service Co | 0 | 0 | 0 | 278,704,892 | 19,955,481 | 7.2 | 51,574,873 | 18.5 |
| 481550 Texas Power & Light Co | 0 | 0 | 0 | 418,764,719 | 12,955,577 | 3.1 | 65,441,957 | 15.6 |
| 481900 West Texas Utilities Co | 0 | 0 | 0 | 92,053,942 | 9,458,300 | 10.3 | 12,808,344 | 13.9 |
| 491450 Utah Power & Light Co | 0 | 0 | 0 | 218,953,487 | 429,305— | .2— | 39,181,223 | 17.9 |
| 500220 Central Vermont Public Service Co | 0 | 1,010,000— | 0 | 57,786,431 | 963,000— | 1.7— | 6,962,913 | 12.0 |
| 500470 Green Mountain Power Corp | 0 | 0 | 0 | 34,390,374 | 0 | 0 | 2,448,394 | 7.1 |
| 501300 Vermont Electric Power Co | 0 | 0 | 0 | 72,220,536 | 0 | 0 | 339,015 | .5 |
| 501350 Vermont Yankee Nuclear Power Corp | 0 | 0 | 0 | 56,899,195 | 0 | 0 | 7,799,261 | 13.7 |
| 510400 DelMarva Power & Light Co | 0 | 0 | 0 | 9,795,636 | 355,127 | 3.6 | 958,377 | 9.8 |
| 511160 Old Dominion Power Co | 0 | 0 | 0 | 11,089,282 | 221,992— | 2.0— | 362,770 | 3.3 |
| 511520 Virginia Electric & Power Co | 0 | 0 | 0 | 1,101,223,390 | 228,477 | 0 | 154,732,068 | 14.1 |
| 531240 Puget Sound Power & Light Co | 0 | 0 | 0 | 173,927,068 | 2,629,644— | 1.5— | 28,310,700 | 16.3 |
| 531630 Washington Water Power Co | 0 | 0 | 0 | 137,961,356 | 2,888,495 | 2.1 | 16,950,221 | 12.3 |
| 540120 Appalachian Power Co | 0 | 0 | 0 | 527,619,187 | 3,207 | 0 | 68,156,989 | 12.9 |
| 540950 Monongahela Power Co | 0 | 0 | 0 | 181,420,115 | 8,968,565 | 4.9 | 24,554,887 | 13.5 |
| 541900 Wheeling Electric Co | 0 | 0 | 0 | 36,844,231 | 5,650 | 0 | 1,592,576 | 4.3 |
| 550330 Consolidated Water Power Co | 0 | 0 | 0 | 4,598,677 | 411,708 | 9.0 | 487,348 | 10.6 |
| 550680 Lake Superior District Power Co | 0 | 0 | 0 | 22,370,622 | 310,000 | 1.4 | 1,732,764 | 7.7 |
| 550720 Madison Gas & Electric Co | 0 | 0 | 0 | 79,719,240 | 1,041,611 | 1.3 | 8,004,308 | 10.0 |
| 550920 Northern States Power Co | 0 | 0 | 0 | 105,470,719 | 5,938,000 | 5.6 | 10,353,025 | 9.8 |
| 550950 Northwestern Wisconsin Electric | 0 | 0 | 0 | 2,088,213 | 9,073 | .4 | 90,441 | 4.3 |
| 551420 Superior Water, Light & Power | 0 | 0 | 0 | 15,315,373 | 347,300 | 2.3 | 559,673 | 3.7 |
| 551710 Wisconsin Electric Power Co | 0 | 0 | 0 | 364,905,940 | 17,526,000 | 4.8 | 49,011,331 | 13.4 |
| 551770 Wisconsin Michigan Power Co | 0 | 0 | 0 | 76,171,509 | 1,603,700 | 2.1 | 6,438,320 | 8.5 |
| 551800 Wisconsin Power & Light Co | 0 | 0 | 0 | 196,479,478 | 9,717,599 | 4.9 | 21,118,066 | 10.7 |
| 551820 Wisconsin Public Service Corp | 0 | 0 | 0 | 220,530,444 | 11,248,10 | 5.1 | 23,477,220 | 10.6 |
| 551850 Wisconsin River Power Co | 0 | 0 | 0 | 1,651,875 | 14,282 | .9 | 69,928 | 4.2 |
| 560130 Cheyenne Light, Fuel & Power Co | 0 | 0 | 0 | 15,002,289 | 313,000 | 2.1 | 628,999 | 4.2 |
| 560280 Lincoln Service Corp | 0 | 0 | 0 | 1,743,786 | 24,900 | 1.4 | 102,851 | 5.9 |
| | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total (national average) | 30,932,919— | 4,666,910 | 15.1— | 52,920,946,637 | 698,293,042 | 1.3 | 6,198,264,140 | 11.7 |

[1] The Federal income tax expense amounts used in this schedule are as reported by the companies in accounts 409.1, 409.2, and 409.3 as prescribed by the FPC Uniform Systems of Accounts. These income tax accounts are charged with the Federal, State and local income tax applicable to the income for that particular year (State and local income taxes, where applicable, have been eliminated from this presentation) Taxes charged during a particular year may not agree with taxes paid during the year because of the timing of tax payments and subsequent adjustments to the estimated tax liability.

[2] Negative amounts charged to the income tax accounts are the result of several possible circumstances which include allocation of the tax expense between functions and adjustments to estimated taxes charged.

PRIVATELY OWNED ELECTRIC UTILITIES—CLASSES A AND B—SCHEDULE OF INVESTMENT TAX CREDITS GENERATED AND UTILIZED, 1962–75

| Company | Investment tax credits generated and utilized: 1975 Generated | 1975 Utilized | 1974 Generated | 1974 Utilized | Combined 1962–73 Generated | Combined 1962–73 Utilized | Unused credits available, Dec. 31, 1975 | Accumulated deferred credits, Dec. 31, 1975 | Method of accounting |
|---|---|---|---|---|---|---|---|---|---|
| Alabama Power Co | $17,298,947 | $17,298,947 | $297,891 | $297,891 | $27,144,226 | $27,144,226 | ---------- | $39,397,631 | D |
| Alaska Electric Light & Power Co | 54,171 | 54,171 | 56,266 | 56,266 | 172,135 | 172,135 | ---------- | 239,367 | D |
| Alcoa Generating Corp | 99,172 | 99,172 | 145,503 | 145,503 | 659,666 | 659,666 | ---------- | 562,631 | D |
| Alpena Power Co | 92,729 | 92,729 | 18,115 | 18,115 | 115,959 | 115,959 | ---------- | 194,347 | D |
| Appalachian Power Co | 2,934,620 | (38,720) | 4,490,582 | (2,666,213) | 26,527,336 | 19,760,888 | $16,896,583 | 3,594,561 | FT |
| Arizona Public Service Co | 3,158,000 | 6,563,000 | 4,451,000 | 627,108 | 13,017,998 | 12,856,998 | 579,892 | ---------- | FT |
| Arkansas-Missouri Power Co | 319,815 | 319,815 | 223,100 | 223,100 | 878,724 | 878,724 | ---------- | 1,192,627 | D |
| Arkansas Power & Light Co | 6,258,799 | 6,258,799 | 9,791,027 | 9,791,027 | 2,112,406 | 12,112,406 | ---------- | 24,932,268 | D |
| Atlantic City Electric Co | 1,855,642 | 6,340,000 | 2,982,140 | ---------- | 7,618,464 | 5,858,320 | 257,926 | 7,638,388 | D |
| Baltimore Gas & Electric Co | 4,154,761 | 4,154,761 | 15,249,940 | 15,249,940 | 18,344,284 | 18,344,284 | ---------- | 33,142,373 | D |
| Bangor Hydro-Electric Co | ---------- | ---------- | ---------- | ---------- | 401,794 | 401,794 | ---------- | ---------- | FT |
| Do | 306,273 | 306,273 | 92,944 | 92,944 | 207,174 | 207,174 | ---------- | 573,100 | D |
| Black Hills Power & Light Co | 465,000 | 465,000 | 93,923 | 93,923 | 685,748 | 685,748 | ---------- | 1,303,823 | D |
| Blackstone Valley Electric Co | 278,774 | 278,774 | 62,910 | 62,910 | 1,072,490 | 1,072,490 | ---------- | 1,232,643 | D |
| Boston Edison Co | 7,000,000 | ---------- | 1,862,481 | ---------- | 21,451,534 | 10,077,317 | 20,236,698 | 7,237,264 | D |
| Brockton Edison Co | 267,007 | 313,660 | 128,970 | 127,709 | 990,460 | 985,338 | ---------- | 1,215,326 | D |
| California-Pacific Utilities Co | 340,360 | ---------- | 187,993 | 187,993 | 685,508 | 692,335 | 340,360 | 86,348 | FT |
| Cambridge Electric Light Co | 173,969 | 173,969 | 70,838 | 70,838 | 648,474 | 648,474 | ---------- | 715,502 | D |
| Canal Electric Co | 79,574 | 79,574 | 57,901 | 57,901 | 1,628,698 | 1,628,698 | ---------- | 1,407,620 | D |
| Carolina Power & Light Co | 19,167,172 | 14,803,758 | 3,560,090 | ---------- | 22,746,123 | 16,057,688 | 14,611,939 | 18,787,931 | D |
| Central Hudson Gas & Electric Corp | 868,000 | 1,540,000 | 2,670,000 | ---------- | 3,064,206 | 5,062,206 | ---------- | 319,000 | FT |
| Central Illinois Light Co | 1,341,000 | ---------- | 490,140 | 490,140 | 6,053,893 | 6,053,892 | 1,341,000 | 5,851,200 | D |
| Central Illinois Public Service Co | 5,495,800 | 5,495,800 | 984,589 | 984,589 | 9,963,101 | 9,963,101 | ---------- | 14,532,490 | D |
| Central Kansas Power Co., Inc | 118,201 | 118,201 | 27,938 | 27,938 | 281,565 | 281,565 | ---------- | 340,825 | D |
| Central Louisiana Electric Co., Inc | 4,148,200 | 4,148,200 | 695,415 | 695,415 | 3,873,874 | 3,873,874 | ---------- | 7,563,558 | D |
| Central Maine Power Co | ---------- | ---------- | ---------- | ---------- | 2,547,603 | 2,547,603 | ---------- | ---------- | FT |
| Do | 2,114,937 | 2,114,937 | 811,717 | 811,717 | 7,922,328 | 1,922,328 | ---------- | 4,504,607 | D |

Footnotes at end of table.

PRIVATELY OWNED ELECTRIC UTILITIES—CLASSS A AND B—SCHEDULE OF INVESTMENT TAX CREDITS GENERATED AND UTILIZED, 1962–75—Continued

| Company | Investment tax credits generated and utilized | | | | | | Unused credits available, Dec. 31, 1975 | Accumulated deferred credits, Dec. 31, 1975 | Method of accounting |
|---|---|---|---|---|---|---|---|---|---|
| | 1975 | | 1974 | | Combined 1962–73 | | | | |
| | Generated | Utilized | Generated | Utilized | Generated | Utilized | | | |
| Central Power & Light Co | $2,379,000 | $2,379,000 | $3,260,000 | $3,260,000 | $9,759,000 | $9,759,000 | | $13,252,915 | D |
| Central Telephone & Utilities Corp | 521,400 | 17,300 | 541,600 | 17,800 | 2,363,604 | 79,200 | | 2,670,519 | D |
| Central Vermont Public Service Corp | 192,000 | | 174,109 | | 1,322,800 | 758,570 | $930,339 | | FT |
| Chestertown Electric Light & Power Co | 11,766 | 11,766 | 6,066 | 6,066 | 38,810 | 38,810 | | 45,468 | D |
| Cheyenne Light, Fuel & Power Co | 73,315 | 73,315 | 12,573 | 12,573 | 227,024 | 227,024 | | 258,951 | D |
| Cincinnati Gas & Electric Co., the | 7,338,048 | 7,338,048 | 3,470,552 | 3,470,552 | 14,227,605 | 14,227,605 | | 24,117,712 | D |
| Citizens' Electric Co. of Lewisburg, Pa | 16,611 | 16,611 | 7,030 | 7,030 | 43,025 | 43,025 | | 48,560 | D |
| Citizens Utilities Co | | | | | 553,376 | 553,376 | | | FT |
| Do | 535,074 | 54,199 | 194,484 | 35,968 | 529,370 | 270,572 | | 1,120,989 | D |
| Cleveland Electric Illuminating Co., the | 3,704,679 | 3,704,679 | 1,148,056 | 1,148,056 | 17,342,180 | 17,342,180 | | 18,926,364 | D |
| Cliffs Electric Service Co | 3,250,778 | 3,250,778 | 1,421,689 | 1,421,689 | | | | 4,468,155 | D |
| Columbus & Southern Ohio Electric Co | 2,761,000 | 2,761,000 | 2,543,219 | 2,543,219 | 11,565,630 | 11,565,630 | | 14,695,849 | D |
| Commonwealth Edison Co | 27,380,100 | 27,380,000 | 10,064,610 | 10,064,610 | 89,736,995 | 89,736,995 | | 109,465,018 | D |
| Commonwealth Edison Co. of Indiana, Inc | 145,900 | 145,900 | 25,704 | 25,704 | 799,179 | 799,179 | | 810,282 | D |
| Community Public Service Co.[1] | | | 394,974 | 394,974 | 923,655 | 923,655 | | | FT |
| Do | 993,269 | 993,269 | | | 1,211,072 | 1,211,072 | | 2,180,645 | D |
| Concord Electric Co | | | | | 84,697 | 85,387 | 690 | | FT |
| Do | 68,290 | 65,824 | 38,688 | 38,783 | 83,306 | 85,539 | 138 | 165,885 | D |
| Connecticut Light & Power Co., the | 12,142,000 | | 2,219,736 | | 14,368,906 | 9,749,951 | 18,980,691 | | FT |
| Connecticut Valley Electric Co., Inc | 15,000 | 15,000 | 11,542 | 24,141 | 60,456 | 47,857 | | | FT |
| Connecticut Yankee Atomic Power Co | | 1,179,797 | 463,615 | 260,734 | 3,007,987 | 1,023,994 | 1,007,077 | 554,313 | FT |
| Conowingo Power Co | 129,870 | 129,870 | 69,107 | 69,107 | 315,055 | 35,055 | | 274,706 | D |
| Consolidated Edison Co. of New York, Inc | 13,074,000 | 13,074,000 | 18,400,000 | | 72,300,000 | 43,145,000 | 47,555,000 | 21,281,000 | FT |
| Consolidated Water Power Co | | | | | 17,216 | 17,216 | | | FT |
| Do | 7,883 | 170 | 6,170 | 327 | 10,780 | 1,316 | 23,020 | 22,995 | D |
| Consumers Power Co | 11,816,755 | 16,651,507 | 4,306,184 | (1,595,325) | 32,058,595 | 31,269,054 | 1,856,298 | 41,228,958 | D |
| Dallas Power & Light Co | 3,230,000 | 3,230,000 | 1,880,000 | 1,880,000 | 11,827,321 | 11,827,321 | | 10,068,271 | D |
| Dayton Power & Light Co., the | 4,014,600 | 4,014,600 | 2,461,500 | 2,461,500 | 10,873,139 | 10,873,139 | | 4,095,800 | FT |
| Delmarva Power & Light Co | 1,606,637 | 3,677,527 | 2,883,151 | 812,264 | 8,015,578 | 8,015,578 | | 6,536,337 | D |
| Delmarva Power & Light Co. of Maryland | 670,234 | 670,234 | 247,964 | (7,300) | 2,295,290 | 2,295,290 | 257,779 | 1,172,493 | D |
| Delmarva Power & Light Co. of Virginia | 91,932 | 91,932 | 19,656 | 19,656 | 327,941 | 327,941 | | 183,970 | D |
| Detroit Edison Co., the | 9,600,000 | 8,840,496 | 9,778,223 | | 50,732,033 | 40,365,699 | 20,904,061 | 44,069,335 | D |
| Duke Power Co | 14,150,000 | | 15,009,360 | | 46,286,888 | 25,292,197 | 50,154,051 | 2,365,945 | D |
| Duquesne Light Co | 9,601,321 | 9,601,321 | 3,031,516 | 3,031,516 | 16,969,627 | 16,969,627 | | 19,526,280 | D |
| Edison Sault Electric Co | 410,800 | 410,800 | 43,000 | 43,000 | 261,301 | 262,301 | | 634,212 | D |
| El Paso Electric Co | 1,979,300 | 1,979,300 | 502,000 | 359,804 | 2,867,715 | 2,922,789 | 87,122 | 7,472,155 | D |
| Electric Energy, Inc | | | | | 13,040 | 13,040 | | | FT |
| Do | 625 | | 33,659 | 11,193 | 469,728 | 162,921 | 329,798 | 329,799 | D |
| Empire District Electric Co., the | 458,200 | | 206,700 | 199,867 | 2,005,700 | 2,074,105 | 396,628 | 2,237,175 | D |
| Exter & Hampton Electric Co | | | | | 96,380 | 96,380 | | | FT |
| Do | 83,823 | 83,823 | 43,739 | 43,739 | 125,936 | 125,936 | | 222,365 | D |
| Fall River Electric Light Co | 100,463 | 100,463 | 70,217 | 70,217 | 362,205 | 363,205 | | 441,704 | D |
| Fitchburg Gas & Electric Light Co | 618,172 | 466,034 | 31,437 | | 365,708 | 329,727 | 219,556 | 670,009 | D |
| Florida Power Corp | 3,536,000 | 6,283,000 | 8,270,000 | | 16,717,000 | 22,240,000 | | 24,907,037 | D |
| Florida Power & Light Co | 13,172,423 | 13,172,423 | 9,661,214 | 9,661,214 | 44,680,486 | 44,680,486 | | 57,580,196 | D |
| Florida Public Utilities Co | 54,000 | 54,000 | 53,612 | 53,143 | 191,667 | 189,868 | 2,268 | 263,250 | D |
| Georgia Power Corp | 17,806,475 | 57,199,309 | 25,047,471 | | 43,301,854 | 28,956,350 | 141 | 77,561,189 | D |
| Granite State Electric Co | 80,200 | 80,200 | 67,500 | 67,500 | 306,009 | 306,009 | | 387,380 | D |
| Green Mountain Power Co | 111,923 | | 108,045 | | 951,124 | 503,236 | 667,856 | | FT |
| Gulf Power Co | 1,780,235 | 1,780,235 | 1,180,902 | 1,180,902 | 8,105,477 | 8,105,477 | | 9,385,889 | D |
| Gulf States Utilities Co | 8,295,000 | 8,295,000 | 2,927,477 | 2,927,477 | 21,751,565 | 21,751,565 | | 28,183,640 | FT |
| Hartford Electric Light Co., the | 5,897,000 | | 1,076,327 | | 9,355,150 | 4,954,896 | 11,373,581 | | FT |
| Hawaiian Electric Co., Inc | 1,985,679 | 1,985,679 | 2,182,596 | 2,182,596 | 6,824,571 | 6,824,571 | | 9,006,177 | D |
| Hershey Electric Co | 37,383 | 37,383 | 20,355 | 20,355 | 176,201 | 176,201 | | 92,954 | D |
| Hilo Electric Light Co., Ltd.[2] | 372,949 | | 513,458 | 17,115 | 971,230 | 30,997 | 1,809,525 | 1,666,111 | D |
| Holyoke Power & Electric Co | | | 208 | | 26,149 | 23,264 | 3,093 | 18,995 | D |
| Holyoke Water Power Co | | | 7,020 | | 110,497 | 67,063 | 50,454 | 48,565 | D |
| Home Light & Power Co | 135,563 | 135,563 | 96,646 | 96,646 | 348,879 | 348,879 | | 498,929 | D |
| Houston Lighting & Power Co | 13,041,000 | 13,041,000 | 7,914,803 | 7,914,803 | 27,107,399 | 27,107,399 | | 42,931,530 | D |
| Idaho Power Co | | | | | 4,260,800 | 4,260,800 | | | FT |
| Do | 5,514,300 | 5,514,300 | 4,515,200 | 1,825,000 | 1,353,500 | 4,023,700 | | 10,862,100 | D |
| Illinois Power Co | 15,400,000 | 15,400,000 | 1,260,000 | 1,260,000 | 16,691,000 | 16,691,000 | | 15,075,000 | D |
| Indiana & Michigan Electric Co | | | | | 8,536,628 | 10,517,050 | | | FT |
| Do | 2,365,584 | (33,600) | 1,512,264 | (340,470) | 5,180,116 | 4,647,259 | | (192,851) | D |
| Indiana & Michigan Power Co | 18,088,000 | | | | | | 18,088,000 | 61,616 | D |
| Indianapolis Power & Light Co | 3,866,000 | 3,866,000 | 915,000 | 915,000 | 8,995,484 | 8,995,484 | | 11,949,479 | D |
| Interstate Power Co | 1,942,504 | 1,942,504 | 475,521 | 475,521 | 3,449,121 | 3,449,121 | | 3,401,592 | D |
| Iowa Electric Light & Power Co | 1,321,820 | 1,321,820 | 7,020,600 | 226,820 | 3,385,569 | 3,483,567 | 6,695,782 | 4,327,230 | D |
| Iowa-Illinois Gas & Electric Co | 3,920,754 | 3,920,754 | 678,938 | 678,938 | 5,657,161 | 5,657,161 | | 8,770,431 | D |
| Iowa Power & Light Co | 2,838,000 | 2,838,000 | 1,080,254 | 1,080,254 | 4,099,319 | 4,099,319 | | 6,831,686 | D |
| Iowa Public Service Co | 3,294,074 | 3,294,074 | 358,609 | 358,609 | 4,967,037 | 4,967,037 | | 7,489,569 | D |
| Iowa Southern Utilities Co | 2,612,989 | 2,612,989 | 181,081 | 181,081 | 1,705,675 | 1,662,885 | 42,790 | 3,700,059 | D |
| Jersey Central Power & Light Co | 3,207,465 | 7,488,329 | 6,431,780 | 2,150,916 | 17,162,933 | 17,162,933 | | 16,698,285 | D |
| Kansas City Power & Light Co | 3,601,865 | 3,601,865 | 537,949 | 537,949 | 12,601,237 | 12,601,237 | | 10,508,105 | D |
| Kansas Gas & Electric Co | 2,371,037 | 2,371,037 | 821,357 | 821,357 | 7,364,259 | 7,364,259 | | 9,297,244 | D |
| Kansas Power & Light Co., The | 2,363,207 | 2,363,207 | 1,095,525 | 1,095,525 | 5,156,881 | 5,156,881 | | 7,229,367 | D |
| Kentucky Power Co | | | | | 5,475,129 | 2,051,371 | | | FT |
| Do | 1,420,386 | (10,040) | 182,037 | (995,421) | 1,132,357 | 1,489,750 | | 4,504,780 | D |
| Kentucky Utilities Co | 2,220,000 | 2,220,000 | 1,129,995 | 1,128,241 | 9,544,558 | 9,498,194 | 48,118 | 10,795,305 | D |
| Kingsport Power Co | 135,828 | (440) | 50,635 | 5,431 | 443,547 | 335,765 | | | FT |
| Lake Superior District Power Co | | | | | 379,044 | 389,544 | | | FT |
| Do | 285,000 | 285,000 | 63,000 | 63,000 | 384,400 | 373,900 | | 684,173 | D |
| Lincoln Service Corp | 26,721 | 26,721 | 13,705 | 13,705 | 58,552 | 58,552 | | | FT |
| Lockhart Power Co | 18,485 | 354 | 11,580 | 498 | 93,324 | 2,489 | 120,048 | 48,603 | D |
| Long Island Lighting Co | 7,518,000 | 7,518,000 | 1,942,000 | 1,942,000 | 18,153,200 | 18,153,200 | | 3,547,203 | FT |
| Long Sault, Inc | 156,814 | 156,814 | 3,771 | 3,771 | 6,683 | 6,683 | | | FT |
| Louisiana Power & Light Co | 6,508,297 | 6,508,297 | 4,150,603 | 4,150,603 | 14,317,180 | 14,309,980 | 7,200 | 21,822,532 | D |
| Louisville Gas & Electric Co | 2,482,000 | 2,482,000 | 2,525,000 | 2,525,000 | 7,623,700 | 7,623,700 | | 10,922,900 | D |
| Madison Gas & Electric Co | | | | | 779,961 | 779,961 | | | FT |
| Do | 2,542,950 | 2,542,950 | 258,470 | | 1,846,534 | 1,157,964 | 947,040 | 3,466,893 | D |
| Maine Electric Power Co., Inc | 8,203 | 8,203 | | | 897 | 897 | | 8,807 | D |
| Maine Public Service Co | | | | | 297,834 | 297,834 | | | FT |
| Do | 138,025 | 138,025 | 44,483 | 44,483 | 133,517 | 133,517 | | 301,714 | D |
| Maine Yankee Atomic Power Co | 818,535 | | 64,625 | | 7,288,004 | | 8,171,164 | 570,288 | D |
| Massachusetts Electric Co | 1,938,600 | 1,938,600 | 1,248,800 | 1,248,800 | 7,632,981 | 7,632,981 | | 9,032,650 | D |
| Maui Electric Co., Ltd | | | | | 195,281 | 195,281 | | | FT |
| Do | 632,632 | 632,632 | 135,271 | 135,271 | 416,208 | 416,208 | | 1,128,402 | D |
| Metropolitan Edison | 1,723,300 | 6,635,690 | 7,392,470 | 2,480,080 | 8,027,303 | 8,027,303 | | 12,520,403 | D |
| Michigan Power Co | 164,600 | | 106,600 | | 358,446 | 208,481 | 421,165 | 833,921 | D |
| Northeast Nuclear Energy Co | | | 181,559 | | 81,931 | | 263,490 | | N/S |
| Minnesota Power & Light Co | | | | | 1,675,968 | 1,675,968 | | | FT |
| Do | 1,026,600 | 1,026,600 | 346,313 | 346,313 | 3,493,787 | 3,324,687 | 169,100 | 4,399,000 | D |
| Mississippi Power Co | 2,073,983 | 1,939,770 | 497,202 | 497,202 | 7,382,758 | 7,382,758 | 134,213 | 8,311,882 | D |
| Mississippi Power & Light | 2,348,039 | 2,348,039 | 4,876,326 | 4,876,326 | 7,791,313 | 7,791,313 | | 13,365,946 | D |

| Company | Investment tax credits generated and utilized | | | | | | Unused credits available, Dec. 31, 1975 | Accumulated deferred credits, Dec. 31, 1975 | Method of accounting |
|---|---|---|---|---|---|---|---|---|---|
| | 1975 | | 1974 | | Combined 1962–73 | | | | |
| | Generated | Utilized | Generated | Utilized | Generated | Utilized | | | |
| Missouri Edison Co | $290,000 | $278,000 | $130,000 | | $374,000 | $177,000 | $339,000 | $155,000 | FT |
| Missouri Power & Light Co | 418,000 | 418,000 | 450,000 | $450,000 | 1,337,000 | 1,337,000 | | 235,000 | FT |
| Missouri Public Service Co | 874,800 | 847,800 | 384,958 | 384,958 | 3,775,608 | 3,775,608 | | 4,268,997 | D |
| Missouri Utilities Co | | | | | 428,252 | 453,271 | | | FT |
| Do | 250,000 | 290,000 | 179,773 | | 290,215 | 421,872 | 8,116 | 691,063 | D |
| Monogahela Power Co | 2,475,000 | 2,475,000 | 1,591,500 | 1,591,500 | 10,156,200 | 10,156,200 | | 9,309,664 | D |
| Montana-Dakota Utilities Co | 4,342,095 | 4,342,095 | 300,273 | 300,273 | 1,399,740 | 1,399,740 | | 5,285,941 | D |
| Montana Power Co., the | 8,411,000 | 8,411,000 | 670,534 | 670,534 | 3,277,546 | 3,277,546 | | 11,605,935 | D |
| Montaup Electric Co | 117,400 | 117,400 | 49,453 | 49,453 | 696,442 | 696,442 | | 759,855 | D |
| Mout Carmel Public Utility Co | 37,218 | 37,218 | 9,354 | 9,354 | 69,620 | 69,620 | | 99,881 | D |
| Nantahala Power & Light Co | 173,039 | 172,783 | 78,725 | 78,201 | 258,620 | 258,020 | 1,380 | 425,617 | D |
| Nantucket Electric Co | 16,207 | 16,207 | 7,130 | 7,130 | 101,629 | 101,629 | | 91,978 | D |
| Narragansett Electric Co., the | 720,300 | 720,300 | 541,100 | 541,100 | 2,741,022 | 2,741,022 | | 3,386,379 | D |
| Nevada Power Co | 1,950,000 | | 2,200,000 | | 4,710,673 | 4,475,379 | 4,385,294 | 1,381,887 | D |
| New Bedford Gas & Edison Light Co | 703,293 | 703,293 | 342,986 | 342,986 | 2,181,143 | 2,181,143 | | 2,740,021 | D |
| New England Power Co | 1,545,400 | 1,545,400 | 8,458,200 | 8,458,200 | 8,623,662 | 8,623,662 | | 16,337,741 | D |
| New Mexico Electric Service Co | 54,990 | 54,990 | 7,431 | 7,431 | 464,260 | 464,260 | | 407,486 | D |
| New Orleans Public Service Inc | 986,000 | 986,000 | 438,000 | 438,000 | 4,220,000 | 4,220,000 | | 4,544,351 | D |
| New York State Electric & Gas Corp | 4,524,800 | 3,495,200 | 1,588,120 | 1,588,120 | 11,798,200 | 11,798,200 | 1,029,600 | 1,549,071 | FT |
| Newport Electric Corp | 64,138 | 44,321 | 23,891 | 23,891 | 220,258 | 220,258 | 19,817 | 244,399 | D |
| Niagara Mohawk Power Corp | 14,160,000 | | 7,990,000 | | 21,710,000 | 14,985,000 | 28,875,000 | 11,621,000 | FT |
| Northeast Nuclear Energy Co | | | 181,559 | | 81,931 | | 263,490 | | NS |
| Northern Indiana Public Service Co | 4,305,920 | 4,305,920 | 5,405,460 | 5,405,460 | 8,401,623 | 8,401,623 | | 16,073,718 | D |
| Northern States Power Co. (Minnesota) | 5,494,000 | 7,174,000 | 8,499,000 | 2,519,000 | 25,902,500 | 30,202,500 | | 24,828,400 | D |
| Northern States Power Co. (Wisconsin) | | | | | 1,185,300 | 1,300,800 | | | FT |
| Do | 382,828 | 100,532 | 861,211 | 72,373 | 1,555,005 | 74,755 | 2,669,432 | 294,768 | D |
| Northern Public Service Co | 5,145,937 | 1,131,140 | 119,825 | 119,825 | 799,080 | 799,080 | 4,014,797 | 1,038,816 | D |
| Northern Wisconsin Electric Co | 39,579 | 39,579 | 9,312 | 9,312 | 64,176 | 64,176 | | 65,689 | D |
| Ohio Edison Co | 3,634,107 | 3,634,107 | 1,681,715 | 1,681,715 | 15,554,972 | 15,554,972 | | 17,556,922 | D |
| Ohio Electric Co | 10,024,355 | | 10,459,347 | | | | 20,483,702 | 2,328,201 | NS |
| Ohio Power Co | 8,608,602 | (60,440) | 5,289,858 | (1,014,666) | 31,216,101 | 24,992,407 | | | FT |
| Ohio Valley Electric Corp | | | | | 28,458 | 28,458 | | | D |
| Do | 20,228 | 20,228 | 1,279 | 1,279 | 22,515 | 22,515 | | 33,977 | FT |
| Oklahoma Gas & Electric Co | 7,665,000 | 7,665,000 | 2,011,000 | 2,011,000 | 13,634,830 | 13,634,830 | | 14,250,632 | D |
| Old Dominion Power Co | 180,000 | 180,000 | 63,547 | 63,356 | 288,385 | 150,846 | 137,730 | 348,990 | D |
| Orange & Rockland Utilities, Inc | 1,033,810 | | 2,310,013 | | 5,659,084 | 1,981,349 | 7,141,558 | 1,017,100 | FT |
| Otter Tail Power Co | 8,062,434 | 3,108,520 | 349,000 | 349,000 | 2,200,200 | 2,200,200 | 4,953,914 | 3,387,535 | D |
| Pacific Gas & Electric Co | 20,887,000 | 11,872,000 | 8,767,000 | 8,767,000 | 56,984,000 | 56,936,000 | 9,063,000 | 9,015,000 | FT |
| Pacific Power & Light Co | 10,129,471 | | 8,286,768 | | 19,604,006 | 16,058,772 | 21,961,473 | 3,913,850 | D |
| Pennsylvania Electric Co | 2,698,000 | 5,627,234 | 4,396,069 | 1,466,835 | 12,488,216 | 12,488,216 | | 11,723,295 | D |
| Pennsylvania Power Co | 791,068 | 791,068 | 375,905 | 375,905 | 2,687,465 | 2,697,465 | | 3,197,126 | D |
| Pennsylvania Power & Light Co | 14,250,000 | 14,250,000 | 3,563,516 | 3,563,516 | 30,702,660 | 30,702,660 | | 31,657,352 | D |
| Philadelphia Electric Co | 8,784,927 | 8,784,927 | 22,589,385 | 4,500,772 | 26,408,428 | 44,497,041 | | 35,774,100 | D |
| Portland General Electric Co | | | | | 5,603,089 | 5,603,089 | | | FT |
| Do | 29,237,271 | | 2,192,247 | 2,192,247 | 2,576,999 | 2,576,999 | 29,237,271 | 2,927,619 | D |
| Potomac Edison Co., the | 1,925,000 | 1,925,000 | 1,604,000 | 1,604,000 | 9,135,066 | 9,135,066 | | 10,612,217 | D |
| Potomac Electric Power Co | 12,800,000 | 12,800,000 | 3,555,000 | 3,555,000 | 27,991,435 | 27,991,435 | | 6,612,000 | FT |
| Public Service Co. of Colorado | 8,473,321 | 8,473,321 | 1,919,431 | 1,919,431 | 17,464,740 | 17,464,740 | | 24,655,520 | D |
| Public Service Co. of Indiana, Inc | 9,220,934 | 9,220,934 | 2,098,378 | 2,098,378 | 13,667,888 | 13,667,888 | | 22,498,039 | D |
| Public Service Co. of New Hampshire | 1,175,000 | 4,598,437 | 3,373,069 | (5,567) | 5,077,831 | 5,033,030 | | 8,512,120 | D |
| Public Service Co. of New Mexico | 1,915,662 | 1,915,662 | 784,893 | 784,893 | 4,937,739 | 4,937,739 | | 6,355,213 | D |
| Public Service Co. of Oklahoma | 2,603,000 | 2,603,000 | 3,410,000 | 3,410,000 | 7,210,520 | 7,210,520 | | 11,759,160 | D |
| Public Service Electric & Gas Co | 9,186,436 | 6,781,315 | 15,909,571 | (21,920) | 40,317,754 | 28,829,275 | 29,825,091 | 27,987,602 | D |
| Puget Sound Power & Light Co | | | | | 4,467,811 | 4,354,342 | | | FT |
| Do | 9,153,000 | 6,313,769 | 1,389,703 | 1,389,703 | 3,281,167 | 3,392,449 | 2,727,949 | 12,523,000 | D |
| Rochester Gas & Electric Corp | 1,552,000 | 1,552,000 | 950,000 | 950,000 | 6,011,000 | 6,011,000 | | 581,900 | FT |
| Rockland Electric Co | | | | | 367,107 | 366,724 | | | FT |
| Do | 319,000 | | 188,431 | | 447,843 | 25,694 | 929,580 | 20,096 | D |
| Rumford Falls Power Co | 2,852 | 2,852 | 3,587 | 3,587 | 48,197 | 48,197 | | | FT |
| Safe Harbor Water Power Corp | | | | | 17,272 | 17,272 | | | FT |
| Do | 5,544 | 5,544 | 1,771 | 1,771 | 2,063 | 2,063 | | 8,769 | D |
| St. Joseph Light & Power Co | 399,000 | 399,000 | 414,000 | 201,000 | 1,124,572 | 1,337,572 | | 904,353 | D |
| San Diego Gas & Electirc Co | 2,518,546 | (1,133,412) | 1,998,942 | 3,169,225 | 11,932,812 | 8,200,142 | | | FT |
| Savannah Electric & Power Co | 1,141,997 | 1,141,997 | 229,469 | | 2,558,671 | 1,697,954 | 1,190,186 | 2,489,411 | D |
| Sherrard Power System | 45,208 | 45,208 | 18,023 | 18,023 | 104,787 | 104,787 | | 43,852 | D |
| Sierra Pacific Power Co | 2,641,598 | 1,639,106 | 1,666,523 | 294,929 | 3,762,340 | 3,962,464 | 2,169,164 | 1,224,530 | D |
| South Beloit Water, Gas & Electric Co | 9,000 | 9,000 | 3,280 | 3,280 | 17,941 | 17,941 | | 26,030 | D |
| South Carolina Electric & Gas Co | 3,392,277 | 7,220,000 | 1,083,157 | 1,492,867 | 12,857,479 | 8,620,046 | | 10,897,894 | D |
| Southern California Edison Co | | | | | 40,362,500 | 40,362,500 | | | FT |
| Do | 13,458,000 | 13,458,000 | 7,951,000 | 7,951,000 | 17,975,000 | 17,975,000 | | 6,624,000 | D |
| Southern Electric Generating Co | 1,043,000 | 1,043,000 | (65,118) | (65,118) | 255,764 | 255,764 | | 1,186,844 | D |
| Southern Indiana Gas & Electric Co | 478,800 | 478,800 | 333,114 | 333,114 | 4,361,064 | 4,361,064 | | 4,521,467 | D |
| Southwestern Electric Power Co | 2,683,700 | 2,683,700 | 2,124,000 | 2,124,000 | 6,819,000 | 6,819,000 | | 10,148,800 | D |
| Southwestern Electric Service Co | | | | | 192,771 | 192,771 | | | FT |
| Do | 184,300 | 177,759 | 69,070 | 63,096 | 151,765 | 130,045 | 34,235 | 370,900 | D |
| Southwestern Public Service Co | 1,318,301 | 1,318,301 | 1,565,574 | 1,565,574 | 2,363,205 | 2,363,205 | | | FT |
| Do | | | | | 4,117,064 | 4,117,064 | | 321,251 | D |
| Superior Water, Light & Power Co | 20,772 | 20,772 | 6,476 | 6,476 | 86,947 | 86,947 | | 116,954 | D |
| Susquehanna Electric Co., the | 3,900 | 3,900 | 14,092 | 14,092 | 720,098 | 720,098 | | 80,376 | D |
| Tampa Electric Co | 4,260,000 | 4,260,000 | 2,036,933 | 2,036,933 | 11,640,500 | 11,640,500 | | 15,776,156 | FT |
| Tapoco, Inc | 17,573 | 17,573 | 1,619 | 1,619 | 120,154 | 120,154 | | 101,564 | D |
| Texas Electric Service Co | | | | | 6,019,000 | 6,019,000 | | | FT |
| Do | 6,254,000 | 6,254,000 | 2,545,000 | 2,545,000 | 7,528,000 | 7,528,000 | | 14,881,496 | D |
| Texas Power & Light Co | | | | | 10,500,000 | 10,500,000 | | | FT |
| Do | 13,072,467 | 13,072,467 | 6,300,000 | 6,300,000 | 10,755,889 | 10,755,889 | | 27,703,854 | D |
| Toledo Edison Co., the | 2,133,660 | 2,133,660 | 1,218,987 | 543,553 | 6,039,750 | 6,715,184 | | 7,795,610 | D |
| Tucson Gas & Electric Co | 3,046,000 | 4,903,000 | 5,211,141 | | 6,518,234 | 3,955,948 | 10,819,427 | 7,806,928 | D |
| UGI Corp | 349,574 | 349,574 | 70,576 | 70,576 | 710,673 | 710,673 | | 744,020 | D |
| Union Electric Co | 3,434,000 | 3,434,000 | 1,895,000 | 1,745,000 | 28,213,000 | 30,013,000 | 1,650,000 | 3,665,000 | FT |
| Do | 101,000 | 101,000 | 120,000 | 120,000 | 1,594,000 | 1,594,000 | | | D |
| Union Light, Heat & Power Co., the | 423,130 | 423,130 | 196,760 | 196,760 | 916,658 | 916,658 | | 1,306,254 | D |
| United Illuminating Co., the | 10,830,378 | 2,897,584 | 800,923 | 800,923 | 5,080,112 | 5,080,112 | 7,932,794 | 569,800 | FT |
| Upper Peninsula Generating Co | 2,952,661 | | 2,486,749 | | 1,805,654 | 61,104 | 7,183,960 | 1,493,552 | NS |
| Upper Peninsula Power Co | 664,101 | 663,821 | 154,959 | 154,724 | 868,165 | 865,941 | 2,739 | 1,493,552 | D |
| Utah Power & Light Co | 3,740,682 | 7,626,692 | 6,260,000 | 374,586 | 8,805,005 | 8,805,005 | 1,999,404 | 14,839,706 | D |
| Vermont Electric Power Co., Inc | 267,571 | | 91,686 | | 472,984 | 36,555 | 795,686 | | FT |
| Vermont Yankee Nuclear Power Corp | 86,000 | 86,000 | 620,000 | | 5,450,000 | 1,668,000 | 4,402,000 | 82,000 | FT |
| Virginia Electric & Power Co | 16,346,431 | 2,188,752 | 10,532,000 | (3,267,973) | 71,123,000 | 35,235,587 | 43,151,440 | 19,555,362 | D |
| Washington Water Power Co., the | 1,695,000 | 945,609 | 732,423 | 729,378 | 3,705,466 | 2,629,774 | 1,828,128 | 1,793,665 | FT |
| West Penn Power Co | 3,554,000 | 3,554,000 | 2,601,600 | 1,052,700 | 16,652,400 | 18,201,300 | | 19,335,680 | D |
| West Texas Utilities Co | 494,600 | 494,600 | 1,017,800 | 1,017,800 | 2,457,681 | 2,457,681 | | 3,397,484 | D |
| Western Colorado Power Co., the | | | 6,,000 | 66,000 | 257,940 | 257,940 | | | D |

Footnotes at end of table.

PRIVATELY OWNED ELECTRIC UTILITIES—CLASSES A AND B—SCHEDULE OF INVESTMENT TAX CREDITS GENERATED AND UTILIZED, 1962–75—Continued

| Company | Investment tax credits generated and utilized | | | | | | Unused credits available, Dec. 31, 1975 | Accumulated deferred credits, Dec. 31, 1975 | Method of accounting |
|---|---|---|---|---|---|---|---|---|---|
| | 1975 | | 1974 | | Combined 1962–73 | | | | |
| | Generated | Utilized | Generated | Utilized | Generated | Utilized | | | |
| Western Massachusetts Electric Co. | $4,463,000 | | $508,173 | | $4,769,999 | $3,041,801 | $6,699,371 | $2,601,651 | D |
| Wheeling Electric Co. | 207,403 | ($5,120) | 59,490 | ($26,153) | 602,108 | 521,451 | | | FT |
| Wisconsin Electric Power Co. | | | | | 10,932,000 | 10,932,000 | | | FT |
| Do. | 3,692,700 | 3,692,700 | 1,725,600 | 1,725,600 | 5,728,200 | 5,728,200 | | 10,243,280 | D |
| Wisconsin Michigan Power Co. | | | | | 2,236,600 | 2,236,600 | | | FT |
| Do. | 903,500 | 903,500 | 396,300 | 396,300 | 2,231,100 | 2,231,100 | | 3,145,400 | D |
| Wisconsin Power & Light Co. | | | | | 3,039,732 | 3,039,732 | | | FT |
| Do. | 4,822,718 | 4,822,718 | 942,622 | 942,622 | 4,654,853 | 4,654,853 | | 9,672,881 | D |
| Wisconsin Public Service Corp. | | | | | 2,799,600 | 2,799,600 | | | FT |
| Do. | 4,058,679 | 4,058,679 | 817,625 | 817,625 | 4,486,872 | 4,486,872 | | 8,803,445 | D |
| Wisconsin River Power Co. | 816 | 15 | 12 | 2 | 1,936 | 1,431 | 1,320 | 1,316 | D |
| Yadkin, Inc. | | | | | 151,079 | 151,079 | | 53,376 | D |
| Yankee Atomic Electric Co. | | | | | 47,563 | 47,563 | | | FT |
| Do. | 130,600 | 130,600 | 95,000 | 95,000 | 85,300 | 85,300 | | 287,100 | D |
| Total | 747,924,804 | 623,663,010 | 460,745,258 | 209,756,039 | 1,849,842,433 | 1,668,500,932 | 503,808,722 | 1,609,783,469 | |

[1] The company had revised its accounting method during the year 1975.
[2] Name changed to Hawaii Electric Co. in 1975.

Note: Method of accounting: FT—Flow through; D—Deferred; NS—Not stated.

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By Mr. BROOKE:

S. 2029. A bill to provide for the payment of losses incurred as a result of the ban on the use of tris in children's wearing apparel, and for other purposes; to the Committee on the Judiciary.

Mr. BROOKE. Mr. President, in April the Consumer Product Safety Commission ordered off the market all children's sleepwear treated with the flame retardant chemical on the grounds that the chemical tris could cause cancer. None of us, I am sure, oppose the decision to take tris-treated garments, which are dangerous to the very children we wish to protect, off the market.

However, I do believe that the businesses which were engaged in producing tris-treated garments are entitled to economic justice. It has been argued that these businesses are no more entitled to Government compensation than any businesses adversely affected by Government regulations or decisions.

But, I believe that there is a vital difference between the businesses which would be compensated by S. 1503 and businesses such as saccharin or cyclamate manufacturers whose products are also ordered off the market by the Government because of documented health risks. For those who manufactured tris-treated garments did not do so by choice. They were using tris in good faith because the Government required them to use flame-retardant fabrics, and tris was the only chemical agent used in fabrics available to them. But producers of children's sleepwear were required to comply with these Government regulations before the Government itself tested and conclusively determined which flame-retardant chemicals were safe and which were not. And when the Government belatedly ruled that the chemical tris was unsafe, it triggered a $200 million loss in the children's sleepwear and associated industries, a loss which businesses involved will have to try to absorb if we do not act.

Perhaps the largest businesses involved will be able to withstand their share of the loss if it is later decided that all businesses involved will bear a share. But many small businesses will not, and it is these for which I am particularly concerned. Indeed, I find it unfortunate, unrealistic, and unfair that the Consumer Product Safety Commission ruled that the smallest and most vulnerable businesses, the garment manufacturers, alone had to bear the total loss involved.

Children's sleepwear garment manufacturers comprise only about 100 firms, 5 of which are in my own State of Massachusetts. Of these firms, about 70 are small and generally family run businesses. Indeed, the largest children's sleepwear factory in Massachusetts, in New Bedford, employs only about 250 people. These manufacturers are for the most part undercapitalized and operate on credit. Because of the extreme financial instability in the industry engendered by the Tris ruling on April 8, these firms are suffering not only the loss of their complete past Tris-treated line, but are finding it difficult to obtain credit to produce next season's line.

Small Business Administration loans provide a stopgap resolution for these small businesses. And I have put the entire resources of my office behind the affected Massachusetts garment manufacturers seeking such loans.

But the only real solution for these businesses is compensation for the losses they have borne. S. 1503, which I am cosponsoring, would fairly and rightfully allow the businesses affected to go into the U.S. Court of Claims, prove and recover their losses from the Government. I would emphasize that S. 1503 would compensate them only for their actual losses and not their lost anticipated profits.

But since such court procedures would take several years, a bearable situation perhaps for large businesses but ineffective relief for small businesses on the edge of bankruptcy, I hope that the committee will add to S. 1503 a provision for expediting these cases in the Court of Claims. In the Hart-Scott antitrust amendments of 1976, Congress authorized such a procedure providing that a court may take the designated cases out of order and hear them immediately after the case being heard at the time. Such a provision is essential if the small businesses involved are to be awarded relief in time to avoid disaster.

But I believe there may be an even more exepditious way for the Senate to initiate procedures to reimburse the businesses affected by the Tris ruling, and I am, therefore, introducing a congressional reference resolution in the Senate regarding these Tris cases. Such a resolution, upon passage by the Senate would immediately refer the Tris cases to the Court of Claims. In addition to the advantage that such a reference would have in requiring action by the Senate only, it would mean that the court could consider questions of equity and fairness, not just principles of law in determining claims. After these considerations, the court would report back to the Senate, and we would then have a clear picture of the rights and claims at issue.

The Judiciary Committee has already held hearings on S. 1503. With the introduction of my congressional reference resolution and the necessary accompanying bill, the committee will have before it the full range of options. I commend the committee and Senator ALLEN who chaired the committee hearings for the diligence and concern which they have already shown. I ask that they now choose the promptest and most equitable course of action. Such speed is absolutely essential if aid is to reach the small businesses involved in time to save many of them from bankruptcy.

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By Mr. STEVENS (for himself, Mr. CULVER, and Mr. STONE):

S. 2036. A bill to promote and coordinate amateur athletic activity in the United States, to provide for the resolution of disputes involving national governing bodies, to create certain rights and privileges for U.S. amateur athletes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AMATEUR SPORTS ACT OF 1977

Mr. STEVENS. Mr. President, I am leaving for Alaska momentarily, and I promised to make a public statement today on legislation that Senator CULVER, Senator STONE, and I are today introducing which we hope will provide a new beginning for amateur athletics in the United States. The time has come for all amateur sports groups to set aside their differences and work in a cooperative effort to enhance amateur sports. The bill which we introduce today should foster that cooperation by providing a foundation for amateur organizations to come together. The bill accomplishes three purposes. First, it expands the au-

thority of the U.S. Olympic Committee so that it can serve as a coordinating body for amateur athletics. Second, it sets forth criteria for national governing bodies and creates a mechanism for the resolution of disputes involving national governing bodies. Third, it protects the right of an amateur athlete to participate in amateur athletic competition without arbitrary controls.

Mr. President, the United States does not nearly approach achieving its full potential in amateur sports. We have not had a unified effort among our sports organizations to encourage and support public participation in athletics. We have failed to provide opportunities for young athletes to develop and compete. In many instances youngsters who could excel in a particular sport are not identified or are not encouraged to compete and develop their skills. Often proper coaching is not available. New athletic facilities need to be constructed and better utilization must be made of existing facilities. Our most elite athletes frequently cannot afford to train and compete because of the lack of financial support. Those who do make the sacrifices are often caught in the power struggles between the various amateur athletic organizations. The problem is that the United States has been unable to define a common meeting ground where sports organizations can come together and work out their differences.

In response to the never-ending problems affecting amateur athletics and as a result of congressional and public interest, President Ford in June of 1977, established by Executive order the President's Commission on Olympic Sports. Twenty-two public and sports-minded figures were appointed by President Ford to serve on the Commission. I was honored to be one of those chosen. Senators JOHN CULVER and DICK STONE and former Senator Glenn Beall were also Commission members. The Commission was charged to examine the full spectrum of amateur athletics in the United States. Specifically, we were asked to determine what factors impede the United States in developing, selecting, and fielding its best athletes for international competition.

The Commission in its 1½-year study attempted to get input from every segment of the sports community. We spoke to athletes, coaches, administrators of sports organizations, representatives of the school-college community, and others. In our discussions we considered such issues as sports medicine, the financial needs of amateur athletes, amateurism, the women's role in sports, organizational power struggles, the relationship of the United States to international sports organizations, and the handicapped in sports. We examined the organizational structures of the U.S. Olympic Committee, national governing bodies, and multisport organizations. No area was left untouched by our investigation.

As a result of this study, two reports were prepared by the Commission. The first which was delivered in February 1976, presented an analysis of the current system of amateur athletics in the United States and identified problems and weaknesses within that system. The Commission found that the current structure of amateur sports was fragmented, ill-defined, and nondirected. Too often sports organizations worked at cross purposes, discouraging public participation and inhibiting athlete development. As a result of this lack of organization and leadership, amateur athletics have been inadequately funded, athletes have been denied their rights to compete, and generally the development of amateur sports for all Americans has been hindered. We concluded that before the United States could operate in the best interests of the public, improvements would be required in the areas of organization, management, and finance.

The second report, which was released in January 1977, offered solutions to many of the problems which the Commission raised in the first report. We proposed that the U.S. Olympic Committee be reorganized so that it would serve as a coordinating organization with the responsibility of directing amateur athletics in the United States. As part of this proposal the Commission recommended a vertical integrated structure for all national governing bodies. We recommended that disputes involving national governing bodies be settled through arbitration. We also stressed that the rights of athletes must be protected and recommended a complaint procedure for any athlete who felt that he or she had been aggrieved. The Commission also endorsed a number of methods to raise moneys for amateur sports.

I might state that the reactions to the Commission's recommendations have been quite favorable. The report has served to encourage rival organizations to resolve some of the long outstanding problems which have existed in amateur athletics.

Since the release of the report, Senator STONE, Senator CULVER, and I have met with athletes, the U.S. Olympic Committee, the school-college community, and the American Athletic Union. In our meetings with those groups we discussed various legislative proposals which we were considering which would implement the Commission's recommendations. On April 29, 30, and May 1 of this year, the U.S. Olympic Committee adopted a number of amendments to its constitution, many of which followed closely the proposals of the President's Commission. Generally we have been very pleased with the cooperative attitude the amateur sports community has taken.

The legislation which we are introducing today is the culmination of a long and arduous process which had its beginning in June of 1975. The bill is founded on the Commission's report, but at the same time we have attempted to take into consideration the changes which have taken place voluntarily since the report was issued. I might add that all of the groups which we have talked to endorsed the need for legislation which would lay a groundwork for future cooperation between amateur sports organizations in the United States.

Mr. President, it should be pointed out that this legislation is founded on two basic principles. One, Federal Government should not regulate the day-to-day activities of amateur sports. Two, any structure to coordinate amateur sports programs in the United States should be built on the strengths of our present system.

The bill does the following. It expands the authority of the U.S. Olympic Committee so that it can coordinate athletic activity in the United States. With these new powers also come added responsibilities. In fulfilling these responsibilities the U.S. Olympic Committee will provide assistance to other sports groups so that those groups can better fulfill their obligations to amateur sports. The bill also authorizes moneys for the Olympic Committee. One of the findings of the President's Commission was that amateur sports is inadequately funded. If we want to develop world class athletes so that we can compete internationally, and if we want to provide better programs for the public, then we must recognize our responsibility to financially support amateur sports. The bill only takes a small step in this regard by providing the Olympic Committee with funds to initiate the concept of national training centers.

The bill also sets forth criteria which national governing bodies will have to meet before they can be recognized by the U.S. Olympic Committee. These criteria will insure that national governing bodies will be responsive to the athletes they represent and to the public they serve. When there are disputes regarding which group should be the U.S. representative for a particular sport, the bill provides that the dispute shall be settled by arbitration. This should alleviate the organizational feuding which has plagued amateur athletics in the United States.

Lastly, the bill provides for an athletes' bill of rights. Young men and women who train so hard to excel in their sport should not be penalized and denied the chance to participate in athletic competition. The bill would guarantee them that right and provide a remedy for any athlete who felt that his right to participate had been aggrieved.

Mr. President, I have been involved in past attempts by Congress to resolve the major obstacles confronting the administration of amateur athletics. I am very much aware of the sensitivity of these issues. Senator STONE, Senator CULVER, and I have made a diligent attempt to get the views of all groups involved in amateur sports. It is our purpose in sponsoring this legislation to enable the various sports organizations to combine for the common goal of advancing amateur athletics and to encourage a greater number of U.S. citizens to participate in amateur sports. We recognize the valuable service which educational institutions, clubs, and sports organizations render toward amateur sports. Almost every Olympic athlete is at least partially indebted to these groups for the training and support which they have provided. Further, these groups have programs and provide opportunities for

all individuals not just for those who are or will be world class athletes. We appreciate that and are not in this legislation supporting the interests of one group or another. There will be differences of opinion. We have a desire to discuss those differences so that hopefully an agreeable resolution can be made.

I believe that enactment of this bill inaugurates a new era in the history of amateur sports. If sports organizations can work in a cooperative atmosphere and provide improved programs of development and competition for the Nation's athletes there is no limit to the achievements which the United States can accomplish. If that cooperation does not come about, programs to promote physical fitness will continue to be deficient and our performance in international competition will continue to deteriorate. Only through the support of everyone concerned can we hope to provide the best athletic opportunities for all Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following the statements of Senator CULVER and Senator STONE.

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

(See exhibit 1.)

Mr. CULVER. Mr. President, I am introducing today, with Senator STEVENS and Senator STONE, legislation to encourage more equitable and capable participation by America's amateur athletes in international competition. This legislation is based largely upon the recommendations of the President's Commission on Olympic Sports, on which we were privileged to serve, and is intended to accomplish three major objectives.

First, it clarifies the role, purposes, and powers of the U.S. Olympic Committee. The USOC is a federally chartered corporation which is composed of most of the major amateur sports organizations in this country and which is responsible, among other things, for selecting U.S. representatives in the Olympic and Pan American games. In the years since the charter was granted in 1950, conditions in both international athletic competition and in the organization of American amateur sports have undergone considerable change and stress. The alterations in the charter which this bill calls for should allow the USOC to respond more adequately to currently prevailing conditions, as well as to provide some of the coordination and direction to amateur sports which the President's Commission recommended. In order to assist the USOC in carrying out these functions, this bill authorizes an expenditure of $20 million.

The second major component of this legislation enumerates criteria for the selection of "national governing bodies" in individual sports. Such national governing bodies are the official representatives of U.S. athletes in international competition and are required by International Olympic Committee rules. In its investigations, the President's Commission on Olympic Sports discovered that, historically, national governing bodies have not always maintained the best interests of their athletes, that frequently national governing body status has been achieved and retained more on the basis of sports politics than merit, and that national governing bodies and other sports organizations have often dissipated their energies in internecine feuding rather than devoting attention to the needs of the athletes whom they represent. National governing bodies are the principal or "class A" members of the USOC, so the President's Commission recognized that they should be selected on the basis of criteria of merit and that an equitable and efficient method for resolving disputes should be established.

Accordingly, the legislation I am sponsoring would implement the Commission's recommendation of requiring national governing bodies to conform to such standards as nondiscrimination in membership and leadership, adequate representation for athletes themselves on governing boards, reasonable eligibility regulations, and adequate management capability. A procedure for settling disputes between rival organizations for national governing body status promptly and equitably through the American Arbitration Association is provided in the bill.

Third and finally, the legislation is intended to protect the rights of athletes to compete in events of their choice without undue interference from sports organizations or other institutions. I recognize, Mr. President, as did the President's Commission, that a proper balance must be struck between the rights of athletes and the legitimate needs of educational institutions and athletic groups to protect academic responsibilities and regular sports programs.

Unfortunately, these needs and other arguments have too often been used as convenient excuses for forbidding an athlete permission to participate in events when the prohibition was actually based upon a desire to protect narrow organizational interests or to hinder a rival group's program. The provisions of this bill define a limited class of events—international, unrestricted competition which is sanctioned by the appropriate national governing body and representatives for which meet certain selection requirements—where restrictions on participation should be illegal. Limitations on the rights of athletes, coaches, and others to take part in other intenational events would be subject to a test of reasonableness.

Mr. President, over the past decades a number of attempts have been made to address the major problems of amateur sports and to reconcile the rival groups. Such attempts have included internal efforts within the USOC, mediation efforts by distinguished Presidential appointees, and legislative initiatives—including one major bill passed by the Senate in 1974 which did not, however, become law. On balance these attempts have been unsuccessful.

Recently, however, progress has been made and I believe that there are strong grounds for believing that further advances can be made if legislation of the type we are introducing is implemented. Most expert observers and those who are directly involved in amateur sports programs cite the work of the President's Commission on Olympic Sports as providing both the impetus for encouraging action that was long overdue and the specific suggestions on what was needed.

Because Senators STEVENS and STONE and I served as members of the Commission and this legislation is based on its findings and recommendations, I think it is appropriate to describe its work briefly. The Commission was appointed by former President Ford in 1975 and consisted of 22 members drawn from public service, education, athletics, and business. After a year and a half of study of amateur athletics questions ranging from the structure of sports organization to the nature of amateurism to opportunities for handicapped athletes, the Commission made a comprehensive report to President Ford and President-elect Carter early this year.

In its deliberations the Commission was guided by two primary considerations. The first of these was that amateur sports activity should emphasize opportunity and access for all interested citizens and not be limited to special programs for a narrow, athletically gifted elite. If attention is given to such a broad-based effort, a wide range of Americans should be able to profit from the recreational and health benefits of participation and world class athletes will still have the opportunity to develop their skills.

Second, the Commission recognized that amateur sports problems in this country would require distinctly American solutions. The well-publicized success of Russian and Eastern European athletes in the 1976 Olympic games led some observers to recommend that the United States should emulate aspects of their systems. The Commission explicitly rejected such an approach. Those systems, based upon strict regulation and state control have no legitimate place in this country. Therefore, our legislation envisions the Government's role as one of guaranteeing that the charter of the USOC conveys sufficient ability for it to carry out its responsibilities. It should also protect through procedural safeguards the rights of sports organizations and individuals to fair representation. The recommendations of the President's Commission were made with these two principles in mind.

Already some of the primary recommendations have become reality through the actions of the USOC membership at its recent quadrennial meeting to revise its constitution. These included streamlining its governing structure, establishing fairer requirements for national governing body status, and extending additional protections in the area of athletes' rights. The USOC members should be commended for showing a new willingness to work together rather than expending their energies in needless feuds. In many cases, the legislation which we are introducing today merely codifies steps which the USOC has already voluntarily undertaken.

While all of the members of the USOC deserve commendation for fostering this new spirit of cooperation, I believe that two groups deserve special rec-

ognition. First of all, the USOC leadership, under its new president, Bob Kane and its executive director, F. Don Miller, has been instrumental in persuading various organizations to work together for the general good of amateur sports. Second, amateur athletes themselves have become better organized in order to protect their legitimate interests. All too often in the past, America's young athletes, who desired no more than the opportunity to develop their talents to the fullest in international competition, have suffered as the sacrificial pawns of rival factions. Currently athletes, particularly through the Athletes Advisory Council and its chairman, Ed Williams, are making certain that the perspective of these prime participants has a key bearing on decisions affecting their role. I am hopeful that the Amateur Sports Act will encourage the continuation of these trends.

Despite the recent improvements in coordination and cooperation, it is evident that the various sports groups will continue to have differing interests and needs. The experience and perspective of all of the members of the amateur sports community have an important role to play in improving this legislation. I am confident that they will be able to bring their viewpoints to committee consideration of the measure and I hope they will take advantage of that opportunity.

In conclusion, Mr. President, I believe that serious consideration of the bill which Senators STEVENS and STONE and I are introducing today will build upon the strengths of amateur sports in America and help to correct some of its weaknesses.

Mr. STONE. Mr. President, I am pleased to join Senator CULVER and Senator STEVENS in introducing a bill to promote amateur athletics in the United States to provide for the orderly resolution of disputes between amateur athletic organizations, and to insure and protect the rights of amateur athletes to participate in athletic competition.

This bill is based on the findings and recommendations of the President's Commission on Olympic Sports on which I was privileged to serve along with Senator CULVER, Senator STEVENS, former Senator Beall, and other distinguished individuals who brought to the Commission a wide variety of experiences and expertise. The purpose of our endeavor was to "determine what factors impede or tend to impede the United States from fielding its best teams in international competition."

The Commission held public hearings, meetings with representatives from the individual sports, and thousands of interviews with athletes, administrators, coaches, and officials. We found that the organizations responsible for administering the various amateur sports in this country lack a common purpose and an effective system of coordination. Disputes among these organizations have wasted time and athletes' talents and threatened the athletes' right to participate in important competition. Funding for amateur athletic development and research is inadequate, and it appears likely to decline.

While other countries have established superiority in international competition as a national priority, the U.S. Government has never attempted to control amateur athletics in this country, nor should it. The bill we are introducing today maintains the important principle of the Federal Government's noninterference in amateur athletics by expanding the existing authority of the U.S. Olympic Committee to serve as the coordinating body for amateur sports. Further, it retains existing laws that prohibit political involvement in the U.S. Olympic Committee.

Specifically, the bill would broaden the duties of the U.S. Olympic Committee (64 Stat. 889; 36 U.S.C. 371), and grant it new powers so that it can serve as the central authority for amateur sports in the United States. This reflects the recommendation of the President's Commission to make the U.S. Olympic Committee the highest congress of a representative, vertically structured sports system.

In order to implement the vertical organizational structure, it provides a procedure for the recognition by the U.S. Olympic Committee of an amateur sports organization as the national governing body in a particular sport. Criteria which an applicant must meet in order to be recognized as the national governing body are enumerated, including procedures for prompt and equitable resolution of members' grievances. Obligations of the national governing bodies are set forth which are designed to promote interest and participation in their respective sports and to insure that the requests of athletes to participate in legitimate international competition are honored. The national governing bodies would be given the authority to act as the exclusive representative to the international governing body in their respective sports. Procedures are provided to enable individuals and organizations to compel a national governing body which is not meeting its duties to comply with the criteria for recognition. Procedures to challenge such a national governing body for its recognition are also provided. The bill establishes a 2-year period for currently recognized national governing bodies to come into compliance before being subject to challenge.

The President's Commission report concluded that Congress must provide Government financing for amateur athletics if the United States is to attain broad-based participation and win medals in international competition. This Nation has depended primarily on the high schools and colleges for the development of amateur athletes. However, educational institutions cannot possibly meet the needs of the lesser known sports, while funds for even the better-known sports are getting scarce.

This bill would provide $10,000,000 to assist in the development and administration of national training centers for the development, research, and education in amateur sports. It would also provide $10,000,000 to assist the operation of the U.S. Olympic Committee and its programs. The U.S. Olympic Committee would be required to report to Congress and the President to insure that the money is used for proper purposes.

This is a small amount of Federal assistance in relation to the total amount of money needed to support amateur sports. The President's Commission estimated that an annual Federal appropriation of over $80,000,000 would be necessary merely "to allow the United States to maintain the status quo in a bitter competitive world." But if Federal funding is accompanied by the reorganization of U.S. amateur sports into a more cooperative system, I believe that private funds will be supplied by individuals and corporations who were previously unwilling to contribute.

Most important to athletes is their right to compete. The President's Commission found that, all too often, athletes are denied this right without good reason by the various amateur athletic organizations which are supposed to serve them. Abuses of athletes' rights typically occur because of jurisdictional disputes between rival organizations. For example, an incumbent national governing body for a particular sport is seeking to maintain its status. It, therefore, refuses to grant a sanction which is required by international rules for an international competition being organized by the rival organization. This type of jealously has prevented American athletes from competing in legitimate international competition.

The franchise challenge mechanism mentioned earlier and the obligation of the national governing bodies to grant sanctions will reduce such abuses of athletes' rights. In order to further protect athletes', rights to participate in sanctioned, unrestricted international competition, the bill contains an "Athletes' Bill of Rights" comprised of two sections.

The first section would prohibit any national governing body, educational institution or sports organization from denying an athlete the right to participate in certain defined competitions. The second would allow an individual who is denied his right to compete in such competitions to bring an action to the U.S. district court, or before the American Arbitration Association if mutually agreeable.

At its quadrennial meeting in April 1977, the U.S. Olympic Committee set out to amend its constitution to change its organizational structure along the lines of the President's Commissions report. All amateur sports organizations, including the NCAA which withdrew from the USOC in 1972, were represented. By and large, the changes adopted by the USOC follow the provisions of this legislation.

Mr. President, in fashioning this bill we have tried very hard to recognize the legitimate concerns of the U.S. Olympic Committee, the NCAA, the AAU, the national governing bodies, the other amateur athletic organizations and the athletes which it will effect. Wherever possible, we have attempted to accommodate these concerns. However, these are complex issues and there may be areas where problems remain to be resolved. I want to emphasize my willingness to

continue to work with all parties interested in amateur athletics to make improvements in this bill during the hearings process.

Finally, I want to commend the amateur sports organizations and athletes for the significant progress that has already been made toward a fairer and more unified sports system. I believe that with continued cooperation we can achieve this important goal.

EXHIBIT 1

S. 2036

*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 "Amateur Sports Act of 1977".

TITLE I—DECLARATION OF POLICY

FINDINGS

SECTION 101. The Congress finds that—

(1) amateur sport plays an important role in American society by serving as a source of recreation, contributing to the improvement of physical and mental health, providing for public entertainment, and acting as a national unifying bond;

(2) amateur athletic activity, including competition, is valuable in the development of an individual's character, promotes integrity and the pursuit of personal excellence, and contributes to fitness and physical well-being;

(3) athletic competition between athletes of the United States and those of other nations provides a valuable exchange of cultural and personal ideas and fosters improved international understanding;

(4) it is in the best interest of the United States to encourage and support public participation in sports, including providing opportunities for amateur athletes to develop their skills and compete in national and international competition;

(5) the full potential benefits of amateur athletic competition have not been realized because existing amateur athletic organizations in the United States are fragmented, are not bound by a common purpose, and are unable to coordinate their efforts;

(6) athletes have often been denied the opportunity to participate in an athletic event because of the inability of amateur athletic organizations to resolve their differences;

(7) organized amateur athletic competition is conducted through the use of facilities of interstate commerce or is an activity which affects interstate commerce; and

(8) international amateur athletic competition involving American citizens is conducted through the use of facilities of foreign commerce and is an activity which effects commerce between the United States and other nations.

PURPOSE

SEC. 102. The Congress declares that it is the purpose of this Act—

(1) to encourage participation in sports by United States citizens;

(2) to coordinate the development, financing, management, and conduct of amateur athletic activity and to improve the cooperation between various amateur athletic organizations by expanding the authority of the United States Olympic Committee to serve as a coordinating body for amateur sports;

(3) to provide a mechanism to ensure that the right to govern a particular sport is awarded to the most representative and capable private organization; and

(4) to protect the rights of an amateur athlete to participate in amateur athletic competition without arbitrary controls.

TITLE II—AMATEUR SPORTS ORGANIZATION

SHORT TITLE

SEC. 201. This title may be cited as the "Olympic Committee Charter Amendments Act".

TITLE ADJUSTMENTS

SEC. 202. (a) The Act entitled "An Act to incorporate the United States Olympic Association", (64 Stat. 899; 36 U.S.C. 371) is amended—

(1) by inserting immediately after section 2 of such Act the following:

"TITLE I—CORPORATIONS";

(2) by redesignating sections 3 through 12 of such Act as sections 101 through 110, respectively;

(3) by striking out paragraphs (1) and (2) of section 101 of such Act, as redesignated by paragraph (2) of this subsection, and by inserting in lieu thereof the following:

"(1) to establish national goals for amateur sports and encourage their attainment;

"(2) to coordinate, direct, and develop amateur athletic activity in the United States in order to foster productive working relationships among sports-related organizations;"; and

(4) by striking out paragraphs (5) through (7) of such section 101 and inserting in lieu thereof the following:

"(5) to promote and support athletic exchanges with foreign nations;

"(6) to promote and encourage public participation in athletic activity and physical fitness;

"(7) to assist organizations and individuals concerned with sports in the development of sports programs for amateur athletes;

"(8) to provide for the swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations;

"(9) to foster the development of sports facilities for use by amateur athletes and to assist in making existing sports facilities available for use by amateur athletes;

"(10) to provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis;

"(11) to encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety;

"(12) to encourage and provide assistance to programs and competition for handicapped persons; and;

"(13) to represent the interest of the public in amateur sports.".

(b) Section 102 of such Act, as redesignated by subsection (a)(2) of this section, is amended to read as follows:

"Sec. 102. (a) The corporation shall have perpetual succession and power—

"(1) to serve as the coordinating authority for amateur sports in the United States;

"(2) to represent the United States as its National Olympic Committee in relations with the International Olympic Committee and the Pan American Sports Organization;

"(3) to organize, select, finance, and control the representation of the United States in the competitions and events of the Olympic Games and of the Pan-American Games and to appoint committees or other governing bodies in connection with such representation;

"(4) to facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes involving amateur athletes, national governing bodies, and amateur sport organizations;

"(5) to sue and be sued;

"(6) to make contracts;

"(7) to acquire, hold, and dispose of such real and personal property as may be necessary for its corporate purposes;

"(8) to accept gifts, legacies, and devises in furtherance of its corporate purposes;

"(9) to borrow money to carry out its corporate purposes, issue notes, bonds, or other evidences of indebtedness therefor, and secure the same by mortgage, subject in each case to the laws of the United States or of any State;

"(10) to provide financial assistance to any organization or association, other than a corporation organized for profit, in furtherance of the purposes of the corporation;

"(11) to approve and revoke membership in the corporation;

"(12) to adopt and alter a corporate seal;

"(13) to establish and maintain offices for the conduct of the affairs of the corporation;

"(14) to publish a newspaper, magazine, or other publication consistent with its corporate purposes; and

"(15) to do any and all acts and things necessary and proper to carry out the purposes of the corporation.

"(b) The corporation shall have the power to adopt and amend a constitution and bylaws not inconsistent with the laws of the United States, except that the corporation may amend its constitution only if—

"(1) the corporation publishes in its principal publication, and in the Federal Register, a general notice of the proposed alteration of the constitution, including the substantive terms of the alteration, the time and place of the corporation's regular meeting at which the alteration is to be decided, and a provision informing interested persons that they may submit materials as authorized in paragraph (2);

"(2) for a period of at least 30 days after the date of publication of the notice in the Federal Register, the corporation gives to all interested persons an opportunity to submit written data, views, or arguments concerning the proposed amendment; and

"(3) the corporation decided upon the amendment for which notice was published under paragraph (1) only after the thirty-day period under paragraph (2).".

(c) Section 110 of such Act, as redesignated by subsection (a)(2) of this section, is amended to read as follows:

"Sec. 110. The corporation shall, on or before the first day of March in each year, transmit to the President and to the Congress a detailed report of its operations for the preceding calendar year, including an annual accounting of the financial status of the corporation and a comprehensive description of the activities and accomplishments of the corporation during the preceding year. The report may include recommendations for additional legislation or other action which the corporation considers necessary or desirable for attaining the objectives of this Act. Copies of the report shall be made available to interested persons."

NATIONAL GOVERNING BODIES

SEC. 203. The Act entitled "An Act to incorporate the United States Olympic Association". (64 Stat. 899; 36 U.S.C. 371) is amended by adding at the end thereof the following new title:

"TITLE II—NATIONAL GOVERNING BODIES

"DEFINITIONS

"SEC. 201. As used in this title, the term—

"(a) 'amateur athlete' means any athlete who meets the standards for amateurism as defined by the national governing body for the sport in which the athlete competes;

"(b) 'amateur athletic competition' means a contest, event, game, meet, match, tournament, or other program in which amateur athletes are permitted to compete;

"(c) 'corporation' means the United States Olympic Committee;

"(d) 'eligible amateur athlete' means an athlete who is eligible for amateur athletic competition under applicable age, sex, amateurism, and athletic ability or performance standards as prescribed by the national governing body for the sport in which the athlete competes;

"(e) 'international amateur athletic competition' means any amateur athletic competition between (1) any athlete or athletes representing the United States, either individually or as part of a team, and (2) any athlete or athletes representing any foreign country; and any amateur athletic competition used to qualify United States amateur athletes for such competition;

"(f) 'national governing body' means a not-for-profit corporation which is recognized by the corporation in accordance with section 202 of this title;

"(g) 'national amateur sports organization' means any club, federation, union, association, or similar group in the United States which conducts regular national competition in a sport, which holds, or is financially and managerially capable of holding, an annual national championship in such sport from which a team of athletes could be selected to represent the United States in international amateur athletic competition, and which is capable of conducting international amateur athletic competition in the sport;

"(h) 'sanction' means a certification of approval issued by a national governing body;

"(i) 'sports organization' means a club, federation, union, association, or other group, except a 'national governing body', which sponsors or organizes any amateur athletic competition; and

"(j) 'unrestricted competition' means any amateur athletic competition which is not limited to a specific class of amateur athletes, such as high school athletes, collegiate athletes, members of the armed forces, or any other such group or category.

"GENERAL

"SEC. 202. (a) The corporation is authorized to recognize a national amateur sports organization as a national governing body if that organization meets the requirements of this section and section 203 of this title. Only one national governing body shall be recognized for each sport for which an appliction is made and approved.

"(b) A national governing body recognized pursuant to this section shall receive the authority set forth in section 205 of this title.

"(c) On the 31st day after the recognition of a national governing body, the corporation shall recommend and support in any other appropriate manner the recognized national governing body to the appropriate international governing body for its recognition as the United States representative for that sport.

"PROCEDURE FOR RECOGNITION OF A NATIONAL GOVERNING BODY

"SEC. 203. (a) Prior to the recognition of a national governing body under the authority granted under section 202 of this title and the procedures and requirements of this section, the corporation shall hold a hearing open to the public on the application for such recognition. The corporation shall publish notice of the time, place, and nature of the hearing. Publication shall be made in the last regular issue of the corporation's principal publication immediately prior to the date of the hearing.

"(b) No national amateur sports organization is eligible to be recognized as a national governing body under this subsection unless it—

"(1) is incorporated under the laws of any fo the several States of the United States or the District of Columbia as a not-for-profit corporation having as its purpose the advancement of amateur athletic competition;

"(2) submits, upon application, a copy of its corporate charter and bylaws and any additional information as is deemed necessary or appropriate by the corporation; and

"(3) agrees to submit, upon demand of the corporation, to binding arbitration by the American Arbitration Association in any controversy involving its recognition as a national governing body, or an athlete's right to compete.

"(c) The burden of persuasion at the hearing shall be on the applicant to demonstrate to the satisfaction of the corporation that—

"(1) it is qualified to receive recognition of the appropriate international governing body as the United States representative to that body for the sport for which recognition is sought;

"(2) its membership is open to any individual who is an athlete, coach, trainer, official, or administrator active in the sport for which recognition is sought, or to any sports organization which conducts programs in the sport for which recognition is sought, or to both;

"(3) it provides an equal opportunity for participation to all individuals eligible under applicable international amateur athletic rules and regulations, applies rules concerning eligibility and participation without discrimination on the basis of race, color, religion, age, sex, or national origin, and gives fair notice and a hearing to any individual before declaring such individual ineligible to participate;

"(4) it is governed by a Board of Directors, executive committee, or other governing body whose members are selected without regard to race, color, religion, age, sex, or national origin;

"(5) its Board of Directors, executive committee, or other governing body will at all times include among its voting members individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought or who have represented the United States in international amateur competition within the preceding ten years in the sport for which recognition is sought; and that the voting membership held by such individuals will not be less than 20 percent of the total voting membership held in that Board of Directors, executive committee, or other governing body;

"(6) it provides for a reasonable proportion of representation on its Board of Directors, executive committee, or other governing body for any sports organization which conducts, on a level of proficiency appropriate for the selection of athletes to represent the United States in international competition nationwide, programs or regular national competition in the sport for which recognition is sought;

"(7) no officer of the organization seeking recognition is also an officer of any other organization which is recognized as a national governing body;

"(8) it limits to a reasonable period of time the terms of office for its officers and members of its Board of Directors, executive committee, or other governing body, with consecutive service not to exceed ten years;

"(9) it does not have eligibility criteria more restrictive than those of the appropriate international governing body;

"(10) it has the managerial and financial capability to plan and execute its obligations; and

"(11) it provides procedures for the prompt and equitable resolution of grievances of its members;

"(d)(1) Except as provided in paragraph 2), any national amateur sports organization which on the date of enactment of this title represents a particular sport as a Class A member of the corporation shall be considered to be the national governing body for that sport. Such an organization is exempt for a period of two years from the date of enactment of this title from meeting the requirements of subsections (b) and (c) of this section, and during such two-year period shall take the necessary actions to meet such requirements. After the expiration of the two-year period, the organization shall continue as the national governing body for that sport except as otherwise provided in this title or if at the end of the two-year period the corporation determines that the organization (1) is not in compliance with subsections (b) and (c) of this section, or (2) is not recognized by the appropriate international governing body as the United States representative for the particular sport involved, the corporation shall revoke its recognition. Any organization aggrieved by the corporation's determination may submit a demand for arbitration in accordance with section 207(d) of this title.

"(2) Notwithstanding the provisions of paragraph (1), the corporation may revoke the status of an organization as a national governing body during such two-year period if such revocation is in the same manner and form, and for the same reason, as the corporation could have revoked a Class A membership prior to the date of the enactment of this title.

"OBLIGATIONS OF NATIONAL GOVERNING BODIES

"SEC. 204. Any national governing body for a particular sport under this title is under duty—

"(a) to develop interest and participation throughout the United States in the sport it governs and be responsible to the individuals and organizations it represents;

"(b) to minimize conflicts in scheduling by coordinating with other sports organizations the scheduling of all practices and competitions in the sport it governs;

"(c) to keep amateur athletes under its jurisdiction informed of policy matters and reasonably reflect the views of those athletes in its policy decisions;

"(d) to honor the request of any amateur sports organization or individual for a sanction to hold an international amateur athletic competition unless the national governing body reasonably determines that—

"(1) appropriate steps have not been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility and availability to compete in other amateur athletic competition in the United States and in international amateur athletic events;

"(2) appropriate provision has not been made for validation of records which may be established during the competition;

"(3) due regard has not been given to any international amateur athletic requirements specifically applicable to the competition;

"(4) the competition will not be conducted by qualified officials;

"(5) proper medical supervision will not be provided for athletes who will compete;

"(6) proper safety precautions have not been taken to protect the personal welfare of the athletes or spectators, and

"(7) the sports organization or individual conducting the competition refuses to submit to an audited or notarized financial report of the most recent similar event, if any, conducted by the organizations or individuals; and

"(e) to honor the right of an eligible amateur athlete to compete in any unrestricted competition conducted under its auspices or that of any other sports organization, or in unrestricted competition sanctioned by another national governing body, unless it can be established that the denial was based on evidence that the organization or individual conducting the competition did not meet the requirements stated in subsection (d) of this section.

"AUTHORITIES OF NATIONAL GOVERNING BODIES

"SEC. 205. Any national governing body for a particular sport shall have the following authority:

"(a) To act as the exclusive representative of the United States to the appropriate international governing body for the sport with respect to which it has been recognized.

"(b) To act as the representative of athletes competing in international amateur athletic competition to the international governing body or bodies in its sport.

"(c) To designate individuals and teams to participate in international competition (other than the Olympic Games and the Pan-American Games) and certify, in accordance with international rules, the amateur status of such individuals and teams.

"(d) To conduct domestic amateur athletic competition including, but not limited to, national championships.

"(e) To establish procedures for the determination of eligibility standards for participation in unrestricted amateur athletic competition. Such procedures shall determine age, sex, amateurism, and athletic ability or performance standards for the sport.

"(f) To sanction the holding of an international amateur athletic competition in its sport. The preceding sentence shall not be construed so as either to recognize or not to recognize the authority of any national governing body to sanction the holding of a domestic amateur athletic competition.

"REVIEW OF NATIONAL GOVERNING BODIES

"SEC. 206. The corporation may on its own motion review all matters relating to the activities of a national governing body and may take such action as it deems appropriate, including but not limited to, placing conditions upon the continued recognition of the national governing body. The district courts of the United States shall have authority to enjoin the commission of any act of a national governing body that does not meet the requirements of sections 203(b), 203(c), and 204 of this title. The President of the corporation shall have standing to apply for an injunction except to the extent that the conferral of such standing is inconsistent with the Constitution of the United States of America.

"RESOLUTION OF CERTAIN DISPUTES

"SEC. 207. (a) Any sports organization or individual may seek to compel a national governing body to comply with the requirements of sections 203(b), 203(c), and 204 of this title by filing a written complaint with the corporation. A copy of the complaint shall also be served on the national governing body. Within 30 days of the filing of the complaint, the corporation shall determine (i) if the organization or individual has taken any action which may be taken within the national governing body to gain compliance with such requirements, and (ii) if the national governing body is in compliance with such requirements. If the corporation determines that any such action has not been taken and that the national governing body is not in compliance, it may direct that such action be taken before it will act. If the corporation determines that the national governing body is not in compliance and that no other action may be taken or that other action would result in unnecessary delay, it may revoke recognition of the national governing body or place the national governing on probation for a period not to exceed 180 days pending the national governing body's coming into compliance with such requirements. The corporation may extend such 180-day period for such time as the corporation finds that the national governing body has proven by clear and convincing evidence that it needs, through no fault of its own, to come into compliance. In making any determination, the corporation may choose to request and receive written briefs and affidavits and hold a hearing.

"(b) Any national amateur sports organization may seek recognition as a national governing body in place of any currently recognized national governing body by filing a written request for recognition with the corportation. A request may be filed under this subsection only (1) within the one year period after the final day of any Olympic Games in which competition in the sport occurs in the case of a national governing body which represents a sport for which competition and events are held in the Olympic Games or in both the Olympic and Pan-American Games, or (2) within the one year period after the final day of any Pan-American Games in the case of such a body which represents a sport for which competition or events are held in the Pan-American Games and not the Olympic Games. A copy of the request shall also be served on the national governing body. The challenging amateur sports organization must establish by a preponderance of the evidence that within 30 days of the filing of the complaint, the corporation shall make a determination as to whether or not the challenging amateur sports organization is to be recognized as the national governing body. However, if the current national governing body would have retained recognition except for a minor deficiency in one of the requirements of sections 203(b), 203(c) and 204 of this title, the corporation may decide to place the national governing body on probation not to exceed 180 days pending the national governing body's compliance. If the national governing body does not bring itself into compliance within the prescribed time period, the corporation shall revoke its recognition.

"(c) Any party aggrieved by the corporation's determination may submit a demand within 30 days for arbitration to any regional office of the American Arbitration Association. The Association shall serve notice on the parties to the arbitration and on the corporation, and shall immediately proceed with arbitration according to the commercial rules of the Association—

"(A) it meets the criteria for recognition as a national governing body under sections 203 (b) and 203 (c) of this title, and the current national governing body—

"(i) does not meet such criteria, or

"(ii) does not meet its duties under section 204; or

"(B) it meets the criteria for recognition as a national governing body under sections 203 (b) and 203 (c) of this title, and in comparison with the current national governing body, the challenging amateur sports organization—

"(i) more completely meets such criteria, and

"(ii) provides at the time of its application, or is able to provide, a more effective national program of competition in the sport for which it claims recognition as the national governing body.

in effect at the time of the filing of the demand, except that—

"(1) the arbitration panel shall consist of not less than three arbitrators, unless the parties to the proceeding mutually agree to a lesser number;

"(2) the arbitration hearing shall take place at a site selected by the association, unless the parties to the proceeding mutually agree for the use of another site;

"(3) the arbitration hearing shall occur within 60 days after the submission of the demand for arbitration, unless the parties to the proceeding mutually agree to a later date; and

"(4) the arbitration hearing shall be open to the public.

"(d) The arbitrators in any arbitration are empowered to settle any dispute arising under the provisions of this title prior to the making of a final award, if mutually agreed to by the parties to the proceeding.

"(e) Each contesting party may be represented by counsel or by any other duly authorized representative at the arbitration proceeding.

"(f) The parties may offer any evidence which they desire and shall produce any additional evidence as the arbitrators may believe necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to legal rules of evidence shall not be necessary.

"(g) Any district court of the United States shall have jurisdiction for the purpose of issuing subpoenas to compel the attendance and testimony of witnesses and the production of documents. Upon application of the arbitrators, the court shall issue subpoenas to compel the attendance of witnesses and the production of documents that the arbitrators reasonably believe to be necessary or advisable for a better understanding of the dispute.

"(h) All decisions by the arbitrators shall be by majority vote unless the concurrence of all is expressly required by the contesting parties. The arbitrators shall make their decisions within 30 days after the closing of the hearings.

"(i) The hearings may be reopened, by the arbitrators upon their own motion or upon the motion of any contesting party, at any time before the decision is made. If the hearings are reopened the arbitrators shall make their decision within 90 days of the close of the original hearing.

"(j) The district courts of the United States shall have jurisdiction to enforce decisions of the arbitrators. Such action may be brought by any party to the final decision.".

SEPARABILITY

SEC. 204. If any provision of this title in its application to any person or circumstance is held invalid, the remainder of this title in its application to any person or circumstance shall not be affected.

FEDERAL FINANCIAL ASSISTANCE

SEC. 205. (a) The Secretary of Commerce is authorized to assist the United States Olympic Committee in developing amateur athletics in the United States.

(b) The Secretary shall provide such assistance by:

(1) making grants, upon application of the United States Olympic Committee, the total of such grants not exceeding $10,000,000, to finance the operation of the United States Olympic Committee including any programs sponsored by the United States Olympic Committee; and

(2) making grants, upon application of the United States Olympic Committee, the total of such grants not exceeding $10,000,000, to finance the administration and operation of National Training Centers for the furtherance of amateur sports development, research, and education.

(c)(1) Each application under subsection (b) shall be in such form as the Secretary provides and shall contain provisions to assure that the funds of the United States are properly disbursed, the funds are used to promote amateur athletic competition, and

that such use is not inconsistent with the policy and provisions of the Act entitled "An Act to incorporate the United States Olympic Association" (64 Stat. 899; 36 U.S.C. 371).

(2) The Secretary shall approve any application which meets the requirements of this section.

(d) The Secretary shall use authorities and funding presently and otherwise available to the maximum extent possible.

(e) The use of such moneys shall be at the full discretion of the United States Olympic Committee, except that no more than 20 percent of the appropriated funds may be provided to organizations which are not members of the United States Olympic Committee.

(f) The Secretary may review and audit, and shall have access to, for the purpose of such audit or review, any books, documents, papers, and records that are pertinent to any grant under this section.

AUTHORIZATION OF APPROPRIATIONS

SEC. 206. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 205.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until expended.

TITLE III—ATHLETES' RIGHTS TO PARTICIPATE

SHORT TITLE

SEC. 301. This title may be cited as the "Amateur Athlete's Bill of Rights Act".

DEFINITIONS

SEC. 302. As used in this title, the term—

(a) "amateur athlete" means any athlete who meets the standards for amateurism as defined by the national governing body for the sport in which the athlete competes;

(b) "amateur athletic competition" means a contest, event, game, meet, match, tournament, or other program in which amateur athletes are permitted to compete;

(c) "eligible amateur athlete" means an athlete who is eligible for amateur athletic competition under applicable age, sex, amateurism, and athletic ability or performance standards as prescribed by the national governing body for the sport in which the athlete competes;

(d) "international amateur athletic competition" means any amateur athletic competition between (1) any athlete or athletes representing the United States, either individually or as part of a team, and (2) any athlete or athletes representing any foreign country; and any amateur athletic competition used to qualify United States amateur athletes for such competition;

(e) "national governing body" means a not-for-profit corporation which is recognized by the United States Olympic Committee;

(f) "sanction" means a certification of approval issued by a national governing body;

(g) "sports organization" means a club, federation, union, association, or other group, except a 'national governing body', which sponsors or organizes any amateur athletic competition; and

(h) "unrestricted competition" means any amateur athletic competition which is not limited to a specific class of amateur athletes, such as high school athletes, collegiate athletes, members of the armed forces, or any other such group or category.

Sec. 303. (a) No national governing body, educational institution, or sports organization may deny or threaten to deny any eligible amateur athlete, coach, trainer, manager, or administrator the opportunity to participate in any sanctioned unrestricted international competition if selected by a national governing body or one of its members, nor may it censure subsequent to the event, or otherwise penalize for having participated in such competition, any athlete, association, institution, corporation, educational institution, or school, coach, trainer, manager, or administrator.

(b) No national governing body, educational institution, or sports organization may deny or threaten to deny any eligible amateur athlete, coach, trainer, manager, or administrator the opportunity to participate in any international competition (except as provided in subsection (a)), nor may it censure subsequent to the event, or otherwise penalize for having participated in such competition, any athlete, associate, institution, corporation, educational institution, or school, coach, trainer, manager or administrator, unless the national governing body, educational institution or sports organization can show that such denial or censure is reasonable.

ENFORCEMENT

SEC. 304. (a)(1) Whenever any person is engaged in, or there are reasonable grounds to believe that any person is about to engage in, conduct resulting in a denial of opportunities to participate under section 303 of this title, a civil action for preventive relief, including an application for preliminary or permanent injunction, temporary restraining order, or other applicable order, may be instituted by the amateur athlete, coach, trainer, manager, or administrator claiming to be aggrieved, or on behalf of the athlete, coach, trainer, manager, or administrator by the United States Olympic Committee, by any national governing body, or by any sports organization of which such individual or institution is a member.

(2) The district courts of the United States shall have jurisdiction to enjoin the commission of any acts or threatened acts which would result in a denial of the opportunity to participate.

(3) Upon finding that a person is engaged in or is about to engage in conduct resulting in a denial of rights under section 303 of this title, the court shall issue such preliminary or permanent injunction, temporary restraining order, or other applicable order.

(b)(1) Upon mutual agreement of the parties, actions for relief under the provisions of this title may be submitted to any regional office of the American Arbitration Association for binding arbitration.

(2) The arbitration shall proceed in accordance with the rules of the American Arbitration Association in effect at the time of the filing of the action. The arbitration shall be before a panel of three arbitrators and shall begin as soon as possible but, in any event, no later than 30 days after the dispute is submitted to the American Arbitration Association. However, if the Association determines that it is necessary to expedite the arbitration in order to resolve a matter relating to an amateur athletic competition which is so scheduled that compliance with regular procedures would not be likely to produce a sufficiently early decision by the Association to do justice to the affected parties, the Association is authorized, upon 48-hour notice to the parties, to hear and decide the matter under such procedures as it deems appropriate.

(3) Each contesting party may be represented by counsel or by any other duly authorized representative at the arbitration proceeding.

(4) The parties may offer evidence as they desire and shall produce such additional evidence as the arbitrators may deem necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to statutory rules of evidence shall not be necessary.

(5) Upon application, the district courts of the United States shall have jurisdiction for the purpose of issuing subpoenas to compel the attendance and testimony of witnesses and the production of documents which the arbitrators reasonably deem to be necessary or advisable for a better understanding of the dispute.

(6) All decisions by the arbitrators shall be by majority vote unless the concurrence of all is expressly required by the contesting parties. The arbitrators shall make their decisions within 30 days after the closing of the hearings.

(7) The hearings may be reopened by the arbitrators upon their own motion or upon the motion of any contesting party, at any time before the decision is made. If reopened the arbitrators shall make their decision within 90 days of the close of the original hearing.

(8) The district courts of the United States shall have jurisdiction to enforce decisions of the arbitrators. Such action may be brought by any party to the final decision.

SEPARABILITY

SEC. 305. If any provision of this title in its application to any person or circumstance is held invalid, the remainder of this title in its application to any person or circumstance shall not be affected.

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By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 2037. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit the recovery by units of local government of surplus property donated by them to the United States Government, and subsequently declared to be surplus; to the Committee on Governmental Affairs.

DISPOSAL OF SURPLUS PROPERTY

Mr. GRAVEL. Mr. President, the legislation I am introducing today is designed to change GSA procedure for disposal of surplus property so that a unit of government which has sold or donated real property to the Federal Government can recover that property, if it is declared to be surplus, for the price at which it was originally sold, plus the cost of improvements on the land on the basis of construction costs in the year of such improvement.

Before World War II, the city of Nome, Alaska, transferred approximately 19 acres to the Defense Department for use in connection with military needs for the price of $1. The Department of Defense used the land, made several improvements, and declared 3.25 acres of this land to be excess and available for disposal by the General Services Administration last year. The General Services Administration began the usual disposal procedures and found no takers among Federal agencies. The city of Nome proved to be the only interested public body. Under the present disposal procedures, General Services Administration was required to offer the land and improvement at the fair market value of $72,000.

Mr. President, Nome would like to use this property as the site for a school building. It seems grossly unfair to allow the Federal Government to make a profit from the sale of a piece of land which was donated to the Federal Government. For this reason, the city feels that it should pay no more than $1 for the land.

This legislation would allow Nome to recover the site for $1 plus the cost of improvements on the land on the basis of construction costs in the year of such improvement.

I am also aware that a civil action has been filed by the Sitnasuak Native Corporation of Nome, questioning a determination on the part of the Bureau of Land Management that this land is not eligible for selection under the Alaska Native Claims Settlement Act. This legislation is designed to be permissive, so that the outcome of that case will not be affected by enactment of this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my colleague, Mr. STEVENS' remarks.

Mr. STEVENS. Mr. President, I am pleased to join with my colleague from Alaska (Mr. GRAVEL) in introducing this legislation.

This land, located in downtown Nome, Alaska, was originally sold to the U.S. Air Force Alaska Communications Station along with approximately 16 additional acres for $1 during a critical period of World War II buildup in Alaska. This property was sold to the Federal Government by the people of the city for communications purposes.

Subsequently, the Alaska Communications Station gave the citizens of Nome an opportunity to make a bid for this land. Nome's offer of $10,000 was rejected.

In January 1968, the Nome, Alaska, Communications Station was declared excess to the needs of the U.S. Air Force. Following this announcement, roughly 13.41 acres of this land was reported to the General Services Administration for disposal and later sold in 1972 for $16,000. The remaining 5.45 acres were transferred to the Department of the Army in 1973.

When the land initially was sold to the Federal Government, this transaction was made by the people of Nome in the best interest of the Nation and the State of Alaska for the token price of $1. The generosity of the citizens of Nome was deflated a number of years later when the Government sold this property at a tidy profit of $16,000.

Because the people of Nome were extremely anxious to have the 5.45 acres in the downtown section returned to them, I initially introduced similar legislation in the 93d Congress to return this portion of land to the city for $1. I again introduced the same bill last Congress. In an effort to get immediate action on this measure, later in the 94th Congress; I offered it as an amendment to S. 1247, the military construction bill. The amendment was adopted in the Senate on June 9, 1975, but was defeated by the joint Senate-House conference committee.

After the amendment was rejected legislatively, I asked the Secretary of Defense to return any surplus property on this site to the city administratively through the normal excessing procedure (10 U.S.C. 2662(a)(5)). After a portion of this land was declared excess to the needs of the military, the Secretary of Defense agreed to return to the city administratively 3.25 acres of land. After a scan of the Federal agencies, the General Services Administration also declared this site surplus to their needs. Although during the entire excessing procedure the city of Nome was the only public group to express an interest in this land, the General Services Administration now requires the city to pay its fair market value, $72,000.

The final stage of the excessing procedure was scheduled for January 18, 1977. However, prior to the bid opening, the Sitnasauk Native Corp., filed suit for this land under the Alaska Native Claims Settlement Act. Therefore, the public sale has been indefinitely postponed pending the outcome of this case.

This legislation is drafted so that the land will not be conveyed until this case is resolved.

So that the people of Nome can use this property currently under the control of the Army to construct a new school, I urge that it be promptly returned to them under the provisions of the legislation that Mr. GRAVEL and I introduce today.

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By Mr. TOWER:

S. 2038. A bill to provide Federal financial assistance to local educational agencies in order to assist such agencies to provide public education to immigrant children, and for other purposes; to the Committee on Human Resources.

IMMIGRANT CHILDREN ASSISTANCE ACT OF 1977

Mr. TOWER. Mr. President, I am today introducing the Immigrant Children Assistance Act of 1977, to provide emergency aid to those States that are most heavily and most unfairly burdened by a high concentration of immigrant students.

This bill addresses a longstanding problem. Liberal Federal immigration laws welcome immigrant children to this country, but the States, and specifically the local taxpayers, are required to provide them with a free public education without any meaningful Federal assistance. I might point out that cultural and linguistic barriers make an immigrant's education about twice as expensive as the average child's. Although there are several Federal education programs that indirectly provide the schools with program aid, there are none that assist in the construction of the facilities that are so desperately needed merely to house them.

The Immigrant Children Assistance Act will alleviate this problem for the first time. It authorizes the Commissioner of Education to make payments to local education agencies in the amount of $1,000 per immigrant student in districts with a concentration of 7.5 percent or more in average daily attendance. This is a one-time payment, the total of which for all affected school districts is not to exceed $20 million. The funds may be used for education programs, services, and activities, including the construction of necessary school facilities.

The act provides for only one payment for one reason. Since the primary need is for construction of new facilities, the resources for expansion need initially be offered only once. I hope that this aid will meet the immediate emergency. However, in the meantime, I urge that Federal policy regarding the education of immigrant children be reexamined and some remedy be found that will obviate the need for crisis intervention in the future.

I will use Texas as an example of a State suffering great hardship in these circumstances. At the outset, however, I would like to emphasize the fact that Texas is only one State critically affected by this problem. Texas, Florida, California, New York and New Jersey together bear the burden of educating 57 percent of the total U.S. school-age immigrant population. I might add that I am speaking only of legal immigrants. These children have every right to the free public education that is such a point of national pride.

In the fall of 1975, there were 44,864 immigrant children in Texas schools, representing approximately 1.6 percent of all schoolchildren in the State. However, 60 percent of those children, or 26,940 students, were enrolled in the 61 school districts along the Texas-Mexico border. One district with an 8.1 percent concentration has 5,100 immigrant students, and the numbers are rising steadily.

This influx would be a problem for wealthy districts. Here, these students are enrolling in the poorest districts. Although local residents are paying the statutory maximum on property taxes to support education, the most severely affected districts are typically below the statewide mean and median in market value of property. The very quality of education is in jeopardy, and school adminsitrators are justifiably desperate.

The problem so dramatically illuminated by the predicament of the Texas school districts is not going to evaporate. It is doubtful that immigration policy will be altered to close our doors to the vast numbers of non-English-speaking immigrants who come to our country every year, and I am sure that our historical compassion for refugees will be evoked again and again. It would be irresponsible to perpetuate existing policy without also acting to prtoect our educational communities from the financial crises they now suffer as a result.

I urge my colleagues to join me in offering immediate relief to those school districts currently suffering intolerable conditions and in calling for a reexamination of Federal policy on the subject of immigrant education.

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By Mr. ANDERSON:

S. 2039. A bill to amend the Internal Revenue Code of 1954 to allow a variable rate investment credit with respect to a newly constructed section 1250 property and to allow such credit to individuals in connection with their investment in newly constructed principal residences; to the Committee on Finance.

Mr. ANDERSON. Mr. President, I am today introducing S. 2039, a bill to provide a variable rate investment credit for the construction of new homes which are principal residences and new commercial or industrial buildings.

This bill has a dual thrust. First, it will lower the cost of new housing by

providing a tax credit that directly offsets part of the rapid inflation of the costs of new homes in the last decade. Second, the credit is a variable tax credit that increases or decreases depending upon the state of the U.S. economy. The housing credit will act in a countercyclical fashion. It will be at its highest when unemployment is high, as a stimulus to new construction. It will decrease as unemployment falls and the economy approaches full utilization of resources.

Mr. President, I am greatly concerned by the failure of our economy to produce enough new housing. The high number of births two decades ago and the low number of housing starts in the last few years have combined to produce the current inflation in both housing prices and rents. To accommodate net increases of households, to replace units lost from the housing supply, to offset housing absorbed for seasonal and second homes, and to provide enough vacancies to allow for population mobility, this country needs about 2.45 million new housing units a year at least until 1985. This requirement is in addition to the need to replace some 3.5 million units of substandard housing across the United States which are now occupied.

As it stands now, it is unlikely that the need for new and improved housing in the United States will be met. In several years of the last decade, new housing starts have barely exceeded half of the nationwide need. This year we have seen a upsurge in new construction, but the number of new units is unlikely to reach the 2.45 million rate that is required to stay even. Also, there will likely be little improvement in the over 3 million substandard housing units.

Mr. President, it is important to remember that the problem in this country is not an inability to build enough housing units. Unemployment in the construction industry has been running in excess of 15 percent, often twice the level of other industries. We need not have serious worries of over stimulating the housing industry under current conditions. We must also realize the low level of new construction in the early 1970's was a major factor in the recession from which this country is not yet fully recovered. And, the United States will not fully recover unless construction activity not only maintains the current pace, but improves as well.

I do not believe that this can be accomplished with the present high price levels of new homes. The median price of a new home in the United States is now about $49,000, far above the level that most families can afford unless they already own a home. A Congressional Budget Office study of the years 1970–74 demonstrated that the average price of a new home increased 82 percent while average income increased only 39 percent. Obviously, the affordability of new homes declined for many Americans. And there is every reason to believe that the problem has gotten worse, not better since then.

There are a number of ways to deal with this problem. S. 2039 involves one approach, that of a Federal tax credit. Presently, the Federal Government provides a 10-percent tax credit to business for the purchase of tools and machinery. The Congress recently enacted a new business tax credit for the hiring of new workers. If tax credits make sense for these purposes, in my judgment, they certainly make sense for new homes.

I propose in S. 2039 that the Congress provide for those who purchase a new home the same kind of tax credit provided in present law for purchasing a new piece of machinery. I propose that when unemployment is at 6 percent or above, the credit be set as 10 percent of the price of the new home. As a result, a person building a new $45,000 home as a principle residence, could receive a tax credit of $4,500.

S. 2039 provides that for every 1 percent drop in the unemployment rate, that the credit be dropped 2 percent. Thus the credit will act countercyclically to stimulate when the economy has an excess of capacity, and to not stimulate as the economy approaches full utilization of resources.

This bill also provides that the housing tax credit will be available for the construction of new industrial or commercial buildings as well. However, the volume of construction is such that about three-quarters of the credit provided in S. 2039 will be available for construction of new homes.

Mr. President, the availability of decent housing has been a priority concern of the U.S. Government for decades. S. 2039 provides much needed relief for potentially millions of Americans who desire a home at a price they can afford.

Mr. President, I ask unanimous consent that the text of S. 2039 be printed in the RECORD.

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

S. 2039

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subsection (a) of section 48 of the Internal Revenue Code of 1954 (relating to section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) Section 1250 property; principal residences.—Notwithstanding subparagraph (B) of paragraph (1), section 1250 property, the original use of which commences with the taxpayer, shall be treated as section 38 property. In the case of an individual, the principal residence (within the meaning of section 1034) of that individual shall be treated as if it were section 38 property if the original use of the residence commences with the individual.".

(b) Paragraph (2) of section 46(a) of such Code (relating to amount of credit for current taxable year) is amended by adding at the end thereof the following new subparagraph:

"(E) Percentage rate for section 1250 property and principal residences.—

"(i) In the case of property described in section 48(a)(10), the amount determined under this paragraph for the taxable year shall be an amount equal to a percentage (determined under clause (ii)) of the qualified investment (as determined under subsections (c) and (d)).

"(ii) The percentage shall be determined under the following table:

(Answers in percent)

| "If the unemployment rate is— | The percentage is— |
|---|---|
| 6 percent or more | 10 |
| 5 percent or more but less than 6 percent | 8 |
| 4 percent or more but less than 5 percent | 6 |
| 3 percent or more but less than 4 percent | 4 |
| 2 percent or more but less than 3 percent | 2 |
| less than 2 percent | 0 |

"(iii) For purposes of clause (ii), the term 'unemployment rate' means the average monthly unemployment rate for the United States determined by the Bureau of Labor Statistics of the Department of Labor for the twelve month period ending on June 30 of each year. The Secretary of Labor shall certify the unemployment rate annually to the Secretary, and the certified unemployment rate shall be used to determine the percentage applicable under clause (ii) with respect to—

"(I) property to which subsection (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after the first day of January next following such June 30, but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such first day and before the following January 1,

"(II) property to which subsection (d) does not apply, acquired by the taxpayer after the first day of January next following such June 30 and before the following January 1, and placed in service before the following January 1, and

"(III) property to which subsection (d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d)) with respect to qualified progress expenditures made after the first day of January next following such June 30 and before the following January 1.".

SEC. 2. The amendments made by this section shall apply with respect to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after the date of enactment of this Act but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after the date of enactment of this Act, and

(3) property to which section 46(d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made after the date of enactment of this Act.

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By Mr. JAVITS (for himself and Mr. WILLIAMS):

S. 2040. A bill to amend the Federal Food, Drug, and Cosmetic Act and related provisions of law; to the Committee on Human Resources.

COMPREHENSIVE DRUG AMENDMENTS OF 1977

Mr. JAVITS. Mr. President, regulatory reform is an issue which is critical to the long-term process of restoring public confidence in Government throughout the Nation. The broad reexamination of our regulatory system which has been underway in many committees in both houses of Congress—and particularly in the Senate Governmental Affairs Com-

mittee—is long overdue. There is wide agreement that our regulatory system is not meeting minimal public needs, that the regulatory process often benefits special interests at the expense of the general public, and that some Government regulations cost the public more than they return in benefits.

It is imperative that concrete legislative reforms be adopted to assure a more independent regulatory system aimed at guaranteeing that the consumers' interests prevail. In addition, regulatory bodies must begin to make measurable progress toward eliminating the backlog and delays in their proceedings that have weakened public belief in an equitable and efficient regulatory system.

During the 95th Congress, several major substantive regulatory reform proposals have been proposed in such areas as transportation, energy, financial institutions, and communications.

I am today introducing major legislation the principal purpose of which is to reform the fundamental procedures of the Food and Drug Administration in order to make regulations in the drug field more efficient, more open and more surely in the public interest.

I am pleased to have Senator WILLIAMS, the distinguished chairman of the Human Resources Committee join with me in cosponsoring this bill. As ranking member of the committee and an active member of the Subcommittee on Health and Scientific Research, I have worked closely with my colleagues, especially Senator KENNEDY, in our intensive examination of the FDA and the pharmaceutical industry. In the last Congress, Senator KENNEDY and I introduced several FDA reform measures and together helped to form the HEW New Drug Review Panel. I commend Senator KENNEDY's initiative in introducing S. 1831—which is cosponsored by Senators PELL and HATHAWAY, and which has many of the same goals as my bill.

It is my hope and expectation that we may be able to join with Senator KENNEDY and his cosponsors for a bill containing the best features of his and ours in which we may join for the final legislation.

I am convinced that this Congress will produce a major reform of the Food, Drug, and Cosmetic Act and I believe it is in the public interest that our proposals, too, be presented for public discussion and for our consideration.

In undertaking this major reform, there are several major principles upon which our bill is predicated. They are:

First, statutes should be implemented with the least amount of regulation consistent with the theoretical need for regulation; they should be changed when they need changes;

Second, Federal regulation should only be as strong as is necessary to accomplish the underlying public policy objectives;

Third, regulatory purposes and standards should be clearly defined;

Fourth, standards should be administratively easy to apply, based upon rules which measure the trade-off between ease of general applicability and benefits of individual response;

Fifth, requirements levied upon the private sector should be clear and easy for laymen to understand;

Sixth, procedures should better provide for those interested or affected to participate in decisionmaking and to make their views known;

Seventh, agencies should have the means to gather independent information and conduct objective factfinding and research procedures to more adequately insure enlightened decisionmaking at a minimum of cost in terms of time, money, and invasion of personal privacy;

Eighth, regulatory enforcement should be conducted in a commonsense, knowledgeable manner with a view toward minimizing burdens upon small businesses without special staffs to handle work required by regulation.

Mr. President, our bill attempts to identify both the internal and external influences on the process by which the Food and Drug Administration evaluates and approves therapeutic drugs for marketing.

The new drug approval process is the most important licensing function performed by the agency. Yet, this process is largely informal, private, and, to a surprising degree, unstructured.

This lack of formality and high degree of confidentiality are unexpected in a governmental licensing process involving important public and private interests. The FDA's decision whether to approve a new drug for marketing immediately affects the commercial interest of the manufacturer, and of its competitors, as well as the health and well being of hundreds of thousands, and often millions, of citizens to whom the drug will or will not be administered.

I hope that this bill may serve as a vehicle through which we can examine carefully the relationship which the agency has with outside groups which provide trade secret information, draft proposed standards or regulations, conduct research, or otherwise give advice on the nature and content of proposed regulations.

In evaluating a drug the FDA relies on the scientific and medical data assembled and supplied by the manufacturers. Currently the manufacturer submits an application with the agency for permission to conduct a series of research investigations on a new drug. Technically the approval of the application is the administrative action which permits the marketing of a drug.

During this application process, the legal relationship between the manufacturer and the FDA is vague. Responsible members of the public have expressed great concern about this relationship.

Frequently it has been said that the agency delays the application process by changing the requirements to be met and the rules to be followed in midstream. Once a manufacturer begins testing the potential new drug after filing an application, frequently a staff change in the agency results in the new person changing the research protocols and requirements.

Manufacturers have expressed concern that even after they have completed all the requirements the agency adds even more.

Critics of the agency have asserted that the staff of the agency are heavily influenced during this process by industry. There are no rules or norms of behavior by which the industry or agency staff are to be guided. The manufacturer is anxious to get his drug through the process and to find out what is the status of his application. The agency staff are frequently in a quandry because they do not know what they can say about the application or what discretion they may exert.

An interesting solution to these and other problems in industry-agency relations would be to, by statute, require that the relationship be one of contract.

A contract device would provide an opportunity for detailed planning in advance of proceeding. Contracts have traditionally served as a mechanism by which parties endeavor to create norms of behavior which will govern their future relationship. Parties can express their expectations and work out beforehand their respective rights and responsibilities, timetables, structured and designated flow of communication, and arbitration mechanisms, if disputes should arise. In addition, contract law would provide an easier cause of action to enforce rights and responsibilities than present administrative law mechanisms. Pleadings would be narrowly drawn to the four corners of the contract, rather than to overly broad regulations. Currently, there is a single process for developing data on a drug and for approval. This makes decisionmakers and criteria for decisions invisible. I believe that this single process can be separated into two discrete procedures—one for the development of the scientific data on a drug and one for the approval of the drug.

The bill would require that the procedures governing the development of data on a drug would be set out in a new drug evaluation agreement. This agreement would be between the manufacturer and the agency. It would spell out, in advance, the appropriate provisions and thereby structure what presently tends to be a loose and ad hoc process.

The Federal Food, Drug, and Cosmetic Act contains provisions which suggest a process in which hearings play a major part, in which administrative decisions are based upon a public, evidentiary record, and are subject ultimately to judicial review. Moreover the current act suggests that the criteria for decisions are well established and easily applied. The extent to which the actual approval process departs from this statutory model may be revealed by the facts that since 1938, the FDA has held only a handful of hearings and that only a few manufacturers have ever sought court review of a decision.

In the vast majority of cases, the process proceeds informally, privately, and with an apparent understanding on both sides that formal procedures and judicial review are to be avoided.

Another innovative aspect of the bill which presents a model for all agencies where technical and policy decisions are

mixed is the statutory separation of the scientific decisions and the public policy decisions. In order to approve a drug, the law states that the drug must be "safe." However, the term "safety" is not a scientific conclusion, rather it is a legal conclusion based in part on scientific findings and conclusions and in part on public policy considerations.

I believe that it is imperative that the Congress examine the nature, quality, and impact of scientific input from all sources which is the foundation for virtually all of FDA's regulatory output. Likewise, I believe Congress now has responsibility to expore in detail how the agency makes scientific and public policy decisions.

Under the Federal Food, Drug, and Cosmetic Act, a drug can only be approved for marketing if it meets the rement of "safety." Use of the term "safety" creates a public expectation that the Government only allows "safe drugs" on the market. No useful drug can be absolutely safe. The approval of a drug for marketing requires a balancing of the probable toxicity and other risks associated with the drug against the probable benefits associated with the drug, taking into consideration the seriousness or importance of the medical condition for which the drug appears to have utility.

Chemicals that produce beneficial pharmacological effects always produce harm in some people. Therefore the term "safe," taken literally, is naive, inaccurate and misleading to the public, who have come to believe that therapeutic efficacy can be received without paying a toxicological price.

The public's expectation of absolute safety is significantly responsible for many of the ongoing criticisms of the FDA.

Many scientists have suggested that the term "safety" be defined so as to accurately reflect the true situation. Last year a group of eminent physicians and scientists met to formulate commentary on the Kennedy-Javits drug bill of last Congress. Their main recommendation was that any new drug legislation should reflect this.

The bill incorporates this recommendation.

This change is not a weakening of the standard. It is an accurate reflection of what actually occurs today and I believe bringing this to light would result in better decisions and further the public's understanding that there are always risks associated with drugs.

I find a striking feature of the new drug approval process is its lack of openness. The FDA treats the scientific data submitted as confidential, at least prior to approval, on the claim that it constitutes a "trade secret." Drug evaluation is a closed process in which all are shut out except the manufacturer and certain agency consultants. The agency does not publicly announce its decisions or the reasoning behind them.

In a time of increasing public participation and openness in administrative decisionmaking, the present veil of secrecy is an anachronism. Effective participation in this process is impossible without access to important safety and efficacy data. Participation has remained closed and it will always remain closed until this data is made available to interested members of the public.

I also recognize the importance of protecting the proprietary interests of manufacturers in safety and efficacy information. However, we must now equalize these public and private interests.

In this legislation, we suggest a balance of greater public access to important scientific information and increased commercial protection in the marketplace.

This bill would provide for greater public accessibility to data by: first, making detailed summaries of data available after an agency decision is made; second, permitting public access to data in FDA-related proceedings; and third, publishing decisions and the reasoning for them.

The bill would protect the commercial interest of a manufacturer in a drug by: First, prohibiting any trade secret data from being used to support another drug for FDA approval; and second, providing that the term of a patent on a drug end 17 years after the FDA has approved the drug.

I believe that patents provide important incentives to discoverers and manufacturers for developing new advances in technology. The patent system protects a product against infringement and provides a limited monopoly for a time.

I am concerned, however, that an extended patent life may result in increased drug prices to consumers since competition would be decreased if a manufacturer did not license the drug. Therefore, I have proposed that 8½ years after a drug is approved by the FDA, the manufacturer would be subject to compulsory licensing of the drug. Compulsory licensing would create competition among producers which would lower prices to consumers.

Mr. President, it is my deep conviction that we confront very serious problems of lack of objectivity and forceful regulation in the public interest in some regulatory agencies as well as serious overregulation in others.

These failings can best be resolved, not through ad hoc congressional review of every regulatory action, but by a systematic review of the basic regulatory structure and policy of each agency. The bill Senator WILLIAMS and I introduce today is precisely aimed at achieving that objective with respect to drug regulation in the FDA.

The combined weight of these shortcomings makes it clear that significant legislative changes are desirable, but the complexity of the process and the necessity to protect the public as well as legitimate private interests indicate that intelligence and discrimination are required to do this job well.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 2040

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I—DRUG AMENDMENTS

SHORT TITLE AND REFERENCE TO ACT

SEC. 101. (a) This Act may be cited as the "Comprehensive Drug Amendments of 1977".

(b) Whenever in this title (other than in sections 102(a)(2) and 103(a)(2)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision is a section or other provision of the Federal Food, Drug, and Cosmetic Act.

REQUIREMENT THAT PRE-1938 HUMAN DRUGS BE SAFE AND EFFECTIVE

SEC. 102. (a)(1) Section 201(p)(1) is amended by striking out ", except that such a drug not so recognized shall not be deemed to be a 'new drug' if at any time prior to the enactment of this Act it was subject to the Food and Drug Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use".

(2) Section 107(c)(4) of the Drug Amendments of 1962 (76 Stat. 789) is repealed.

(b) The amendments made by subsection (a) of this section shall take effect on the first day of the sixth calendar month following the month in which this Act is enacted.

REQUIREMENT THAT PRE-1938 ANIMAL DRUGS BE SAFE AND EFFECTIVE

SEC. 103 (a)(1) Section 201(w)(1) is amended by striking out "; except that such a drug not so recognized shall not be deemed to be a 'new animal drug' if at any time prior to June 25, 1938, it was subject to the Food and Drug Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use".

(2) Section 108(b)(3) of the Animal Drug Amendments of 1968 (82 Stat. 353) is repealed.

(b) The amendments made by subsection (a) of this section shall take effect on the first day of the sixth calendar month following the month in which this Act is enacted.

DEFINITIONS

SEC. 104. (a) Section 201(b) is amended to read as follows:

"(b) The terms "interstate commerce" and "commerce" mean (1) any activity which affects commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body."

(b) Section 201(c) is amended to read as follows:

"(c) The term "Administration" means the Food and Drug Administration."

(c) Section 201(d) is amended to read as follows:

"(d) The term "Commissioner" means the Commissioner of the Food and Drug Administration."

(d) Section 201(e) is amended to read as follows:

"(e) The term "person" includes an individual, a partnership, a corporation, an association and a Federal agency."

(e) Section 201 is amended by adding at the end thereof the following new subsection:

"(z) 'Federal agency' means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

"(A) the Congress; and

"(B) the courts of the United States.

"(aa) The term 'Hearing Board' means the Drug Science Hearing Board established pursuant to section 1013 of this Act.".

FALSE OR MISLEADING DATA

SEC. 105. Section 301(e) is amended to read as follows:

"(e) The refusal to permit access to or copying of any record as required by section 703; or the failure to establish or maintain any record, conduct any study, or make any report, required under sections 505, 507, 512, 515 or 519; or the maintenance or submission of any such required records, reports, or data which contain any false or misleading information or that omit any material information; or the refusal to permit access to or verification or copying of any such required records, reports, or data."

INCREASE OF CRIMINAL FINES: FOOD, DRUGS, COSMETICS, AND BIOLOGICAL PRODUCTS

SEC. 106. (a) Subsection (a) of section 308 is amended to read as follows:

"(a)(1) Any person who violates, or causes the violation of, a provision of section 301 shall be imprisoned for not more than one year or fined not more than $10,000 in the case of an individual or $25,000 in the case of a person other than an individual, or both.

"(2) The penalties provided by paragraph (1) shall apply to an individual—

"(A) who acts knowingly,

"(B) who acts willfully, or

"(C) who acts without the care, skill, prudence, and diligence under the circumstances then prevailing that the prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character.".

(b) Subsection (b) of section 308 is amended by striking out "$10,000" and inserting "$25,000 in the case of an individual or $100,000 in the case of a person other than an individual".

(c) Section 351(f) of the Public Health Service Act is amended by (1) striking out "$500" and inserting "$10,000 in the case of an individual or $25,000 in the case of a person other than an individual" in lieu thereof, and (2) adding at the end the following new sentence: "And if any person commits such a violation after his conviction under this section has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than $25,000, or both in the case of an individual or $100,000 in the case of a person other than an individual.".

CIVIL PENALTIES

SEC. 107. Chapter III is amended by adding at the end thereof the following new section:

"CIVIL PENALTIES

"SEC. 308. (a) Any person who is found by the Commissioner, after written notice and an opportunity for a hearing, to have committed an act prohibited by section 301 of this chapter, shall be liable to the United States for a civil penalty of not more than $10,000 in the case of an individual or $25,000 in the case of a person other than an individual for each violation. If any such violation is a continuing one, each day of violation constitutes a separate offense for such purpose. The amount of such civil penalty shall be determined and assessed by the Commissioner, or his delegate, by written notice.

"(b) Any person against whom a violation is found and a civil penalty assessed under subsection (a) may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such assessment and by simultaneously sending a copy of such notice by certified mail to the Commissioner. The Commissioner shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty imposed, as provided in section 2112 of title 28, United States Code. The finding of the Commissioner shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2)(e) of title 5, United States Code.

"(c) If any person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate court of appeals has entered final judgment in favor of the Commissioner, the Commissioner shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review."

REQUIREMENTS FOR STATING ON NONPRESCRIPTION DRUG LABELS THE QUANTITY OF THE DRUGS' ACTIVE INGREDIENTS

SEC. 108. (a) Section 502(e)(1)(A) is amended by striking out the colon preceding the proviso to clause (ii) and inserting in lieu thereof a semicolon and by repealing the proviso.

(b) The amendments made by subsection (a) of this section shall take effect on the first day of the thirteenth month beginning after the date of enactment of this Act, except that such effective date shall be postponed, if the Secretary of Health, Education, and Welfare determines that there is good cause therefor, for such additional period as the Secretary by regulation prescribes.

PATIENT PACKAGE INSERTS

SEC. 109. (a) Section 502 is amended as follows:

(1) Effective upon the expiration of the twelve-month period beginning on the date of the enactment of this Act, clause (1) of paragraph (b) is amended to read as follows: "(1) in the case of a drug which may be dispensed only upon the prescription of a practitioner licensed by law to administer such drug, the name and place of business of the manufacturer of the final dosage form of the drug and, if different, the name and place of business of the packer or distributor and, in the case of any other drug or a device, the name and place of business of the manufacturer, packer, or distributor; and".

(2) Such section is amended by inserting after paragraph (e) the following new paragraph:

"(f)(1)(A) Unless in the case of a drug, its labeling, pursuant to regulations of the Commissioner, bears as determined in such regulations to be necessary to inform individuals of the risks and benefits associated with the proper use of such drug prior to administration, or purchase by, any individual—

"(i) adequate directions for use of the drug, including adequate information (in readily understandable language) respecting—

"(I) the purposes or indications for which the drug may be used,

"(II) the proper administration of the drug,

"(III) the proper storage and handling of the drug, and

"(IV) warnings against unsafe use of, and significant side effects and adverse reactions from the use of, the drug;

"(ii) the date (established under regulations of the Commissioner) after which the drug should not be used;

"(iii) the drug's established name (as defined in paragraph (e)(2)) and its identification in accordance with an appropriate uniform identification code established under regulations of the Commissioner; and

"(iv) such other information as the Commissioner determines to be necessary for the protection of the public health or for the informed decision of individuals to purchase or take such drug.

The Commissioner shall by regulation authorize practitioners who are licensed by law to administer drugs to order in the written prescription of a drug that the labeling of the drug not include the information prescribed under the first sentence of this clause.

"(B) A regulation promulgated under the first sentence of clause (A) (other than a regulation making a clerical or similar technical change in a regulation promulgated under such sentence) shall take effect as prescribed in the regulation, but it may not take effect before ninety days after the date of its publication unless the Commissioner determines that an earlier effective date is necessary for the protection of the public health and safety.

"(C) Any requirement in effect under this paragraph with respect to a drug immediately prior to the date of the enactment of Comprehensive Drug Amendments of 1977 shall apply to such drug until the applicability of such requirement has been changed by action taken by the Commissioner under this paragraph after such date.

"(2) Unless in the case of a drug which may be dispensed only upon the prescription of a practitioner licensed to administer such drug, its labeling bears, in addition to the matter required by subparagraph (1), such information for practitioners licensed by law to administer drugs as the Commissioner may establish.".

(3) The paragraph (f) in effect on the day before the date of enactment of this Act is amended—

(A) by striking out "(f) Unless" and inserting in lieu thereof "(3) Unless in the case of a device",

(B) by redesignating clauses (1) and (2) as clauses (A) and (B),

(C) by striking out "dosage or",

(D) by striking out in the proviso "clause (1) of this paragraph" and inserting in lieu thereof "clause (A) of this paragraph", and

(E) by striking out "drug or" each place it occurs in the proviso.

(b) Section 503(b)(2) is amended by inserting "(b), (f)," after "paragraphs (a)".

(c) The Commissioner shall, within the twelve-month period beginning on the date of the enactment of this Act, publish in the Federal Register a list of priorities for the promulgation of regulations under the authority of the first sentence of section 502(f)(1)(A) of the Federal Food, Drug, and Cosmetic Act (other than the authority provided by subclause (ii) or (iii) of such sentence). Such priorities shall be based upon consideration of the frequency of the use of a drug, the frequency of occurrence of adverse effects from the use of a drug, the seriousness of such adverse effects, and a drug's potential for misuse or abuse.

REQUIREMENT FOR STATING QUANTITY OF CONTENTS AND DRUG NAME ON LABELS OF CONSUMER PACKAGES OF PRESCRIPTION DRUGS

SEC. 110. (a) The first sentence of section 503(b)(2) of such Act is amended—

(1) by inserting "(b)(2)," after "paragraphs (a),",

(2) by inserting after the phrase "the name of the patient," the following: "the name of the drug (as specified by the prescriber) and its strength unless compliance with this requirement is waived or prohibited by the prescriber,".

(b) The amendments made by subsection (a) of this section shall take effect on the first day of the third calendar month that begins after the date of enactment.

NEW DRUGS

SEC. 111. (a) Section 505 is amended to read as follows:

"SEC. 505. (a) No person shall introduce or deliver for introduction into commerce any new drug, unless a new drug evaluation

agreement, entered into pursuant to subsection (b) of this section, has been fulfilled and such drug has been approved by the Commissioner pursuant to subsection (g) of this section.

"(b) NEW DRUG EVALUATION AGREEMENT.—(1) Any person may enter into a new drug evaluation agreement with the Commissioner with respect to any drug subject to the provisions of subsection (a). The purpose of such agreement is to develop sufficient scientific data on such drug for presentation to the Drug Hearing Board. Each such agreement shall include provisions for the submission to the Commissioner of—(A) full reports of investigations which have been made which present the scientific evidence necessary to enable the Commissioner to conclude that such drug is safe for use and whether such drug is effective in use, (B) a full list of the articles used as components of such drug, (C) a full statement of the composition of such drug, (D) a full description of the methods used in, and the facilities and controls for, the manufacturing, processing, and packing of such drug, (E) such samples of such drug and of the articles used as components therefor as the Commissioner may require, and (F) specimen of the labeling proposed to be used for such drug.

"(2) In addition to the provisions specified in paragraph (2), each such agreement shall include provisions for (A) protocols, incorporating the phases of investigation described in subsection (C), which meet the standards and requirements of this Act; (B) describing the methods; frequency and type of communication to be expected between such person and the Administration, and (C) describing procedures for dispute resolution.

"(3) No provision of any such agreement shall exempt any such person from any segment under requirement of this Act.

"(c) No new drug evaluation agreement shall be considered fulfilled for purposes of subsection (a) unless the requirements of each provision of such agreement with respect to each of the following phases of investigation are met:

"(I) Phase I begins with the introduction of the new drug into man on the basis of animal and in vitro data for the determination of human toxicity, metabolism, absorption, elimination and other pharmacological action, preferred route of administration, safe dosage range, and any other purpose determined by the Commissioner.

"(2) Phase II begins with the initial trials on a limited number of patients for determining specific disease control or for prophylaxis purposes.

"(3) Phase III continues with clinical trials for the assessment of the drug's safety and effectiveness and optimum dosage schedules in the diagnosis, treatment, or prophylaxis of groups of subjects having a given disease or condition.

"(d) Upon entering into a new drug evaluation agreement the Commissioner shall publish in the Federal Register a notice that such agreement has been entered into, including the names of the parties to the agreement, the objectives of such agreement and the nature of the drug to be evaluated.

"(e) DRUG APPROVAL HEARING.—Within one hundred and eighty days after entering into such agreement under subsection (1), or such additional period of time as may be agreed upon by the Commissioner and such person, the Drug Hearing Board shall conduct a hearing on the question whether such drug is approvable, in accordance with subsection (f).

"(f) If after a hearing the members of the Board find, in their expert scientific opinion, that—

"(1) the investigations, reports of which are required to be submitted to the Commissioner pursuant to a New Drug Evaluation Agreement entered into under subsection (b), do not include adeqaute tests by all methods reasonably applicable to present the scientific evidence necessary to enable the Commissioner to conclude that such drug is safe for use under the conditions prescribed in the proposed labeling thereof,

"(2) the methods used in, and the facilities and controls used for the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity,

"(3) upon the basis of the information submitted to the Commissioner, pursuant to a New Drug Evaluation Agreement, or upon the basis of any other information before the Hearing Board with respect to such drug, the Hearing Board has insufficient information to make a finding as to—

"(A) the probable toxicity and other risks associated with such drug for use under the conditions prescribed in the proposed labeling,

"(B) the probable benefits associated with such drug for use under the conditions prescribed in the proposed labeling, and

"(C) the relative seriousness or importance of the conditions prescribed in the proposed labeling,

"(4) evaluated on the basis of the information submitted to the Commissioner; pursuant to a New Drug Evaluation Agreement, or any other information before the Hearing Board with respect to such drug, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labelling thereof, or

"(5) based on a fair evaluation of all material facts, such labelling is false or misleading in any particular, the Hearing Board shall submit to the Commissioner its findings of fact and conclusions which shall be based on expert scientific opinion. If the Hearing Board finds that paragraphs (1) through (5) do not apply, the Board shall submit to the Commissioner a recommendation that he issue an order approving the drug. If the Board finds that such paragraphs do apply, the Board shall submit a recommendation that the Commissioner that he issue an order approving the drug. If the Board finds that such paragraphs do apply, the Board shall submit a recommendation that the Commissioner that he issue an order denying approval of such drug.

"(g)(1) Within sixty days from the receipt of the findings and recommendations of the Hearing Board, the Commissioner shall either approve or disapprove such drug. The Commissioner may not approve a new drug if the Hearing Board finds that any of the provisions of subsection (f) apply. The Commissioner may make a decision under this section only after first making a conclusion that such drug is safe and effective under the conditions prescribed, recommended or suggested in the labeling thereof. The Commissioner shall publish in the Federal Register within five days from the date of his decision, his decision and the reasons therefor.

"(2) The Commissioner may—

"(A) in an order approving a drug under this subsection, or

"(B) after approving a drug, by order,

prescribe such conditions and limitations upon the approval or continuation of approval, as the case may be, of the drug as the Commissioner determines is necessary to assure that the drug is safe and effective in use and that adequate information is obtained concerning the effects of widespread or prolonged use of the drug. An order prescribing such conditions and limitations may only be issued after the Commissioner has provided all interested persons notice of the proposed order and has provided an opportunity for an informal hearing on the conditions and limitations proposed to be prescribed in the order. Such order shall be published in the Federal Register with the reason therefor.

"(3) The holder of an application for a drug which is subject to conditions and limitations prescribed under paragraph (2) may, after the expiration of two years after the date of the order which prescribed such conditions and limitations, petition the Commissioner to initiate a proceeding to issue an order to revise or remove such conditions and limitations. The Commissioner shall, within ninety days of the receipt of such a petition, by order either grant or deny such petition. An order to revise or remove conditions and limitations shall be issued in accordance with the last sentence of paragraph (2).

"(4) The Commissioner may immediately suspend the approval of any drug under subsection (h) upon a finding that a condition or limitation prescribed under paragraph (2) and applicable to the drug has not been complied with.

"(5) If a drug is subject to conditions or limitations prescribed under paragraph (2), the information included in the directions for use of the drug under section 502(f)(1)(A)(i) or 502(f)(2) shall also include (in such form and manner as the Commissioner prescribes) (A) a statement that the approval of the drug is subject to conditions or limitations, (B) information describing conditions or limitations applicable to the use of the drug, and (C) warnings respecting any hazard presented or which may be presented by the drug and, if appropriate, a warning that all the effects from the use of the drug are not known.

"(h) The Commissioner shall, after notice and an opportunity for a hearing, withdraw approval of a new drug or subject such drug to investigations and requirements, in accordance with subsection (g), if the Commissioner finds (1) that clinical or other experience tests, of other scientific data show that such drug is not safe for use under the conditions which such drug was approved; (2) that new evidence of clinical experience, not contained in the new drug evaluation agreement for such a drug or not available to the Commissioner until after such drug was approved, or tests by new methods, or tests by methods not deemed reasonably applicable when such drug was approved, evaluated together with the evidence available to the Commissioner when the drug was approved, shows that such drug is not shown to be safe for use under the conditions upon which the drug was approved; (3) on the basis of new information before him with respect to such drug, evaluated together with the evidence available to him when the drug was approved, that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof; or (4) that the information submitted pursuant to such agreement contains any untrue statement of a material fact. If the Commissioner, or in his absence the officer acting as Commissioner (neither of whom may delegate the authority hereby conferred to suspend the approval of a drug) finds that there is serious and substantial risk of harm to any segment of the public, he may suspend the approval of such drug immediately, or subject such drug to investigations and requirements, in accordance with section (g), and give the holder of such approval prompt notice of his action, affording such person the opportunity for an expedited hearing under this subsection. The Commissioner may also, after notice and an opportunity for a hearing, withdraw the approval of a drug if the Commissioner finds (1) that such person has failed to establish a system for maintaining required records, or has repeatedly or delib-

erately failed to maintain such records or to make required reports, in accordance with a regulation or order under subsection (k), or to comply with the reporting requirements of section 410(j)(2), or the applicant has refused to permit access to, or copying or verification of, such records as are required to be maintained by section 410(j)(2); (2) that on the basis of new information before him, evaluated together with the evidence before him when the drug was approved, the methods used in, or the facilities and controls used for, the manufacturing, processing, and packing of such drug are inadequate to assure and preserve its identity, strength, quality, and purity and were not made adequate within a reasonable time after receipt of written notice from the Commissioner specifying the matter complained of; or (3) that on the basis of new information before him, evaluated together with the evidence before him when the drug was approved, the labeling of such drug, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Commissioner specifying the matter complained of. Any order under this subsection shall state the findings upon which it is based.

(i) Whenever the Commissioner finds that the facts so require, he shall revoke any previous order under subsection (d) or (e) refusing, withdrawing, or suspending approval of a drug and shall approve such drug or reinstate such approval, as may be appropriate.

(j) Orders of the Commissioner issued under this section shall be served (1) in person by any officer or employee of the Administration designated by the Commissioner, or (2) by mailing the order by registered mail or by certified mail addressed to the applicant or respondent at his last-known address in the records of the Commissioner.

(k) An appeal may be taken by such person from an order of the Commissioner refusing or withdrawing approval of a drug under this section. Such appeal shall be taken by filing in the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, within 60 days after the entry of such order, a written petition praying that the order of the Commissioner be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose, and thereupon the Commissioner shall certify and file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm or set aside such order, except that until the filing of the record the Commissioner may modify or set aside his order. No objection to the order of the Commissioner shall be considered by the court unless such objection shall have been urged before the Commissioner or unless there were reasonable grounds for failure so to do. The finding of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive. If any person shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Commissioner, the court may order such additional evidence to be taken before the Commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commissioner may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified findings which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the setting aside of the original order. The judgment of the court affirming or setting aside any such order of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of the Commissioner's order.

"(K)(1) The Commissioner shall promulgate regulations for exempting from the operation of the foregoing subsections of this section drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the factors which are relevant to a conclusion of the safety and effectiveness of drugs. The Commissioner may condition any exemption provided for such drugs upon—

(A) the submission to the Commissioner, before any clinical testing of a new drug is undertaken, of reports, by the manufacturer or the sponsor of the investigation of such drug, or preclinical tests, including tests on animals, such drug adequate to justify the proposed clinical testing;

(B) the obtaining by the manufacturer or the sponsor of the investigation of a new drug proposed to be distributed to investigators for clinical testing of a signed agreement from each such investigator that patients to whom the drug is administered will be under his personal supervision, or under the supervision of an investigator responsible to him, and that he will not supply such drug to any other investigator, or to clinics, for administration to human beings; and

(C) the establishment and maintenance of such records, and the making of such reports to the Commissioner, by the manufacturer or the sponsor of the investigation of such drug, of data, including analytical reports by investigators, obtained as the result of such investigational use of such drug, as the Commissioner finds will enable him to evaluate the safety and effectiveness of such drug in the event of the entering into an agreement pursuant to subsection (b).

"(2)(A) The provisions of this paragraph (2) apply in lieu of the provisions of subparagraph (A) of paragraph (1) of this subsection where the proposed clinical testing of a drug is not for the purpose of developing data to obtain approval for the commercial distribution of such drug.

"(B) Within the one hundred and twenty-day period which begins on the date of enactment of this paragraph, the Commissioner shall, by regulation, prescribe procedures and conditions applicable to exemptions granted pursuant to this paragraph. Such conditions shall include the following:

"(i) A requirement that an application be submitted to the Commissioner before an exemption may be granted and that the application be submitted in such form and manner as the Commissioner shall specify;

"(ii) A requirement that the person applying for an exemption for a drug assure the establishment and maintenance of such records, and the making of such reports to the Commissioner of data obtained as a result of the investigational use of the drug during the exemption, as the Commissioner determines will enable him to assure compliance with such conditions, and review the progress of the investigation; and

"(iii) Such other requirements as the Commissioner may determine to be necessary for the protection of the public health and safety.

"(C) Procedures and conditions prescribed pursuant to subparagraph (B) for an exemption may appropriately vary depending on (i) the scope and duration of clinical testing to be conducted under such exemption, and (ii) the number of human subjects that are to be involved in such testing.

"(D) Procedures and conditions prescribed pursuant to subparagraph (B) shall require, as a condition to the exemption of any drug to be the subject of testing involving human subjects, that the person applying for the exemption—

"(i) submit a plan for any proposed clinical testing of the drug and a report of prior investigations of the drug (including tests on animals) adequate to justify the proposed clinical testing—

"(I) to the local institutional review committee which has been established in accordance with regulations of the Commissioner to supervise clinical testing of drugs in the facilities where the proposed clinical testing is to be conducted, or

"(II) to the Commissioner if either no such committee exists or the Commissioner finds that the process of review by such committee is inadequate (whether or not the plan for such testing has been approved by such committee),

for review for adequacy to justify the commencement of such testing; and, unless the plan and report are submitted to the Commissioner, submit to the Commissioner a summary of the plan and a report of prior investigations of the drug (including tests on animals); and

"(ii) promptly notify the Commissioner (under such circumstances and in such manner as the Commissioner prescribes) of approval by a local institutional review committee of any clinical testing plan submitted to it in accordance with clause (i) of this subparagraph.

"(E)(i) An application, submitted in accordance with the procedures prescribed by regulations under subparagraph (B), for an exemption for a drug shall be deemed approved on the sixtieth day after the submission of the application to the Commissioner unless on or before such day the Commissioner by order disapproves the application and notifies the applicant of the disapproval of the application.

"(ii) The Commissioner may disapprove an application only if he finds that the investigation with respect to which the application is submitted does not conform to procedures and conditions prescribed under regulations under subparagraph (B), and under paragraph (1) of this subsection (except subparagraph (A) thereof). Such a notification shall contain the order of disapproval and a complete statement of the reasons for the Commissioner's disapproval of the application and afford the applicant opportunity for an informal hearing on the disapproval order.

"(iii) The Commissioner may by order withdraw an exemption granted under this paragraph for a drug if the Commissioner determines that the conditions applicable to the drug under this subsection for such exemption are not met. Such an order may be issued only after opportunity for an informal hearing, except that such an order may be issued before the provision of an opportunity for an informal hearing if the Commissioner determines that the continuation of testing under the exemption with respect to which the order is to be issued will result in an unreasonable risk to the public health."

Such regulations shall provide that such exemption shall be conditioned upon the manufacturer, or the sponsor of the investigation, requiring that experts using such drugs for investigational purposes certify to such manufacturer or sponsor that they will inform any human beings to whom such

drugs, or any controls used in connection therewith, are being administered, or their representatives, that such drugs are being used for investigational purposes and will obtain signed informed and voluntary consent of such human beings, or their legal guardians.

"(l)(1) In the case of any drug which is approved pursuant to this section, the holder of such approval shall establish and maintain such records, conduct such studies as required by the Commissioner, and make such reports to the Commissioner of data relating to clinical experience and other data or information, received or otherwise obtained by such applicant with respect to such drug, as the Commissioner may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records, studies and reports are necessary in order to enable the Commissioner to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (c) of this section. Regulations and orders issued under this subsection and under subsection (k) shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, where the Commissioner deems it to be appropriate, for the examination, upon request, by the persons to whom such regulations or orders are applicable, of similar information received or otherwise obtained by the Commissioner.

(2) Every person required under this section to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Commissioner, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(m) For purposes of this section, the terms 'Safe' and 'Safety' mean a conclusion based on a balancing of the probable toxicity and other risks associated with a new drug relative to the probable benefits associated with such new drug and the relative seriousness or importance of the medical condition for which such new drug appears to be indicated. These terms do not include consideration of any economic factors."

(b) Section 512(e)(1) is amended by striking out "imminent hazard to the health of man or of" and inserting in lieu thereof "serious and substantial risk of harm to any segment of the public or to".

RELEASE OF SAFETY AND EFFECTIVENESS DATA

SEC. 112. (a) Section 505, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(n)(1) The Commissioner shall promulgate regulations under which a detailed summary of information which relates to the safety and effectiveness of any drug, which was submitted to the Commissioner, and which was the basis for—

"(A) findings of the hearing board under this section,

"(B) recommendations of the hearing board under this section,

"(C) an order under this section approving or denying approval of a drug,

"(D) an order disapproving, or terminating an investigational exemption for such drug under this section, or

"(E) an order under this section suspending approval of such drug, shall be made available to the public upon issuance of any such order, finding, and recommendation. Each summary shall include information concerning effects on health presented by the drug, including any information that the drug may cause cancer in man or other animals and an explanation of the basis upon which the benefits from use of the drug exceed the risks presented by its use.

"(2) The Commissioner shall publish, in the Federal Register, a list of all New Drug Evaluation Agreements entered into under section and include such information in such publishing as may be necessary to inform the public of the nature of the work to be conducted, the objectives of the work, the names of the parties to the agreement.

"(3) The Commissioner shall prepare and publish such list at least on a quarterly basis.

"(4) The Commissioner shall, within 60 days from the date of enactment of the Comprehensive Drug Amendments of 1977, publish, in the Federal Register, the criteria upon which he will make conclusions as to the safety and efficacy of a drug under this section.

"(5) Any information respecting a drug which is made available pursuant to this subsection may not be used to establish the safety or effectiveness of another drug for purposes of this Act without the written consent of the person who originally submitted such information to the Administration.

(b) Section 512 is amended by adding at the end thereof the following new subsection:

"(n)(1) The Commissioner shall promulgate regulations under which a detailed summary of information which relates to the safety and effectiveness of any new animal drug or any animal feed bearing or containing a new animal drug, which was submitted to the Commissioner, and which was the basis for any order under this section shall be made available to the public upon issuance of any such order. Each summary shall include information concerning the adverse effects on health presented by the new animal drug or animal feed, including any information indicating that the drug may cause cancer in man or other animals and an explanation of the basis upon which the benefits from the use of the drug or animal feed exceeds the risks presented by its use, if appropriate.

"(2) Any information respecting a new animal drug or animal feed which is made available pursuant to paragraph (1) of this subsection may not be used to establish the safety or effectiveness of another drug for purposes of this Act without the written consent of the person who originally submitted such information."

PUBLICITY

SEC. 113. (a) Section 705(b) is amended by striking "imminent danger to health, or gross deception of the consumer" and substituting "serious and substantial risk of harm to any segment of the public or material deception of the consumer".

CONFIDENTIAL INFORMATION

SEC. 114. (a) Section 708 is amended to read as follows:

"SEC. 708. (a) GENERAL.—Except as provided by subsection (b), any information reported to, or otherwise obtained by, the Administration or any representative of the Administration, which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section, shall, notwithstanding the provisions of any other section of this Act, not be disclosed by the Administration or by any officer or employee of the United States, except that such information—

"(1) shall be disclosed to any officer or employee of the United States—

"(A) in connection with the official duties of such officer or employee under any law for the protection of public health, or

"(B) for specific law enforcement purposes;

"(2) shall be disclosed to contractors with the Administration and employees of such contractors if in the opinion of the Commissioner such disclosure is necessary for the satisfactory performance of the work of such contractor in connection with this part and under such circumstances as the Commissioner may specify;

"(3) shall be disclosed in situations involving, in the opinion of the Commissioner, a serious and substantial risk of harm to any segment of the public, or

"(4) shall be disclosed when relevant in any proceeding under this Act, except that—

"(A) disclosure in such proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding, and

"(B) the Commissioner shall require as a condition to such disclosure that the person receiving it—

"(i) have an interest in the proceeding,

"(ii) register with the Commissioner as acknowledgment that he received it,

"(iii) acknowledge that he is fully aware of the prohibitions and penalties against further disclosure,

"(iv) take such security precautions respecting the information as the Commissioner may, by regulation, prescribe, and

"(v) assure that he will not use the information for commercial purposes.

"(5) shall be disclosed to any individual for research purposes, except that the Commissioner shall require as a condition to such disclosure that the individual receiving it—

"(i) have a bona fide research purpose,

"(ii) register with the Commissioner as acknowledgment that he received it,

"(iii) acknowledge that he is fully aware of the prohibitions and penalties against further disclosure,

"(iv) take such security precautions respecting the information as the Commissioner may, by regulation, prescribe, and

"(v) assure that he will not use the information for commercial purposes.

"(b)(1) In submitting data under this Act, a person may (A) designate the data which such person believes is entitled to confidential treatment under subsection (a), and (B) submit such designated data simultaneously but separately from other data submitted under this Act. A designation under this paragraph shall be made in writing and in such manner as the Commissioner may prescribe.

"(2)(A) Except as provided by subparagraph (B), if the Commissioner proposes to release for inspection data which has been designated under paragraph (1)(A) or any other information which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section, the Commissioner shall notify, in writing and by certified mail, the person who submitted such data of the intent to release such data. If the release of such data is to be made pursuant to a request made under section 552(a) of title 5, United States Code, such notice shall be given immediately upon approval of such request by the Commissioner. The Commissioner may not release such data until the expiration of thirty days after the person who submitted such data has received the notice required by this subparagraph.

"(B) Subparagraph (A) shall not apply to the release of information under paragraph (1), (2), (3), or (4) of subsection (a), except that the Commissioner may not release data under paragraph (3) of subsection (a) unless the Commissioner has notified each person who submitted such data of such release. Such notice may be made by such means as the Commissioner determines will provide notice at least twenty-four hours before such release is made.

"(c) Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to material the disclosure of which is prohibited by subsection (a) and who knowing that disclosure of such material is prohibited by such subsection,

willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $10,000 or imprisoned for not more than one year, or both. Section 1905 of title 18, United States Code, does not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act.

"(d) Any person, other than an officer or employee of the United States or former officer or employee of the United States, who by virtue of—

"(1) being a contractor with the Administration or an employee of such contractor;

"(2) participating in a proceeding under this Act and registering under subsection (a)(4)(B); or

"(3) conducting research and registering under subsection (a)(5),

has obtained possession of, or has access to material the disclosure of which is prohibited by subsection (a) and who knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $10,000 or imprisoned for not more than one year, or both. Section 1905 of title 18, United States Code, does not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act.

"(e) For purposes of this section, the term 'officer or employee of the United States' includes any advisor or consultant of the Administration.

"(f) Any information respecting a drug which is made available pursuant to this section may not be used to establish the safety or effectiveness of another drug for purposes of this Act by any person other than the person who submitted the information so made available without the written consent of such person.

"(a)(1) Notwithstanding any provision of law, personal data (data which may identify an individual) which is received or maintained by the Administration for purposes of this Act, may not be disclosed or made available by the Administration to any person other than the individual who is the subject of such data. Such personal data may only be disclosed when such individual gives an informed consent for such disclosure and such consent is evidenced by a document containing the signature of such individual and the signature of the person who explained the provisions of

"(2) For purposes of this subsection, 'informed consent' includes a complete explanation of risks and benefits to the individual whose personal data is to be disclosed of such disclosure, including—

"(A) a statement informing such individual of whether he is legally required, or may refuse, to consent to such disclosure, and informing him of any specific consequences of consenting or not consenting to such disclosure;

"(B) a statement informing such individual that he may review the data and any other information which is proposed to be disclosed prior to such consent;

"(C) a statement informing such individual of the use to be made of such data and other information and of the identity of persons and governmental authorities which will use the data and other information.

(B) Section 301, as amended by this Act, is further amended by adding at the end thereof the following:

"(s) The using by any person of any information concerning a drug, which was made available pursuant to section 708 and the disclosure of which was prohibited by subsection (a) of such section, to establish the safety or effectiveness of another drug for purposes of this Act without the written consent of the person who originally submitted such information."

(C) Subsection (j) of section 301 is amended to read as follows:

"(j)(1) The using by any person to his own advantage any information acquired under authority of section 404, 409, 505, 506, 507, 510, 512, 513, 514, 515, 516, 518, 519, 520, 704, 706, or 708 concerning any method or process which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section.

"(2) The revealing or disclosing, in violation of any of the provisions of section 708, of any information acquired under authority of section 404, 409, 505, 506, 507, 510, 512, 513, 514, 515, 516, 518, 519, 520, 704, 706, or 708 concerning any method or process which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section."

"(3) The disclosure of any personal data in violation of the provisions of section 708 (g)."

AGENCY PROCEEDINGS

SEC. 115. Chapter VII as amended by section is further amended by adding at the end thereof the following:

"PROCEEDINGS

"SEC. 711. (a) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) files a petition with the Administration (other than a petition for rehearing) for the commencement of a proceeding for the issuance, amendment or repeal of an order, rule, or regulation under any statute or other lawful authority administered by or applicable to the Administration, the Administration shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Administration grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Administration denies such a petition or takes no action on such petition within the 120-day period, it shall set forth, and publish in the Federal Register its reasons for such denial or inaction.

"(b) If the Administration denies a petition to which subparagraph (a) applies (or if it takes no action thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate United States Court of Appeals for an order directing the Administration to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(c) If the petitioner, in a civil action commenced under subparagraph (b), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record before the Administration) that (i) the failure of the Administration to grant a petition to which subparagraph (a) applies is arbitrary and capricious; (ii) the action requested in such petition is necessary; and (iii) the failure of the Administration to take such action will result in the continuation of practices which are not consistent with or in accordance with this Act or any other statute or lawful authority administered by or applicable to the Administration; and (iv) the action requested in such petition is in the public interest, such court shall order the Administration to initiate such action.

"(d) A Court shall have no authority under this paragraph to compel the Administration to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act or any other statute or lawful authority administered by or applicable to the Administration.

"(e) As used in this paragraph, the term 'Administration' includes any division, individual Administrator, administrative law judge, employee board, or any other person authorized to act on behalf of the Administration in any part of any proceeding for the issuance, amendment, or repeal of an order, rule, or regulation."

MANDATORY REGISTRATION OF FOREIGN ESTABLISHMENTS EXPORTING DRUGS TO THE UNITED STATES

SEC. 116. (a) Section 801(a) is amended (1) by striking out the second sentence and inserting in lieu thereof the following: "The Commissioner shall compile a list of establishments registered under section 510(i) and shall require that drugs imported or offered for import into the United States be accompanied by a certification showing whether the drugs were manufactured, prepared, propagated, compounded, or processed in an establishment that is required to be registered under section 510(i) or is one that is exempt under section 510 (g) and whether any such establishment required to be registered is so registered. The Secretary of the Treasury shall deliver samples of drugs from unregistered and non-exempt establishments, as required by the Commissioner with notice of such delivery to the owner or consignee, who shall be given the opportunity to appear before the Commissioner and have the right to introduce testimony on whether such establishment is required to be registered or is registered under section 510(i).", and (2) by inserting after "505," the following "or (4) such article is a drug manufactured, prepared, propagated, compounded, or processed in an establishment not registered under section 510(i) that is not exempt from registration under section 510(g)".

(b) This section shall take effect with respect to articles imported on or after the first day of the sixth month beginning after the date of enactment of this Act, except that the Commissioner may extend such date by regulation for good cause.

PATENT PROTECTION

SEC. 117. (a) Where a patent is issued claiming a drug, composition containing a drug, a process for using a drug, or a process for manufacturing a drug, and such drug is the subject of an investigational new drug application, or a new drug evaluation agreement, under section 505 of the Federal Food, Drug, and Cosmetic Act, or an application with respect to an investigational use of an antibiotic drug or application for approval of use of an antibiotic drug under section 507 of such Act, or an investigational new animal drug application, a new animal drug application, or an application with respect to the investigational use of a new animal drug in an animal feed, or an application with respect to the use of a new animal drug in an animal feed, under section 512 of such Act, the term of such patent referred to in section 154 of title 35, United States Code, shall not expire until seventeen years after the date of the new drug is approved under section 505, or the application for approval of use of an antibiotic drug under section 507 is approved, or the new animal drug application, or new animal feed application, is approved under section 512 of such Act, as the case may be. The preceding sentence shall not apply to any patent where the approval of the drug or feed application by the Food and Drug Administration does not occur within seventeen years after the Patent Office has issued the patent.

(b) Chapter VII is amended by adding at the end thereof the following new section:

"SEC. 710. (a) It is hereby declared a prohibited act under section 301, for the owner

of a United States patent, or any licensee having sublicensing rights thereunder, to refuse or fail to license such patent, together with all available know-how necessary commercially to work the best modes of making, using, and selling the subject matter of the patent, to any applicant in the United States on reasonable and nondiscriminatory terms, when the effect of such refusal or failure may be substantially to lessen actual or potential commerce, and

"(1) the patented subject matter relates to the manufacture, use, sale, or commercial working of a product, material, or process involving or related to—

"(A) a new drug which has been approved under section 505;

"(B) an antibiotic drug, the application for approval of use, has been approved under section 507; or

"(C) a new animal drug or a new animal feed, the application for which, has been approved under section 512.

"(2) any such drug has had any such approval for 8½ years, and

"(3) in any section of the country, such product, material, or process is not commercially utilized or available to the public, or is commercially utilized or available only—

(i) in insufficient amounts or quantities to satisfy the public need therefor, or

(ii) in an inferior quality, or

(iii) at price levels or subject to other conditions or circumstances the effect of which may be substantially to lessen competition in the manufacture, use, sale, or distribution of such product, material, or process, or tend to create a monopoly thereon, or which indicate that the same already exists.

"(b) Any person injured or aggrieved by conduct declared a prohibited act by this paragraph may secure declaratory relief in respect to his entitlement to a license and the terms thereof, by civil action in a district court having jurisdiction of the parties, but nothing contained in this paragraph shall constitute a basis for any action for damages.

"(c) The Commissioner is authorized and directed to define any and all terms used herein, and otherwise to prescribe such procedural and substantive rules and regulations as may be necessary or appropriate for carrying out the purposes of this section. The Commissioner, acting through his own attorneys, is authorized and directed to seek injunctive and such other relief as may be necessary or appropriate to prevent violation of any provision of this section or of any rule or regulation promulgated hereunder, in any court of competent jurisdiction.".

(c) This section shall become effective ninety days after enactment thereof. It shall apply to all United States patents, whether issued before or after the effective date of this section.

SEC. 118. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act shall not be affected thereby.

## TITLE II—FOOD AND DRUG ADMINISTRATION

### SHORT TITLE

SEC. 201. This title may be cited as the "Food and Drug Administration Act".

### ESTABLISHMENT OF ADMINISTRATION

SEC. 202. The Federal Food, Drug, and Cosmetic Act is amended by adding after Chapter IX the following new Chapter:

## "Chapter X—FOOD AND DRUG ADMINISTRATION

"SEC. 1001. There is established a Food and Drug Administration (herein referred to as the 'Administration') within the Department of Health, Education, and Welfare.

### "COMMISSIONER

"SEC. 1002. (a) The Administration shall be headed by a Commissioner who, except as provided in subsection (b), shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner shall be responsible for the effective administration of the laws subject to his jurisdiction.

"(b) The individual who on the date of enactment of this Act holds the office of Commissioner of Drugs, Department of Health, Education, and Welfare, shall be the initial Commissioner of the Administration.

### DEPUTY COMMISSIONER AND GENERAL COUNSEL

"SEC. 1003. There shall also be appointed a Deputy Commissioner and a General Counsel for the Administration.

### "POWERS OF THE COMMISSIONER

"SEC. 1004. (a) The Commissioner is authorized—

"(1) to direct and coordinate the activities of the Administration;

"(2) to select, appoint, or employ all personnel of the Administration and direct and supervise all personnel so selected, appointed, or employed;

"(3) to employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and, while such experts and consultants are so serving away from their homes or regular places of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

"(4) to appoint advisory committees composed of such private citizens and officials of the Federal, State and local governments as he deems desirable to advise him with respect to his functions under the laws subject to his jurisdiction, and to pay such members (other than those regularly employed by the Federal Government) while attending meetings of such committees, or otherwise serving at the request of the Commissioner, compensation and travel expenses at the rate provided for in paragraph (3) of this subsection with respect to experts and consultants;

"(5) to promulgate such regulations as may be necessary or appropriate to carry out the functions vested in him and for the efficient enforcement of the laws subject to his jurisdiction;

"(6) to make such investigations as he deems necessary to determine whether any person has violated any provision of the laws subject to his jurisdiction;

"(7) to utilize, with their consent, the services, personnel, and facilities of other Federal agencies and of State and private agencies and instrumentalities with or without reimbursement therefor;

"(8) to enter into and perform such contracts, leases, cooperative agreements, grants, or other transactions as the Commissioner may deem appropriate, with an agency, or instrumentality of the United States, or with any State, commonwealth, territory, or possession, or any political subdivision thereof, or with any public or private person, firm, association, corporation, independent testing laboratory, or institution;

"(9) to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(10) to designate representatives to serve or assist on such committees as the Commissioner may determine to be necessary or appropriate to maintain effective liaison with Federal agencies and with State and local agencies and independent standard-setting bodies carrying out programs and activities related to the protection of consumers with respect to products subject to his jurisdiction;

"(11) to plan, design, and construct such research or test facilities as may be necessary to carry out the purposes of the laws subject to his jurisdiction, (A) after fully utilizing the personnel, facilities, and other technical support available in other Federal agencies, (B) when authorized by the Congress to plan, design, and construct such facilities, and (C) subject to the appropriation of funds for this purpose by the Congress;

"(12) to conduct public hearings anywhere in the United States to consider matters within his jurisdiction;

"(13) to conduct such continuing studies, review, and investigations of deaths, injuries, diseases, other health impairments, health and nutrition status, and other related conditions, as he deems necessary or appropriate;

"(14) to conduct research, studies, and investigations on the safety and effectiveness of products subject to his jurisdiction and on improving the safety of such products, and test such products and develop product test methods;

"(15) to offer training in product safety investigation and test methods, and assist public and private organizations, administratively and technically, in the development of safety standards and test methods;

"(16) to undertake such other activities as are necessary to carry out his duties under the laws subject to his jurisdiction, including those enumerated in other sections of such laws;

"(17) to delegate any of his functions and duties under the laws subject to his jurisdiction to other officers or employees of the Administration; and

"(18) to develop ways to actively encourage and promote the discovery and development of new therapies in the United States

### "DUTIES OF THE COMMISSIONER

"SEC. 1005. DUTIES OF COMMISSIONER.—The Commissioner shall—

"(1) enforce the laws which he is required under this Act to administer.

"(2) publish notice of any proposed public hearing in the Federal Register, and afford a reasonable opportunity for all interested persons to present relevant testimony and data;

"(3) upon request, provide technical assistance on legislative proposals directly to committees of Congress; and

"(4) subject to the provisions of the laws subject to his jurisdiction, take any action within his jurisdiction to make available to the public products that will promote the public health and welfare;

"(5) attempt to eliminate any product presenting an unreasonable risk of disease, injury, or death when compared to its benefit;

"(6) establish a capability within the Administration to engage in product evaluation and benefit-risk analysis;

"(7) establish an interdisciplinary epidemiology capability and undertake investigations to facilitate regulatory decisionmaking and to assist in product evaluation and benefit-risk analysis;

"(8) establish a scientific capability within the Administration to assist in product evaluation, risk-benefit analyses, hazard detection, test method development, and quality control requirements;

"(9) utilize field operations to conduct product evaluation, facilitate detection of conditions associated with products subject to his jurisdiction which might lead to disease, injury, or death, to monitor compliance with required levels of safety performance, to report violations, and to assist in any enforcement action taken by him;

"(10) decide, based on all available information, whether a drug is safe and effective and therefor should or should not be approved;

"(11) approve safe and effective new drugs for public use in the fastest possible time consistent with public safety; and

"(12) review and analyze the state of drug usage in this country.

"OBLIGATIONS OF ADMINISTRATION CONTRACTS

"SEC. 1006. (a) MAINTENANCE OF RECORDS.—Each recipient of assistance under this Act pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assitance, the total cost of the project undertaken in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) ACCESS TO RECORDS.—The Commissioner and the Comptroller General of the United States or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants or contracts entered into under section 904 (c)(9) under other than competitive bidding procedures.

"COOPERATION OF FEDERAL AGENCIES

"SEC. 1007. (a) COOPERATION.—Upon request by the Commissioner, each Federal agency is authorized—

"(1) to make its services, personnel, and facilities available with or without reimbursement to the greatest practicable extent within its capability to the Administration to assist it in the performance of its functions; and

"(2) to furnish to the Administration such information, data, estimates, and statistics, and to allow the Administration access to all information in its possession, as the Commissioner may reasonably determine to be necessary or appropriate for the performance of the functions of the Administration as provided by this Act.

"(b) NATIONAL BUREAU OF STANDARDS.—The Commissioner is authorized to utilize the resources and facilities of the National Bureau of Standards in the Department of Commerce with or without reimbursement, for the purpose of enforcing compliance or for other purposes related to carrying out his authorities under this Act.

"COOPERATION WITH STATES

"SEC. 1008. The Commissioner shall establish a program to promote Federal-State cooperation for the purposes of carrying out this Act. In implementing such program the Commissioner may—

"(a) accept from any State or local authorities engaged in activities relating to health, safety, or consumer protection assistance in such functions as data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which he may request and which such States or localities may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance,

"(b) commission any qualified officer or employee of any State or local agency as an officer of the Commissioner for the purpose of conducting examinations, investigations, and inspections, and

"(c) notwithstanding any other provision of law confidentially, exchange information necessary for the protection of public health and safety.

"CONFLICT OF INTEREST

"SEC. 1009. (a) No employee of the Administration classified as a GS–15 or higher and employed in a policy-making position, as determined by the Commissioner, shall, for a period of 2 years, beginning on the last date of service as such employee, represent any person in a professional capacity in any matter coming before the administration.

"(b) A consultant shall, within ten days prior to appointment, make a complete public disclosure, in accordance with subsection (e). Such disclosure shall include information pertaining to whether such consultant is currently working or has worked with any person who has filed an application or entered into an agreement under section 505 of this Act. Such disclosure shall include the name and address of each such person, the type of work, and the specific drug with which such consultant was involved. Failure to do so shall result in failure to hire such consultant.

"(c) A consultant shall not participate in or be present at, or influence, any activities of the Administration with regard to any interest of any person with whom such consultant is currently working or has worked for within a three-year period prior to appointment.

"(d) For purposes of this section, a "consultant" means a member of an advisory board or committee, established by the Administration, an employee of the Administration, or any individual who receives renumeration from the Administration and is not an employee of the Administration.

"(e) The disclosure, required under subsection (b) shall be made in such form and manner as the Commissioner may, by regulation, require.

"AUTHORITY TO INITIATE LEGAL ACTIONS

"SEC. 1010. Notwithstanding any other provisions of law, the Commissioner may initiate, defend, or appeal any court action arising under or in the administration of this Act through the general counsel or through the Attorney General or appropriate United States attorney.

"OFFICE FOR COORDINATION OF PATIENT INFORMATION

"SEC. 1011. (a) There is established, within the Administration, an Office of Drug Information which, acting in consultation with the National Institutes of Health, consumers, medical practitioners, psychologists, educators, clinical pharmacologists and others who have expertise in health education, shall analyze and evaluate the best method or methods, including and in addition to patient package inserts of educating patients in order that patients may make informed decisions about the purchase and use of drugs. Such methods should include information concerning the safe and unsafe use of drugs, the risks and benefits associated with drugs, individually and by class, and possible adverse reactions.

"(b) The Office shall, from time to time, submit recommendations to the Commissioner and to the Congress concerning the matters referred to in subsection (a).

"DRUG STUDIES

"SEC. 1012. (a) The Commission may conduct or support (by grant or contract) studies of the short-term or long-term use of any drug and of drugs with alternative forms of therapy and studies involving the comparison of drugs.

"(b) Contracts may be entered into under subsection (a) without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(c) For purposes of subsection (a), there is authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1978, and for each fiscal year thereafter.

"(d) The Commissioner shall make an annual report to the Congress respecting the activities undertaken or supported under subsection (a).".

"ESTABLISHMENT OF DRUG SCIENCE HEARING BOARD

"SEC. 1013. (a) There is established within the Administration a Board to be known as the Drug Science Hearing Board (herein this Act referred to as the 'Hearing Board').

"(b) The Board shall be composed of five voting members. The Commissioner shall appoint—

"(1) Two permanent members of the Hearing Board from individuals who are—

"(A) scientific experts eminent in such fields as clinical pharmacology, medicine, or biological research, and

"(B) full-time employees of the Department of Health, Education, and Welfare.

"(2) Three members of the Hearing Board from individuals who are—

"(A) scientific experts eminent in such fields as clinical pharmacology, medicine, or biological research, and

"(B) not employees of the federal government.

"(c) The General Counsel of the Administration or his designee shall serve as a nonvoting ex-officio member.

"(d) The Commissioner may appoint members under paragraph (2) of subsection (b) for a term, not to exceed one year, or he may appoint such members solely to serve as such for a specific hearing or set of hearings on a specific drug or class of drugs.

"(e) Those members appointed under paragraph (1) of subsection (b) shall each serve for a term of two years.

"(f) The Hearing Board shall meet at the call of the Commissioner and shall have no authority to sit as the Hearing Board unless all five voting members and the General Counsel or his designee are present.

"PROCEDURES

"SEC. 1014. The Board shall, with the advice and assistance of the General Counsel, promulgate rules and procedures by which it will take testimony, hear and examine witnesses and conduct hearings.

"AUTHORITY OF DRUG SCIENCE HEARING BOARD

"SEC. 1015. (a) The Board shall have authority to sit as a Board and to carry out the functions vested in such Board under section 1016.

"(b) The Board may not make any conclusions regarding the safety of a drug or its approval or disapproval. The Board is limited to findings and conclusions as to the scientific facts and conclusions based on the information presented at a hearing on a specific drug. It may make recommendations to the Commissioner regarding the safety of a drug or the approval or disapproval of a drug, or any limitations or conditions on such recommended action. However, any such recommendations shall have no legal effect. Only the Board's scientific findings and conclusions shall be given the effect of law.

"POWERS OF THE HEARING BOARD

"SEC. 1016. The Hearing Board is authorized to—

"(a) promulgate such rules and regulations as it deems necessary to carry out its responsibilities,

"(b) hold hearings, take testimony, examine witnesses, call witnesses, and any other powers incident to such powers,

"(c) make findings, conclusions and recommendations with respect to any drug for which it has been called upon by the Commissioner to hold a hearing,

"(d) compensate witnesses who would be otherwise not available for a hearing, in accordance with rules and regulations of the Commissioner,

"(e) carry out the functions vested in the Hearing Board pursuant to section 505, and

"(f) afford a reasonable opportunity for all interested persons to present relevant testimony and data.

"SPECIAL POWERS OF THE GENERAL COUNSEL

"SEC. 1017. The General Counsel, or his designee, is responsible for advising and assisting the Hearing Board in conducting its responsibility under this Act. In so doing, the General Counsel shall advise the Hearing Board with respect to rules and procedures for conducting hearings, examining witnesses, and taking tesimony. In addition, the General Counsel shall advise the members of the Hearing Board as to whether it has authority to make certain findings and conclusions. The General Counsel shall review matters in which such questions may arise and make a final decision which shall be binding on the Hearing Board.

AMENDMENTS TO TITLE 5

SEC. 203. (a)(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(108) Commissioner, Food and Drug Administration.".

(2) Section 5316(43) of such title is repealed.

Section 5316 of such title is amended by adding at the end thereof the following new paragraph:

"(140) General Counsel, Food and Drug Administration.".

TRANSFERS

SEC. 204. (a) TRANSFERS.—Except for any function reserved to the Secretary of Health, Education, and Welfare by subsection (c) of this section, there are transferred to the Commissioner of the Food and Drug Administration all functions of the Secretary of Health, Education, and Welfare and of officers and offices of the Department of Health, Education, and Welfare under the following provisions of law:

(1) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(2) Filled Milk Act (21 U.S.C. 61 et seq.).

(3) Federal Import Milk Act (21 U.S.C. 141 et seq.).

(4) Tea Importation Act (21 U.S.C. 41 et seq.).

(5) Federal Caustic Poison Act (44 Stat. 1406).

(6) Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

(7) Subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation).

(8) Sections 301, 308, 311, 314, 315, and 361 of the Public Health Service Act (42 U.S.C. 241, 242f, 243, 246, 247, and 264) insofar as such sections relate to food, drugs, devices, cosmetics, electronic products, and other products subject to the jurisdiction of the Commissioner.

(9) Sections 351 and 352 of the Public Health Service Act (42 U.S.C. 262, 263) (relating to biological products).

(10) Egg Products Inspection Act (21 U.S.C. 1031 et seq.).

(b) TRANSFERRED FUNCTIONS.—All functions—

(1) which are vested by statute or reorganization plan in the Secretary of Health, Education, and Welfare,

(2) which are not transferred by subsection (a) of this section, and

(3) which, immediately before the effective date of this section, are delegated to or administered by the Food and Drug Administration,

are transferred to the Commissioner (except for any function reserved to the Secretary of Health, Education, and Welfare by subsection (e) of this section).

(c) PERSONNEL, ETC.—All personnel, property, records, obligations, commitments, and unexpended balances of appropriations, allocations, and other funds, which are used primarily with respect to any office, bureau, or function transferred under the provisions of this section are transferred to the Commissioner of the Food and Drug Administration. The transfer of personnel pursuant to this subsection shall be without reduction in classification or compensation for one year after such transfer, and this provision shall not be construed to impair the authority of the Commissioner to assign personnel during this period to carry out the functions of the Administration most effectively.

(d) COMPETITIVE EXAMINATIONS.—The Civil Service Commission shall establish criteria, in consultation with the Commissioner, when preparing competitive examinations for positions in the Administration.

(e) AUTHORITY OF THE SECRETARY.—There is reserved to the Secretary of Health, Education, and Welfare from the authority transferred to the Commissioner by subsections (a) and (b) of this section any function the performance of which—

(1) materially affects authority of the Secretary not transferred by subsection (a) or (b), or

(2) requires the resolution of major issues of national health policy.

(f) ADDITIONAL DELEGATIONS.—The Secretary of Health, Education, and Welfare may by regulation delegate such additional functions to the Commissioner as he from time to time deems appropriate.

SAVINGS PROVISION

SEC. 205. All laws relating to any office, agency, bureau, or function transferred under this title, insofar as such laws are applicable, remain in full force and effect. And orders, rules, regulations, permits, or other privileges made, issued, or granted by any office, agency, or bureau or in connection with any function transferred by this title, and in effect at the time of the transfer, shall continue in effect to the same extent as if such transfer had not occurred until modified, superseded, or repealed. No suit, action, or other proceeding lawfully commenced by or against any office, agency, or bureau or any officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this title, but the court, on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the appropriate office, agency, bureau, or officer of the United States.

Mr. WILLIAMS. Mr. President, I am joining today my colleague from New York (Mr. JAVITS) in the introduction of the Comprehensive Drug Amendments of 1977. This new legislation provides for the reorganization and restructuring of the Food and Drug Administration and the new drug approval process.

Mr. President, over the last several years the Food and Drug Administration has been criticized by consumers, health researchers, and manufacturers of drugs alike for their procedures in approving new drugs and making basic information available to the public. The Committee on Human Resources' Subcommittee on Health under the leadership of my friend and colleague from Massachusetts (Mr. KENNEDY) has held extensive hearings on these problems and has also explored other concerns in the drug manufacturing, testing, and approval process.

Most recently, the Department of Health, Education, and Welfare's review panel on new drug regulation issued its final report on current policies and procedures relating to the approval and disapproval of new drugs. While concluding that the FDA's procedures for new drug regulation were fundamentally sound and impartial with regard to the industry, the panel made a series of recommendations for substantial improvement of the FDA's implementation procedures which go to the basic issue of administrative and procedural reform of the system of drug regulation.

In brief, the panel found that the drug regulation system lacked openness and accountability, relying too heavily on informal procedures and communications with industry and providing too little information to the public about its procedures, its activities, and the benefits and risks of the drugs it was considering for approval. These informal procedures often work in an arbitrary and tedious fashion for an applicant for a new drug, leaving the applicant dependent upon the vagaries of the moment but fostering the impression of improper industry influence.

To further improve public understanding, the panel recommended that the definition of "safe and effective," the standards which all drugs must meet, be changed to clarify to the public that there are risks and side effects of all drugs for some people and that the drug approval process involves a weighing of these risks and benefits.

In the area of drug approval and protection of the public, the panel recommended that the FDA should be empowered to provide limited distribution of certain drugs with unusual benefits and high toxicity. It further recommended drugs be accompanied by patient package inserts in order to provide the consumer with information on the approved uses of the drugs, although the panel did not recommend inserts for all drugs.

The panel also found that the present standard for removal of a drug from the market, the "imminent hazard" standard had, been too strictly interpreted by the courts to mean an immediate danger to public health and recommended that the standard for withdrawal of a new drug be changed to "substantial risk" of serious harm.

As has been noted several times in the last few weeks on the Senate floor, we have become much more knowledgeable in recent years in our procedures for testing substances and for determining safety, efficacy, and the benefits and risks of these substances. So, too, our concern for governmental secrecy and for the need for public awareness and accountability has changed substantially since the legislative amendments of the Food, Drug, and Cosmetics Act with respect to drug regulation in 1962. It is time to bring the Food and Drug Administration up to speed with modern day standards of governmental processes.

The Comprehensive Drug Amendments of 1977 attack the two fundamental weaknesses, as I see it, of the FDA's procedures with respect to drug regulation: the lack of openness about the drug

regulation process and the lack of adequate procedures to inform the public so that they may make informed decisions to use drugs and so that they may hold this governmental agency accountable.

Most important, I believe, the bill sets up a new drug approval process which will establish uniform procedures for new drug applications and will formalize and structure the FDA's interaction with drug manufacturers. Under this new procedure, the FDA and the manufacturer will enter into a new drug evaluation agreement which will set out—in advance of required testing—the expectations of both parties, including the reports and data which will have to be submitted, the testing to be done, the standards for manufacturing, processing, and packing of the drug and including a description of the types and methods of communication between the manufacturer and the FDA and a procedure for dispute resolution, should difficulties arise.

The second phase of this new procedure involves a new method for the scientific review of data and evidence of the drug. Under the legislation, a permanent drug hearing board will be set up to review the data submitted by the manufacturer and to make a judgment as to the scientific accuracy of the tests done and to draw the scientific conclusions on safety and efficacy. The board must hold a public hearing to review this data and will thereafter forward its conclusions to the Commissioner who will make the final decision, weighing the risks and benefits of the drug and deciding to approve or to disapprove the drug.

In addition, the bill provides authority to the Commissioner to provide limited approval of a drug or to apply certain conditions to the use and distribution of the drug, whether it is a new drug or has been on the market for some time, if he determines that such conditions are necessary to assure the safe and effective use of the drug. This authority may well assure that many drugs which have been approved for use in other countries or which have some very beneficial effects for certain patients can be approved, under limited conditions.

And, the bill, in keeping with our desires to assure that the public can be fully informed and involved in the decisionmaking process, requires the Commissioner, at various stages in the review process, to publish his findings and to make available detailed summaries of the data submitted in connection with the drug.

The second major provision of the bill amends existing law to make the disclosure of all information submitted on a drug available to persons having an interest in any proceeding under the act or the law enforcement officials, but prohibits the further disclosure of such information by the party and the use of the information in connection with commercial purposes.

In order to provide a measure of protection of the manufacturer and the consumer, the bill also specifies that the patent will run for 17 years following the approval of a new drug and provides that midway through that process the manufacturer shall make the drug available to other manufacturers under a license.

The third major provision of the bill establishes the regulatory base for the Food and Drug Administration in legislation. Thus, the bill provides for the establishment of the Food and Drug Administration to be headed by a commissioner, appointed by the President with the advice and consent of the Senate.

And the last major provision of the bill takes steps to make available certain basic consumer information for all persons who will be using drugs. Under these procedures, patient package inserts must be available prior to administration or purchase of the drug so that the consumer may make informed decisions about their use of the drug.

Mr. President, I believe that this legislation will assist us in structuring the drug approval process and help modernize our procedures for informing the public about this critical regulatory agency.

I ask unanimous consent that a brief summary of the bill be printed in the RECORD at this point.

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

BRIEF SUMMARY OF THE COMPREHENSIVE DRUG AMENDMENTS OF 1977

1. Repeals previous exemption for pre-1938 animal and human drugs.

2. Prohibits submission of data, records or reports containing false or misleading information; raises fines to $10,000 for an individual and $25,000 for others; $25,000 for an individual for continued violation and $100.000 for others; adds civil penalties to criminal penalties already under the Act.

3. Requires the drug label to contain the name and place of business of the manufacturer and packer or distributor.

4. Requires all drugs to have package inserts to inform patients prior to administration or purchase of the benefits and risks of the drug.

5. Sets up a new drug approval process whereby FDA and the applicant enter into a New Drug Evaluation Agreement which structures their relationship, specifying what tests must be done, what records and data submitted, describing methods of communication and contact persons, and specifying a dispute resolution process;

Establishes a Drug Hearing Board to review the data and information on the drug and to make a decision on approvability based only on scientific evidence. The Board would also make unbinding recommendation to the Commissioner on whether the drug is safe and effective.

Provides the Commissioner with authority to provide limited approval of a drug or to set conditions on the use and distribution of the drug; such limited or conditional approval would be limited to a 2 year span after which a final decision would have to be made.

Provides special provisions under which a new drug may be used in research.

Changes the standard for removal of a drug from the market from imminent hazard to serious and substantial risk of harm to any segment of the public.

Requires the Commissioner to publish a detailed summary of the data submitted in relation to the new drug application.

6. Provides that all data and other information on a drug may be disclosed to persons in connection with law enforcement and protection of the public health, government contractors, or in any proceeding under the Act or where there is serious and substantial risk of harm to any segment of the public but prohibits further disclosure by the individual receiving the information or use of the information for commercial purposes.

Also provides that the term of the patent will run 17 years from the date the new drug is approved; requires that the applicant make the drug available to other companies, under license after 8.5 years.

7. Sets up procedures under which an interested party can file a petition for obtaining an expedited procedure.

8. Requires registration of foreign establishments which export drugs to the United States.

9. Establishes in law the Food and Drug Administration; requires appointment of the Commissioner with the advice and consent of the Senate; provides for a general counsel and a Deputy Commissioner; specifies the duties of the Commissioner and his powers; sets up procedures under which employees of the FDA must disclose certain information in order to avoid conflicts of interest; prohibits certain activities of employees; gives the FDA authority to initiate legal actions;

Sets up an Office for Coordination of Patient Information, charged with evaluating methods for best educating patients and making recommendations to the Commissioner and the Congress.

Authorizes $10 million for the purpose of conducting drug studies.

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By Mr. BROOKE:

S. 2041. A bill to reform utility regulation of residential conditions of service; to the Committee on Energy and Natural Resources.

UTILITY RESIDENTIAL CUSTOMER SERVICE REGULATIONS REFORM ACT

Mr. BROOKE. Mr. President, the legislation I am filing today establishes national standards for fair customer service regulations governing utility retail sales. I also intend to propose this language as an amendment to the electric utility rate reform measures now before the Senate. While I believe that national standards for utility rate structures are of paramount importance in creating a system of energy pricing which promotes energy conservation, I also feel that fair credit practices, open access to energy supplies, and protection against arbitrary cutoffs are of equal importance as subjects for national policymaking.

Many Senators expressed support and deep concern for my effort last winter to establish a fair national policy to protect the old, infirm, and destitute from heating cutoffs during the extreme cold. I was told, at the time, that the pending emergency gas measure was not a good vehicle for such regulation and that a separate measure was needed. Mr. President, here it is. It is ready to be incorported into the general electric utility rate reform package which, with only a few other exceptions, mirrors closely the provisions of the legislation I introduced in 1975 and again in 1976. I am delighted that Senate action seems, at long last to be in sight.

Mr. President, I ask unanimous consent that the full text of my bill, S. 2041, be printed in the RECORD.

There being no objection, the bill was

ordered to be printed in the RECORD, as follows:

S. 2041

*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 "Utility Residential Customer Service Regulations Reform Act".

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TITLE I—GENERAL PROVISIONS

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this Act—

(1) to reform utility regulation of the conditions of service for the provision to residential consumers of electric energy, natural gas, and telephone and water service by reducing arbitrary and unfounded adverse actions by utilities affecting eligibility for service, account billing and collection, and termination of service; and

(2) to assure the continued provision of utility services to residential consumers under reasonable conditions of service, thereby to promote and protect a sound and stable economy and the general health and welfare of the people of the United States.

DEFINITIONS

SEC. 102. As used in this Act—

(a) The term "adequate notice" means actual, and not merely constructive, written notice from a utility to a consumer of any contemplated adverse action against such consumer and the proposed date thereof which (1) is provided at least 45 days in advance, and then at fifteen day intervals, (2) is readily understandable, and (3) sets forth the alleged bases for the contemplated adverse action, the consumer's rights to contest or to avoid such action with deferred or partial payment plans, and the procedures whereby the consumer has *de novo* and appellate opportunities to present evidence and to be heard impartially in opposition to the alleged bases, necessity, or reasonableness of the contemplated adverse action. Notices shall be given where feasible to all tenants in multi-family dwellings where service is proposed to be terminated because of the non-payment of bills by a landlord.

(b) The term "adverse action" means action adverse to the interests of a consumer with respect to eligibility for service, account billing and collection, and termination of service.

(c) The term "conditions of services" means the terms, rules, practices, and procedures of a utility which govern eligibility for service, account billing and collection, and termination of service of consumers.

(d) The term "consumer" means any person, State agency, or Federal agency to which electric energy, natural gas, or telephone or water service is sold for residential purposes and other than for purposes of resale.

(e) The term "customer service regulations" means the regulations followed by a utility in setting and implementing its conditions of service for consumers.

(f) The term "deferred payment plan" means any mutually agreed upon plan for paying arrearages of utility bills over an extended period of time.

(g) The term "impartial adjudicatory procedures" means procedures in advance of adverse actions whereby consumers receive *de novo* and appellate hearing opportunities to be heard in opposition to such actions, including—

(1) an opportunity effectively to defend by confronting adverse witnesses and by presenting arguments and evidence orally and in writing;

(2) an opportunity to retain counsel or other legal representative, if desired;

(3) an impartial decision maker;

(4) a decision resting solely on the legal rules and evidence adduced at the hearing; and

(5) a written statement of reasons for the decision and the evidence relied on for decision.

(h) The term "Federal agency" means any agency or instrumentality of the United States, but does not include the District of Columbia.

(i) The term "sale" includes an exchange of, or a charge for provision of, or any transfer to a consumer of electric energy, natural gas, or telephone or water service.

(j) The term "State" means a State or the District of Columbia.

(k) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(l) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the provision of electric energy, natural gas, or telephone or water service by any utility (other than by such State agency)

(m) The term "utility" means any person, State agency, or Federal agency, which sells electric energy, natural gas, or telephone or water service to consumers.

TITLE II—RESIDENTIAL CUSTOMER SERVICE REGULATIONS

STANDARDS

SEC. 201. (a) Each State regulatory authority shall order into effect, after notice and public evidentiary hearing, just and reasonable standards governing the practices and procedures by which utilities subject to its authority determine eligibility for service, require and preserve money deposits, perform estimated billings, collect accounts, and terminate service, including practices and procedures to prevent abrupt terminations of service to indigent or elderly consumers or terminations which in all probability would aggravate a serious health infirmity or cause death or serious illness to a resident of a terminated household.

(b) Standards issued pursuant to this Act shall prohibit terminations of electricity and natural gas service by utilities to consumers of such service for space heating during weather conditions of extreme cold, as determined by the regulatory authority.

(c) Standards issued pursuant to this Act shall precondition, where feasible, denials or terminations of service to consumers by utilities upon adequate notice and impartial adjudicatory procedures, and shall be just and reasonable in that they protect consumers from unnecessary, arbitrary, and unfounded adverse actions by utilities, making denials and terminations of service a measure of last resort undertaken only when reasonable efforts by utilities to secure performance on deferred payment plans by consumers delinquent on their accounts have failed or would in all probability fail due to deliberate action of the consumer, while protecting the financial integrity of utilities.

APPLICATION OF STANDARDS TO UTILITIES NOT SUBJECT TO STATE REGULATORY AUTHORITIES

SEC. 202. The standards ordered into effect under section 201 by a State regulatory authority shall also apply within such State to—

(1) each utility which provides service to consumers within such State, is owned or operated by a Federal agency or a State agency, and is not subject to the ratemaking authority of such State regulatory authority (hereafter in this Act referred to as a "covered public system"); and

(2) each private cooperative utility which provides service to consumers within such State and is not subject to the ratemaking authority of such State regulatory authority (hereafter in this Act referred to as a "covered cooperative").

TITLE III—INTERVENTION AND ENFORCEMENT

PARTICIPATION IN REGULATORY PROCEEDINGS BY STATES AND BY CONSUMERS

SEC. 301. (a) (1) Any consumer or State agency may intervene as of right as a party in any evidentiary hearing or other proceeding of a State regulatory authority or covered public system which affects such consumer's of State agency's interest, to the extent that such hearing or proceeding relates to the determination of compliance with the requirements of this Act.

(2) A consumer or State agency may maintain an action for judicial review and may, as of right, intervene or otherwise participate as a party in judicial proceedings which involve the review or enforcement of any action of a State regulatory authority—

(A) in a proceeding to which such consumer or agency was a party (or which such consumer or agency was denied, in violation of paragraph (1), the right to intervene), and

(B) which affects such consumer's or agency's interest, to the extent that such hearing or proceeding relates to the determination of compliance with the requirements of this Act.

(b) (1) (A) Unless an alternative means for assuring consumer representation is adopted in accordance with paragraph (2), if a consumer of a utility prevails in an adjudicatory proceeding before a State regulatory authority in which such consumer has alleged that any practice or procedure proposed by a utility is not in compliance with the requirements of this Act, such utility shall be liable to compensate such consumer for reasonable attorneys' fees, expert witness fees, and other costs of participation in such proceeding (including fees and costs in obtaining judicial review of such proceeding). Such consumer may collect such fees and costs from such utility in a civil action in any court of competent jurisdiction, unless such State regulatory authority has adopted a procedure pursuant to which such authority (i) determines the amount of such fees and costs and (ii) includes an award of such fees and costs in its order in the proceeding.

(B) For purposes of subparagraph (A), a consumer shall be deemed to have prevailed in a proceeding if the State regulatory authority or court disapproved or substantially modified a practice or procedure proposed by a utility on grounds first raised by the consumer who alleged that the practice or procedure did not comply with the one or more specific requirements of this Act.

(C) A State regulatory authority may prescribe reasonable requirements that persons with the same or similar interests have a common legal representative in the proceeding, as a condition of receiving fees and costs under subparagraph (A).

(2) Paragraph (1) shall not apply to any proceeding before a State regulatory authority if the State or such authority has provided an alternative means for providing adequate compensation to persons (A) who have, or represent, an interest (i) which would not otherwise be adequately represented in such proceeding, and (ii) representation of which is necessary for a fair determination of such proceeding, and (B) who are unable effectively to participate in such proceeding because such persons cannot afford to pay fees and costs of preparing and making oral presentations, conducting

cross-examination, and making rebuttal submissions in such proceeding.

(c) Each utility shall make available at cost of reproduction to parties in a proceeding before a State regulatory authority transcripts of such proceeding.

ENFORCEMENT

SEC. 302. (a) A State regulatory authority shall have the responsibility, with respect to each utility subject to its ratemaking authority, of determining whether the practices and procedures of such utility comply with the requirements of section 201.

(b)(1) Beginning two years after the date of enactment of this Act, no utility may increase any rate at which it sells electric energy, natural gas, or telephone or water service and which is subject to the ratemaking authority of a State regulatory authority unless such rate increase is part of a rate schedule the conditions of service for which such authority has determined meets the requirements of section 201.

(2) Beginning two years after the date of enactment of this Act, no covered public system may increase any rate at which it sells electric energy, natural gas, or telephone or water service unless such increased rate is a part of a rate schedule the conditions of service for which such system has determined meet the requirements of section 201.

(c) Any State agency entitled to obtain judicial review under section 301 may obtain judicial review of a State regulatory authority's or covered public system's determination under subsection (a)—

(1) in any statutory review proceeding in the courts of the United States which is otherwise applicable to such determination, or

(2) if there is no such statutory review proceeding applicable to such determination, by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located, which court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(d) A consumer entitled to obtain judicial review under section 301 may obtain judicial review of a State regulatory authority's or covered public system's determination under subsection (a) in the following manner:

(1) In the case of a covered public system which is a Federal agency (and in the case of a State regulatory authority or covered public system whose determination is not reviewable by a State court of competent jurisdiction), such consumer may obtain such review—

(A) in any Federal statutory review proceeding which is otherwise applicable to such determination, or

(B) if there is no such statutory review proceeding applicable to such determination, by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located, which court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(2) In the case of a State regulatory authority or covered public system which is a State agency—

(A) such consumer may obtain review in any State court of competent jurisdiction, and

(B) if such determination is reviewable by such a State court, such consumer may not obtain review by any court of the United States, except by the United States Supreme Court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(e) Beginning two years after the date of enactment of this Act, any person who is a member of a covered cooperative may bring a civil action in any court of competent jurisdiction against such cooperative for purposes of obtaining enforcement of the requirements of this Act.

(f) The district courts of the United States shall have jurisdiction, on application of the Secretary of Energy or of any consumer, to enjoin a utility from increasing any rate with respect to which a determination required by subsection (b) (1) or (2) has not been made.

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By Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. HAYAKAWA, Mr. KENNEDY, Mr. PERCY, Mr. RIEGLE, and Mr. SCHWEIKER):

S. 2042. A bill to amend the Rehabilitation Act of 1973 to improve the formula for State allotments under part B of that act, and for other purposes; to the Committee on Human Resources.

Mr. JAVITS. Mr. President, today with Senators WILLIAMS, KENNEDY, HAYAKAWA, PERCY, RIEGLE, and SCHWEIKER as cosponsors, I am introducing a bill to amend the Rehabilitation Act of 1973. This bill is offered to put before the Congress, the administration, and the public, an alternative to the present Rehabilitation Act State allocation formula.

The current Federal allocation formula for distributing funds to States for the support of basic vocational rehabilitation is highly inequitable. States with large populations and relatively high per capita incomes receive, under the current vocational rehabilitation funding formula, disproportionately low allocations of available Federal funds.

It is essential that we acknowledge that our programs of vocational rehabilitation be people oriented, and geared to serve those handicapped individuals who need such services. This means that we must more closely equilibrate the target population of vocational rehabilitation services with funding for these services. The bill which I introduce today to amend the allocation formula will help insure that those handicapped individuals in need of services are provided more equitable access to vocational rehabilitation services regardless of their State of residence.

HISTORY OF THE HILL-BURTON FUNDING FORMULA FOR VR SERVICES

The current funding formula has been used in the Federal vocational rehabilitation program since its adoption from the Hill-Burton Hospital Survey and Construction Act in 1954. The Hill-Burton formula places considerable emphasis on the ability of a State to provide funds for vocational rehabilitation services based upon the value of its per capita income relative to national per capita income. The formula relies on two factors to provide vocational rehabilitation assistance to States—population multiplied by per capita income squared. This latter element heavily weights the distribution on the per capita income factor.

When the Hill-Burton formula was introduced, it served as a means to encourage and stimulate the growth of vocational rehabilitation activity in States where progress in such programs had only slowly materialized—specifically, the low per capita income States. Since the introduction of the formula for "start-up" vocational rehabilitation allocations in 1954, major changes of both an economic and programmatic nature have occurred which obviate the need for, and desirability of, this antiquated and inequitable formula.

The differential in ability to pay between low and high per capita income States is not nearly so great now as it was in 1954. Higher taxation and cost of living, and massive public debts due to the provision of essential social services in the higher income States have eroded a once-substantial gap between States in relative ability to pay for vocational rehabilitation and other social services.

The Rehabilitation Act State-grant allotment formula is a glaring example of an unfair Federal formula. In fiscal year 1973, for example, the 25 States receiving the lowest per capita allotments for vocational rehabilitation services contained almost 75 percent of the Nation's population. Thus, the present formula discriminates against people—handicapped citizens in need of vocational rehabilitation services—who are born or live in populous States. This is a most egregious situation which must be rectified.

THE VOCATIONAL REHABILITATION STATE ALLOCATION STUDY

Title I of the Rehabilitation Act of 1973, while temporarily continuing this highly inequitable formula, simultaneously authorized the Secretary of Health, Education, and Welfare to conduct a thorough study of the allotment of funds among the States for grants for rehabilitation services authorized under part B of title I of this act, including a consideration of—

First. The needs of individuals requiring vocational rehabilitation services;

Second. The financial capability of the States to furnish vocational rehabilitation assistance including, on a State-by-State basis, per capita income, per capita cost of services rendered, State tax rates, and the ability and willingness of a State to provide the non-Federal share of the costs of rendering such services;

Third. The continuing demand upon the States to furnish vocational rehabilitation services together with a consideration of the factor that no State would receive less Federal financial assistance under such part than it received under section 2 of the Vocational Rehabilita-

tion Act in the fiscal year immediately prior to the enactment of this act.

HEW's study, prepared by JWK International Corp. and completed in 1974, found that the best general measure of an allocation's equity is the extent to which the allocation matches the relative size of the population of citizens to be rehabilitated. The current Hill-Burton allocation formula "deviates significantly" from this "equity index," according to the study, and introduces substantial inequities in allocating funds to States.

The principal objective of the vocational rehabilitation program is to make services available to eligible individuals, and to equalize access to such services regardless of one's State of residence. The HEW study states that "any change in the allocation that moves away from aid on the basis of incidence of the target population is a questionable procedure." The current allocation formula institutionalizes inequality of access, as indicated by a table prepared by the Congressional Research Service, which I ask unanimous consent to have printed in the RECORD.

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

| | Population ages 18 to 64 (as of July 1, 1976) | Vocational rehabilitation appropriation (fiscal year 1978) | Fiscal year appropriation per person, 18 to 64 |
|---|---|---|---|
| Alabama | 2,113,000 | $18,103,094 | $8.57 |
| Alaska | 231,000 | 2,000,000 | 8.66 |
| Arizona | 1,295,000 | 8,526,789 | 6.58 |
| Arkansas | 1,181,000 | 10,472,837 | 8.87 |
| California | 13,106,000 | 57,035,827 | 4.35 |
| Colorado | 1,568,000 | 8,295,388 | 5.29 |
| Connecticut | 1,885,000 | 7,017,813 | 3.72 |
| Delaware | 351,000 | 2,000,000 | 5.70 |
| District of Columbia | 437,000 | 5,427,250 | 12.42 |
| Florida | 4,748,000 | 29,138,423 | 6.14 |
| Georgia | 2,920,000 | 21,133,655 | 7.24 |
| Guam | | | |
| Hawaii | 544,000 | 2,310,785 | 4.25 |
| Idaho | 472,000 | 3,344,923 | 7.09 |
| Illinois | 6,616,000 | 27,499,339 | 4.16 |
| Indiana | 3,092,000 | 19,066,756 | 6.17 |
| Iowa | 1,630,000 | 9,036,986 | 5.54 |
| Kansas | 1,349,000 | 7,200,397 | 5.34 |
| Kentucky | 1,987,000 | 15,919,071 | 8.01 |
| Louisiana | 2,177,000 | 18,074,413 | 8.30 |
| Maine | 611,000 | 4,967,235 | 8.13 |
| Maryland | 2,534,000 | 11,455,890 | 4.52 |
| Massachusetts | 3,453,000 | 18,212,747 | 5.27 |
| Michigan | 5,359,000 | 26,886,001 | 5.02 |
| Minnesota | 2,278,000 | 13,303,545 | 5.84 |
| Mississippi | 1,281,000 | 13,402,867 | 10.46 |
| Missouri | 2,760,000 | 18,198,853 | 6.60 |
| Montana | 435,000 | 2,886,498 | 6.64 |
| Nebraska | 884,000 | 5,032,964 | 5.69 |
| Nevada | 372,000 | 2,000,000 | 5.38 |
| New Hampshire | 478,000 | 3,282,747 | 6.87 |
| New Jersey | 4,388,000 | 18,376,436 | 4.19 |
| New Mexico | 666,000 | 5,647,884 | 8.48 |
| New York | 10,814,000 | 47,714,258 | 4.41 |
| North Carolina | 3,277,000 | 24,464,797 | 7.47 |
| North Dakota | 364,000 | 2,472,049 | 6.79 |
| Ohio | 6,309,000 | 36,617,086 | 5.80 |
| Oklahoma | 1,609,000 | 11,529,952 | 7.17 |
| Oregon | 1,382,000 | 8,109,804 | 5.87 |
| Pennsylvania | 7,072,000 | 39,945,506 | 5.65 |
| Puerto Rico (1973 total population) | 2,951,000 | 22,368,458 | 7.58 |
| Rhode Island | 545,000 | 3,264,733 | 5.99 |
| South Carolina | 1,677,000 | 13,905,312 | 8.29 |
| South Dakota | 383,000 | 2,739,957 | 7.31 |
| Tennessee | 2,489,000 | 19,262,813 | 7.74 |
| Texas | 7,279,000 | 46,756,113 | 6.42 |
| Utah | 680,000 | 5,559,165 | 8.18 |
| Vermont | 274,000 | 2,123,949 | 7.75 |
| Virgin Islands | | | |
| Virginia | 3,075,000 | 17,499,157 | 5.69 |
| Washington | 2,159,000 | 11,079,348 | 5.13 |
| West Virginia | 1,063,000 | 8,538,262 | 8.03 |
| Wisconsin | 2,653,000 | 16,785,908 | 6.33 |
| Wyoming | 232,000 | 2,000,000 | 8.62 |
| Total, United States | 129,488,000 | 758,054,041 | 5.854 |

Mr. JAVITS. I recently received a communication from the director of vocational rehabilitation of the State of Illinois describing funding constructions in providing services for the vocationally handicapped in that State, largely due to inequity in the Federal allocation formula. I ask unanimous consent that this communication be printed in the RECORD:

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

STATE OF ILLINOIS DIVISION OF VOCATIONAL REHABILITATION,
*Springfield, Ill.*

Senator JACOB K. JAVITS,
*Ranking Republican, Senate Committee on Human Resources, Washington, D.C.*

DEAR SENATOR JAVITS: The Rehabilitation Act of 1973 authorized a study of the allocation formula for distributing basic vocational rehabilitation support funds. The purpose of the study was "to evaluate the equity of the current allocation formula and to develop and evaluate alternatives to it", as stated in the final report of the study. Social and Rehabilitation Services (SRS–HEW) contracted with JWK International Corporation to perform the study, and their final report was printed in July, 1974. Their major finding was that the current allocation formula is very inequitable in relation to the vocational rehabilitation needs of disabled citizens, as it distributes disproportionately low amounts to heavily-populated states that have relatively high per capita incomes. The Illinois Division of Vocational Rehabilitation fully concurs with this finding and requests your consideration in changing the formulas to effect more equitable funding and to thus better serve the vocational rehabilitation needs of disabled citizens.

The current (Hill-Burton) allocation formula is based on mathematical manipulations of two factors: population and "ability-to-pay". In the JWK International study there was an analysis of three alternative methods for calculating the states' allocations, using those same two factors. On the attached "fact sheet" the difference between the current formula and the proposed alternatives are briefly outlined. The resulting allocation variations for Illinois are also listed on that fact sheet (source: Vocational Rehabilitation State Allocation Study, Final Report, Executive Summary, July 19, 1974). As alluded to on that fact sheet, we believe that the current formula places an unreasonably strong emphasis on the ability-to-pay factor. We recognize that the "wealthy" should pay for relatively more of social service costs than the "poor", but we also believe that the concern has been exaggerated in the allocation formula to the point of grossly inequitable funding for the disabled and vocationally handicapped citizens of "wealthy" states. The effect of the current allocation formula on the disabled citizens of Illinois can be viewed from the following perspective. Based upon available data it is indicated that 500,000 disabled individuals in the state are eligible for or could benefit from the provision of vocational rehabilitation services. In fiscal year 1977 our agency anticipates serving approximately 63,000 disabled persons. The average cost per client is approximately $3,000. Translated into expansion of rehabilitation services, an increase of six million dollars by means of adoption of the "unsquared" Hill-Burton formula would permit our agency to serve an additional 2,000 clients annually. These individuals are now not receiving services due in part to the unavailability of additional resources. An adjustment of the Hill-Burton formula would assist greatly in correcting this deficiency.

Accordingly, we would appreciate any consideration you can give to adjusting the allocation formula to provide for more equitable distribution of federal funds. This adjustment will permit our agency to provide services to a great number of disabled citizens of the State of Illinois.

Sincerely,

JAMES S. JEFFERS,
*Director.*

Mr. JAVITS. Mr. President, the inequity inherent in the current allocation formula has been recognized not merely by those States which find themselves unable to provide handicapped persons requisite services for vocational rehabilitation. The Department of Health, Education, and Welfare has recommended that Federal funds for basic vocational rehabilitation services be allocated according to a formula which is based upon an estimate of the relative proportion of the vocational rehabilitation target population within each State.

PROVISIONS OF THE BILL

The formula contained in the bill is based upon the recommendations of the 1974 State allocation study authorized by Congress. Accordingly the formula in S. 2042 provides that future authorizations above fiscal year 1978 levels be based on relative State population, with a mechanism which "phases in" the population factor in the following manner:

Fiscal year 1979—20 percent by population, 80 percent by current formula.

Fiscal year 1980—40 percent by population, 60 percent by current formula.

Fiscal year 1981—60 percent by population, 40 percent by current formula.

Fiscal year 1982—80 percent by population, 20 percent by current formula.

Fiscal year 1983—100 percent by population.

Thus, this formula has an additional advantage, for it insures that virtually all States will continue to receive increasing Federal support for VR services over at least a 4-year period, while simultaneously improving equity of funding by phasing in the population factor which best represents need for services.

The following table, prepared by the Congressional Research Service, offers an estimated breakdown of the per capita allotment for rehabilitation services by State over the measure which we introduce today, based upon 1973–75 per capita income on 1976 population data.

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

TABLE III.—APPROXIMATE ALLOCATIONS (DOLLARS PER PERSON) FISCAL YEAR 1979 THROUGH FISCAL YEAR 1983 FOR GRADUAL PHASE-IN OF POPULATION FORMULA

| State | Fiscal year— | | | | | |
|---|---|---|---|---|---|---|
| | 1978 | 1979 | 1980 | 1981 | 1982 | 1983 |
| Alabama | 4.94 | 4.94 | 4.94 | 4.94 | 4.94 | 4.94 |
| Alaska | 5.24 | 5.24 | 5.50 | 5.76 | 6.02 | 6.28 |
| Arizona | 3.76 | 3.92 | 4.03 | 4.12 | 4.19 | 4.25 |
| Arkansas | 4.97 | 4.97 | 4.97 | 4.97 | 4.97 | 4.97 |
| California | 2.65 | 2.97 | 3.28 | 3.60 | 3.92 | 4.25 |
| Colorado | 3.21 | 3.46 | 3.66 | 3.86 | 4.06 | 4.25 |
| Connecticut | 2.25 | 2.62 | 3.00 | 3.40 | 3.82 | 4.25 |
| Delaware | 3.44 | 3.44 | 3.61 | 3.78 | 3.95 | 4.25 |
| District of Columbia | 7.73 | 7.73 | 7.73 | 7.73 | 7.73 | 7.73 |
| Florida | 3.46 | 3.63 | 3.80 | 3.96 | 4.11 | 4.25 |
| Georgia | 4.25 | 4.30 | 4.32 | 4.32 | 4.30 | 4.25 |
| Hawaii | 2.61 | 2.95 | 3.27 | 3.59 | 3.92 | 4.25 |
| Idaho | 4.03 | 4.13 | 4.19 | 4.23 | 4.25 | 4.25 |
| Illinois | 2.45 | 2.78 | 3.13 | 3.50 | 3.87 | 4.25 |
| Indiana | 3.60 | 3.72 | 3.87 | 4.00 | 4.13 | 4.25 |
| Iowa | 3.15 | 3.35 | 3.58 | 3.80 | 4.03 | 4.25 |
| Kansas | 3.12 | 3.37 | 3.60 | 3.82 | 4.04 | 4.25 |
| Kentucky | 4.64 | 4.64 | 4.64 | 4.64 | 4.64 | 4.64 |
| Louisiana | 4.71 | 4.71 | 4.71 | 4.71 | 4.71 | 4.71 |
| Maine | 4.64 | 4.64 | 4.64 | 4.64 | 4.64 | 4.64 |
| Maryland | 2.76 | 3.06 | 3.35 | 3.64 | 3.95 | 4.25 |
| Massachusetts | 3.14 | 3.33 | 3.56 | 3.79 | 4.02 | 4.25 |
| Michigan | 2.95 | 3.17 | 3.44 | 3.71 | 3.98 | 4.25 |
| Minnesota | 3.36 | 3.55 | 3.73 | 3.91 | 4.09 | 4.25 |
| Mississippi | 5.69 | 5.69 | 5.69 | 5.69 | 5.69 | 5.69 |
| Missouri | 3.81 | 3.91 | 4.02 | 4.11 | 4.19 | 4.25 |
| Montana | 3.83 | 3.94 | 4.04 | 4.13 | 4.20 | 4.22 |
| Nebraska | 3.24 | 3.44 | 3.65 | 3.85 | 4.05 | 4.25 |
| Nevada | 3.28 | 3.28 | 3.44 | 3.61 | 3.89 | 4.25 |
| New Hampshire | 3.99 | 4.07 | 4.14 | 4.20 | 4.23 | 4.25 |
| New Jersey | 2.50 | 2.82 | 3.16 | 3.52 | 3.88 | 4.25 |
| New Mexico | 4.84 | 4.84 | 4.84 | 4.84 | 4.84 | 4.84 |
| New York | 2.64 | 2.92 | 3.24 | 3.57 | 3.91 | 4.25 |
| North Carolina | 4.47 | 4.47 | 4.47 | 4.47 | 4.47 | 4.47 |
| North Dakota | 3.84 | 3.84 | 3.84 | 3.84 | 4.01 | 4.25 |
| Ohio | 3.43 | 3.56 | 3.74 | 3.92 | 4.09 | 4.25 |
| Oklahoma | 4.17 | 4.27 | 4.30 | 4.30 | 4.29 | 4.25 |
| Oregon | 3.48 | 3.68 | 3.84 | 3.98 | 4.12 | 4.25 |
| Pennsylvania | 3.37 | 3.54 | 3.73 | 3.91 | 4.08 | 4.25 |
| Puerto Rico | 7.58 | 7.58 | 7.58 | 7.58 | 7.58 | 7.58 |
| Rhode Island | 3.52 | 3.66 | 3.82 | 3.97 | 4.12 | 4.25 |
| South Carolina | 4.88 | 4.88 | 4.88 | 4.88 | 4.88 | 4.88 |
| South Dakota | 4.08 | 4.14 | 4.20 | 4.24 | 4.25 | 4.25 |
| Tennessee | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 |
| Texas | 3.74 | 3.91 | 4.02 | 4.11 | 4.19 | 4.25 |
| Utah | 4.53 | 4.57 | 4.53 | 4.53 | 4.53 | 4.53 |
| Vermont | 4.46 | 4.49 | 4.47 | 4.62 | 4.83 | 5.04 |
| Virginia | 3.48 | 3.66 | 3.82 | 3.97 | 4.12 | 4.25 |
| Washington | 3.07 | 3.33 | 3.56 | 3.79 | 4.02 | 4.25 |
| West Virginia | 4.69 | 4.69 | 4.69 | 4.69 | 4.69 | 4.69 |
| Wisconsin | 3.64 | 3.76 | 3.90 | 4.03 | 4.15 | 4.25 |
| Wyoming | 5.13 | 5.13 | 5.38 | 5.64 | 5.90 | 6.15 |

Fiscal year 1979: Hypothetical $800,000,000 appropriation; 80 percent current formula; 20 percent population formula.
Fiscal year 1980: Hypothetical $840,000,000 appropriation; 60 percent current formula; 40 percent population formula.
Fiscal year 1981: Hypothetical $880,000,000 appropriation; 40 percent current formula; 60 percent population formula.
Fiscal year 1982: Hypothetical $920,000,000 appropriation; 20 percent current formula; 80 percent population formula.
Fiscal year 1983: Hypothetical $960,000,000 appropriation; 100 percent population formula.
Assumptions: All appropriations are reduced by a constant percentage for grants to territories other than Puerto Rico.
Hold Harmless: Fiscal year 1978 allocation.
Minimum: 0.25 percent of total appropriation.
Warning: All estimates based on 1973–75 per capita income and 1976 population data.

Mr. JAVITS. Concomitant with the introduction of this bill, I am requesting specific recommendations from the President, HEW Secretary Califano, Assistant Secretary for Human Development Arabella Martinez, and leaders in the field of vocational rehabilitation services regarding the State allocation proposal we have offered and possible alternatives. While we strongly feel this approach would constitute a major improvement over the inequity of Hill-Burton, we are not inextricably tied to it and will welcome suggestions to improve the present formula.

With the introduction of this bill, we hope to generate productive discussion which will lead to greater equity of funding for vocational rehabilitation services.

The intention is direct: to provide handicapped individuals who require rehabilitation services more equitable opportunity to obtain such services regardless of their place of residence. We must understand that vocational rehabilitation services are the rationale for our Federal program, and that we must better aline our desire for the equity of access to services with the equity of funding among the States. We must not allow our handicapped citizens to suffer as pawns in a war of allocational jealousy among States.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2042

*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 "Rehabilitation Amendments of 1977".

SEC. 2. Effective for fiscal year 1979 only, section 110(a) of the Rehabilitation Act of 1973 (29 U.S.C. 730(a)) is amended—

(1) by striking out "For each fiscal year" and inserting in lieu thereof "(1) For the fiscal year 1979" in the first sentence thereof;

(2) by inserting after "ratio to" the following: "80 percent of" in the first sentence thereof;

(3) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively, in the first sentence thereof;

(4) by redesignating the second sentence thereof as paragraph (3); and

(5) by inserting after the first sentence the following:

"(2) For the fiscal year 1979, each State shall be entitled to an allotment of an amount bearing the same ratio to 20 percent of the amount authorized to be appropriated under subsection (b)(1) of section 100 for allotment under this section as the population of the State bears to the population of all States.".

SEC. 3. Effective for fiscal year 1980 only, section 110(a) of the Rehabilitation Act of 1973 (29 U.S.C. 730(a)) is amended—

(1) by striking out "For each fiscal year" and inserting in lieu thereof "(1) For the fiscal year 1980" in the first sentence thereof;

(2) by inserting after "ratio to" the following: "60 percent of" in the first sentence thereof;

(3) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively, in the first sentence thereof;

(4) by redesignating the second sentence thereof as paragraph (3); and

(5) by inserting after the first sentence the following:

"(2) For the fiscal year 1980, each State shall be entitled to an allotment of an amount bearing the same ratio to 40 percent of the amount authorized to be appropriated under subsection (b)(1) of section 100 for allotment under this section as the population of the State bears to the population of all States.".

SEC. 4. Effective for fiscal year 1981 only, section 110(a) of the Rehabilitation Act of 1973 (29 U.S.C. 730(a)) is amended—

(1) by striking out "For each fiscal year" and inserting in lieu thereof "(1) For the fiscal year 1981" in the first sentence thereof;

(2) by inserting after "ratio to" the following: "40 percent of" in the first sentence thereof;

(3) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively, in the first sentence thereof;

(4) by redesignating the second sentence thereof as paragraph (3); and

(5) by inserting after the first sentence the following:

"(2) For the fiscal year 1981, each State shall be entitled to an allotment of an amount bearing the same ratio to 60 percent of the amount authorized to be appropriated under subsection (b)(1) of section 100 for allotment under this section as the population of the State bears to the population of all States.".

SEC. 5. Effective for fiscal year 1982 only, section 110(a) of the Rehabilitation Act of 1973 (29 U.S.C. 730(a)) is amended—

(1) by striking out "For each fiscal year" and inserting in lieu thereof "(1) For the fiscal year 1982" in the first sentence thereof;

(2) by inserting after "ratio to" the following: "20 percent of" in the first sentence thereof;

(3) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively, in the first sentence thereof;

(4) by redesignating the second sentence thereof as paragraph (3); and

(5) by inserting after the first sentence the following:

"(2) For the fiscal year 1982, each State shall be entitled to an allotment of an amount bearing the same ratio to 80 percent of the amount authorized to be appropriated under subsection (b)(1) of section 100 for allotment under this section as the population of the State bears to the population of all States.".

SEC. 6. (a)(1) The first sentence of section 110(a) of the Rehabilitation Act of 1973 (29 U.S.C. 730(a)) is amended to read as follows: "For the fiscal year 1983, and thereafter, each State shall be entitled to an allotment of an amount bearing the same ratio of the amount authorized to be appropriated under subsection (b)(1) of section 100 for allotment under this section as the population of the States bears to the population of all States.".

(2) Section 110 of such Act is amended by adding at the end thereof the following new subsection:

"(d) The population of the several States

and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.".

(b)(1) Section 8 of such Act is repealed.

(2) Sections 9 and 10 of such Act, and all references thereto, are redesignated as sections 8 and 9, respectively.

(c) The amendments made by this section shall take effect October 1, 1983.

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By Mr. BAKER (for Mr. THURMOND:)

S. 2043. A bill to provide for a separate agency within the Department of Labor to be known as the Veterans' Employment Service, to authorize the appointment of an Assistant Secretary of Labor for Veterans' Employment, and for other purposes; to the Committee on Governmental Affairs.

Mr. BAKER. Mr. President, on behalf of the Senator from South Carolina (Mr. THURMOND), I send a bill to the desk for appropriate reference and ask unanimous consent that a statement by him, together with the text of the bill, be printed in the RECORD.

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

STATEMENT BY SENATOR THURMOND

I wish to add my full support to the nomination of Roland Mora as the Deputy Assistant Secretary of Labor for Veterans' Employment. I am impressed with Mr. Mora's sincerity and his determination to serve the veterans effectively in this position.

This confirmation represents the culmination of the efforts of many. Credit for the enactment of the DAS position should go to the veterans organizations—the American Legion, the VFW, AMVETS, the Paralyzed Veterans of America, and the Blinded Veterans Association. The DAS position is not all that many of us had worked for over the years. There has always been strong support among the veterans organizations for the position of a full Assistant Secretary of Labor for Veterans Employment to carry out the Congressionally mandated programs designed to assure jobs for veterans.

Members of the Congress are continuously inundated with statistics, affecting every facet of American life from peanuts and hyperkinetic children to troop strengths and the national debt. One statistic, however, that has consistently been brought to the forefront of concerned persons in the area of veterans' affairs has been the unemployment rate among the veterans population, especially among the younger, Vietnam era veterans. Particularly troublesome has been the incidence of unemployment among the veterans as compared to their non-veteran peers of the same age group.

As disturbing as statistics in this area may have been, however, they cannot in any true sense describe the despair of the veterans who are denied the dignity of working to earn their livelihoods because they cannot avail themselves of employment rights to which they are entitled under the law.

The position of Deputy Assistant Secretary of Labor for Veterans Employment was created to ensure that the mandates of Congress are carried out in the area of veterans employment. Unfortunately, the Veterans Affairs Committee has not received the desired assurances from the Department of Labor that the DAS position will be supported to the extent necessary to carry out the important functions of the office. Specifically, the Department of Labor has failed to give satisfactory assurances concerning the pay grade of the DAS position; the Department has failed to explain satisfactorily what role the DAS will play as the principal advisor to the Secretary of Labor for matters affecting veterans employment programs; and it has not clarified fully the extent to which the DAS will participate in the formulation of policies affecting veterans' matters.

I support the position of Deputy Assistant Secretary of Labor for Veterans Employment and I support the Administration's nominee, Roland Mora. I wish him the best of luck in solving the unemployment problems of the veterans population and pledge to give his office my full support. However, in fulfillment of what I perceive this nation's responsibility to be to its veterans in assisting them obtain meaningful employment, I am, concurrently with my vote of support for Mr. Mora, introducing legislation which will elevate the DAS position to a full Assistant Secretary of Labor for Veterans' Employment and which would establish the Veterans' Employment Service as a separate agency within the Department of Labor. In the event the DAS position proves to be ineffectual, I anticipate this measure would gain increasing support in the months ahead.

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S. 2043

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* that Section 2 of the Act of April 17, 1946, as amended (29 U.S.C. 553), is amended by—

(1) striking out "five" in the first sentence of such section and inserting in lieu thereof "six"; and

(2) adding at the end thereof a new sentence as follows: "One of such Assistant Secretaries shall be an Assistant Secretary for Veterans' Employment."

SEC. 2. There is hereby created within the Department of Labor a separate agency to be known as the Veterans' Employment Service which shall be headed by the Assistant Secretary of Labor for Veterans' Employment. Such Service shall be responsible for carrying out the policies and purposes of chapters 41, 42, and 43 of title 38, United States Code, and such other functions as may be required by law or regulation.

SEC. 3. Paragraph (20) of section 5315 of title 5, United States Code, is amended by striking out "(5)" and inserting in lieu thereof "(6)".

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By Mr. HELMS:

S. 2044. A bill to establish the Federal Legal Aid Corporation, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL LEGAL AID CORPORATION ACT OF 1977

Mr. HELMS. Mr. President, a fundamental aspect of any free society is the ability of its citizens to defend or assert their rights before an independent and impartial judiciary. The phrase "equal justice under law" has a very hollow ring indeed if substantial numbers of our fellow citizens can be denied their day in court because of an inability to afford an attorney.

For some time now, Government and the legal profession have recognized an obligation to provide legal services to defendants in criminal proceedings who would otherwise not be able to afford a legal defense. During the past few years many in Government have recognized a need to provide similar legal counsel in civil matters to those who would otherwise be denied many of the benefits of the American judicial process.

Since entering the Senate, I have supported the principle that Government provide a means by which those who cannot afford legal counsel can also have their day in court. As far as this Senator is concerned, the real debate over legal services is not one between those who seek to assist the poor of this country in obtaining equal justice under law and those who seek to deny them that right. Indeed, the legal services debate is of a very different character.

Mr. President, the principles of equal justice under law and the right of any person to a fair and impartial determination of his claims in a court of law is strongly embraced by the vast majority of Americans. I suspect there are very few Americans who so misunderstand the history and purpose of this country as would deny these fundamentals of our heritage. Yet the history of the Federal Government's involvement with the delivery of legal services, first through the Office of Economic Opportunity and now through the Legal Services Corporation, has been fraught with bitterness and controversy.

The reason for this controversy is very simple. Rather than limiting their activity to providing assistance with the personal and individual legal problems of the poor, employees of the legal services program have assumed the role of conspicuous, federally financed advocates of political and social causes. Under the guise of serving the poor, these taxpayer-funded social engineers have promoted militant extremism, graduated state income tax, student protests, racial quotas in employment and education, increased government welfare programs, Indian land claims, homosexual demands, rent strikes, and boycotts of private businesses. They have used taxpayers' money for lobbying efforts, organizing special interest and pressure groups and have engaged in class action suits, not on behalf of the poor, but to promote alleged social reforms.

Mr. President, the demands of special interest groups regarding quotas in employment and education, abortion, marijuana legalization, homosexual demands, and unrestrained pornography may be protected under the first amendment, but they have no right being lobbied and promoted by taxpayer-funded lawyers, who, in so doing, ignore the legal problems of the poor they are paid to represent. The American public resents this abuse of their hard-earned tax dollars and it is well that they should.

Although much of the legal services activity has been concerned with personal legal problems in such areas as housing, bankruptcy, debtor-creditor relations and family relations, a substantial amount of time and money has been spent in so-called legal activism promoting the social goals of special interest groups. This activity under the guise of legal activism or law reform is simple political advocacy in unrestrained form. It may be carried on in the guise of litigation, but its purpose and its impact is to change and, in effect, to make law.

This activity of the legal services program amounts to nothing less than a legislative activity. It is making law. It

is politics in its fullest sense; and in a democracy, it is also politics in its lowest sense. Political activity, even when disguised as litigation in the judicial system, ought to be subject to the traditional checks and balances of the free political system. It is undemocratic to give power to narrow political factions and at the same time insulate the use of this power from the restraints of free government.

A central issue regarding this legislation today is whether the efforts for social action and social change by a narrow minority should be financed with Government money. Using money taken from the taxpayers to advance the cause of one section of the population over another creates a system of new injustice. The proper forum for political questions is the political process, the constitutionally established system of checks and balances in our National and State legislatures.

The use of the judicial system and the administrative process to effect social reform makes an end run around the constitutional system of our country. Ultimately this practice destroys the popular consensus and support which is necessary for long-term reform and democratic government itself. This is why during 1973 I strongly supported amendments to the original Legal Services Corporation bill, amendments which were finally adopted by the Congress, to restrain legal services attorneys from pressuring courts to legislate rather than adjudicate.

But even if the present legal services program could be reformed to prevent these political abuses, the present approach to providing these services is deeply flawed. Essentially, the present legal services program, as is the case with so many Federal welfare programs, treats its poor clients with a patronizing approach which denies them the same position as the normal consumer of legal services. It thus instills an attitude of second-class citizenship.

First, the poor person seeking assistance from the legal services program does not have the freedom to choose his own attorney as does his self-sufficient counterpart. Under the present approach the poor client must accept whatever attorney is provided by the legal services program.

Second, the poor person seeking legal services assistance enters an attorney-client relationship which is very different from tl.e normal relationship. Since the attorney and the poor client understand that the client does not control the attorney's fee and has nowhere else to go for help, the legal services attorney tends to gain dominance in his relationship with his client. Because the attorney's fee is paid by someone other than the client, the attorney is continually faced with a potential conflict-of-interest situation.

Third, subsidized lawyers, with a federally assured income, are free to spend their time on appeals of test cases to promote the national goals of special interest groups, rather than on effective representation of poor clients.

Mr. President, there is an alternative to the present system which would be free of political abuses and which would place the poor client on the same level as any other client of legal services from a private attorney.

Today I am introducing legislation to create a new means of delivering legal services, entitled the "Federal Legal Aid Corporation Act of 1977."

This legislation would set up a small congressionally chartered corporation which would operate as both a funding and a compliance mechanism. The new corporation would transfer appropriated moneys to qualified State governments. A State government would qualify by adopting one of the following three procedures:

First, a State could empower an existing or new State agency to disburse funds to individual attorneys representing eligible cilents.

Second, it could transmit funds to the bar association with overall jurisdiction in the State, if the bar association has established a method to disburse funds to attorneys representing eligible clients, as for example, under the judicare approach.

Third, a State could establish a method of direct payment to eligible clients or their attorneys based upon a voucher system of proof.

Within this framework, the States would have full freedom to design their own program to suit local conditions, so long as clients retain the right to obtain the individual attorneys of their choice. This legislation also contains appropriate restrictions on lobbying and political activity by attorneys while engaged in activities funded by the program.

Further, this program includes an equitable geographic distribution of appropriated funds based upon the proposition of eligible clients in each State. The standard of eligibility set by this legislation is the same standard as that of the medicaid formula; a standard already endorsed by Congress, State legislatures and welfare groups.

This proposal restores freedom of choice to poor people in retaining legal assistance. It is client-oriented, rather than attorney-oriented. It provides for greater and more active participation by local bar associations. It involves local attorneys more intimately in the problems of the poor community. It sets up a sound basis for a stable, ethical attorney-client relationship. Finally, it allows the people's representatives in the State legislatures to play a proper role in designing and implementing the program in each State.

Mr. President, the present legal services delivery system is grossly deficient and the widespread controversy surrounding it is a valid indication of that deficiency. It has distorted the attorney-client relationsihp and has been subject to numerous political abuses in promoting the objectives of special interest groups with taxpayers' money. It has sought time and again to thrust the burden of politics upon our courts. The Federal Legal Aid Corporation Act of 1977 will go far in reforming many of these abuses while increasing the delivery of personal legal assistance to the poor. Mr. President, I ask unanimous consent that the Federal Legal Aid Corporation Act of 1977 be printed at this point in the RECORD.

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

S. 2044

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE; PURPOSE

SECTION 1. (a) This Act may be cited as the "Federal Legal Aid Corporation Act of 1977".

(b) Where fundamental rights are to be protected and justice attained, it is essential that the institutions of government be accessible to all. In a nation where justice is dispensed by the courts it is inherent that they be available to all regardless of race, religion, sex, national origin, or personal wealth.

DEFINITIONS

SEC. 2. (a) The word "State" shall include each of the several States of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

(b) An "eligible client" shall be an individual in need of professional legal services who meets certain criteria as established in section 4, subsection (k)(4) of this Act.

(c) A "State instrumentality" shall be an agency of a State government established solely to carry out the purposes of this Act, or an existing State agency which shall have assigned to it by the State the responsibility to carry out the purposes of this Act.

ESTABLISHMENT AND GOVERNANCE

SEC. 3. (a) There is authorized to be established in the Federal City a nonmembership nonprofit corporation chartered by the Congress of the United States of America which shall be known as the Federal Legal Aid Corporation (hereinafter referred to as the "Corporation").

(b) The Corporation shall be brought into being by a board of directors (hereinafter "Board") consisting of seven members who shall be appointed by the President of the United States of America, to take office upon confirmation by the United States Senate.

(c) Of the initial members of the Board, one each shall be chosen for fixed terms of seven, six, five, four, three, two, and one year(s), respectively. Succeeding appointments to fill terms which have expired, will be for seven years each. Each person duly appointed by the President and confirmed by the Senate, to fill a vacancy, shall serve for the balance of the term to which he was appointed. No member shall be appointed for more than seven years.

(d) No more than four members of the Board shall be members of the same political party. A majority of the members of the Board shall be members of the bar of the highest court of a State and none shall be full-time employees of the United States.

(e) No fewer than four members of the Board may be present to conduct the business of the Corporation. Should there, at any time after the Corporation has come into being, be fewer than four members, as a result of the failure of the Senate to confirm nominations submitted by the President of the United States, the President may designate one of the remaining directors or, if none remain, some other citizen of the United States, to supervise the affairs of the Corporation in a manner not inconsistent with policies already established.

(f) The terms of the original members of the Board shall be measured from the date on which this Act is enacted into law.

(g) The Board of Directors shall have a Chairman, to be appointed by the President of the United States from among the duly

appointed members of the Board of Directors for a term of one year, with the term of the first Chairman to be measured from the date on which this Act is enacted into law. If the President shall fail to name a Chairman within thirty days of a vacancy in the chairmanship, the members of the Board shall choose a Chairman from their own membership. No Chairman may immediately succeed himself. A Chairman may be removed at any time by a vote of a majority of the members of the Board.

(h) Meetings of the Board shall be held at the call of the Chairman, or by written request of a majority of its members, and shall be required to be held at least once in every four-month period. All meetings shall be held in the Federal city, except by unanimous agreement of the members of the Board.

(i) The purpose of the Corporation shall be—

(1) to render financial assistance to the States to enable the provision of legal assistance to the States to enable the provision of legal assistance to qualified individual citizens who are indigent and in need of professional legal services (hereinafter "eligible clients");

(2) to assist in the provision of legal services to eligible clients by obtaining and making available information of a technical nature to those rendering legal services to eligible clients; and

(3) to, consistent with the provisions of this Act, set forth such procedures and regulations governing the use of Federal funds as may be authorized for expenditure by the Corporation.

(j) The Corporation shall maintain a principal office in the Federal city and shall therein designate an authorized agent for service of process.

(k) Subject to approval by a majority of the members of the Board, the Chairman shall select an Executive Director of the Corporation who shall serve at the pleasure of the Chairman, and be authorized to secure as many staff members as may be authorized pursuant to law, but in no event shall the Corporation have more than twenty-five employees. Employees of the Corporation shall serve at the pleasure of the Executive Director. No Executive Director may serve more than four years.

(l) Compensation of Board members shall be limited to cost of travel plus a per diem rate equal to one two-hundred-sixtieth the annual pay of the highest civil service grade schedule on days actually employed on corporation affairs. The Executive Director shall be compensated at the rate of an employee in the highest civil service grade.

CORPORATION POWERS, REQUIREMENTS, AND PROHIBITIONS

SEC. 4. (a) The Corporation shall assign and disburse all funds appropriated to it to the governments of the several States, as qualify, in amounts proportionate to their respective shares of the total number of eligible clients in the United States (which shall be calculated so as to include eligible clients in the District of Columbia and the Commonwealth of Puerto Rico), as of June 30 of the fiscal year preceding the fiscal year for which an appropriation is made by Congress to further the provisions of this Act, only excepting:

(1) such funds as are necessary for administrative expenses including compensation of the Executive Director and his staff, payment of expenses and per diem of Board members, costs incurred in purchase and rental of space and equipment, and costs necessary to pay such audits, evaluations, and inspections as may be required to assure adherence to the provisions of this Act;

(2) such funds as may be made available by special grant to the various States as incentives to experiment with alternative delivery systems for legal services to eligible clients. Funds available to the Corporation for special grants shall be limited to maximum of 5 per centum of the Corporation's annual appropriation; and

(3) such funds as may be expended by the Corporation in entering into any contract as provided for in subsection (b) below. Funds available to the Corporation for such a contract shall be determined by Congress at the time of the Corporation's appropriation.

(b) The Corporation shall have the power to contract with a private or public group, association, or organization for the purpose of doing research into special legal problems encountered by those who qualify as eligible clients. Such research shall be made available by the Corporation to those rendering legal assistance to eligible clients and to all others interested in such research.

(c) Funds appropriated to the Corporation, or appropriated by the Corporation to the States, shall only be used to make legal assistance available to individual eligible clients, and to pay necessary expenses as authorized by subsection (a), above.

(d) No funds shall be disbursed by the Corporation to any State until said State has qualified as set forth in section 5.

(e) Personnel employed by the Corporation and funds appropriated to the Corporation or disbursed by it to a State shall not be used or commingled with other funds being used—

(1) to initiate, organize, support, represent, or assist any training program, workshop, seminar, school, publication, newsletter, club, association, group, organization, demonstration, boycott, meeting, rally, march, strike, or any other activity, group, or institution;

(2) to support or oppose, directly or indirectly, any candidate for public or party office, or any political party;

(3) to represent any person less than eighteen years of age without formal written consent of one of said person's parents or guardian; or

(4) in a manner which tends to discriminate in favor of or against individual attorneys, employees, or clients, on grounds of race, religion, sex, or national origin;

(f) The Corporation shall not—

(1) initiate or defend litigation on behalf of clients other than the corporate entity itself;

(2) seek to influence, nor shall any funds appropriated or disbursed by it be used to influence the passage or defeat of any legislation by the Congress or State or local legislative bodies or otherwise support any group or association advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations.

(g) The income or assets of the Corporation shall not inure to the benefit of any director, officer, or employee thereof, except as salary or reasonable compensation for services.

(h) Persons directly or indirectly receiving compensation under this Act, as attorneys, for the provision of legal assistance, shall only receive such compensation subsequent to admission to practice law in the jurisdiction where such assistance is rendered.

(i) Persons advocating disregard or violation of Federal or State law, during their service, may not receive compensation under this Act.

(j) Notwithstanding the provisions of title I of the United States Code, all persons salaried by the Corporation, or paid from funds disbursed by the Corporation through the States in an amount which is equal to 50 per centum or more of said person's income during any four-month period, shall be subject to the provisions of rule IV of the civil service rules prescribed by the President of the United States pursuant to section 3301 of title 5, United States Code, as amended as of the date of enactment of this Act, as if said employees were employees of the Federal Government. Said employees shall not be treated as employees of the Federal Government for any purpose not specifically authorized in this Act.

(k) Funds made available by the Corporation, pursuant to this Act, may not be used—

(1) to provide legal services with respect to any criminal proceeding or, in the case of juveniles, proceedings which would be criminal if involving adults (including any extraordinary writ, such as habeas corpus and coram nobis, designed to challenge a criminal proceeding); or,

(2) for any of the political activities described in this section, or to contribute to or in any way assist any group or association participating in such activities;

(3) to maintain any action at law until such time as any and all administrative remedies provided for in applicable contracts have been exhausted; or

(4) to represent any person who fails to meet eligibility standards established in accordance with this subsection.

An individual shall be eligible for legal assistance pursuant to this Act (an "eligible client") if his assets or income would entitle him to receive benefits, in the State in which he is seeking legal assistance, under the program of the State established pursuant to title XIX of the Social Security Act or, in the event a State has not established a program, an indivdual shall be eligible for legal assistance pursuant to this Act if his income and assets fall below the official poverty line, as defined by the Office of Management and Budget, except that (1) no person shall be eligible for the receipt of legal services provided through this program if his lack of assets or income results from his refusal or unwillingness to seek or accept employment but in no event shall physical or mental incapacity prohibit an individual from receiving benefits under this Act, and (2) the States may impose additional eligibility criteria for the purpose of this Act.

(l) The Corporation shall evaluate annually the program for provision of legal services to eligible clients being conducted in each State. Should any such evaluation disclose: discrimination on the basis of race, religion, sex, or national origin in the provision of legal services to eligible clients; or violation of the code of professional responsibility for attorneys, in any State's program, the Corporation may terminate disbursal of funds to that State until it is determined by the Corporation that such discrimination or violation of the code of professional responsibility will no longer occur.

(m) Upon request by any Governor, Member of Congress, or authorized officials of executive branch departments and agencies, reports of particular audits, evaluations, and inspections will be made available to the requesting official or to the public. Such inspections, audits, and evaluations shall be initiated in response to the written request of any Governor, Member of Congress, or official of the executive branch whose appointment has been confirmed by the United States Senate or the separate request of a member of the Board or Executive Director of the Corporation.

(n) Violation of any of the provisions of this section by an individual shall constitute a misdemeanor. The penalties for such shall not exceed six months imprisonment or a $500 fine or both.

QUALIFICATION BY STATES

SEC. 5. (a) To qualify for assignment of funds from the Corporation, States shall be required to enact enabling legislation setting forth the manner in which grant funds will

be used to furnish eligible individuals with legal assistance. Such enabling legislation shall provide for at least one of (but none other than) the following procedures:

(1) Empower a State instrumentality to administer the funds received from the Corporation and disburse such funds to attorneys representing eligible clients as such attorneys provide proof to such State instrumentality of services actually rendered eligible clients; or,

(2) Transmit the funds received from the Corporation to the bar association with overall jurisdiction in the State, which bar association shall have established a method for disbursal of funds to attorneys representing eligible clients as such attorneys provide proof to the bar association of services actually rendered on behalf of eligible clients; or,

(3) Establishment of a method of direct payment of funds received from the Corporation to eligible clients or their attorneys based upon a voucher system or other method whereby proof of services actually rendered on behalf of eligible clients is provided to the State.

(b) In their enabling legislation, all States shall (1) permit eligible clients to retain the individual attorney of their choice; (2) insure that all attorneys, while engaged in activities funded by Corporation grants:

(A) Refrain (i) from political activity, (ii) from any voter registration activity, (iii) from any activity to provide voters with, or prospective voters with, transportation to or from the polls or provide similar assistance in connection with an election, and (iv) from any activity organizing individuals or groups or encouraging groups to organize in the community.

(B) Shall not at any time identify the Corporation or any program assisted by the Corporation with any partisan or nonpartisan political activity.

(C) Maintain the highest quality of service and professional standards in providing legal services to eligible clients.

(c) In the event a State does not enact the required enabling legislation within ninety days of the effective date of this Act or the legislature of a State is not sitting when this Act becomes effective and will not be able to enact the required enabling legislation within ninety days of the effective date of this Act, the bar association of the State may submit a plan in the form of a petition, embodying the provisions of subsections (a) and (b), above to the court of highest jurisdiction in the State. Said court may adopt such plans and upon such adoption, the State shall be qualified to receive funds pursuant to this Act. Where such a plan is adopted by the court of highest jurisdiction in the State, the plan shall be annually reviewed by said court: *Provided,* That nothing contained herein shall be construed to prevent the State legislature from reviewing, amending, or revoking such plan adopted by the court of highest jurisdiction in the State.

(d) In the event a State fails to adopt a plan as provided in subsections (a), (b), and (c), above, within one hundred and twenty days of the effective date of this Act, the Corporation may assign funds for expenditure within said State in a manner to be determined by the Corporation: *Provided, however,* That, shall a State determine not to participate in a program of legal assistance to eligible clients, pursuant to this Act, the authority of the Corporation to so assign funds in that State shall be terminated.

ATTORNEY-CLIENT RELATIONSHIP

SEC. 6. (a) As this program is one for the benefit of those individuals financially unable to afford counsel, the Corporation, officers, and employees thereof, may not interfere with any attorney in carrying out his professional responsibility to anyone who has become his client, or abrogate the authority of a jurisdiction to enforce adherence by any attorney to applicable standards of professional responsibility.

(b) Nothing contained herein shall be construed to limit an attorney, representing an eligible client, from taking any necessary legal action to protect the legal rights of his client.

REPORTS AND RECORDS

SEC. 7. (a) The Corporation shall have authority to require, from the States, such reports as it deems necessary.

(b) The Corporation shall have authority to prescribe the keeping of records with respect to funds provided and shall have access to such records at all reasonable times.

(c) The Corporation shall publish an annual report by April 15 of each year which shall be filed by the Corporation with the President and with Congress.

AUDITS

SEC. 8. (a) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of a State.

(b) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons. The report of the annual audit shall be available for public inspection during business hours at the principal office of the Corporation. The above shall not be construed to limit the authority of the General Accounting Office to conduct such audits of the Corporation as deemed necessary.

(c) The Corporation may require from every State, an annual report conducted in accordance with generally accepted accounting standards by independent certified public accountants, who are certified by a regulatory authority of the State, with respect to funds received from the Corporation. The Comptroller General of the United States shall have access to such reports and may, in addition, inspect the books, accounts, records, files, and all other papers or property belonging to or in use by the State which relate to the disposition or use of funds received from the Corporation.

RIGHT TO REPEAL, ALTER, OR AMEND

SEC. 9. The right to repeal, alter, or amend this Act at any time is expressly reserved.

APPLICABILITY OF OTHER PROVISIONS OF LAW

SEC. 10. (a) In the absence of specific reference to this Act, the provisions of the Economic Opportunity Act of 1964, as amended (and references to that Act in other statutes) shall not be construed to affect the powers and activities of the Corporation or to have any applicability with respect to programs and activities assisted by Corporation grants.

(b) Title X of the Economic Opportunity Act of 1964 is repealed.

EFFECTIVE DATE

SEC. 11. (a) Except as provided in subsection (b) this Act shall take effect on the date of its enactment.

(b) Section 10(b) of this Act shall take effect on (1) the date of incorporation of the Federal Legal Aid Corporation, or (2) the date on which the first appropriation after incorporation becomes available to the Corporation, whichever is later.

By Mr. McGOVERN:

S. 2045. A bill to repeal the Foreign Agents Registration Act of 1938, as amended, and to establish new procedures for the effective registration of foreign agents in the United States; to the Committee on Foreign Relations.

FEDERAL REGISTRATION OF FOREIGN LOBBYING AND PROPAGANDA ACT

Mr. McGOVERN. Mr. President, on July 25, 1977—see CONGRESSIONAL RECORD, page 24732—I announced two initiatives to be undertaken by the Subcommittee on International Operations of the Senate Committee on Foreign Relations. One of these is an effort, through hearings and legislation, to strengthen the administrative and enforcement mechanisms now in effect under the provisions of the Foreign Agents Registration Act.

Passed in 1938 that act required persons and firms in the United States to disclose their activities on behalf of foreign governments, foreign political parties and other foreign principals. Notwithstanding numerous changes since its original enactment, the act's stated purpose remains unchanged:

". . . to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals so that the Government and the people of the United States may be informed of the identity of such persons and may appraise their statements and actions in the light of their associations and activities. 22 U.S.C. 611 note.

As this indicates, the purpose of the act is disclosure and publicity; it does not, and is not intended to, prohibit lobbying or propaganda in behalf of foreign interests.

In broad outline, the act: First, defines who must register with the Department of Justice as a foreign agent; Second, specifies how such agents are to register and report on their activities; Third, exempts certain types of foreign agents from registration; Fourth, has specific filing and labeling requirements for political propaganda disseminated by registered agents; Fifth, requires all registered agents to preserve books of account and other records on all their activities and to make these records available for inspection by the officials responsible for enforcing the act; Sixth, provides for public examination of all agents' registration statements, reports, and political propaganda filed with the Department; Seventh, imposes penalties for willful violation of the act or related regulations; and Eighth, specifies administrative and judicial enforcement procedures available to the Attorney General in bringing about compliance with the requirements of the act.

Since 1938, the act has been amended several times, including a general revision in 1942 and major amendments in 1966. These legislative changes, together with Justice Department efforts since 1974 to improve administrative procedures and to bolster the staff of the registration unit, have produced some positive results. Recent inquiries by the For-

eign Relations Committee, however, have indicated continued problems in administration and enforcement. A principal difficulty stems from the act's origins, which reflected early concern with subversive activities. This background, together with the popular negative image of foreign agents, apparently has caused a general reluctance to register, even on the part of those who represent foreign principals in legitimate areas. Thus, it appears that for many years a majority of registrations has resulted from informal "tips," leading to Government initiatives, rather than from unsolicited inquiries by potential registrants.

Another difficulty has been with the act's principal enforcement mechanisms—severe criminal penalties and injunctions—which experience has shown to be time-consuming and on occasion inadequate to the circumstances of today's world. For example, neither penalty nor injunction seems especially suited to deal with the practice of foreign agents who come into the country to conduct a lobbying and/or propaganda campaign on behalf of their foreign principals for short periods of time. Nor do the criminal penalties appear to be particularly effective in advancing the act's prime purpose of disclosure. As evident in the Justice Department's answers to committee inquiries, time-consuming judicial proceedings undertaken to compel compliance with its requirements are sometimes short-circuited by last-minute compliance.

Last year, in an effort to identify clearly all inadequacies in the act, the Committee on Foreign Relations submitted a long series of questions to the Departments of State and Justice. The replies to these inquiries have served as the stimulus to the drafting of a new bill, which I am introducing today. This legislation, which I anticipate will be refined through a process of hearings and deliberation, would:

First. Emphasize that the purpose of registration is not to disclose subversive activity but rather to protect the integrity of our Government's decision-making process and the public's right to the identification of the sources of foreign political propaganda.

Second. Improve the administrative machinery of the act by increasing the size of the Justice Department's foreign agents registration unit, and granting the Department the authority to use administrative subpoenas to insure timely and effective compliance with registration requirements.

Third. Clarify existing exemptions, notably the commercial and attorney-client exemptions, and establish safeguards against evasion and abuse.

Fourth. Require foreign agents to clear a claimed exemption with the Department of Justice.

Fifth. Require agents to maintain separate books of account and records with respect to agency-related activities.

Sixth. Set a statutory deadline for issuing formal notices of deficiency and noncompliance with the act's registration requirements.

Seventh. Direct all executive departments and agencies to cooperate with the Justice Department in furthering the purposes of the act.

Eighth. Authorize the Attorney General to obtain from other agencies of Government information pertinent to the work provided in the act.

Ninth. Plug the loophole in existing law with respect to political contributions by foreign agents.

To provide background material on this subject, the committee will release during the August recess a committee print prepared by the Library of Congress. My intention is to circulate both the draft bill and the committee print, soliciting comments from the public and private sector, and then to conduct hearings this fall with a view to the enactment next year of legislation which will result in a more effective foreign agents registration system.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 2045

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the policy and purpose of this Act to protect the integrity of the decision-making process in the Government of the United States by requiring public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals so that the Government and the people of the United States may be informed of the identity of such persons and may appraise their statements and actions in light of their associations and activities.

SHORT TITLE

SEC. 2. This Act may be cited as the "Federal Registration of Foreign Lobbying and Propaganda Act".

DEFINITIONS

SEC. 3. For purposes of this Act, the following definitions shall apply:

(1) The term "person" means an individual, partnership, association, corporation, organization, or any other combination of individuals.

(2) The term "foreign principal" means—

(A) a government of a foreign country and a foreign political party;

(B) a person outside of the United States, unless it is established that such person is an individual and a citizen of, and domiciled within, the United States, or that such person is not an individual and is organized under, or created by, the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; or

(C) a partnership, association, corporation, organization or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country.

(3) The term "agent of a foreign principal"—

(A) means any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in part by a foreign principal, and who directly or through any other person—

(i) engages within the United States in political activities for, or in the interests of, such foreign principal;

(ii) acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for, or in the interests of, such foreign principal;

(iii) within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for, or in the interests of, such foreign principal; or

(iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States; and

(B) means any person who agrees, consents, assumes, or purports to act as, or who is or holds himself out to be, whether or not pursuant to a contractual relationship, an agent of a foreign principal as defined in subparagraph (A); but

(C) does not include any news or press service or association organized under the laws of the United States, or any newspaper, magazine, periodical, or other publication published in the United States for which there is on file with the United States Postal Service information in compliance with section 3611 of title 39, United States Code, solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, if it is at least 80 percent beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by, any foreign principal as defined in paragraph (2), or by any agent of a foreign principal required to register under this Act.

(4) The term "government of a foreign country" includes any person or group of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States.

(5) The term "foreign political party" includes any organization or any other combination of individuals in a country other than the United States, or any unit or branch thereof, having for an aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition or administration or control, of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof.

(6) The term "public-relations counsel" includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal.

(7) The term "publicity agent" includes any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures or otherwise.

(8) The term "information-service em-

ployee" includes any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country.

(9) The term "political propaganda" includes any oral, visual, graphic, written, pictorial, or other communication or expression by any person (A) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States racial, religious, or social dissensions, or (B) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot, or other conflict involving the use of force or violence, in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of force or violence. As used in this paragraph, the term "disseminati~g" includes transmitting or causing to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce or offering or causing to be offered in the United States mails.

(10) The term "registration statement" means the registration statement required to be filed with the Attorney General under section 4 (a), and any supplements to such registration statement required to be filed under section 4 (b), and includes all documents and papers required to be filed with, amendatory of, or supplemental to, such registration statement or supplement, whether attached thereto or incorporated therein by reference.

(11) The term "American republic" includes any of the States which were signatory to the Final Act of the Second Meeting of the Ministers of Foreign Affairs of the American Republics at Habana, Cuba, July 30, 1940.

(12) The term "United States" when used in a geographical sense includes the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States.

(13) The term "prints" means newspapers and periodicals, books, pamphlets, sheet music, visiting cards, address cards, printing proofs, engravings, photographs, pictures, drawings, plans, maps, patterns to be cut out, catalogs, prospectuses, advertisements, and printed, engraved, lithographed, or autographed notices of various kinds, and, in general, all impressions or reproductions obtained on paper or other material assimilable to paper, on parchment or on cardboard, by means of printing, engraving, lithography, autography, or any other easily recognizable mechanical process, with the exception of the copying press, stamps with a movable or immovable type, and the typewriter.

(14) The term "political activities" means the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.

(15) The term "political consultant" means any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States or the political or public interest, policies, or relations of a foreign country or of a foreign political party.

(16) For the purpose of paragraph (4) of section 5, activities in furtherance of the bona fide commercial, industrial, or financial interests of a domestic person engaged in substantial commercial, industrial or financial operations in the United States shall not be deemed to serve predominantly a foreign interest solely on the ground that such activities also benefit the interests of a foreign person engaged in bona fide trade or commerce which is owned or controlled by, or which owns or controls, such domestic person, if (A) such foreign person is not, and such activities are not, directly or indirectly supervised, directed, controlled, financed, or subsidized, in whole or in substantial part, by a government of a foreign country or a foreign political party, (B) the identity of such foreign person is disclosed to the agency or official of the United States with whom such activities are conducted, and (C) whenever such foreign person owns or controls such domestic person, such activities are substantially in furtherance of the bona fide commercial, industrial, or financial interests of such domestic person.

(17) The term "exemption request" means the exemption request required to be filed with, and approved by, the Attorney General under section 4(a)(3).

REGISTRATION

SEC. 4. (a)(1) No person shall act as an agent of a foreign principal unless such person (A) has filed with the Attorney General a true and complete registration statement and supplements to such registration statement as required in this subsection and subsection (b), or (B) is exempt from registration under the provisions of this Act and has filed with the Attorney General an exemption request which the Attorney General has approved as provided in paragraph (3). Except as otherwise provided in this Act, not later than ten days after any person becomes an agent of a foreign principal, such person shall file with the Attorney General, in duplicate, a registration statement or an exemption request, under oath and on a form prescribed by the Attorney General. The obligation of an agent of a foreign principal to file a registration statement or an exemption request shall, after the tenth day of his becoming such an agent, continue from day to day, and the termination of such status shall not relieve such agent from his obligation to file a registration statement or an exemption request for the period during which he was an agent of a foreign principal.

(2) Each registration statement shall include—

(A) the registrant's name, principal business address, and all other business addresses in the United States or elsewhere, and all residence addresses, if any;

(B) in the case of a registrant who is an individual, the nationality of such individual; in the case of a registrant which is a partnership, the name, residence addresses, and nationality of each partner and a true and complete copy of its articles of copartnership; in the case of a registrant which is an association, corporation, organization, or any other combination of individuals, the name, residence addresses, and nationality of each director and officer, and of each person performing the functions of a director or officer, and a true and complete copy of its charter, articles of incorporation, association, constitution, and bylaws, and all amendments thereto and of every other instrument or document and a statement of the terms and conditions of every oral agreement relating to its organization, powers, and purpose, and a statement of its ownership and control;

(C) a comprehensive statement of the nature of the registrant's business; a complete list of registrant's employees and a statement of the nature of the work of each such employee, except that this requirement may be waived, in whole or in part, in writing by the Attorney General; the name and address of each foreign principal for whom the registrant is acting, assuming or purporting to act, or has agreed to act; the character of the business or other activities of each such foreign principal, and, in the case of a foreign principal which is not a natural person, a statement of the ownership and control of each such foreign principal, and the extent, if any, to which each such foreign principal is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party, or by any other foreign principal;

(D) copies of each written agreement, and the terms and conditions of each oral agreement, including all modifications of such agreements, or, if no written or oral agreement exists, a full statement of all the circumstances by reason of which the registrant is an agent of a foreign principal; a comprehensive statement of the nature and method of performance of each such written or oral agreement, and of the existing and proposed activity or activities engaged in, or to be engaged in, by the registrant as agent of a foreign principal for each such foreign principal, including a detailed statement of any such activity which is a political activity;

(E) the nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received within the preceding sixty days from each such foreign principal, either as compensation, for disbursement, or otherwise, and the form and time of each such payment and from whom received;

(F) a detailed statement of every activity which the registrant is performing, or is assuming or purporting or has agreed to perform, for himself or any other person other than a foreign principal and which requires his registration under this Act, including a detailed statement of any such activity which is a political activity;

(G) the name, business, and residence addresses, and, in the case of an individual, the nationality, of any person other than a foreign principal for whom the registrant is acting, assuming or purporting to act, or has agreed to act under such circumstances as require his registration under this Act; the extent to which each such person is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party or by any other foreign principal; and the nature and amount of contributions, income, money, or things of value, if any, that the registrant has received during the preceding sixty days from each such person in connection with any of the activities referred to in subparagraph (F), either as compensation, for disbursement, or otherwise, and the form and time of each such payment and from whom received;

(H) a detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding sixty days in furtherance of, or in connection with, activities which require his registration under this Act and which have been undertaken

by him either as an agent of a foreign principal or for himself or any other person, or in connection with any activities relating to his becoming an agent of such principal, and a detailed statement of any contributions of money or other things of value made by him during the preceding sixty days (other than contributions the making of which is prohibited under the provisions of section 441 (e) of title 2, United States Code) in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office;

(I) copies of each written agreement, and the terms and conditions of each oral agreement, including all modifications of such agreements, or, if no written or oral agreement exists, a full statement of all the circumstances by reason of which the registrant is performing, or assuming or purporting or has agreed to perform, for himself or for a foreign principal or for any person other than a foreign principal any activities which require his registration under this Act;

(J) such other statements, information, or documents pertinent to the purposes of this Act as the Attorney General, in the public interest, may, from time to time require;

(K) such further statements and such further copies of documents as are necessary to make the statements made in the registration statement and the supplements to and the copies of documents furnished with, such registration statement, not misleading. All of the statements, information, or documents required in this paragraph to be included in such registration statement shall be deemed material for purposes of this Act.

(3) Each exemption request shall contain such information as the Attorney General shall require by regulation. Not later than thirty days after any exemption request is filed with the Attorney General, the Attorney General shall determine whether to approve such exemption request. If the Attorney General disapproves any exemption request, the agent of a foreign principal who filed such request shall, not later than ten days after receiving notice of the disapproval, file a registration statement in accordance with the provisions of this section. If the Attorney General approves any exemption request, such agent shall be exempt from registration for a period of one year after the date of the approval, unless such agent ceases to qualify for the exemption approved by the Attorney General. Each such agent shall notify the Attorney General not later than ten days after any change occurs in the character of his activities which may result in his disqualification for such exemption. If the Attorney General determines that such agent no longer qualifies for such exemption, or for any other exemption under section 5, such agent shall, not later than ten days after receiving notice of the determination, file a registration statement in accordance with the provisions of this section.

(b) Every agent of a foreign principal who has filed a registration statement as required in subsection (a) shall, not later than thirty days after the expiration of each six-month period succeeding such filing, file with the Attorney General a supplement to such registration statement under oath and on a form prescribed by the Attorney General, which shall set forth with respect to such period such facts as the Attorney General may, in the public interest, deem necessary to make the information required in subsection (a)(2) accurate, complete, and current with respect to such period. With respect to any information furnished as required in subparagraph (C), (D), or (I) of subsection (a)(2), the registrant shall give notice to the Attorney General of any change therein not later than ten days after any such change occurs. If the Attorney General, having due regard for the public interest, determines that it is necessary to carry out the purposes of this Act, he may, in any particular case, require supplements to the registration statement to be filed at more frequent intervals with respect to any particular item of information to be furnished.

(c) Each registration statement and supplement to such registration statement shall be executed under oath—

(1) in the case of a registrant who is an individual, by such individual;

(2) in the case of a registrant which is a partnership, the managing partner and those individuals carrying out the responsibility of the agency; or

(3) in the case of any other registrant, by a majority of the officers or persons performing the functions of officers, or by a majority of the board of directors or persons performing the functions of diretcors of such registrant, if any.

(d)(1) Not later than sixty days after the Attorney General determines that any registration statement or supplement to a registration statement which has been filed with the Attorney General is not in compliance with the requirements of this Act, the Attorney General shall so notify the registrant in writing, specifying in what respects the statement or supplement is deficient. Not later than ten days after receiving a notice as provided in this paragraph, such registrant shall file an amended registration statement or supplement in full compliance with such requirements.

(2) The fact that any registration statement or any supplement, including an amended registration statement or supplement, has been filed shall not preclude prosecution, as provided for in this Act, for willful failure to timely file a registration statement or a supplement, a willful false statement of a material fact therein, the willful omission of a material fact required to be stated therein, or willful omission of a material fact or copy of a material document necessary to make the statements made in a registration statement, and supplements to, and the copies of documents furnished with, such registration statement, not misleading.

(e) the Attorney General may, by regulation, provide for the exemption—

(1) from registration, or from the requirement of furnishing any of the information required by this section, of any person who is listed as a partner, officer, director, or employee in the registration statement filed by an agent of a foreign principal as provided in this Act, and

(2) from the requirement of furnishing any of the information required by this section of any agent of a foreign principal,

where by reason of the nature of the functions or activities of such person the Attorney General, having due regard for the public interest, determines that such registration, or the furnishing of such information, as the case may be, is not necessary to carry out the purposes of this Act.

EXEMPTIONS

SEC. 5. The requirement in section 4 to file a registration statement and supplements to such registration statement shall not apply to any agent of a foreign principal who is also—

(1) a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while such officers is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer;

(2) an official of a foreign government, if such government is recognized by the United States, who is not a public-relations counsel, publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record in the Department of State, while such official is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official;

(3) a member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, other than a public-relations counsel, publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of public record in the Department of State, while such member or employee is engaged exclusively in the performance of activities which are recognized by the Department of State as being within the scope of the functions of such member or employee;

(4) a person engaging or agreeing to engage only (A) in private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal, or (B) in other activities not serving predominantly a foreign interest, or (C) in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of this Act of November 4, 1939, as amended (54 State. 4);

(5) a person engaging, or agreeing to engage, only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts;

(6) a person qualified to practice law, to the extent that he engages in the legal representation of a disclosed foreign principal who is a defendant in a criminal proceeding before any court of law of the Government of the United States.

FILING AND LABELING OF POLITICAL PROPAGANDA

SEC. 6. (a) Every person within the United States who is an agent of a foreign principal and is required to register under the provisions of this Act and who transmits, or causes to be transmitted, in the United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda for, or in the interests of, such foreign principal (1) in the form of prints, or (2) in any other form which is reasonably adapted to being, or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons shall, not later than forty-eight hours after the beginning of the transmittal thereof, file with the Attorney General two copies thereof and a statement, duly signed by or on behalf of such agent, setting forth full information as to the places, times, and extent of such transmittal.

(b)(1) It shall be unlawful for any person within the United States who is an agent of a foreign principal and is required to register under the provisions of this Act to transmit or cause to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda for, or in the interests of, such foreign principal (A) in the form of prints, or (B) in any other form which is reasonably adapted to being, or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons, unless such political propaganda is conspicuously marked at its beginning with, or prefaced or accompanied by, a true and accurate statement, in the language or languages used in such political propaganda, which—

(1) sets forth the relationship or connection between the person transmitting the

political propaganda, or causing it to be transmitted, and such propaganda;

(ii) states that the person transmitting such political propaganda, or causing it to be transmitted is registered under this Act with the Department of Justice, Washington, District of Columbia, as an agent of a foreign principal, and the name and address of such agent of a foreign principal and of such foreign principal;

(iii) states that, as required by this Act, his registration statement is available for inspection at, and copies of such political propaganda are being filed with, the Department of Justice; and

(iv) states that registration of agents of foreign principals required by the Act does not indicate approval by the United States Government of the contents of their political propaganda.

(2) The Attorney General, having due regard for the public interest, may by regulation prescribe the language or languages and the manner and form in which such statement shall be made and require the inclusion of such other information contained in the registration statement identifying such agent of a foreign principal and such political propaganda and its sources as may be appropriate.

(c) The copies of political propaganda required by this Act to be filed with the Attorney General shall be made available for public inspection under such regulations as he may prescribe.

(d)(1) Upon the request of the Librarian of Congress, the Secretary of the Treasury and the Postmaster General are authorized to forward to the Library of Congress fifty copies, or as many fewer thereof as are available, of all foreign prints determined to be prohibited entry under the provisions of section 305 of title III of the Act of June 17, 1930 (46 Stat. 688), and of all foreign prints excluded from the mails under authority of section 1717 of title 18, United States Code, except that such copies shall not be distributed to the public by the Library.

(2) Notwithstanding the provisions of such section 305 and of such section 1717, the Secretary of the Treasury is authorized to permit the entry, and the Postmaster General is authorized to permit the transmittal in the mails, of foreign prints imported for governmental purposes by authority, or for the use, of the United States or for the use of the Library of Congress.

(e) It shall be unlawful for any person within the United States who is an agent of a foreign principal required to register under the provisions of this Act to transmit, convey, or otherwise furnish to any agency or official of the Government (including a Member or committee of either House of Congress) for, or in the interests of, such foreign principal any political propaganda or to request from any such agency or official for, or in the interests of, such foreign principal any information or advice with respect to any matter pertaining to the political or public interests, policies, or relations of a foreign country or of a political party or pertaining to the foreign or domestic policies of the United States, unless the propaganda or the request is prefaced or accompanied by a true and accurate statement to the effect that such person is registered as an agent of such foreign principal as provided in this Act.

(f) Whenever any agent of a foreign principal required to register under this Act appears before any committee of Congress to testify for or in the interests of such foreign principal, he shall, at the time of such appearance, furnish the committee with a copy of his most recent registration statement filed with the Department of Justice as an agent of such foreign principal for inclusion in the records of the committee as part of his testimony.

BOOKS, RECORDS, AND FUNDS

SEC. 7. (a) Each agent of a foreign principal registered as provided in this Act shall—

(1) preserve books of account and all other records with respect to all his activities the disclosure of which is required under the provisions of this Act;

(2) maintain such books and records separately from all other books and records not related to such activities;

(3) preserve such books and records for a period of three years from the date such agent ceases to be an agent of a foreign principal; and

(4) make such books and records available for inspection, at all reasonable times, by any official charged with the enforcement of this Act, except that if such agent fails to maintain separate books or records, such official may inspect all of such agent's books of account and records.

(b) It shall be unlawful for any agent of a foreign principal registered as provided in this Act to commingle his funds with any funds of such foreign principal. If such funds are commingled in violation of this subsection, the Attorney General may determine the respective interests of such agent and such foreign principal in such funds. Any determination by the Attorney General as provided in this subsection shall be conclusive.

(c) It shall be unlawful for any person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or falsified, any books or records required to be preserved under the provisions of this section.

PUBLIC EXAMINATION OF OFFICIAL RECORDS

SEC. 8. (a) The Attorney General shall retain in permanent form one copy of all registration statements and all statements concerning the distribution of political propaganda furnished as provided in this Act, and such statements shall be public records and open to public examination and inspection at such reasonable hours as the Attorney General may prescribe by regulation, and copies of such statements shall be furnished to every applicant at such reasonable fee as the Attorney General may prescribe. The Attorney General may withdraw from public examination the registration statement and other statement of any agent of a foreign principal whose activities have ceased to be of a character which requires registration under the provisions of this Act.

(b) The Attorney General shall, promptly upon receipt, transmit one copy of each registration statement filed as provided in this Act and one copy of each amendment or supplement to such registration statement, and one copy of each item of political propaganda filed as provided in this Act to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General so to transmit such copy shall not be a bar to prosecution under this Act.

(c) The Attorney General is authorized to furnish to departments and agencies in the executive branch and committees of the Congress any information obtained by him in the administration of this Act, including the names of registrants under this Act, copies of registration statements, or parts thereof, copies of political propaganda, or other documents or information filed under this Act, as is consistent with the purposes of this Act.

LIABILITY OF OFFICERS

SEC. 9. (a) It shall be the duty of each officer or director, or person performing the functions of an officer or director, of an agent of a foreign principal which is not an individual to cause such agent—

(1) to execute and file a registration statement and supplements to such statement, or an exemption request, as provided in section 4; and

(2) to comply with all other requirements in this Act.

(b) The provisions in subsection (a) shall apply notwithstanding the dissolution of any organization acting as an agent of a foreign principal.

(c) Each officer, director, and other person referred to in subsection (a) shall be subject to prosecution for any failure of such agent of a foreign principal to comply with the requirements of this Act.

POWERS OF ATTORNEY GENERAL

SEC. 10. (a) The Attorney General, in carrying out the provisions of this Act, is authorized—

(1) to administer oaths or affirmations;

(2) to require by subpena the attendance and testimony of witnesses and the production of books, records, or other documentary evidence relating to the execution of his duties under this Act;

(3) to initiate civil actions for the purpose of enforcing the provisions of this Act;

(4) to develop such prescribed forms as are necessary to carry out the provisions of this Act;

(5) to promulgate regulations to carry out the provisions of this Act;

(6) to conduct investigations and to encourage voluntary compliance with the provisions of this Act; and

(7) to compel any other executive department or agency to furnish information requested by the Attorney General which is necessary to carry out the provisions of this Act.

(b) In the case of any refusal to obey a subpena issued as provided in subsection (a), any district court of the United States, upon petition by the Attorney General, may issue an order requiring compliance with such subpena. Any failure to obey the order of the court may be punished by the court as a contempt of court.

(c) There is established in the Criminal Division of the Department of Justice a separate section which shall enforce the provisions of this Act and all other laws relating to lobbying activities in the United States. The Attorney General may delegate to such section all of the powers granted to him under this section.

SEC. 11. (a)(1) Whenever in the opinion of the Attorney General any person is engaged in or about to engage in any acts which constitute or will constitute a violation of any provision of this Act, or that any agent of a foreign principal fails to comply with any of the provisions of this Act, the Attorney General may institute, in the appropriate district court of the United States, a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty not to exceed $500 for each offense.

(2) It shall be the duty of the district court of the United States to advance on the docket and to expedite to the greatest extent possible any action instituted under this subsection.

(b) The Postmaster General may declare to be nonmailable any communication or expression described in paragraph (9)(B) of section 3 in the form of prints or in any other form reasonably adapted to, or reasonably appearing to be intended for, dissemination of circulation among two or more persons, which is offered or caused to be offered for transmittal in the United States mails to any person or persons in any other American republic by any agent of a foreign principal, if the Postmaster General is informed in writing by the Secretary

of State that the duly accredited diplomatic representative of such American republic has made written representation to the Department of State that the admission or circulation of such communication or expression in such American republic is prohibited by the laws thereof and has requested in writing that its transmittal to such American republic be stopped.

CONTRIBUTIONS BY AGENTS OF FOREIGN PRINCIPALS

SEC. 12. Whoever, being an agent of a foreign principal, directly or through any other person, either for or on behalf of such foreign principal or otherwise in his capacity as agent of such foreign principal, knowingly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or

Whoever knowingly solicits, accepts, or receives any such contribution from any such agent of a foreign principal or from such foreign principal—

Shall be fined not more than $10,000 or imprisoned not more than five years or both.

As used in this section the term "foreign principal" has the same meaning as when used in section 1(2), except that such term does not include any person who is a citizen of the United States.

PENALTIES

SEC. 13. (a) Any person who—

(1) willfully violates any provision of this Act, or

(2) in any registration statement or supplement to a registration statement, in any statement under section 6(a) concerning the distribution of political propaganda, or in any other documents filed with or furnished to the Attorney General under the provisions of this Act, willfully omits any material fact required to be stated therein, or willfully omits a material fact or a copy of a material document necessary to make the statement therein and the copies of documents furnished therewith not misleading shall, upon conviction thereof, be punished by a fine of not more than $25,000 or by imprisonment for not more than five years, or both, except that in case of a violation of section 4(a)(3), section 4(a), subsection (b), (e), or (f) of section 6 or of subsection (e) of this section the punishment shall be a fine of not more than $10,000 or imprisonment for not more than six months, or both.

(b) In any proceeding under this Act in which it is charged that a person is an agent of a foreign principal with respect to a foreign principal outside of the United States, proof of the specific identity of the foreign principal shall be permissible, but shall not be necessary.

(c) Any alien who shall be convicted of a violation of, or a conspiracy to violate, any provisions of this Act shall be subject to deportation in the manner provided by sections 241–243 of the Immigration and Nationality Act of 1952 (66 Stat. 204).

(d) Failure to file any registration statement or supplement to a registration statement, as required by section 4, shall be considered a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute.

(e) It shall be unlawful for any agent of a foreign principal required to register under this Act to be a party to any contract, agreement, or understanding, either express or implied, with such foreign principal pursuant to which the amount or payment of the compensation, fee, or other remuneration of such agent is contingent in whole or in part upon the success of any political activities carried on by such agent.

COOPERATION WITH OTHER AGENCIES

SEC. 14. All executive departments and agencies shall administer their programs and activities in a manner which will further the purposes of this Act and shall cooperate with the Attorney General to further such purposes.

REPORTS TO CONGRESS

SEC. 15. The Attorney General shall, from time to time, submit to the Congress reports concerning the administration of this Act, including the nature, sources, and content of political propaganda filed with the Attorney General as provided in section 6.

REPEAL

SEC. 16. The Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) is repealed.

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By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 2046. A bill to enable Alaska Natives to maintain and consolidate tribal governing bodies, and for other purposes; to the Select Committee on Indian Affairs.

Mr. GRAVEL. Mr. President, today, Mr. STEVENS and I are introducing legislation which will provide a vehicle for streamlining the delivery of Federal programs and services to Alaskan natives.

In 1970 the President signalled a new course in American Indian policy. The new direction recognized the need for Indian peoples of our Nation to have an active and determinant role in federal efforts to improve their social condition. Subsequent legislative action produced the Indian Self-Determination and Education Assistance Act Public Law 93–638, signed by President Ford, January 4, 1975. Native Americans, for the first time, had the legislatively recognized right and the administrative means to control and administer Federal programs designed for their benefit.

The central theme of the Self-Determination Act is to provide Native Americans with an efficient and realistic means of contracting federal programs and services. In this regard the Act

First, requires the Secretaries of the Interior and Health, Education, and Welfare to transfer to Indian tribes, at their request, control and operation of Bureau of Indian Affairs—BIA—and Indian Health Service—IHS—programs and services;

Second, permits Indians to contract with the BIA for administration of Johnson O'Malley—JOM—education funds; and

Third, provides for continued fringe benefits, such as retirement, life insurance and health benefits, to federal civil service employees who transfer to Indian tribal organizations to perform the services they formally performed as Government employees.

Generally, much progress has been made in the implementation of these features. There are two problems, however, that have frustrated and in some ways subverted the achievement of complete success in Alaska. The first problem is in the present definition of "tribe," contained in section 4(b) of the act, as it applies to Alaska Natives. The second problem is the provision contained in section 4(c), which requires that all tribes affected by a contract let pursuant to the act must approve the contract.

The present definition reads as follows:

"Indian tribe" means any Indian tribe, band, nation, or other recognized group or community, *including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act* (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, (P.L. 93–638, Sec. 4(b)) (emphasis added).

From this language, there could be as many as 465 tribes in Alaska, and each Alaska Native could be a member of at least four, and possibly as many as five tribes. The possible Alaska tribes can be organized into five basic categories:

First, 145 traditional tribal councils—all Alaska Native villages receiving BIA services which have not organized under the Indian Reorganization Act—IRA—or the Alaska Reorganization Act;

Second, 70 native villages and groups—such as the Inupiat Eskimos of the North Slope and the Kenaitze Indians of the Kenai peninsula—who have organized under IRA;

Third, one tribe, the Tlingit-Haida Central Council, established pursuant to a Federal statute;

Fourth, 225 native villages defined in or established pursuant to the Settlement Act; or

Fifth, 2 sets of 12 regional corporations organized subsequent to the Settlement Act.

All of the above entities must be recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

It is unclear who decides, or how one would decide which of the possible groups defined in or established pursuant to the Settlement Act would be recognized as tribes since the organizations identified in categories 1 and 2 are already recognized as tribes. The recognition of Settlement Act Corporations simply adds to the list. Hence, legally some 465 tribes could potentially request to contract services. This, of course, would be an impracticality and an absurdity. Even if substantial funding of a program or service would permit contracting at the village level, for any given native village, two distinct village organizations could claim to speak for the village. The act does not prescribe how such competing claims should be resolved since it clearly did not intend or envision such competition to arise.

The problem of tribal identity is further compounded by the second problem, contained in section 4(c) of the act:

"Tribal organization" means the recognized governing body of any Indian tribe; and legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; *Provided, that in any case where a contract is let or a grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to letting or making such contract or grant.* (Emphasis added.)

The emphasized provision was purposely added to insure that before any BIA or IHS contract that would serve two or more tribes is awarded, each tribe affected would have to consent to the contract, thereby avoiding instances wherein a tribe would be served by a contract against its will.

Among the lower 48 tribes, individuals are predominately members of only one tribe; dual membership is an exception. Instances wherein all members of one tribe are also members of another tribe are rare, if not nonexistent.

By comparison, most Alaska Natives are members of several different tribes. The confusion, overlap, and multiplicity spawned by the tribal definition has made the consent provision an effective obstruction to the implementation of the act. Even if the present definition of tribe(s) were amended to recognize only one tribe at the village level and one at the regional level, Alaska's situation would still be distinct from that of the lower 48 Indian tribes in that most Alaska Natives would be members of two tribes, one village and one regional. In Alaska, regional tribes are the closest analogy to tribes of the lower 48. The regional tribes encompass village tribes of common language and culture and are the forum for handling multivillage affairs. To require consent of regional tribal contracts is to challenge the fundamental principle of regional tribes.

The problems I have discussed here have been recognized for some time. Because of their complexity and fundamental nature, it was felt that they could best be resolved by reaching a concensus among Alaska Native people. It is my belief that we are close to such a consensus, and we are now introducing this bill at the request of the Alaska Native Regional Non-Profit Corporations with the endorsement of the Alaska Federation of Natives, the Alaska Native Foundation and the Rural Alaska Community Action program.

The changes we propose today will enable the Alaska Native regional nonprofit organizations, which were recognized by Congress in section 7(a) of the Alaska Native Claims Settlement Act, to contract with the Federal Government to provide services and programs in their regions. Standardizing and consolidating the definition of "Indian tribe," as it applies to Alaska, will contribute substantially to maximizing Native participation and control of Federal programs designed to enhance their well-being. I would like to add that this proposal was not easily arrived at. Alaskan Natives have been for more than 2 years obstructed from controlling and administering the various Federal programs and services designed for their benefit.

Although the Indian Self-Determination Act is aimed principally at various BIA and IHS programs, it is also intended to insure—

. . . maximum Indian participation in the direction of educational, as well as other federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities. (P.L. 93-638 Sec. 3(a).)

Such other Federal programs and services have included: The Indian Education Act, title III of the Comprehensive Employment Training Act, the Public Works and Economic Development Act, the Community Services Act, and others.

So, Mr. President, what we are primarily interested in is the delivery of human resource-type services and programs. The major roadblock obstructing the effective delivery of these services and programs lies in the question of what constitutes a tribe and how that tribe is to go about contracting with the Federal Government. The legislation we are introducing today is intended to clarify for the Federal Government just who these tribes are.

Investigative hearings on this problem have been held in Alaska, and I am hopeful that additional hearings can be scheduled. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2046

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in accordance with the express Congressional policy of Indian self-determination, Congress hereby declares that it is its policy to recognize the express desires of Alaska Natives to maintain and consolidate tribal governing bodies and recognize their authority to designate tribal organizations.

SEC. 2. (a) Notwithstanding any other provision of law relating to or applicable to Alaska Natives, "Indian tribe" in Alaska shall mean the body of Alaska Natives represented by a Native Association, or its successor, named in section 7(a) of the Alaska Native Claims Settlement Act (85 Stat. 688), hereinafter referred to as Alaska Regional Tribes.

(b) Except as otherwise provided in this Act, the definition of Indian tribe as stated herein shall supercede, repeal, or modify the definition of Indian tribe in all other Federal legislation relating to or applicable to Alaska Natives, when they are in conflict in whole or in part.

SEC. 3. (a) Notwithstanding any other provision of law, the governing body established pursuant to this Act by the Native Association or its successor shall constitute the preeminant tribal governing body of Alaska Natives residing in the geographic area designated in and within the boundaries established under section 7(a) of the Alaska Native Claims Settlement Act.

(b) Alaska Native Regional Tribes shall have the power to establish or recognize tribal organizations.

(e) "Tribal organization" means any legally established organization of Alaska Natives including an Alaska Native regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is controlled, sanctioned, or chartered by the governing body of an Alaska Native Regional Tribe.

SEC. 4. Qualifications for membership in Alaska Native Regional Tribes shall be established by tribal constitution and by-laws, unless otherwise provided by law.

SEC. 5. (a) The Alaska Native Regional Tribes, at their option, may organize in accordance with the Alaska Native Reorganization Act or pursuant to a Constitution and By-laws, or remain organized pursuant to any existing jurisdictional Act, or any existing constitution and by-laws adopted pursuant to the Alaska Native Reorganization Act.

(b) The Native Tribal Associations, or their successors, named in section 7(a) of the Alaska Native Claims Settlement Act, are empowered to initially draft, adopt and provide for ratification of the aforementioned constitution and by-laws of the Alaska Native Regional Tribes in accordance with such rules, as they may adopt.

(c) For the purposes of carrying out the provisions of this section, the Secretary is directed to grant to the Native Tribal Associations or their successors, such sums as may be necessary for organizational purposes, in accordance with section 104 of the Indian Self Determination and Educational Assistance Act, or other authorizations.

SEC. 6. (a) All rights, prerogatives and duties held by Federally recognized tribes in the contiguous States of the United States, shall accrue to the Alaska Native Regional Tribes established pursuant to this Act.

(b) Except as specifically provided by the adopted Constitution and bylaws of the Alaska Native Regional Tribes established pursuant to this Act, no powers, rights, or duties presently vested by Federal law in any Indian tribe, band, clan, village, community or association in Alaska or any Federally recognized Indian Tribe within Alaska shall be abridged.

(c) Nothing in this Act shall be deemed to abrogate or change any vested property rights.

SEC. 7. The provisions of this Act shall not be applicable to, or otherwise affect, the Metlakatla Indian Community.

SEC. 8. (a) Within 3 months following the date of the enactment of this Act, the Secretary of the Interior shall consult with each Alaska Native Regional Tribe, or its successor as listed in section 7(2) of the Alaska Native Claims Settlement Act in order to consider and formulate appropriate rules and regulations to implement the provisions of this Act.

(b) Within 4 months following the date of enactment of this Act, the Secretary shall present the proposed rules and regulations to the Senate Select Committee on Indian Affairs and the Subcommittee on Indian Affairs and Public Lands of the United States House of Representatives.

(c) Within 5 months following the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(d) Within 6 months of the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

Mr. STEVENS. Mr. President, I am pleased to join today with Mr. GRAVEL in cosponsoring legislation on behalf of the leaders of the nonprofit corporations in Alaska.

With the passage of the Alaska Native Claims Settlement Act in December of 1971, Alaska Natives gained an historic opportunity to utilize a system whereby Natives could pool their resources in business and prosper under their own management. The vehicle for this system was the corporation.

Under the act, 12 regional corporations were established for the purpose of carrying out the settlement. Their profitmaking role was clearly defined in the act and was the main thrust of each corporation. Due to the need for social service programs, the nonprofit Native corporations assumed the responsibility of carrying out these programs through Government grants and contracts.

Although a basic principle of the Alaska Native Claims Settlement Act was Native self-determination, the established contractual relationship created

some limitations to this principle. These limitations were realized by Native Americans nationwide. Congressional recognition of this problem led to the 1975 enactment of the Indian Self-Determination and Education Assistance Act (P.L. 93–638).

Notwithstanding the intent of this act to enable Natives to regulate their own affairs and develop their own leadership, this legislation has ironically exacerbated the Alaska Native struggle to pursue self-determination. The bill's definition of "Indian Tribe" conspicuously excludes any mention of the Alaska nonprofit corporation, thereby restricting this social service delivery vehicle from receiving 93–638 funding. The self-determination legislation further complicates the contracting situation by recognizing over 500 tribes and designating none as the preeminent vehicle. Therefore, whenever conflicts arise as to what tribal group should administer 638 activities, the decision is left up to the arbitrary and often capricious discretion of the BIA and other agencies.

It is our intent today, to introduce this legislation as a solution to this problem. By congressional recognition of these regional corporations as tribes, we would permit them to contract on behalf of all the Natives of their regions. Should a project be designed so as to have a more local impact, the language of the bill allows for project administration by tribal organizations representing the appropriate subregional area. We cannot ignore the important role of the nonprofit corporations. They are viable organizations responsible for providing much needed social services to their Native populations. They are integrally involved in the effort to insure more responsible and effective systems of education, health, housing, and justice. Their goal is to find solutions to problems and extend efforts to respond to the unmet needs of Natives throughout the State of Alaska.

Perhaps one of the most important aspects of this legislation, and one that I must stress, is the provision that each regional area have the option to organize as they choose. Each tribe, village, clan, community and association would have a voice in deciding who they want as their representative and governing body. Each Native that would be affected by this legislation should have the opportunity to express his opinion and the opinion of the Native Group he or she represents. Therefore, it is my intention, Mr. President, to circulate this bill in Alaska, for it is only through a united effort and united support that the policy of self-determination can be implemented for the benefit of all Alaska Natives.

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By Mr. DURKIN (for himself and Mr. HATFIELD, Mr. PELL, Mr. KENNEDY, Mr. ANDERSON, Mr. METCALF, Mr. GRAVEL, Mr. MCGOVERN, Mr. LEAHY, and Mr. HATHAWAY):

S. 2047. A bill to amend the Federal Power Act to provide for the encouragement of the licensing and development of small hydroelectric power projects in connection with existing dams on the waterways of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

SMALL HYDROELECTRIC POWER PROJECTS ACT OF 1977

Mr. DURKIN. Mr. President, there is no doubt that support for low-head hydroelectric generation is growing rapidly. Low-head hydroelectric power—water power created by installing turbines in small dams—offers a way to increase electricity production without serious environmental harm or substantial capital investment. It is a way to cope with the high energy costs in New Hampshire, New England, and across our country. A variety of constituencies, including labor organizations, environmental groups, and small businesses have identified low-head hydroelectric development as a high priority and have indicated their approval.

Most recently, the full House approved as part of its comprehensive energy bill an amendment added in committee to initiate a Federal effort to accelerate this promising technology. Originally introduced as a companion measure to S. 1648, the House program will provide grants and loans to encourage low-head hydroelectric generation using existing technologies. This is in accord with the recommendations of an Army Corps of Engineers report completed 2 weeks ago.

Today I am introducing an updated version of S. 1648, the Small Hydroelectric Power Projects Act of 1977. It incorporates many of the changes made during House consideration, as well as additional improvements. Further more, it is considerably stronger from an environmental standpoint.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2047

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Small Hydroelectric Power Projects Act of 1977."

SEC. 2. Part I of the Federal Power Act is amended by adding at the end thereof the following new section:

"SEC. 30. (a) The Congress declares that, because of the increasing shortages of natural gas and petroleum, and the urgent need to develop environmentally acceptable sources of electric energy to meet the needs of the Nation, the public interest requires the rapid development of the hydroelectric potential of the numerous existing dams on the Nation's waterways which are not being used to generate electric power where such development is technologically feasible, economically beneficial, and not environmentally harmful.

"(b) The Commission shall establish a program to—

"(1) encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric projects in connection with existing dams which are not being used to generate electric power, and

"(2) use simple and expeditious licensing procedures under this Act for such projects in connection with such existing dams in such manner as the Commission deems appropriate, consistent with the applicable provisions of law.

"(c)(1) The Commission is authorized to make grants (and commitments to grant) to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person of up to 50 percent of the project costs of any small hydroelectric project which the Commission finds—

"(1) will be constructed in connection with any existing dam,

"(2) has received all necessary licenses and other required Federal, State, and local approvals,

"(3) will provide useful information as to the technical and economic feasibility of—

"(A) the generation of electric energy by such projects, and

"(B) the use of energy produced by such projects,

"(4) will have no significant adverse environmental effects, including effects on fish and wildlife, on recreational use of water, and on stream flow, and

"(5) will not have a significant adverse effect on any other use of the water used by such project.

"(d)(1) The Commission is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person of up to 50 percent of the project costs of a small hydroelectric project which meets the requirements of subsection (c) (1), (2), (4), and (5) of this section. The Commission may make loans to a person or an industrial development agency only upon a finding that the operation of the project will result in substantially increasing employment or preventing a substantial loss of employment in the area to be served by the project.

"(2) The Commission shall give preference to applicants under this section who do not have available alternative financing which the Commission deems appropriate to carry out the project.

"(3) Every loan made pursuant to this subsection shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962–17(a)) and shall be for a term not less than twenty-five years and not more than fifty years, as the Commission deems appropriate.

"(4) Amounts repaid under loans made pursuant to this subsection shall be deposited into the Treasury as miscellaneous receipts.

"(e) The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

"(f) In making grants and loans under this section and in issuing licenses for small hydroelectric power projects, the Commission shall encourage joint participation, to the extent permitted by law, by those eligible to receive grants or loans under this section.

"(g) The Commission shall take such steps as are necessary to require (1) each utility within its jurisdiction to establish physical connection with any small hydroelectric power project, and (2) to establish conditions of service which require that any small hydroelectric project shall be provided with backup generation service from a utility at reasonable prices which do not discriminate against such project and shall have the right to sell surplus electric energy to such utility at reasonable prices which do not discriminate against such project.

"(h) Notwithstanding any other provision of Federal, State, or local law, licensees of small hydroelectric power projects shall not

be charged for the water used to operate such small hydroelectric power project licensed under this Act except to the extent that such water is consumed by such project or results in costs being imposed on the supplier of such water, or, upon a finding by the Commission that such charge is necessary or appropriate in the public interest.

"(i) Every licensee of a small hydroelectric power project licensed pursuant to this Act shall furnish the Commission with such information as the Commission may require regarding equipment and services proposed to be used in the design, construction, and operation of such projects and the Commission shall have the right to forbid the use in such project of any such equipment or services it finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Commission may make public information it obtains under this subsection, other than information which may not be released pursuant to section 1905 of title 18, United States Code.

"(j) In the case of projects receiving both grants and loans under this section, the total amount of Federal funds expended for such project shall not exceed 75 percent of the total project cost.

"(k) Before issuing any license under this Act for the construction or operation of any small hydroelectric power project (whether or not in connection with an existing dam) the Commission—

"(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structure), and

"(2) shall consult with the Council on Environmental Protection Agency, and the Department of Interior with respect to the environmental effects of such project.

Nothing in this subsection shall be deemed to exempt such project from any requirement applicable to any such project under the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law.

"(l) Nothing in this section authorizes the grant or loan of funds, or simple and expeditious licensing, for construction of any new dam or other impoundment.

"(m) There is hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980—

"(1) $50,000,000 for grants made pursuant to subsection (c); and

"(2) $50,000,000 for loans made pursuant to subsection (d), such funds to remain available until expended.

"(n) For purposes of this section, the term—

"(1) 'small hydroelectric power project' means any project of not more than twenty thousand horsepower (or fifteen thousand kilowatts) of installed capacity;

"(2) 'electric cooperative' means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

"(3) 'industrial development agency' means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

"(4) 'project costs' means the cost of all facilities and services used in the design and construction of a project;

"(5) 'utility' means any person engaged in transmission, or distribution, or both, of electric energy for profit;

"(6) 'nonprofit organization' means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization);

"(7) 'existing dam' means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any dam construction or enlargement (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project.".

SEC. 3. Section 10(e) of the Federal Power Act is amended by inserting before the period at the end thereof the following: ": *Provided further*, That, for licenses involving a Government dam issued subsequent to December 31, 1975, the annual charge shall be no more than $1 for each kilowatt of installed capacity".

SEC. 4. Notwithstanding any other provision of law, if the Federal Power Commission is terminated, any reference (other than a reference respecting licensing) in this chapter (or any amendment made therein) to the Federal Power Commission shall be deemed to be a reference to the officer, department, agency, or commission in which the principal functions of the Federal Energy Administration are vested, transferred, or delegated pursuant to law.

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By Mr. DOMENICI:

S. 2048. A bill to offset the job loss by youth that accompanies an increase in the minimum wage, and to encourage youth employment generally by establishing a 6-month entry wage period at 85 percent of the regular minimum wage for youths under the age of 19; to simplify the currently underutilized student rate provisions in order to facilitate their use and make them consistent with the youth opportunity wage; to the Committee on Human Resources.

YOUTH EMPLOYMENT WAGE ACT

Mr. DOMENICI. Mr. President, I am introducing today a bill which seeks to offset the job loss sustained by youth which accompanies an increase in the minimum wage, as well as to address the pressing problem of the over 3 million youths already unemployed, by establishing a youth opportunity wage at 85 percent of the regular minimum wage.

Let me emphasize that this special rate applies only to youths under age 19 and is functional only for the initial 6 months of their employment. Upon the expiration of the 6-month "training" period, the special rate is no longer available and such employee must be paid at least the full minimum wage.

This bill also discourages any potential abuses by providing penalties in the event older workers are fired in order to hire youths, or youths are dismissed without cause at the conclusion of the 6-month training period, or wages of current young employees are reduced.

Additionally, the bill seeks to encourage use of the current full-time student rate by simplifying the student provisions and making them consistent with the youth opportunity wage.

Mr. President, there is convincing evidence that the burden of an increased minimum wage falls heaviest on the young. Evidence gathered by the Bureau of Labor Statistics and the Congressional Budget Office demonstrates that a significant drop in youth employment will accompany a higher minimum wage. Another study earlier this year reveals that minimum wage increases reduce employment of 14–15 year olds by 46 percent, 16–17 year olds by 27 percent, and 18–19 year olds by 15 percent. We surely cannot afford such job losses in a group that already constitutes 49 percent of the Nation's total unemployed.

While acknowledging the need to provide a better standard of living for our low income workers, we must not overlook the devastating effects that needed increases have on the Nation's youth.

This bill seeks to soften that blow. A 1970 Bureau of Labor Statistics survey of employers and employment agencies has found that more teenagers would be hired at a lower minimum wage. A youth wage in Europe has resulted in increased youth employment. By allowing employers to hire and train youths for 6 months at a wage more commensurate with their initial abilities, we encourage the creation of much needed career ladder opportunities.

Furthermore, research and experience shows that the youth wage will not result in mere substitution of younger employees for older workers. The BLS study concludes that "results from abroad do not indicate that adult employment has been adversely affected by lower minimum wage rates for teenagers". Several States have used youth differentials with "no apparent evidence of adverse effects".

For the Nation's young people, who as a group are experiencing three times the national unemployment rate, this bill provides a workable solution to their employment problems.

Mr. President, I ask unanimous consent that this bill appear in the RECORD at the conclusion of my remarks, and I urge the Labor Subcommittee of the Human Resources Committee to give all due consideration to this amendment in its deliberations on the minimum wage bill.

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

S. 2048

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this act be cited as the Youth Opportunity Wage Act.

SEC. 10. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

(b)(1) To encourage youth opportunity, an employer may employ any youth who has not attained the age of 19 for a period of one hundred and eighty days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 85 per centum of the otherwise applicable wage in effect under 6(c)) in compliance with applicable child labor laws: *Provided, however*, That this paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

(2)(A) To encourage youth opportunity, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate not less than 85 per centum of the otherwise

applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c).

(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary shall have general authority under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not being violated. Should the Secretary discover that an employer is employing youth at a wage rate lower than that allowable under this section or for a period of time longer than that specified by this section, or is engaged in a pattern and practice of—

(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

(B) terminating the employment of youth employees after a period of one hundred and eighty days and employing other youth employees for periods of one hundred and eighty days in order to gain continual advantage of the youth opportunity wage, the provisions of section 6 of this Act shall be considered to have been violated, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act.

(b) Section 13(a)(7) (29 U.S.C. 213(a)(7)) is amended to read as follows:

(7) Any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary or in accordance with the provisions of section 14; or

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By Mr. DECONCINI (for himself and Mr. WALLOP):

S. 2049. A bill to establish fees and allow per diem and mileage expenses for witnesses before U.S. Courts; to the Committee on the Judiciary.

Mr. DECONCINI. Mr. President, on behalf of myself and Senator WALLOP, I am today introducing a bill which would revise witness fees and allow travel and subsistence allowances established in 28 U.S.C. 1821. Witness fees and allowances now provided pursuant to section 1821 no longer compensate the average witness for the actual costs which witness service entails, nor does section 1821 permit compensation for a variety of incidental travel expenses which witnesses routinely incur. The proposed legislation would alleviate these difficulties by increasing attendance fees and changing the method of computation for travel allowances and subsistence.

In 1968 the daily attendance fee was set at $20. Since then the average daily income has increased by over 60 percent, while the witness fee has remained the same. We are recommending that the witness fee be increased to $30 per day. This is the minimal level of compensation that constitutes a respectable remuneration for witness service today. It is not intended as reimbursement for lost income, witness service being a public obligation for which the Government is not required to provide compensation. However, as a matter of public policy the Government ought not to take the time of citizens, any more than their property, without reasonable compensation. Moreover, fair compensation should be provided in order to promote respect for the participation in our system of justice.

Section (c) provides that witnesses shall receive compensation for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distances actually and necessarily traveled. Witnesses who travel by common carrier shall receive the costs of transportation at the most economical rate available. Witnesses who travel by privately owned vehicle shall receive a travel allowance equal to the mileage allowance which the Administrator of General Services prescribes pursuant to section 5704 of title 5, United States Code, for official travel by employees of the Government.

The present uniform allowance of 10 cents per mile regardless of the method of transportation is inadequate. Application of this uniform standard has imposed undue financial hardship on some witnesses and grants financial windfalls to those who travel great distances by commercial carrier. For instance, a witness who travels from New York City to San Francisco receives $198.80 in excess of his actual fare. To eliminate these problems we proposed that compensation to witnesses be for the actual expenses of travel and on the basis of the form of transportation actually used.

This legislation will entail an increase in costs of approximately $6,260,000 for fiscal year 1978. However, the Department of Justice, which developed this legislation, has been advised by the Office of Management and Budget that there is no objection to submission of this legislation from the standpoint of the administration's program.

I would urge early consideration of this legislation in order to rectify inequities and problems of the present system in providing funds for witnesses.

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By Mr. BROOKE:

S. 2050. A bill to amend the Internal Revenue Code of 1954 to provide a credit for amounts contributed to an individual housing account; to the Committee on Finance.

INDIVIDUAL HOUSING ACCOUNT ACT

Mr. BROOKE. Mr. President, I am today introducing legislation which would provide a tax credit for amounts contributed to an "individual housing account." This bill would meet objections to the "individual housing account" portion of S. 664, The Young Families Housing Act, which were raised by the Treasury Department at hearings on S. 664 held earlier this year before the Committee on Banking, Housing and Urban Affairs.

I would hope that the Finance Committee will give this bill its early consideration.

By Mr. METCALF:

S. 2053. A bill to promote the orderly exploration for and commercial recovery of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto, to the Committee on Commerce, Science, and Transportation, and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

DEEP SEABED MINERAL RESOURCES ACT

Mr. METCALF. Mr. President, the recovery of ferromanganese nodules from the deep seabed offers an important new source of cobalt, nickel, copper and manganese. While estimates of the amount of these potato-sized nodules lying on the bottom of the world's oceans vary, they run into the trillions of tons. The potential is enough to have impelled a number of American firms to expend many millions of dollars to develop the technology for lifting nodules to the surface of the ocean and for refining the ore either on land or at sea. Three basic nodule recovery systems are under investigation: First, mechanical, cable-bucket systems, second, air-lift pumping, and third, hydraulic lift without air. The processing methods involve complex roasting and leaching techniques. The Ocean Mining Administration and the Bureau of Mines of the Interior Department have been closely monitoring these developments.

The impact of nodule mining on the deep ocean environment has been a concern expressed by many individuals. Research has been under way to assess the extent of this impact on the biota of the deep ocean and on the quality of the surface water. The Department of Commerce, through the National Oceanic and Atmospheric Administration, is taking the lead in this effort.

For more than a decade, the exploration for and development of technology for nodule mining have gone forward, with several countries including the United States, Great Britain, France, West Germany, Japan, Canada, and the Soviet Union having an interest in deep seabed mining. American firms enjoy a lead position in this field but are hesitant to proceed to commercial exploitation without some guarantee of security for their projected large investments of $300 to $500 million for each mine site. According to the Congressional Research Service, the total annual tonnage of nodules likely to be processed and marketed by U.S. interests by 1985 could range from 4.5 to 6 million tons, assuming an early resolution of the present difficulties regarding entry of U.S. firms into commercial operations.

The United States is heavily dependent on the metals contained in manganese nodules, primarily nickel, copper, manganese, and cobalt. There is no domestic mine production of manganese and cobalt, and domestic nickel production supplies less than 10 percent of our needs. In addition, nickel and copper are not currently stockpiled by the Government. While the United States is a major copper producer, in 1974 nearly 20 percent of the copper consumed in the United States was imported. The reli-

ability of foreign sources and the possibility of cartel action are subjects of grave concern.

Based on Bureau of Mines projections of annual increases in domestic demand for metals contained in the nodules, according to 1975 prices, it has been estimated that nodule mining could supply the United States with approximately $0.8 billion per year in metals by the year 2000. Nodule mining in other countries or foreign shares in consortia could likely total three to five times this amount per year by then. Most U.S. firms interested in deep seabed mining have joined international consortia as a means of gaining investment security, sharing risk and pooling financial resources.

Mr. President, the possibility that the vast resources of the deep seabed could become available to the United States through the operations of U.S. nationals while at the same time respecting the rights of all nations under the United Nations resolution declaring the deep seabed to be the "common heritage of all mankind" is a matter of serious legislative concern. Since 1971, bills have been introduced in the Congress to provide some form of investment guarantee and regulation of deep seabed mining activities. Initially, these bills represented solely the view of the American Mining Congress. To initiate discussion, I have introduced such bills in the Senate. The last bill, S. 713, was reported out of the Senate Interior Committee in the 94th Congress. However, previous administrations repeatedly have recommended against any further legislative action for fear of prejudicing the outcome of discussions in the United Nations concerning the third Law of the Sea Conference, and Congress has been cooperative.

With the recent conclusion of the sixth session of the Law of the Sea Conference, held in New York, it has now become abundantly clear that Congress should take initiative by enacting legislation to encourage the orderly development of deep seabed mining and the protection of the marine environment.

The majority of nations represented at the Law of the Sea Conference are from developing countries whose interests are markedly dissimilar to those of the United States. This so-called Group of 77, representing approximately two-thirds of the voting delegates, generally favors a form of international control of seabed exploitation that is unacceptable to the United States. The Seabed Authority envisioned by developing nations would be effectively controlled by them on the basis of one country, one vote, and would exercise arbitrary power over seabed development. This would be accomplished by permitting mining by the Authority only—through an operating arm to be known as the Enterprise, or through contract arrangements under which the Authority would maintain initially indirect and eventually complete control of all mining operations.

The U.S. position at the Law of the Sea Conference favors a Seabed Authority under a system which would assure access to seabed resources to qualified countries and private entities on a nondiscriminatory basis. The basis for granting rights would be structured in the treaty so as to be economically efficient and so as to attract and guarantee security of investment. At the same time, the United States has offered to provide technological and financial assistance to the authority.

Ambassador Elliot Richardson, testifying recently before the Subcommittee on Public Lands and Resources of the Senate Energy and Natural Resources Committee, is recommending that President Carter reconsider the advisability of continuing U.S. participation in the Law of the Sea Conference. Although, from the U.S. perspective, important gains have been made in the strategic and marine scientific negotiations conducted in committees 2 and 3 of the recent session of the Conference, Ambassador Richardson characterized the outcome of the deep seabed mining negotiations in committee one as "completely unacceptable". Departing from the cautious attitude adopted by previous administrations, he all but urged Congress to get on with enacting deep seabed mining legislation.

Mr. Chairman, as chairman of the Subcommittee on Public Lands and Resources, I have delayed introduction of an ocean mining bill until the Federal Surface Mining Control and Reclamation Act of 1977 was enacted, because the strip mine bill was blocking other urgent energy legislation. On August 3, President Carter signed that long-awaited bill into law. Meanwhile, the House of Representatives has had several deep seabed mining bills under consideration, one of which, H.R. 3350, was reported out of committee on July 28.

The time is now ripe for the Senate to begin serious consideration of this portentous issue. I believe Congress is prepared to enact legislation which will offer sufficient backing and encouragement to our infant deep seabed mining industry to enable the resumption of its progress toward commercial recovery of ferromanganese nodules.

I detect a strong current of feeling among those who have followed the endless twistings and turnings of negotiations in the Law of the Sea Conference, a feeling that the U.S. delegation has exhibited extraordinary forbearance. There are many who feel that through the valedictory gesture of former Secretary Henry Kissinger last year at the United Nations, the United States nearly gave away the whole deep seabed mining ball game. Twenty Senators, including me, wrote President Ford following that dismaying performance, to let him know that in our opinion the Senate would never ratify a treaty containing terms so detrimental to U.S. deep seabed mining interests.

Since then, matters have gone from bad to worse. I do not know what Ambassador Richardson will recommend to President Carter as to future U.S. participation in the Law of the Sea Conference. I am convinced, however, that Ambassador Richardson will be in a far stronger negotiating position should he return to the conference next March when it is due to reconvene in Geneva, if Congress in the meantime has enacted legislation based upon the right of U.S. nationals to conduct ocean mining until such time as a new treaty emerges from the conference and becomes binding upon the United States.

Any such legislation should recognize that the concept of the common heritage of mankind can become a reality only through legal definition and implementation within a comprehensive international Law of the Sea Treaty.

It should recognize that deep seabed mining is a freedom of the high seas, the exercise of which requires security of investment.

It should also recognize that establishment of a transitional authority extending only to the activities of U.S. nationals on the high seas and not to the territory of the seabed itself, pending agreement on the Law of the Sea Treaty, is in the interest of the United States.

Mr. President, I am aware that some of my colleagues harbor misgivings about any such legislation. They worry about its possible impact upon a successful conclusion of the Law of the Sea Conference. Others are concerned about setting a precedent by insuring the investment of corporations which, under our free enterprise system, would normally expect to shoulder the risks involved in a pioneer profitmaking venture.

To these colleagues I would say, the bill I am introducing today is not the final answer to these questions. It is a vehicle for discussion purposes. It is an attempt to get our deep seabed mining industry moving again without either placing an undue burden of liability upon the Federal Government, or causing undue disruption of the Conference, on which extremely far-reaching issues depend, over and beyond those having to do with the economic benefits of ocean mining.

The bill I am introducing incorporates elements of legislation now being considered in the House of Representatives. This bill would:

First, require U.S citizens to hold a license in order to explore the deep seabed and a permit for commercial recovery and processing of ferro-manganese nodules, both to be issued by the Secretary of the Interior, in the absence of an international treaty which is in force with respect to the United States.

Second, establish administrative and enforcement procedures for deep seabed mining activities by U.S. citizens and for protection of the marine environment as it is affected by such mining.

Third, authorize the President to designate any foreign nation as a reciprocating state for the purpose of mutually advantageous exploitation of the deep seabed.

Fourth, provide for a voluntary insurance program requiring the payment of annual premiums covering loss of investment by an ocean miner who is a licensee or permittee and who has suffered a loss of investment due to the entering into force for the United States of an international agreement, payment not to exceed 90 percent of the investment or $350,000,000.

Fifth, require the Secretary to submit to Congress recommendations for legislation establishing a special escrow fund to be used for payment of U.S. contributions to an international regime under the treaty.

Sixth, delay implementation of the operative portions of the legislation until January 1, 1980, unless the President, by executive order, establishes an effective date at some earlier time, but in any case not permit issuance of permits for commercial recovery of deep seabed minerals until January 1, 1980.

Inevitably, this bill raises many questions ranging from how to set equitable daily fines for violations, to how to establish a system for compensation for investment loss which will not amount to an outright subsidy. I would welcome the participation of my colleagues from other committees, especially the Committees on Foreign Relations, Commerce and Armed Services, in hearings which will be held on this bill on September 19 and 20, so that a true consensus can be reached on such questions.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2053

*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 "Deep Seabed Mineral Resources Act".

FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) the United States requirements for hard minerals to satisfy national industrial and security needs will continue to expand and that the demand for such minerals will increasingly exceed the available domestic sources of supply;

(2) the United States is dependent upon foreign sources of supply for certain hard minerals and that the acquisition of such minerals from foreign sources is a significant adverse factor in the national balance-of-payments position;

(3) the present and future national security and economic interests of the United States require the availability of hard mineral resources which are independent of the export policies of foreign nations;

(4) an alternate source of supply of certain hard minerals significant in relation to national needs, including nickel, copper, cobalt, and manganese, is contained in the nodules which are found in great abundance on the deep seabed;

(5) major deposits of such nodules have been proven to exist in areas of the deep seabed which are seaward of the limits of national resource jurisdiction recognized by international law;

(6) various mining companies are engaged in developing the technology necessary for the commercial recovery and processing of such nodules;

(7) given the necessary investment climate, United States mining companies are prepared to undertake programs for the commercial recovery and processing of the hard mineral resources from the deep seabed;

(8) it is in the national interest to establish a program to encourage the exploration and commercial recovery activities of United States citizens and that such activities be regulated in a manner to protect the quality of the environment;

(9) the United States supported (by affirmative vote in the General Assembly) United Nations General Assembly Resolution 2749 (xxv) declaring the principle that the mineral resources of the deep seabed are the common heritage of mankind, but recognized, however, that this principle would be legally defined under the terms of a comprehensive international Law of the Sea Treaty to be agreed upon in the future;

(10) since the parties negotiating a comprehensive international Law of the Sea Treaty have been unable to reach a final agreement, and since their failure to reach agreement may retard the development of the technology necessary to commercially recover and process the hard mineral resources of the deep seabed, interim domestic legislation is required to encourage the development of such technology; and

(11) commercial recovery of hard mineral resources from the deep seabed is a freedom of the high seas, subject to a duty of reasonable regard to the interests of other states in their exercise of that and other freedoms recognized by the general principles of international law.

(b) PURPOSES.—The Congress declares that the purposes of this Act are—

(1) to establish an interim program to encourage and regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by United States citizens, pending the entering into force with respect to the United States of a superseding international agreement concerning such activities;

(2) to insure that the exploration for and commercial recovery of hard mineral resources of the deep seabed are conducted in a manner which will protect the quality of the marine environment; and

(3) to encourage the successful negotiation of a comprehensive international Law of the Sea Treaty which will give legal definition to the principle that the mineral resources of the deep seabed are the common heritage of mankind and which will adequately protect the interests of the United States.

TRANSITIONAL NATURE OF ACT

SEC. 3. (a) SENSE OF CONGRESS.—It is the sense of the Congress that this Act shall be considered to be transitional in nature, pending—

(1) agreement on an international treaty being reached at the United Nations Conference on the Law of the Sea and such treaty entering into force with respect to United States citizens; or

(2) if such agreement is not forthcoming, the conclusion of a multilateral treaty or other international agreements concerning the deep seabed which enter into force with respect to United States citizens.

(b) REPORT OF SECRETARY OF STATE.—On or before October 31 of each year after 1977 in which no agreement or conclusion referred to in subsection (a) is reached, the Secretary of State shall report to the Congress on the progress, if any, toward such agreement or conclusion and advise the Congress as to any amendments to this Act which he believes would be of assistance in reaching such agreement or conclusion.

EFFECTIVE DATE OF ACT

SEC. 4. (a) IN GENERAL.—Except for this section and sections 109 (a) and (c), 401(a), 403 (a) and (c), and 404, the effective date of this Act, in the absence of a prior Executive order issued in accordance with subsection (b), shall be January 1, 1980. The effective date of this section and sections 109 (a) and (c), 401(a), 403 (a) and (c), and section 404 is the date of enactment of this Act.

(b) ESTABLISHMENT OF EARLIER DATE.—(1) The effective date of this Act may be any date prior to January 1, 1980, which is established by the President by an Executive order issued no later than sixty days prior to the effective date established by the order.

(2) If the President has not established an effective date which is prior to February 1, 1978, August 1, 1978, or February 1, 1979, he shall report in detail to the Congress on each such date his reasons for not taking such action.

DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY

SEC. 5. By the enactment of this Act, the United States—

(1) exercises its jurisdiction to regulate the activities of United States citizens in the exploration for and commercial recovery of hard mineral resources of the deep seabed; but

(2) does not thereby assert sovereignty rights over, or the ownership of, any area of the deep seabed.

DEFINITIONS

SEC. 6. For purposes of this Act the term—

(1) "commercial recovery" means any activity engaged in at sea to recover any hard mineral resource at a substantial rate (without regard to profit or loss) for the primary purpose of marketing or commercially using such resource, and, if such recovered resource will be processed at sea, such processing;

(2) "Continental Shelf" means—

(A) the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of two hundred meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such submarine areas; and

(B) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands;

(3) "deep seabed" means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of and outside—

(A) the Continental Shelf of any nation; and

(B) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States;

(4) "exploration" means—

(A) any at-sea observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) the nature, shape, concentration, and tenor of a hard mineral resource; and

(ii) the environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(B) the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication, installation, and testing of equipment which is intended to be used in the commercial recovery of such resource;

(5) "fund" means the Deep Seabed Mining Fund established pursuant to section 203;

(6) "hard mineral resource" means any deposit or accretion on the deep seabed of nodules which contain one or more minerals, at least one of which is manganese, nickel, cobalt, or copper;

(7) "international agreement" means any convention or treaty which relates to, among other matters, the exploration for and commercial recovery of hard mineral resources of the deep seabed and establishes an international regime for the regulation thereof;

(8) "license" means a license to explore for hard mineral resources of the deep seabed issued pursuant to this Act;

(9) "licensee" means any United States citizen who is issued a license;

(10) "permit" means a permit to engage in commercial recovery of hard mineral resources of the deep seabed issued pursuant to this Act;

(11) "permittee" means any licensee who is issued a permit;

(12) "reciprocating state" means any foreign nation designated as such by the President under section 116;

(13) "Secretary" means the Secretary of the Interior;

(14) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States; and

(15) "United States citizen" means—

(A) any individual who is a citizen of the United States;

(B) any corporation, partnership, association, or other entity organized or existing under the laws of any of the United States; or

(C) any joint venture, association, or other entity (whether organized or existing under the laws of any of the United States or a foreign nation) if the controlling interest in such entity is held by an individual or entity described in subparagraph (A) or (B).

## TITLE I—REGULATION OF EXPLORATION AND COMMERCIAL RECOVERY BY UNITED STATES CITIZENS

### PROHIBITED ACTIVITIES BY UNITED STATES CITIZENS

SEC. 101. (a) PROHIBITED ACTIVITIES AND EXCEPTIONS.—(1) No United States citizens may engage, directly or indirectly, in exploration or commercial recovery unless authorized to do so under—

(A) a license for exploration or permit for commercial recovery issued pursuant to this Act;

(B) a license, permit, or equivalent authorization issued by a reciprocating state; or

(C) an international agreement which is in force with respect to the United States.

(2) The prohibitions of this subsection shall not apply to any of the following activities conducted by any United States citizen:

(1) scientific research concerning hard mineral resources;

(2) mapping, or the taking of any geophysical or geochemical measurements or bottom samplings, of the deep seabed, if such taking does not significantly alter the surface or subsurface of the deep seabed;

(3) the design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction, or testing (i) is conducted on shore, or (ii) does not involve the recovery of any hard mineral resource; and

(4) the furnishing of machinery, products, supplies, services, or materials for any exploration or commercial recovery activity engaged in by a licensee or permittee.

(b) EXISTING EXPLORATION.—Subsection (a)(1)(A) shall not be deemed to prohibit any United States citizen who is engaged in exploration before the effective date of this Act from continuing to engage in such exploration—

(1) if such citizen applies for a license under section 103(a) with respect to such exploration within such reasonable period of time after the date on which initial regulations to implement section 103(a) are issued as the Secretary shall prescribe; and

(2) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of the application for such license.

The timely filing of any application for a license under paragraph (1) shall entitle the applicant to priority of right for the issuance of such license under section 103(b). In any case in which more than one application referred to in paragraph (1) is filed with respect to all or part of the same area of the deep seabed, the Secretary shall, in taking action on such applications, apply principles of equity based on the date on which the applicants commenced exploration activities and the amount of funds each applicant has expended on such activities with respect to the area.

(c) INTERFERENCE.—No United States citizen may interfere with any activity conducted by any licensee or permittee which is authorized to be undertaken pursuant to the license or permit.

### LICENSES FOR EXPLORATION AND PERMITS FOR COMMERCIAL RECOVERY

SEC. 102. (a) AUTHORITY TO ISSUE.—Subject to the provisions of this Act, the Secretary is authorized to issue licenses for exploration and permits for commercial recovery.

(b) NATURE OF LICENSE AND PERMITS.—(1) A license or permit issued under this Act shall authorize the holder thereof to engage in exploration or commercial recovery, as the case may be, consistent with the provisions of this Act, the regulations issued by the Secretary to implement the provisions of this Act, and the specific terms, conditions, and restrictions applied to the license or permit by the Secretary.

(2) Any license or permit issued under this Act shall be exclusive with respect to the holder thereof as against any other United States citizen or any citizen, national, or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state.

(c) RESTRICTIONS.—(1) The Secretary may not issue—

(A) any license or permit after the date on which an international agreement pertaining to exploration and commercial recovery enters into force with respect to the United States, except to the extent that issuance of such license or permit is authorized by such agreement;

(B) a permit authorizing commercial recovery within any area of the deep seabed to other than the licensee who holds a license which applies to such area;

(C) any permit which authorizes commercial recovery before January 1, 1980;

(D) any license for exploration of, or any permit for commercial recovery within, any area of the deep seabed to an applicant if, within the three-year period before the date of application for such license or permit, (i) the applicant therefor surrendered or relinquished such area under a previous license or permit issued to him, or (ii) a license or permit previously issued to the applicant applied to such area and such license or permit was revoked under section 106; or

(E) any license for exploration of, or permit for commercial recovery within, any area of the deep seabed which is covered by any pending application for a license or a permit to which priority of right for issuance applies under section 103(b); to which any existing license or permit applies; or to which any license, permit, or equivalent authorization issued by a reciprocating state applies.

(2) No permittee may use any vessel for the actual commercial recovery, processing at sea, or transportation of hard mineral resources unless the vessel is documented under the laws of the United States.

(3) A permittee shall process hard mineral resources recovered by him pursuant to a permit only at places located in the United States or aboard vessels documented under the laws or the United States: *Provided*, That the Secretary may allow the processing of any such resource aboard a foreign vessel or at a place other than in the United States if he finds, after opportunity for an agency hearing, that—

(A) the processing of the quantity concerned of the resource at a foreign location or aboard a foreign vessel is necessary for the economic viability of the commercial recovery activities of the permittee; and

(B) satisfactory assurances have been given by the permittee that such resource, after processing, will be returned to the United States for domestic use, if the Secretary so requires after determining that the national interest necessitates such return.

### PERMIT AND LICENSE APPLICATIONS, REVIEW, AND APPROVAL

SEC. 103. (a) APPLICATIONS.—(1) Any United States citizen may apply to the Secretary for a license and any licensee may apply to the Secretary for a permit.

(2) Applications for licenses and permits shall be made in such form and manner as the Secretary shall be regulations prescribe, and shall contain such relevant financial, technical, environmental, and other information, as the Secretary, in such regulations, may require as being necessary or appropriate to make the determinations pursuant to subsection (c) and other provisions of this Act for issuance of licenses and permits.

(b) PRIORITY OF RIGHT FOR ISSUANCE.—Subject to section 101(b), priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications which are in substantial compliance with the requirements established under subsection (a)(2) are filed with the Secretary. Priority of right shall not be lost in the case of any application filed which is not in full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable periodic of time as the Secretary shall prescribe.

(c) ELIGIBILITY.—Before the Secretary may approve any application for a license or permit, he must determine that—

(1) the applicant is financially responsible to meet all obligations which may be required of a licensee or permittee to engage in the exploration or commercial recovery proposed in the application;

(2) the applicant has the technological capability to engage in such exploration or commercial recovery; and

(3) the exploration or commercial recovery proposed in the application will not—

(i) unreasonably interfere with the exercise of the freedoms of the high seas, as recognized under general principles of international law;

(ii) conflict with any international obligation of the United States, established by any existing treaty or international convention in force with respect to the United States; or

(iii) pose a threat of significant adverse effect on the quality of the marine environment, taking into account the analysis and information in any applicable programmatic environmental impact statement prepared pursuant to section 109(c).

(d) ANTITRUST REVIEW.—(1) The Secretary shall not issue or transfer a license or permit unless, pursuant to paragraph (2), he has received the opinions of the Attorney General of the United States and the Federal Trade Commission as to whether such action would create or maintain a situation inconsistent with the antitrust laws. The issuance or transfer of a license or permit shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws.

(2) Whenever any application for issuance or transfer of a license or permit is received, the Secretary shall transmit promptly a complete copy of such application to the Attorney General and the Commission. Within ninety days of receipt of such application from the Secretary, the Attorney General and the Federal Trade Commission shall each prepare and submit to the Secretary a report assessing the competitive effects which may result from the issuance or transfer and containing the opinions described in paragraph (1). If either the Attorney General or the Commission, or both, should fail to submit such report within such period, the Secretary shall proceed as if the report or reports had been received.

(3) Nothing in this subsection shall be construed to impair, amend, broaden, or modify any of the antitrust laws, or bar the Attorney General or the Commission or any private party from challenging any anticompetitive situation in the exploration for and commercial recovery of hard mineral resources of the deep seabed.

(e) OTHER FEDERAL AGENCIES.—The Secretary shall provide by regulation for full consultation and cooperation with all other interested Federal agencies and departments. Each interested agency or department shall be afforded the opportunity to review each application for a license or permit and, based on its legal responsibilities and authorities, may recommend approval or denial of the application not later than sixty days after receipt of a complete copy of the application from the Secretary. In any case in which an agency or department recommends denial, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall indicate how the application may be amended, or how conditions might be attached to the license, to assure compliance with the law or regulation involved.

(f) NOTICE PUBLIC COMMENTS, AND HEARING.—(1) Upon receipt of an application for a license or a permit, the Secretary shall publish notice of such application in the Federal Register. Interested persons shall be permitted at least sixty days after publication of such notice to submit to the Secretary written comments on the application.

(2) The Secretary shall hold at least one public hearing in an appropriate location and shall employ such additional methods as he deems appropriate to inform interested persons and groups about the application and to invite their comments thereon.

(g) APPLICATION APPROVAL.—Upon considering the public comments received pursuant to subsection (f) and making the determinations required in section 102(c), subsection (c) of this section, and elsewhere in this Act with respect to any applicant for a license or a permit and the exploration or commercial recovery proposed by such applicant, after completion of procedures for receiving and considering the application required by this Act, and upon payment by the applicant of the fee required under section 104, the Secretary shall approve the application for the license or permit.

LICENSE AND PERMIT FEES

SEC. 104. No application for a license or permit may be approved unless the applicant pays to the Secretary an administrative fee. The amount of the administrative fee imposed by the Secretary on any applicant shall, to the extent ascertainable, reflect the reasonable administrative costs incurred by the Secretary in processing the application.

LICENSE AND PERMIT TERMS, CONDITIONS, AND RESTRICTIONS

SEC. 105. (a) ESTABLISHMENT OF TERMS, CONDITIONS, AND RESTRICTIONS.—Within sixty days after approving any application for a license or permit under section 103(g) and after publication of the final environmental impact statement prepared on the license or permit application pursuant to section 109 (d), the Secretary shall establish terms and conditions for, and restrictions on, the exploration or commercial recovery proposed in the application which are consistent with the provisions of this Act. The Secretary shall provide to each applicant a written statement of the terms, conditions, and restrictions established by the Secretary pursuant to this section. Upon acceptance by the applicant for any license or permit of the terms, conditions, and restrictions established by the Secretary pursuant to this section, the Secretary shall issue to the applicant the license or permit with the terms, conditions, and restrictions incorporated therein.

(b) MODIFICATION AND REVISION OF TERMS, CONDITIONS, AND RESTRICTIONS.—(1) After the issuance of any license or permit, the Secretary may modify any term, condition, or restriction in such license or permit (i) if relevant data and other information (including, but not limited to, data resulting from exploration or commercial recovery activities under the license or permit) indicate that modification is required to protect the quality of the marine environment and if such modification is consistent with the regulations promulgated to carry out section 109(b); or (ii) to avoid a conflict with any international obligation of the United States, established by any existing treaty or convention in force with respect to the United States, as determined by the President; or (iii) in the interest of national security, as determined by the President. No modification may be made under clause (i) if the Secretary determines, on the basis of substantial evidence and after affording the opportunity of an agency hearing, that the national interest in obtaining hard mineral resources from the area to which the license or permits applies outweighs the potential injury to the quality of the marine environment intended to be eliminated or ameliorated by the modification. In determining whether a license or permit shall be modified under clause (1), the Secretary shall also consider whether the proposed modification would result in significant economic loss to the licensee or permittee which would substantially outweigh the potential injury to the quality of the marine environment intended to be eliminated or ameliorated by the modification.

(2) During the term of a license or a permit, the licensee or permittee may submit to the Secretary an application for a revision of the license or permit. The Secretary shall not approve such application unless he finds that the revision will comply with the requirements of this Act and regulations promulgated hereunder.

(3) The Secretary shall establish, by regulation, guidelines for a determination of the scale or extent of a proposed modification or revision for which any or all permit application requirements and procedures, including a public hearing, shall apply. Any alteration in the size of the area to which a license or permit applies, except incidental alterations, and any extension in the duration of a license or permit must be made by application for another license or permit.

DENIAL OF APPROVAL OF APPLICATIONS AND SUSPENSION AND REVOCATION OF LICENSES AND PERMITS

SEC. 106. (a) DENIAL, SUPENSION, AND REVOCATION.—(1) The Secretary may deny approval of any application for a license or permit if he finds that the applicant, or the activities proposed to be undertaken by the applicant, do not meet the requirements set forth in section 103(c) or elsewhere in this Act for issuance of a license or permit.

(2) The Secretary may—

(A) In addition to, or in lieu of, the imposition of any civil penalty under section 302(a), or in addition to the imposition of any fine under section 303, suspend or revoke any license or permit if the licensee or permittee, as the case may be, substantially fails to comply with any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of the license or permit; and

(B) suspend any license or permit, or particular activities thereunder, if such suspension is necessary to avoid any conflict with any international obligation of the United States, established by existing treaty or convention in force with respect to the United States, or in the interest of national security, in either case as determined by the President.

(3) No action may be taken by the Secretary to deny approval of any application for a license or permit or, except as provided in subsection (c), to suspend or revoke any license or permit or suspend particular activities thereunder, unless the Secretary—

(A) gives the applicant, licensee, or permittee, as the case may be, written notice of his intention to deny, suspend, or revoke and the reason therefor; and

(B) if the reason for the proposed denial, suspension, or revocation is a deficiency which the applicant, licensee, or permittee can correct, affords the applicant, licensee, or permittee a reasonable time, but not more than one hundred and eighty days from the date of the notice (or such longer period as the Secretary may establish for good cause shown), to correct such deficiency.

(4) The Secretary shall deny approval of any application for, and suspend or revoke, any license or permit—

(A) on the thirtieth day after the date of the notice given to the applicant, licensee, or permittee under paragraph (3)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, or revocation; or

(B) on the last day of the period established under paragraph (3)(B) in which the applicant, licensee, or permittee must correct a deficiency, if such correction has not been made before such day.

(b) ADMINISTRATION REVIEW OF DENIAL OR PROPOSED SUSPENSION OR REVOCATION.—Any applicant, licensee, or permittee, as the case may be, who makes a timely request under subsection (a) for review of a denial of approval, or a proposed suspension, revocation, of a license or permit is entitled to an adjudication on the record after opportunity for an agency hearing with respect to such denial or proposed suspension or revocation.

(c) EFFECT ON ACTIVITIES; EMERGENCY ORDERS.—The issuance of any notice of proposed suspension or revocation of a license or permit shall not affect the continuation of exploration or commercial recovery activities by the licensee or permittee. The provisions of subsection (a) (3) and (4) and the first sentence of this subsection shall not apply when the President determines by Executive order that an immediate suspension of a license or permit, or particular activities thereunder, is necessary to avoid any such conflict with an international obligation of the United States or to maintain national security, or the Secretary determines that an immediate suspension is necessary to prevent a significant adverse effect on the marine environment, and the Secretary issues an emergency order requiring such immediate suspension.

(d) JUDICIAL REVIEW.—Any determination of the Secretary under subsection (b) to deny approval of any application for a license or permit, suspend or revoke any license or permit, or suspend particular activities thereunder is subject to judicial review as provided for under chapter 7 of title 5 of the United States Code.

EXTENT AND DURATION OF LICENSES AND PERMITS

SEC. 107. (a) SIZE OF AREA OF EXPLORATION OR COMMERICAL RECOVERY.—(1) The Secretary shall determine and specify in each license or permit the size of the area of the deep seabed in which the licensee or permittee may conduct exploration or commercial recovery. The size of any area to which a license or permit applies shall be neither smaller nor larger than necessary to satisfy the following objectives:

(A) the area for exploration shall be suf-

ficient to allow for intensive exploration activities, but may not exceed twice the size of the estimated area in which commercial recovery may be undertaken; and

(B) the area for commercial recovery shall be sufficient to satisfy the permittee's stated production requirements over the term of the permit, taking into account the state of the technology then available for recovery of hard minerals from the deep seabed and the relevant physical characteristics of the area.

(2) When a licensee obtains a permit for commercial recovery, the area to which the license applied and to which the permit does not apply shall be relinquished.

(b) DURATION.—(1) The term of any license shall be of sufficient duration to allow for a thorough exploration of the area of the deep seabed to which the license applies and the design, construction, and testing of prototype mining equipment for the area and of prototype processing facilities.

(2) The term of any permit shall be of sufficient duration to allow for commercial recovery of the hard mineral resources in the area to which the permit applies (which duration shall be based upon related factors such as the depletion of the hard mineral resources within the area concerned, the useful life of the recovery equipment and processing facilities, and commercial viability) and shall include a reasonable period of time for the construction of commercial scale recovery and processing systems.

PERFORMANCE REQUIREMENTS

SEC. 108. (a) EXPENDITURES.—Each license shall require such periodic reasonable expenditures for exploration by the licensee as the Secretary shall establish, taking into account the size of the area of the deep seabed to which the license applies and the amount of funds which is estimated by the Secretary to be required to commence commercial recovery of hard mineral resources in the area within the time limit established by the Secretary: *Provided*, That such required expenditures shall not be established at a level which would discourage exploration by persons with less costly technology than is prevalently in use.

(b) COMMENCEMENT OF COMMERCIAL RECOVERY.—The Secretary shall establish with respect to each license a maximum time interval after exploration is completed within which commercial recovery must commence. Such interval shall take into account the time necessary for the construction of mining and processing systems, with allowance made for unavoidable delays in such construction.

(c) COMMERCIAL RECOVERY.—Once commercial recovery is achieved, the Secretary shall, within reasonable limits and taking into consideration all relevant factors, require the permittee to maintain commercial recovery throughout the period of the permit: *Provided*, That the Secretary may, for good cause shown, including force majeure and other circumstances beyond the control of the permittee, authorize the temporary suspension of commercial recovery activities.

PROTECTION OF THE ENVIRONMENT

SEC. 109. (a) ENVIRONMENTAL ASSESSMENT.—The Administrator of the National Oceanic and Atmospheric Administration shall expand and accelerate the program of assessing the effects on the marine environment from exploration and commercial recovery activities so as to provide as accurate as practicable assessment of environmental impacts of such activities to the Secretary in the implementation of subsections (b), (c), and (d).

(b) TERMS CONDITIONS, AND RESTRICTIONS.—The Secretary and the Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration, shall establish terms, conditions, and restrictions which each license and permit shall contain and which shall prescribe the actions the licensee or permittee, employing the best practicable technology, shall take in the conduct of exploration and commercial recovery to protect the quality of the marine environment. Before establishing such terms, conditions, and restrictions, the two Secretaries shall consult with the Administrator of the Environmental Protection Agency, the Secretary of State, and the Secretary of the department in which the Coast Guard is situated and take into account, and give due consideration to, the information contained in each final environmental impact statement prepared with respect to such license or permit pursuant to subsection (d).

(c) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—The Secretary and the Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration, in consultation with the agency heads cited in subsection (b), shall prepare and publish as soon as practicable after the date of enactment of this Act a programmatic environmental impact statement on exploration and commercial recovery in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852, 853; 42 U.S.C. 4321, 4332). Such statement shall be general in its scope but shall also specifically discuss the area of the oceans in which exploration and commercial development by any United States citizen will likely first occur.

(d) ENVIRONMENTAL IMPACT STATEMENTS ON LICENSE OR PERMIT APPLICATIONS.—The approval of any application for a license or permit shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969. In preparing an environmental impact statement pursuant to this subsection, the Secretary and the Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration, shall consult with the agency heads cited in subsection (b) and shall take into account, and give due consideration to, the relevant information contained in any other environmental impact statement prepared pursuant to this section.

PREVENTION OF INTERFERENCE WITH USES OF THE HIGH SEAS

SEC. 110. Each license and permit shall include such restrictions as may be necessary and appropriate to insure that exploration or commercial recovery activities conducted by the licensee or permittee do not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under the general principles of international law.

NAVIGATIONAL SAFETY

SEC. 111. Subject to general principles of international law, the Secretary, in consultation with the Secretary of the department in which the Coast Guard is situated, shall require, in any license or permit, conditions regarding lights and other warning devices, safety equipment, operating procedures, and other requirements relating to navigational safety and the promotion of safety of life and property at sea.

RECORDS, AUDITS, PUBLIC DISCLOSURE

SEC. 112 (a) RECORDS AND AUDITS.—(1) Each licensee and permittee shall keep such records, consistent with standard accounting principles, as the Secretary shall by regulation prescribe. Such records shall include information which will fully disclose expenditures for exploration for commercial recovery and onshore processing of hard mineral resources, and such other information as will facilitate an effective audit of such expenditures.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purpose of audit and examination, to any books, documents, papers, and records of licensees and permittees which are necessary and pertinent to verify the expenditures referred to in paragraph (1).

(b) SUBMISSION OF DATA AND INFORMATION.—Each licensee and permittee shall be required to submit to the Secretary such data or other information as the Secretary may reasonably need for purposes of making determinations with respect to the issuance, revocation, or suspension of any license or permit; compliance with the reporting requirement in section 402; and evaluation of the exploration or commercial recovery activities conducted by the licensee or permittee.

(c) PUBLIC DISCLOSURE.—Copies of any record, document, report, or other communication received by the Secretary containing data or information required under this title shall be made available to the public, upon identifiable request therefor, at reasonable cost, unless—

(1) such data or information relates to trade secrets or other confidential matter referred to in section 1905 of title 18 of the United States Code; or

(2) the public release of such data or information is prohibited under any provision of law, including, but not limited to, section 552(b) of title 5 of the United States Code.

MONITORING OF LICENSEES' AND PERMITTEES' ACTIVITIES

SEC. 113. Each license and permit may require the licensee or permittee—

(1) to allow the Secretary to place officers and employees of the Department of the Interior, the Environmental Protection Agency, or the National Oceanic and Atmospheric Administration aboard vessels used by the licensee or permittee in exploration or commercial recovery activities for the purpose of monitoring such activities at such time, and to such extent, as the Secretary deems reasonable and necessary to assess the effectiveness of, and to determine compliance with, license or permit terms, conditions, and restrictions relating to protection of the quality of the marine environment; and

(2) to cooperate with such officers and employees in the performance of monitoring functions.

RELINQUISHMENT, SURRENDER, AND TRANSFER

SEC. 114. (a) RELINQUISHMENT AND SURRENDER.—Any licensee or permittee may at any time, without penalty—

(1) surrender a license or a permit issued to him; or

(2) relinquish in whole or in part, any area of the deep seabed to which the license or permit applies: *Provided*, That any licensee or permitte who surrenders a license or permit, or relinquishes any area of the deep seabed, shall remain liable with respect to all violations and penalties incurred by him, and damages to persons or property caused by him, as a result of activities engaged in by him pursuant to such license or permit.

(b) TRANSFER.—Any license or permit, upon written request of the licensee or permittee, may be transferred by the Secretary: *Provided*, That no transfer may occur unless and until the Secretary determines that (1) the proposed transfer is in the public interest, and (2) the proposed transferee and the exploration or commercial recovery the transferee proposes to conduct meet the requirements of this Act and regulations issued hereunder.

APPLICATION OF CERTAIN LAWS

SEC. 115. In the administration of the laws of the United States relating to export control, customs, duties, and taxes, there shall be no discrimination between hard mineral

resources recovered under a permit and similar minerals recovered within the United States.

RECIPROCATING STATES

SEC. 116. (a) DESIGNATION.—The President may designate any foreign nation as a reciprocating state if the President finds that such foreign nation—

(1) regulates the conduct of exploration for, and commercial recovery of, hard mineral resources of the deep seabed in a manner comparable to that provided for in this Act and the regulations issued hereunder;

(2) recognizes licenses and permits issued under this Act to the extent that such nation prohibits any person from engaging, under its laws, in exploration or commercial recovery which conflicts with that authorized under any such license or permit; and

(3) recognizes, under its procedures, priorities of right for applications for licenses or permits which are consistent with those provided for in this Act and the regulations issued hereunder.

(b) EFFECT OF DESIGNATION.—If any foreign nation is designated as a reciprocating state pursuant to subsection (a), no license or permit shall be issued under this Act permitting any exploration or commercial recovery which will conflict with any license, permit, or equivalent authorization issued by such reciprocating state.

## TITLE II—TRANSITION TO INTERNATIONAL AGREEMENT

EFFECT OF AN INTERNATIONAL AGREEMENT

SEC. 201. If an international agreement enters into force with respect to the United States, any provision of this Act, and any regulation issued hereunder, which is not inconsistent with such international agreement shall continue in effect with respect to United States citizens.

COMPENSATION FOR LOSS OF INVESTMENT RESULTING FROM TRANSITION

SEC. 202. (a) DEFINITION.—For purposes of this section, the term "investment" means the expenditure of, and any irrevocable legal obligation to expend, funds (together with the reasonable interest costs thereof) for the purchase of equipment, facilities, and services used for exploration, commercial recovery, and the processing of hard mineral resources in accordance with section 102(c)(3), if such expenditure is made, or such obligation is incurred, on or after the effective date of this Act. Such term does not include (1) funds expended for research on, and the development, testing, or evaluation of, the technology necessary for such exploration, recovery, or processing; or (2) the potential value of hard mineral resources.

(b) IN GENERAL.—Any licensee or permittee who suffers loss of investment by reason of the entering into force with respect to the United States of an international agreement is, if eligible therefor under subsection (c), entitled to compensation for such loss in accordance with this section.

(c) ELIGIBILITY.—(1) Except as provided in paragraph (2), any licensee or permittee is eligible for compensation under this section if—

(A) the license or permit was issued before, and is in effect on, the date on which an international agreement enters into force with respect to the United States;

(B) by reason of the agreement so entering into force, or the later implementation of the provisions of such agreement—

(i) the license or permit is rendered void, or

(ii) such licensee or permittee is permitted to continue exploration or commercial recovery, but under terms and conditions not substantially the same as the terms and conditions of such license or permit;

(C) such licensee or permittee suffers a less of investment as a result of the circumstance described in subparagraph (B); and

(D) such licensee, or such permittee, while a licensee, elected under section 203(b) to pay annual compensation premiums, has paid all such premiums assessed against him by the Secretary, and has not rescinded such election.

(2) No permittee is eligible for compensation under this section if the permittee has held the permit for ten years or more before the date on which an international agreement enters into force with respect to the United States.

(d) ACTION FOR COMPENSATION.—Any licensee or permittee who is eligible under subsection (c) may institute an action against the United States in a district court of the United States as provided in subsection (f) for a determination of the amount of compensation to which he is entitled under this section. No such action may be instituted by any licensee or permittee after the close of the ten-year period beginning on the day on which an international agreement enters into force with respect to the United States.

(e) DETERMINATION OF THE AMOUNT OF COMPENSATION.—(1) The amount of compensation to which any licensee or permittee is entitled under this section shall be the lesser of an amount equal to 90 per centum of, or $350,000,000 for, the loss of investment incurred with respect to the exploration for, and the commercial recovery and processing of, hard mineral resources from, the area of the deep seabed to which the license or permit applies.

(2) In determining the actual loss of investment of any licensee or permittee for purposes of this section, the court shall offset against the investment made by such licensee or permittee amounts equal to—

(A) the remaining commercial market value of the equipment, facilities, materials, and supplies used in exploration or commercial recovery under the license or permit and the onshore processing of hard mineral resources so recovered; and

(B) after-tax revenues, other tax benefits, and any compensation received incident to such exploration, commercial recovery, and processing.

(3) No compensation shall be awarded under this section for any element of loss incurred by any licensee or permittee in carrying out exploration or commercial recovery activities under a license or permit or processing of hard mineral resources so recovered if such loss is attributable to failure of technology, variation in market values of recovered hard mineral resources, force majeure, administrative fees paid under section 104, or events which are within the coverage of usual and customary insurance or for which remedy may be available under the admiralty laws.

(f) JURISDICTION AND VENUE.—The district courts of the United States shall have jurisdiction over cases and controversies involving claims of compensation under this section, without regard to the amounts involved. Actions with respect to any such claim may be instituted in a district court of the United States for the judicial district in which the plaintiff resides or transacts business, or the United States District Court for the District of Columbia.

(g) PAYMENT OF COMPENSATION.—The amount of each final award of compensation made under this section shall be certified by the court concerned to the Secretary who shall pay such award from the Deep Seabed Mining Fund established pursuant to section 203.

DEEP SEABED MINING FUND AND ANNUAL COMPENSATION PREMIUMS

SEC. 203. (a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States the Deep Seabed Mining Fund which shall be available to the Secretary as a revolving fund for purposes of paying compensation which is awarded to licensees and permittees under section 202. The fund shall consist of—

(1) any sums appropriated to the fund pursuant to the authorization provided in section 403(b);

(2) any annual compensation premiums deposited by the Secretary under subsection (b)(3); and

(3) any interest earned on sums invested pursuant to the last sentence of this subsection.

Compensation shall be paid by the Secretary from the fund only to the extent provided for in appropriation Acts. Sums in the fund which are not currently needed for the payment of compensation shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(b) PREMIUMS.—(1) Under such procedures as the Secretary shall establish, each United States citizen whose application for a license is approved pursuant to this Act shall be allowed an opportunity, before the license is issued, to elect whether or not to pay annual compensation with respect to the license and to the permit which may thereafter be issued with respect to the same area of the deep seabed. Any election not to pay such premiums is irrevocable. Any election to pay such premiums may be rescinded at any time. Any such recession is irrevocable and does not entitle the licensee or permittee to a refund of any premiums paid before rescission.

(2) Each licensee who elects to pay such premium, and each permittee who so elected while a license, shall pay to the Secretary for each calendar year, or part thereof, in which the license or permit is in effect an annual compensation premium the amount of which shall be determined by the Secretary: *Provided*, That the amount of any annual compensation premium assessed against any licensee or permittee for any calendar year may not be less than one-quarter, nor more than three-quarters, of 1 per centum of the value of the investment of the licensee or permittee as of the close of the calendar year immediately preceding the calendar year for which the premium is assessed.

(3) All annual compensation premiums collected by the Secretary under this subsection shall be deposited into the fund.

(c) TRANSFER TO TREASURY.—If any moneys remain in the fund, after all awards of compensation under section 202 are paid, the Secretary shall transfer all such moneys to the general fund of the Treasury and shall close the fund.

FUTURE CONTRIBUTIONS FOR IMPLEMENTATION OF INTERNATIONAL AGREEMENT

SEC. 204. No later than the one hundred and eightieth day after the effective date of this Act, the Secretary shall submit to the Congress specific legislative recommendations for requiring contributions to a special fund the proceeds of which shall be used for the payment of United States contributions to an international regime, established under an international agreement, for sharing with the international community pursuant to such agreement. Such recommendations shall include such provisions as the Secretary deems necessary and appropriate, including, but not limited to, provisions relating to the source, amount, and computation of the contributions required; the structure of the special fund; the tax treatment of the contributions (if contributions are required of licensees or permittees); and the disposition of the fund in the event that an international agreement does not enter into force with respect to the United States or United States contributions of the kind referred to in the preceding sentence are not required.

TITLE III—CIVIL PENALTIES AND CRIMINAL OFFENSES

PROHIBITED ACTS

SEC. 301. It is unlawful for any United States citizen to violate any provisions of this Act, any regulation issued pursuant to this Act, or any term, condition, or restriction of any license or permit issued to him pursuant to this Act.

CIVIL PENALTIES

SEC. 302. (a) ASSESSMENT OF PENALTY.—Any United States citizen who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 301 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $50,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(b) REVIEW OF CIVIL PENALTY.—Any United States citizen against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any United States citizen fails to pay an assessment of a civil penalty against him after it has become final, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) COMPROMISE OR OTHER ACTION BY THE SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

CRIMINAL OFFENSES

SEC. 303. Any United States citizen is guilty of an offense if he willfully and knowingly commits any act prohibited by section 301. Any such offense is punishable by a fine of not more than $250,000 for each day during which the violation continues. There is Federal jurisdiction over any such offense.

ENFORCEMENT

SEC. 304. The provisions of this Act, any regulation issued pursuant to this Act, and any term, condition, and restriction of any license or permit shall be enforced by the Secretary. The Secretary may, by agreement, on a reimbursable basis or otherwise, use the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency in the performance of such duties. The Secretary shall issue such regulations as may be necessary and appropriate to carry out his duties under this section.

LIABILITY OF VESSELS

SEC. 305. Any vessel, except a public vessel engaged in noncommercial activities, used in any violation of this Act, any regulation issued pursuant to this Act, and any term, condition, or restriction of any license or permit shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof.

TITLE IV—MISCELLANEOUS PROVISIONS

REGULATIONS

SEC. 401. (a) PROPOSED REGULATIONS.—As soon as practicable after the date of enactment of this Act, but not later than six months after such date, the Secretary shall consult with the Secretary of Commerce (acting through the National Oceanic and Atmospheric Administration), solicit the views of the agency heads cited in section 109(b), and publish in the Federal Register such proposed regulations as are required by, or are necessary and appropriate to implement, this Act. The Secretary shall hold a public hearing on such proposed regulations.

(b) FINAL REGULATIONS.—As soon as practicable after the effective date of this Act, but not later than three months after such date, the Secretary shall consult with the Secretary of Commerce (acting through the National Oceanic and Atmospheric Administration), solicit the views of the agency heads cited in section 109(b), consider the comments received during the public hearing required in subsection (a) and any written statements on the proposed regulations received by him, and promulgate such regulations as are required by, or are necessary and appropriate to implement, this Act.

(c) Provisions of regulations concerning terms, restrictions, and conditions of licenses and permits, to the extent practicable and taking into account differing characteristics of the various areas of the deep seabed to which licenses and permits would apply, shall be applied uniformly in establishing such terms, conditions, and restrictions included in each license and permit.

ANNUAL REPORT

SEC. 402. The Secretary shall submit to the Congress on or before October 31 of each year after 1977 a report on the administration of this Act during the period covered by the report. Such report shall contain, but not be limited to, the following information with respect to the reporting period—

(1) the number of licenses and permits issued, suspended, revoked, relinquished, surrendered, or transferred; applications for licenses and permits denied; and activities under licenses and permits suspended;

(2) a description and evaluation of the exploration and commercial recovery activities undertaken, including, but not limited to, information setting forth the quantities of hard mineral resources recovered and the disposition of such resources;

(3) a description of, and estimate of the damage caused by, adverse effects on the quality of the marine environment resulting from such activities;

(4) the number and description of all civil and criminal proceedings; and

(5) such recommendations as the Secretary deems appropriate for amending this Act to further fulfill its purposes.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 403. (a) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary for each fiscal year beginning after September 30, 1977, such sums as may be necessary for the administration of this Act.

(b) FOR COMPENSATION.—To the extent that the moneys in the Deep Seabed Mining Fund established pursuant to section 203 are not sufficient to pay compensation awarded under section 202, there are authorized to be appropriated to such fund for any fiscal year beginning after September 30, 1977, such sums as may be necessary for such payments.

(c) FOR ENVIRONMENTAL ASSESSMENT.—There are authorized to be appropriated to the Secretary of Commerce for each fiscal year beginning after September 30, 1977, such sums as may be necessary to carry out the responsibilities assigned to him in section 109.

SEVERABILITY

SEC. 404. If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or of any other application, shall not be affected thereby.

Mr. ROBERT C. BYRD subsequently said:

Mr. President, I ask unanimous consent that a bill introduced today by the Senator from Montana (Mr. METCALF), relative to deep seabed mining, be jointly referred to the Committees on Commerce, Science, and Transportation and Energy and Natural Resources.

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

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By Mr. METCALF (for himself, Mr. JACKSON, Mr. HANSEN, Mr. HATFIELD, Mr. JOHNSON, and Mr. MELCHER):

S. 2054. A bill to amend the Federal Water Project Recreation Act, relating to the provision of uniform policies with respect to recreation and fish and wildlife benefits and costs of Federal multiple-purpose water resource projects; to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

FEDERAL WATER PROJECT RECREATION ACT AMENDMENT

Mr. METCALF. Mr. President, I send to the desk for appropriate reference legislation to amend the Federal Water Project Recreation Act.

The Federal Water Project Recreation Act is one of the most important recreation measures to emerge as a result of the Outdoor Recreation Resources Review Commission and was a landmark of outdoor recreation policy. It represented recognition by the Congress that public outdoor recreation was among the principal purposes of Federal water resource development projects, and that it should receive full consideration in the planning and evaluation of project proposals.

The Federal investment in major reservoir projects has provided a recreational asset of phenomenal capabilities. Federal reservoirs already support public recreational use which exceeds that of the National Park Service in volume of visitor days. Many reservoirs are unique attractions in terms of setting and recreational attributes and some offer invaluable public land and water recreational opportunities close to major population centers. The optimal development and management of these opportunities must receive high priority.

In 10 years of implementation, the act has proven to have both strengths and weaknesses. Furthermore, public and governmental attitudes toward outdoor

recreation policies have evolved dramatically since 1965.

Mr. President, this legislation was originally prepared at the request of the committee chairman, Senator JACKSON, to address those deficiencies in the act which had been discovered during the committee review of Corps of Engineers projects. I requested the committee staff to investigate the Bureau of Reclamation record of implementation of the act's policies and to revise the draft legislation accordingly.

It is my intention, as chairman of the Subcommittee on Public Lands and Resources, to call upon both States and local units of government as well as the private sector to assist the subcommittee in its consideration of this important measure which has broad, bipartisan support.

Mr. President, I ask unanimous consent that the text of the measure be printed in the RECORD together with a staff memorandum explaining the legislation and a statement by Senator JOHNSTON.

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

S. 2054

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Federal Water Project Recreation Act, approved July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601–12 to 4601–21), is amended as follows:

Delete sections 1, 2, and 3 and insert in lieu thereof the following:

"SECTION 1. It is the policy of the Congress and the intent of this Act that (a) in investigating, planning, and developing any Federal navigation, flood control, reclamation, hydroelectric, or other water resource development project, full consideration shall be given to the opportunities the project may afford for outdoor recreation and for fish and wildlife enhancement purposes and that, whenever any such project can serve either or both of these purposes consistent with the provisions of this Act, it shall be constructed, operated, and maintained accordingly; (b) planning and development of the recreation potential at any such project shall include, as a nonreimbursable expense of the project, initial and continuing Federal provision of facilities and the acquisition of necessary associated land and water areas to provide for and continue to assure adequate access to the project, full protection of the public health and safety and full protection and enhancement of the environmental and natural resources of the project; (c) additional facilities to support the fullest possible range of outdoor recreation activities shall be planned and developed as part of the project to the extent consistent with the provisions of this Act and based on the coordination of the recreational use of the project area with the use of existing and planned Federal, State or local public recreation developments; (d) non-Federal public bodies will be encouraged to administer project land and water areas for recreation and fish and wildlife enhancement purposes and to operate, maintain and replace additional outdoor recreation facilities for these purposes unless such areas or facilities are included or proposed for inclusion within a national recreation area, or are appropriate for administration by a Federal agency as a part of of the national forest system, as a part of the public lands as defined in the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) or in connection with an authorized Federal program for the conservation and development of fish and wildlife.

"SEC. 2. (a) Each Federal water resources development project shall provide initial and continuing facilities and associated land and water areas in accordance with section 1(b) of this Act and the benefits of the project from predicted recreation use levels resulting from full Federal provision of such facilities shall be taken into account in determining the economic benefits of the project.

"(b)(1) Each Federal water resources development project shall provide additional facilities, associated lands and water areas and other measures to support a full range of outdoor recreation and fish and wildlife enhancement if, before their provision, non-Federal public bodies agree in writing to administer project land and water areas for recreation or fish and wildlife enhancement or for both of these purposes pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and to bear not less than one-half the separable costs of the project allocated to the additional facilities, associated lands and water areas and other measures addressed in this subsection for the purpose of recreation use and one-quarter of such separable costs allocated for the purpose of fish and wildlife enhancement, and all the costs of operation, maintenance, and replacement of such additional facilities, associated lands and water areas, and other measures for either or both of said purpose, as the case may be.

"(2) Benefits of each project from predicted recreation use levels resulting from the provision of additional facilities and associated land and water areas in accordance with subsection 2(b)(1) of this Act shall be taken into account in determining the economic benefits of the project if prior to its authorization non-Federal public bodies indicate their intent in writing to agree to the non-Federal requirements specified in subsection 2(b)(1) of this Act. Such benefits shall be calculated in addition to those calculated under subsection 2(a) of this Act.

"(c)(1) Costs of recreation and fish and wildlife enhancement at a project under the provisions of this Act shall be allocated to said purpose or purposes and to other purposes of the project in a manner which will insure that all project purposes share equitably in the advantages of multiple-purpose construction: *Provided*, That the costs allocated to recreation or fish and wildlife enhancement shall not exceed the lesser of the benefits of those functions or the costs of providing recreation or fish and wildlife enhancement benefits of reasonably equivalent use and location by the least costly alternative means; and

"(2) The following costs of the project allocated to recreation and fish and wildlife enhancement occasioned by the facilities and associated lands and water areas provided in accordance with section 2 of this Act shall be borne by the United States and be nonreimbursable:

"(i) all joint and separable costs for facilities, lands and water areas provided in accordance with subsection 2(a) of this Act, and

"(ii) all the joint costs and not more than one-half of the separable costs allocated to recreation and exactly three-quarters of the separable costs allocated to fish and wildlife enhancement for facilities, lands and water areas and other measures for either or both of these purposes provided in accordance with section 2(b) of this Act.

"(d) The non-Federal share of the separable costs of the project allocated to recreation and fish and wildlife enhancement for facilities, lands and water areas and other measures provided in accordance with subsection 2(b) of this Act shall be borne by non-Federal interests under either or both of the following methods as may be determined appropriate by the head of the Federal agency having jurisdiction over the project: (1) payment, or provision of lands, interests therein, or facilities for the projects; or (2) repayment, with interest at a rate comparable to that for other interest-bearing functions of Federal water resources projects, within fifty years of first use of project recreation or fish and wildlife enhancement facilities: *Provided*, That the source of repayment may be limited to entrance and user fees or charges collected at the project by non-Federal interests if the fee schedule and the portion of fees dedicated to repayment are established on a basis calculated to achieve repayment as aforesaid and are made subject to review and renegotiation at intervals of not more than five years.

"SEC. 3. (a) In addition to any lands provided in accordance with subsection 2(a) of this Act and notwithstanding the absence of an agreement or an indication of intent to agree as specified in subsection 2(b) of this Act, lands may be provided in connection with project development to preserve the recreation and fish and wildlife enhancement potential of the project.

"(b) If non-Federal public bodies execute an agreement subsequent to the authorization of a project with the head of the Federal agency having administrative jurisdiction over the project for the provision and administration of additional facilities at the project to support outdoor recreation and fish and wildlife enhancement as specified in subsection 2(b)(1) of this Act, the Federal agency may provide such facilities in accordance with the cost sharing and payment provisions of section 2 of this Act. Such agreement and subsequent development, however, shall not be the basis for any reallocation of joint costs of the project to recreation and fish and wildlife enhancement.

"(c) Lands heretofore or hereafter purchased by the Federal Government at Federal water resources development projects for recreation or fish and wildlife purposes or both in accordance with the provisions of this or any other Act, including joint project lands shall be retained in the ownership of the Federal Government for such purposes as long as they are capable of serving the purposes for which they were acquired, except that, in the event that the head of an agency having jurisdiction over such lands determines that any of those lands are no longer capable of serving the purposes for which they were acquired, the head of such agency may utilize the lands for any lawful purpose within the jurisdiction of his agency or shall dispose of such lands in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377). In no case shall the lands be used or made available for use for any purpose in conflict with the purposes for which the project was constructed, and in every case except that of an offer to purchase made, as hereinbefore provided by the prior owner preference shall be given to uses which will preserve and promote the recreation and fish and wildlife enhancement potential of the project or, in the absence thereof, will not detract from that potential.

"(d) In any case where the head of a Federal agency having jurisdiction over the project determines that a satisfactory agreement cannot be executed with an appropriate non-Federal public body to properly administer project land and water areas for recreation or fish and wildlife enhancement or an existing agreement is abrogated, such agency head shall investigate, plan, construct, operate, and maintain or otherwise provide for public outdoor recreation and fish and wildlife enhancement facilities, acquire or otherwise make available such lands, interests therein, or improvements thereon, as are necessary for public outdoor recreation or fish and wildlife

use and enjoyment of project lands, facilities, and water areas in a manner coordinated with other project purposes. In such cases, the agency head will provide recreation developments in accordance with an appropriate master plan that is responsive to a demonstrated public need.".

SEC. 2. Delete the provisions in subsection 6(e) and insert in lieu thereof the following: "Sections 2, 3, 4, and 5 of this Act shall not apply to general navigation features of small boat harbor projects or to project areas or facilities authorized by law for inclusion within a national recreation area or appropriate for administration by a Federal agency as a part of the public lands as defined by the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) or in connection with an authorized Federal program for the conservation and development of fish and wildlife.".

SEC. 3. Add a new subsection 6(i) as follows:

"(i) Federal project construction agencies are authorized to construct roads, parking facilities, water supply, sewage collection and treatment and associated site development for private individuals and corporations who provide additionally required recreation and tourist facilities on Federal lands at water resources development projects under the jurisdiction of the agencies. Prior to the commencement of any such construction, the individual or corporation which will benefit from such construction shall enter into an enforcible, written agreement with the head of the Federal agency undertaking the construction to repay, with interest computed at current cost of borrowing to the Treasury, the Federal Government for all the Federal expenses of such construction. Such agreements may provide for repayment of the sums due to the Federal Government on an installment basis subsequent to the commencement of the construction and within 30 days from the date when the head of the Federal constructing agency determines that the Federal construction, conducted under the authority of this subsection, is substantially completed. Any proposed agreement to be entered into under the authority of this subsection shall be referred by the head of the Federal agency concerned to the Administrator of the Small Business Administration prior to its execution for his review of the terms of the agreement and investigation of the soundness of the investment involved and the administrator shall report thereon to the Federal agency head within sixty days of referral".

SEC. 4. Delete subsection 7(a); redesignate subsection 7(b) and 7(c) as 8(a) and 8(c) respectively and sections 8 through 12 as 9 through 13 respectively; and insert the following new section 7:

"SEC. 7. (a) The cost sharing requirements and other requirements and provisions of this Act shall apply to and govern the development and enhancement of outdoor recreation and fish and wildlife at all Federal water resources development projects subject to this Act which are not otherwise exempted under subsection 6(e)": *Provided*, That the applicability of these requirements and provisions shall not be retroactively applied to require any increase in Federal or non-Federal expenditure for any ongoing recreation or fish and wildlife development at any project where such development is more than two-thirds completed on the date of enactment of this Act.

"(b) Each Federal construction agency head is authorized and directed to develop and manage recreation and fish and wildlife enhancement facilities together with associated sanitary and drinking water facilities, access roads, and parking lots and acquire such lands and water areas at existing water resources development projects under his jurisdiction and modify such projects and agreements concerning them as proves necessary to comply with the provisions of the Federal Water Project Recreation Act, as amended by this Act.

"(c) Where a non-Federal agency is unwilling or unable to properly administer project land and water areas for recreation or fish and wildlife enhancement and shows justification and cause for returning the area to the Federal Government, the Federal construction agency head may investigate, plan, construct, operate, and maintain or otherwise provide for public outdoor recreation and fish and wildlife enhancement facilities, acquire or otherwise make available such lands, interests therein, or improvements thereon, as are necessary for public outdoor recreation or fish and wildlife use and enjoyment of project lands, facilities, and water areas in a manner coordinated with other project purposes. In such cases, Federal agencies will develop facilities in accordance with an appropriate master plan that is responsive to a demonstrated public need."

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COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
*Washington, D.C., July 18, 1977.*

MEMORANDUM

To: Senator Lee Metcalf, Chairman, Subcommittee on Public Lands and Resources
From: James P. Beirne, Counsel, Committee on Energy and Natural Resources
Re: Amendments to Public Law 89–72, Federal Water Project Recreation Act

Pursuant to your request the draft legislation has been revised to include the Bureau of Reclamation as well as the Corps of Engineers. An explanation of the revised legislation follows.

The Federal Water Project Recreation Act (Public Law 89–72) provides a broad program to develop recreation opportunities and provides for fish and wildlife enhancement at Federal reservoir facilities. The experience of the last decade has demonstrated the need to modify and improve the original Act.

Pursuant to Section 2 and 3 of Public Law 89–72 as it presently exists, virtually no recreation or fish and wildlife enhancement may be provided for in project plans in the absence of a written agreement, entered prior to project authorization, in which a non-Federal public sponsor indicates its intent to agree to administer project land and water are s for these purposes and to cost share 50/50 with the Federal Government for all separable costs of the project allocated to recreation and 75/25 (Federal to non-Federal), as amended by section 77 of Public Law 93–25, for all separable costs of the project allocated to fish and wildlife enhancement, and to bear all related costs of operation, maintenance, and replacement.

The obvious limitation of these provisions is that they require a non-Federal sponsor willing to participate in 50/50 and 75/25 cost sharing before recreation and fish and wildlife enhancement facilities may be planned for and provided at Federal water resources development projects.

Section 3(a) of Public Law 89–72 presently allows for the provision of some specific bare minimum recreation and/or fish and wildlife enhancement facilities at Federal water resources projects where a non-Federal public sponsor is unavailable. However, such facilities are limited to "minimum facilities which are required for the public health and safety and are located at access points provided by roads existing at the time of project construction or constructed for the administration and management of the project."

This provision is narrow in scope, has been administratively interpreted very narrowly, does not reflect policies established by subsequent legislation, and does not allow for adequate provision of facilities to accommodate the visitors who are being, and will be, attracted to Federal water resources development projects for recreation and/or fish and wildlife purposes even though virtually no facilities are provided.

The draft legislation provides for an expansion of the type and amount of minimum basic recreation and fish and wildlife areas and facilities to be provided at Federal water resources projects at full Federal expense. Such minimum basic facilities would include sanitary sewerage and drinking water facilities, access roads and parking areas, as well as additional lands, and would be provided first to meet initial demand, and in the future, as needed to meet future demand.

The legislation, however, does retain the existing cost-sharing requirements (50/50 for recreation and 75/25 for fish and wildlife enhancement) for any facilities to be provided in addition to the basic minimum facilities. Such additional facilities include the type of facilities normally found in State or local parks, such as picnic areas, camping areas, play fields, and so forth, and would naturally include the necessary associated sanitary and drinking water facilities, access roads and parking areas and so forth.

Section 3(a) of the existing Public Law 89–72 provides that in the absence of a non-Federal sponsor willing to cost share for facilities and so forth, "lands may be provided in connection with project construction to preserve the recreation and fish and wildlife enhancement potential of the project." However, in the event a non-Federal sponsor does not materialize within a 10-year period, provision is made for putting the lands to other agency uses or disposing of them.

Section 3 of the existing Act is modified in the draft legislation in part by adding a new subsection (c) which requires the retention by an agency of lands acquired at Federal water resources development projects for recreation or fish and wildlife purposes as long as the lands are capable of serving the purposes for which they were acquired. The new draft subsection provides for the retention of lands for other agency uses or disposing of them in the event the agency head determines that the lands no longer can serve the purposes for which they were acquired.

Another provision of this draft legislation provides for long-term low interest Federal loans to the private sector to aid and, in accordance with the Federal Property and Administrative Services Act, encourage development of tourist facilities. There is no comparable provision in Public Law 89–72, as it exists. What is envisioned in this is that private development at Federal water resources development projects of hotels, motels, and/or other related tourist-recreation facilities should be encouraged where such development would be in accordance with the plans for a project and where it would thus serve the general public.

A reasonable means of encouraging such private development might be the provision, by appropriate Federal project agency, of on-site "utilities" such as roads, parking areas, water supply, sewage collection and treatment, and associated site development for proposed tourist-recreation facilities, the cost of which would be repaid over a period of up to 30 years with interest computed at the current cost of borrowing to the treasury. Before any agreements would be entered under this the proposal would be referred to the Small Business Administration for review and investigation of the soundness of the investment involved. This provision would relieve private developers from the burden of some of the front-end costs of new development at projects.

Another concern of this draft legislation is to provide for consistent application of these policies to all Federal water resources development projects. Several portions of Public Law 89–72 have an impact limiting the application of the provisions contained in the Act to particular water resources development projects.

The existing Public Law 89–72 is prospective in nature and pursuant to Section 2 is applicable only to projects authorized during 1965 and after. In order to make Public Law 89–72, as amended, applicable to all water resource development projects, the provision in Section 2 of Public Law 89–72 is deleted and Section 4(a) of the draft legislation is written to specify that the provisions of Public Law 89–72, as amended, shall apply to all projects except that the provisions would not be retroactively applicable where to do so would require any increase in Federal expenditures for any recreation or fish and wildlife development more than two-thirds completed on the date of enactment.

To assure that the public recreation potential of all federally funded water development projects is fully realized, the commitment to develop a Federal water project should carry with it the obligation to fully serve any public recreation benefits inherent in the project. The commitment for national funding establishes the national purpose of the recreation aspects of the project, as well as the water, power, and flood control aspects.

While cost-sharing is a sound funding device that should be fully explored in each instance, there should be a statutory requirement that the Federal Government meet recreation needs if cost-sharing devices are not successful. In order to assure that the necessary investment is made when a satisfactory agreement cannot be executed, section 3 of the existing act is modified in the legislation by adding a new subsection, 1(d), which requires that in any case where the head of a Federal agency having jurisdiction over the project determines that a satisfactory agreement cannot be executed with an appropriate non-Federal public body to properly develop and manage an area, or an existing agreement is abrogated, that the agency head develop and manage or provide for the development and manage the area subject to an approved master plan.

Section 6(e) of Public Law 89–72 makes the cost sharing and reimbursement provisions of that Act not applicable to nonreservoir local flood control projects, beach erosion control projects, small boat harbor projects, and hurricane protection projects. The draft legislation provides modified language for Section 6(e) which would remove the above listed types of projects (except for navigational features of small boat harbor projects, because these are recreation projects to begin with) from those to which the cost sharing and reimbursement provisions are to be not applicable (modified language is on pages 11 and 12 of draft legislation.

Section 1(a) of Public Law 89–72 contains language which might lend itself to limiting the provision of recreation and fish and wildlife enhancement at certain projects. The statutory language presently reads as follows:

in investigating and planning any Federal navigation, flood control, reclamation, hydroelectric, or multiple-purpose water resource project, full consideration shall be given to the opportunities, if any, which the project affords for outdoor recreation and for fish and wildlife enhancement and that, whenever any such project can reasonably serve either or both of these purposes consistently with the provisions of this Act, it shall be constructed, operated, and maintained accordingly.

Section 1(a) in the draft legislation has been amended to delete the word "reasonably" and should thus make clear that all projects shall be considered for recreation and fish and wildlife enhancement.

The final concern of this draft is to provide for consistent application of the policies to all completed Federal water development projects. Public Law 89–72, as it presently exists, does not apply uniformly to completed projects under the administration of different Federal agencies.

Public Law 89–72 applies only to completed projects under the administration of the Secretary of the Interior and not the Department of the Army. (Note, however, that the current policy of the administration is to apply, for the most part, the cost-sharing principles of Public Law 89–72 where recreational development added under section 4 of the Flood Control Act of 1944 to Department of the Army projects authorized prior to 1965.) The Secretary of the Interior is presently limited by section 7(a) of Public Law 89–72 to a Federal cost-sharing contribution of $100,000 and does not have the authority to develop and manage which is available to the Department of the Army under the 1944 act. As a result the recreation potential of many of the water development projects in the 17 Western States subject to Reclamation laws has never been fulfilled. In many cases, minimum facilities to meet public health and safety standards at projects currently receiving visitation have never been built.

Therefore, section 4 of the draft legislation replaces the existing section 7(a) and provides that the terms and requirements of Public Law 89–72, as amended by the draft legislation, are to be applicable to all projects, with a specific provision which authorizes and directs the heads of Federal construction agencies to develop and manage minimum recreation and fish and wildlife enhancement facilities at such projects.

Subsection 4(b) of this draft legislation provides consistent general authority for all agencies having jurisdiction over a Federal water project to be able to provide adequate recreation development in order to more fully protect Federal lands and insure that the public and future generations will have recreational opportunities.

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STATEMENT OF SENATOR JOHNSTON

The purpose of the Federal Water Project Recreation Act was to provide a broad program to develop recreation facilities and enhance fish and wildlife opportunities at Federally funded water reservoir facilities. The Act is now in need of modification to improve it in line with our experience over the last decade.

In its present form, almost no recreation or fish and wildlife enhancement may be provided in the plans for a project in the absence of a written agreement entered into prior to the authorization of the project. A non-Federal public sponsor must indicate its intent to agree to administer the projects land and water areas for these purposes and to share the cost on a 50–50 basis with the Federal government for all separable costs of the project allocated to recreation and 75–25 for fish and wildlife enhancement. The non-Federal body must also bear all costs related to operation, maintenance and replacement.

This draft legislation provides for an expanded participation in recreation and fish and wildlife facilities by the Federal government that will be fully federally funded. The legislation retains the existing cost-sharing requirements for any facilities to be provided in addition to the basic minimum facilities in the present law. Another provision of this draft legislation provides for long-term, low interest Federal loans to the private sector to aid and encourage development of tourist facilities. The legislation also provides for consistent application of these policies to all Federal water resources development projects.

I hope we will be able to hold hearings on this important legislation that will reinforce my belief that we must change our present system if we are to fully utilize our water resources projects.

Mr. MELCHER. I am pleased to join my colleague from Montana, Senator METCALF, in sponsoring S. 2054, a bill to amend Public Law 89–72, the Federal Water Project Recreation Act.

This is a forward-looking bill which will be a major step toward recognizing the importance of recreation and fish and wildlife enhancement at Federal water projects for the benefit of all Americans. And it will begin to give the necessary direction and consistent guidance to making such improvements.

Those of us from Montana know full well the need for increased recognition of the Federal responsibility to provide basic recreation and fish and wildlife enhancement facilities at our many water projects. The most striking example of the neglect of this responsibility with respect to recreation in our State, and perhaps the entire country, is at Fort Peck Lake which is part of the Pick-Sloan Missouri Basin project. Fort Peck Dam was completed in 1940—before there was the importance Americans place today on recreation as one of the key benefits of water projects.

Since 1940, Fort Peck has made a tremendous contribution to the entire north-central United States. It provides 165,000 kilowatts of electricity to the seven-State Pick-Sloan project area—with 1976 power sales returning $11.9 million to the Federal Treasury. It is essential for maintaining downstream irrigation, navigation, and flood control along the entire Missouri River. Its 19.1 million acre-feet of water storage capacity make it the fifth largest reservoir in the United States.

Fort Peck's energy contributions will increase even beyond present levels as electrical generation capacity is expanded in the future. The Missouri River "umbrella" study now in the process of being finalized by the Corps of Engineers has made a finding that the existing Fort Peck power output could be doubled by addition of more turbines.

However, the 1,540 miles of Fort Peck Lake shoreline have only a dozen points of access for recreation such as boating, fishing or camping with few facilities of any kind. And the people of the area and those who may travel hundreds of miles to the lake know how well the official "primitive" development descriptions fit. Yet the Corps of Engineers estimates that annual recreation visits will multiply many times within the next 5 years—perhaps to as many as one-half million visitors annually. This is because Fort Peck Lake is within easy driving distance of projected coal development sites of the Fort Union coal deposits in which it is located.

I share the conviction of the residents of the area that Fort Peck Lake has served the Nation well in terms of energy, irrigation, flood control, and navigation. It has more than paid its way as a true national resource and will continue to do so. But its recreational potential has been severely neglected.

In approving the bill we have introduced today, Congress can correct this and many similar situations by directing the Corps of Engineers or Bureau of Reclamation to provide minimum facilities such as access roads, parking areas, sanitary facilities, and drinking water supply at Federal water projects. I believe hearings on the bill will make a strong case to include simple boat ramps, picnic, and perhaps other facilities as well. In cases such as Fort Peck, where the Federal presence is so great as to overwhelm the ability of the surrounding areas to share the cost of additional improvements beyond these minimums, the bill establishes a procedure for those improvements to be clearly recognized as a Federal responsibility.

Mr. President, I commend Senator METCALF for his work on S. 2054 and I hope it will be approved by this Congress.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced by the Senator from Montana (Mr. METCALF) and others to amend the Federal Water Project Recreation Act be jointly referred to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources. I understand this has been cleared on both sides of the aisle.

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

## ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 123, a bill to amend the Social Security Act to provide for the payment of services by phychologists, and for other purposes.

S. 643

At the request of Mr. NELSON, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 643, a bill to amend the Federal Food, Drug, and Cosmetic Act to require that the identity of the manufacturer of a prescription drug appear on the label of the package from which the drug is to be dispensed.

S. 692

At the request of Mr. HUMPHREY, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 692, a bill to provide third-class mailing privileges to Gold Star wives of America, Inc.

S. 901

At the request of Mr. BENTSEN, the Senator from Maine (Mr. HATHAWAY), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Nebraska (Mr. CURTIS), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 901, a bill to make it easier to comply with certain Federal employee benefit plan requirements by amending the Internal Revenue Code of 1954 and the Employee Retirement Income Security Act of 1974 to eliminate dual Treasury and Labor Department jurisdiction over certain requirements, to reduce the number of reports and other paperwork required thereunder, and for other purposes.

S. 991

At the request of Mr. RIBICOFF, the Senator from Ohio (Mr. METZENBAUM), the Senator from Wyoming (Mr. WALLOP), and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 991, a bill to establish a separate Department of Education, and for other purposes.

S. 1307

At the request of Mr. CRANSTON, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 1307, a bill to amend title 38 of the United States Code to deny veterans' benefits to certain individuals whose discharges from service during the Vietnam era under less than honorable conditions are administratively upgraded under temporarily revised standards to discharge under honorable conditions.

S. 1526

At the request of Mr. BARTLETT, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Tennessee (Mr. BAKER), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Montana (Mr. METCALF), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Oregon (Mr. HATFIELD), the Senator from Michigan (Mr. RIEGLE), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 1526, a bill to establish an Associate Administrator for Women's Business within the Small Business Administration.

S. 1745

At the request of Mr. NELSON, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. HATHAWAY), and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 1745, a bill to amend the Employee Retirement Income Security Act of 1974.

S. 1774

At the request of Mr. NELSON, the Senator from North Dakota (Mr. BURDICK) and the Senator from Florida (Mr. STONE), were added as cosponsors of S. 1774, a bill to amend the Internal Revenue Code of 1954 to provide that the Federal excise tax on telephone service does not apply to amounts paid as State tax on the same service.

S. 1882

At the request of Mr. GLENN, the Senator from New York (Mr. MOYNIHAN) and the Senator from Kentucky (Mr. FORD) were added as cosponsors of S. 1882, to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Law Enforcement Assistance Administration to make grants to States for the prevention and detection of certain crimes involving the torching of buildings, and for other purposes.

S. 1903

At the request of Mr. JACKSON, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 1903, a bill to amend chapter 55 of title 10, United States Code, to authorize the use of health maintenance organizations in providing health care under such chapter, and for other purposes.

S. 1923

At the request of Mr. ROTH, the Senator from Hawaii (Mr. INOUYE) and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 1923, a bill to amend the Consolidated Farm and Rural Development Act and title V of the Housing Act of 1949 to authorize Federal assistance under such acts with respect to the installation of solar heating and cooling devices in residential and farm structures.

S. 1968

At the request of Mr. RIBICOFF, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 1968, a bill to establish the Long Island Sound Heritage.

S. 1991

At the request of Mr. METCALF, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Maine (Mr. HATHAWAY) were added as cosponsors of S. 1991, the National Electrical Energy Reliability and Conservation Act of 1977.

S. 1996

At the request of Mr. STAFFORD, the Senator from Alaska (Mr. STEVENS) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1996, a bill to amend title 10 of the United States Code relating to survivor benefits for retirees of the Reserve Forces.

S. 2019

At the request of Mr. JAVITS, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 2019, relating to welfare reform.

SENATE RESOLUTION 219

At the request of Mr. ROTH, the Senator from Arizona (Mr. DECONCINI), the Senator from California (Mr. HAYAKAWA), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Resolution 219, to establish in the Senate a senior citizen internship program.

## SENATE RESOLUTION 250—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

(Referred to the Committee on the Budget.)

Mr. MCINTYRE, from the Committee on Banking, Housing and Urban Affairs, reported the following original resolution:

S. RES. 250

*Resolved*, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. —. Such waiver is necessary to permit consideration of statutory authority authorizing the payment of interest on reserve balances held at Federal Reserve banks and the

lowering of certain reserve requirements in order to prevent continued attrition of bank membership in the Federal Reserve System. Such attrition may be affected by the authority permitting depository institutions to offer negotiable order of withdrawal (NOW) accounts and share draft accounts to individuals nationwide. Other than Title III, the provisions of S. — shall become effective one year after date of enactment. The delay in enactment is necessary to allow depository institutions time to prepare to offer such accounts and to allow any necessary adjustments in state laws.

## SENATE RESOLUTION 251—SUBMISSION OF A RESOLUTION TO REFER S. 2029 TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. BROOKE submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 251

*Resolved*, That the bill (S. 2029) entitled "A bill to provide for the payment of losses incurred as a result of the ban on the use of TRIS in children's wearing apparel, and for other purposes" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such findings of fact and conclusions that are sufficient to inform the Congress of the nature and character of the demand as a legal or equitable claim against the United States or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

## SENATE RESOLUTION 253—SUBMISSION OF A RESOLUTION ON U.S. COMMITMENT TO NATO

(Referred to the Committee on Foreign Relations.)

Mr. DOLE (for himself, Mr. THURMOND, Mr. HELMS, Mr. DANFORTH, Mr. LUGAR and Mr. HANSEN) submitted the following resolution:

S. RES. 253

Whereas, grave doubts have been raised in recent days, both at home and abroad, about the determination and resolve of the United States to fulfill its commitment to its NATO allies, especially to the Federal Republic of Germany;

Whereas, the confidence of our European allies as to the intentions and support of the United States regarding the NATO alliance must be maintained;

Whereas, any change in the commitment of the United States to support the NATO alliance and to defend the territoral integrity of its member nations should be a matter for full discussion by the Senate and the American people;

Whereas, we believe the American people continue to support our real and moral obligations to support and defend the governments and the people of our European allies: Now, therefore, be it

*Resolved*, That we reaffirm our determination to fulfill our responsibilities to protect and defend the territorial integrity of the Federal Republic of Germany and all member nations of the North Atlantic Treaty Organization.

Mr. DOLE. Mr. President, the Senator from Kansas rises to submit a resolution which I believe we should adopt in order to clarify our commitment to some of our closest allies. In my view, we must express our resolve to live up to our defense treaties with our European allies. That resolve has been opened to question by a recent report on a high level meeting in the Carter administration.

Mr. President, I would like to bring to the attention of my colleagues a series of articles that appeared in the Washington Post since August 3. These articles concern our contingency plans in case of a Soviet attack on Western Europe.

GIVE UP A THIRD OF WEST GERMANY

According to the Evans and Novak article of August 3, Zbigniew Brzezinski, the President's national security adviser, is quoted as accepting the loss of one-third of West Germany in the event of a conventional attack by Warsaw Pact forces. Apparently, there was no dissent from any of the senior officials present, including Vice President MONDALE, CIA Director Stansfield Turner and Joint Chiefs of Staff Chairman, Gen. George Brown. Although the White House denied the report, Mr. Brzezinski's press spokesman, Jerold Schecter declined to elaborate on which statements attributed to Mr. Brzezinski were inaccurate.

NATO ALLY NOT INFORMED

I find this kind of thinking on the part of our top leaders extremely disturbing. We are talking about the territory of one of our NATO allies, and apparently, the administration is considering this policy shift behind the back of West Germany, one of NATO's most diligent members. Let me remind my colleagues that the United States conceded territory to the Soviets in World War II and we have been wrestling with the problems created ever since.

FUTURE ACTIONS MUST BE WATCHED

In view of the fact that the administration is espousing the withdraw of U.S. troops from Korea at a most delicate time in the affairs of Asia, I find it inconceivable that the President's top national security officials are also secretly planning for the concession of one-third of West Germany to the Warsaw Pact in the event of a conventional attack. This is a most alarming development, Mr. President, if such discussions have indeed taken place.

Perhaps it is opportune to remind President Carter that the American people elected him President last November because of their desire for new leadership. And leadership is at the very heart of this article if I am to believe its basic accuracy. Mr. Brzezinski seems to be saying that the American people will not support increased defense spending to make the NATO alliance a truly effective deterrent to future Soviet aggression. Therefore, the United States must be willing to accept that fact that its friend and ally, West Germany shall have to sacrifice one-third of its territory.

Mr. President, I believe Mr. Brzezinski, for all his supposed brilliance in foreign policy, basically underestimates the intelligence and the mettle of the American people. If there is such a resistance in this country to legitimate and necessary defense spending, perception which I am not prepared at this time to share with the administration, then it is incumbent upon President Carter, Mr. Brzezinski and others to take their case before the American people—not sacrifice the territory of one of our most reliance allies in some meeting behind the closed doors of the White House.

The American people have always been willing to listen to reasoned arguments and their grasp of what constitutes the necessary elements for peace and America's contribution to that peace is broad and far-reaching.

I believe it is most important that we take note of this article and keep a watchful eye on the administration's future actions with regard to our defense policy. I want to share these provocative articles with my colleagues, therefore I ask unanimous consent that they be printed in the RECORD.

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

CONCEDING DEFEAT IN EUROPE

(By Rowland Evans and Robert Novak)

President Carter late this week will be presented by his national security advisers with a new defense strategy that secretly concedes one-third of West Germany to a Soviet invasion rather than seek increased defense spending, which these advisers say would provoke Moscow and divide Washington.

[*For the Carter administration's comments on this column, see the news story on page A12.*]

PRM-10, the Carter administration's top-secret strategic study, suggested that this policy could be made palatable to Western Europe by simply not admitting its implications. This course was wholly adopted in high-level meetings July 28 and 29 by Zbigniew Brzezinski, the President's national security adviser. There was dissent from the senior officials assembled.

The strategic policy paper to be given the President (about three pages of single-spaced typing) makes no mention of surrender or duplicity in central Europe but talks of a commitment to a "minimum loss of territory" in NATO. To achieve a broader perspective Carter ought to look at the minutes of the July 28–29 meetings of his Senior Coordinating Council (SCC) on national security.

The SCC agreed on a 3 per cent annual increase in defense spending, fulfilling Carter's promise to his NATO allies earlier this year. But, according to verbatim notes taken by one of the participants, Brzezinski declared: "It is not possible in the current political environment to gain support in the United States for procurement of the conventional forces required to assure that NATO could maintain territorial integrity if deterrence fails. Therefore, we should adopt a 'stalemate' strategy. That is, a strategy of falling back and leaving the Soviets to face the political consequences of their aggression."

Brzezinski went on to declare that these "political consequences"—world opinion, U.N. disapproval, U.S. mobilization—would help deter a Soviet invasion. There was no dissent from those present, including Vice President Mondale, CIA Director Stansfield Turner, Chief Disarmament Negotiator Paul Warnke, Deputy Defense Secretary Charles Duncan and Joint Chiefs of Staff Chairman Gen. George Brown.

Brzezinski continued: "We agree there must be a gap between our declared strategy and actual capability. We cannot for political reasons announce our strategy." Again, there was no dissent, though some officials voiced the opinion there would be hell to

pay if the Germans learned what was happening.

All this follows the script of the June 20 draft of PRM–10, which lists four options for lower-range defense spending. Each would stop a Soviet offensive at a line formed by the Weser and Lech Rivers, surrendering about one-third of West Germany (including Saxony and most of Bavaria).

These four options, according to PRM–10, do not "plan" to stop "a determined Warsaw Pact conventional attack. . . . If the Soviets persist in their attack, a U.S.-NATO conventional defeat in Central Europe is likely." Yet these options are certainly not rejected out of hand.

"Many of the adverse political implications" of the reduced defense options (such as independent German rearmament or, conversely, European accommodation to Moscow) "probably could be avoided if the U.S. continued to publicly support" present strategy. Adverse reactions by Western Europe "could be significantly softened . . . If the U.S. were to avoid any statements to the effect that a loss of NATO territory would be acceptable."

PRM–10 also proposes these political steps, accompanying defense reduction, that could help forestall a Russian attack: "The U.S. might pursue arms-control initiatives more vigorously to obtain reductions in threats and opposing force levels, thereby minimizing the risks of unilateral U.S. reductions. With respect to the Soviet Union, the U.S. might undertake a broad program of economic assistance to the U.S.S.R. on trade, credits, food, and technology, thereby lowering political tensions and reducing the risks of war."

The four options calling for increases in defense spending, says PRM–10, would be intended to roll back a Soviet invasion but "may provoke adverse Soviet *and* allied reactions." This "might provoke a similar Soviet counter-buildup or even a preemptive attack," and therefore "might actually undermine deterrence."

Arms-control negotiations would be disturbed by "strategies requiring a visible and rapid increase in the size of U.S. and allied forces, particularly in Europe. . . . Soviet suspicions of U.S. motives would make it more difficult to conclude meaningful arms-control agreements, either SALT [Strategic Arms Limitation Talks] or MBFR [Mutual Balanced Force Reductions]."

PRM–10 predicts any increase in defense spending would generate "divisive debate" and warns an across-the-board hike in defense capability "is likely to find little domestic support." In general, the options calling for decreased strength are seen as causing less trouble; in particular, the option calling for approximately the present military level but with less sustained power in Europe is described as "probably the most anodyne [option] in terms of its domestic impact, unless it were only described as a lowering of our sights."

These views were implicitly accepted last week by Brzezinski and the other senior officials. So the President is about to adopt a policy boiling down to this: Instead of seeking greater defense spending to defend central Europe, rely on political pressures to deter Moscow while secretly conceding a military defeat. Whether this reflects a "political environment" as claimed by Brzezinski, it certainly reveals the environment within the Carter administration.

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"PULLBACK" POLICY IN EUROPE IS DENIED

(By Edward Walsh)

Senior administration officials yesterday denied a report that the United States is considering a defense policy that would concede the loss of one-third of West Germany in the case of a Soviet invasion of Western Europe.

The denials, in response to a report by syndicated columnists Rowland Evans and Robert Novak published yesterday in the Washington Post, came from the State Department, Defense Secretary Harold Brown, White House press secretary Jody Powell and President Carter's national security adviser, Zbigniew Brzezinski.

Brown, testifying before a Senate Armed Services subcommittee, said U.S. policy still is to contain any Soviet attack near the German border.

"I do not advocate and will not support a policy which called for the United States to accept a loss or defeat in Europe," Brown said.

Powell, answering questions at the White House, said that Presidential Review Memorandum 10—the subject of the column—propcses no change in policy that would accept the loss of territory in Europe. U.S. policy, he said, remains unchanged and includes the possible use of tactical and strategic nuclear weapons as well as conventional forces in defense of Europe.

PRM–10 is the administration's overall review of U.S. global strategy, including military strengths and force levels. It has not yet been presented to the President.

Evans and Novak reported what they described as a meeting of high-level administration officials July 28 and 29 to discuss aspects of PRM–10. The thrust of the column was that the officials agreed with Brzezinski's contention that given the "current political environment" the administration could not expect to gain support to procure enough conventional forces to assure turning back a Soviet invasion.

In these circumstances, the columnists said Brzezinski argued, the United States should adopt a "stalemate strategy," in effect "falling back and leaving the Soviets to face the political consequences (such as adverse world opinion) of their aggression." But under no circumstances, Brzezinski was reported to have said, should the United States publicly acknowledge any such change in its strategy, since this would cause an uproar in Western Europe, according to the columnists.

The syndicated column contained lengthy quotations attributed to Brzezinski which Evans and Novak said came from the verbatim notes of one of the participants in the meeting.

The White House did not directly deny that Brzezinski made the statements attributed to him. However, Jerrold Schecter, Brzezinski's press spokesman, said the statements in the column were "partial, inaccurate and deal only with one aspect of the overall defense strategy that might be applied in the event of an attack on Western Europe."

Schecter declined to elaborate on where the statements attributed to Brzezinski were inaccurate.

Powell described the Evans and Novak report as another "in a series of the 'Oh, my God, they're caving in to the Commies' columns" by the two writers, who are known for their hard-line stance on defense issues.

Powell conceded that discussions of PRM–10 have included reviews of "political options" open to the United States in the event of Soviet aggression in Europe, but he said the discussions were not limited" to political options. The response to a Soviet invasion, he said, "would be other than words."

Asked whether the administration believes the United States and its NATO allies currently have the strength to regain any territory initially lost to an invasion, Powell, after hesitating, replied:

"Yes we do . . . It is our policy to regain any territory and it is our belief at this time that we can do that. However, it is important for NATO to take certain steps to maintain that ability."

Last May at a meeting of the NATO ministers in London, Carter reaffirmed U.S. support of the alliance and simultaneously warned that unless there is an early agreement for mutual and balanced force reductions NATO must be beefed up.

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U.S. GENEROSITY TOUCHES TASS

Moscow, Aug. 2.—The United States is prepared to give up someone else's territory—West Germany's—to a country that has no intention of taking it, Soviet Union, the official Soviet news agency, Tass, declared today.

"What generosity!" Tass said, commenting on an article in which columnist Rowland Evans and Robert Novak said the United States is ready to surrender a third of West Germany in a conventional land war with Warsaw Pact forces rather than increase defense spending enough to meet an attack head-on.

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BONN IS DISTURBED OVER REPORT OF U.S. "PULLBACK POLICY"

(By Michael Getler)

BONN, Aug. 4—Despite a barrage of official denials and reassurances from Washington, the report by columnists Evans and Novak that White House advisers are suggesting a strategy conceding the loss of one-third of West Germany to a Soviet attack has sown anxiety and some distrust here.

"The professional officer corps," says one high-ranking West German officer, "is not troubled because they know that such a plan is nonsense. But it has nevertheless caused distrust and some loss of confidence" in American thinking.

A senior West German officer at headquarters of the North Atlantic Treaty Organization in Belgium said:

"After you have believed in something like the American commitment to defend Germany for 25 years, it is hard to shake the faith on the basis of just one newspaper article." But it was so detailed, he continued, referring to the columnists' report and quotations from a White House meeting, "that it does make you wonder."

Concern has not been reduced as much as government officials here had hoped in part because Bonn had expected that President Carter—rather than his press spokesman—would personally make a statement reaffirming the U.S. policy of forward defense covering West Germany up to its borders with Communist East Europe.

Foreign Ministry officials here, on the basis of telephone discussions with Washington yesterday, indicated that Foreign Minister Hans-Dietrich Genscher had been told that Carter would make a public statement yesterday. "The President should have said something," a senior U.S. officer said.

A NATO official called the news account "the worst, most dangerous thing I've seen in the newspapers in years. It revives the whole question again about the basis of the American commitment, the old doubts about whether we would exchange Philadelphia for Hamburg."

Hamburg, in fact, symbolizes for West Germans the meaning of views such as those reportedly expressed in the classified White House study.

The study, according to the columnists, suggests as an optional U.S. strategy the lowering of defense spending, and the setting up of a line formed by the Weser and Lech Rivers as the point beyond which a Communist offensive would not be allowed to go. This would surrender about one-third of West Germany.

But perhaps one American in a million knows that such conceded territory includes big cities such as Munich, with more than 1 million people and Hamburg—which, is not only the largest West German city aside from West Berlin, with nearly 2 million people, but

is also the home of Chancellor Helmut Schmidt.

"We would never go along with that, never," said a West German commander, "and the Americans could not pull back and defend alone. Seventy-five per cent of our army is stationed in those areas. All our defense planning and training is directed at protecting them."

"If we ever tried to pull back like that," mused one U.S. officer, "we'd be taking fire from all flanks," implying that the West Germans would be firing on the Americans as well.

West German officials point out that after the formation of NATO in 1949, the main line of western defense was along the Rhine. Then it was moved farther east to the Weser and Lech rivers. But since 1966, as the West German armed forces, or Bundeswehr, began to take shape and grow to 500,000 men, the line was moved steadily eastward toward the East German border under the policy of forward defense.

"To go back to 1966 is impossible," one officer said. "The best thing the study could do is confirm that our current strategy is correct."

The lead editorial in today's Frankfurter Allgemeine newspaper accused the nameless U.S. advisers of "playing with dangerous thoughts" and said such tentative options reflect "an alarming ignorance of the real world."

If a massive attack from the East ever came into densely populated West Germany, observers believe, there would be enormous chaos and a situation that would be hard to control from the first shot. Certainly the West Germans would not pull back voluntarily or surrender big cities and countryside. Nor could the Soviets be expected to roll their formations neatly into areas which would make a Weser-Lech line attractive.

West German commentators have generally pointed out that aside from purely military matters, deterrence of war is a psychological thing making public discussion of such a pullback extremely risky.

Yet, as the Frankfurter Allgemeine said. "The Soviet will not benefit from the West's weakening of its defense readiness by tentative plans because ultimately the decision to invade, no matter how tempting runs the risk of quick escalation to all-out nuclear war.

"We hope President Carter will keep his political instinct and Europe will keep its cool. After this psychological disaster, restoration of confidence is what NATO needs first of all," the paper said.

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CONCEDING A THIRD OF GERMANY

That sensational Evans and Novak column saying the United States is considering "a new defense strategy that secretely concedes one-third of West Germany to a Soviet invasion rather than seek increased defense spending" poses a couple of puzzles. Why, for instance, would any responsible official leak something that is preposterous at face, at least in our judgment, and that, true or false, can have only mischievous effects on alliance confidence and, conceivably, on Soviet planning? He would do the leaking, we presume, to build up some political steam for "increased defense spending." Detecting the self-serving aspect of a leak, any leak, is a constant challenge facing the consumers of Washington journalism.

But, you may ask, is there not some truth in the column? There's a lot, if what the columnists meant by "conceding" a third of Germany was that, in the initial phase of a full-scale surprise attack, the Warsaw Pact might seize substantial territory before NATO could effectively respond. Otherwise, the column testifies to the seriousness of current administration debate over whether the conventional forces of NATO can deter a Warsaw Pact attack, repel such an attack if it comes, and do so without employing nuclear weapons unless absolutely necessary. NATO's strategy always has been and, according to the President, still is to conduct a "forward defense" with an eye to conceding as little territory for as short a time as possible. But the Warsaw Pact buildup of the last few years has raised doubts about whether NATO can still put that strategy into effect.

It is precisely these doubts that underlie the administration's attempts to freshen its military planning, to beef up the alliance's conventional defenses, to negotiate force reductions in Europe and, incidentally, to open an option to deploy the neutron bomb—an offset for Moscow's widely presumed conventional superiority. The discussion on these matters is intense, the column plugged into part of it.

The column has had, however, one good result. It elicited from the President and his chief advisers pointed reaffirmations of the U.S. commitment to its European allies. Their reliance on this country is so great and permanent that, with or without newspaper stories, they will always wonder whether, in the clutch, the Americans will be there. It is a continuing task of American policy to find persuasive ways to say yes.

NO PRESIDENTIAL CLARIFICATION

Mr. DOLE. Mr. President, the doubts that have been sown among our friends in Germany and other NATO allies should be allayed by a Presidential clarification. The report in the press this morning indicates that the West German leaders expected a statement from the President. But there was no statement. The editorial in the Washington Post this morning said:

> The Evans-Novak column had one good result. It elicited from the President and his chief advisers pointed reaffirmations of the U.S. commitment to its allies.

But in the absence of the "reaffirmation" by the President, the result may be less than the Washington Post ascribes to it.

In fact, not even Mr. Brzezinski clearly refuted the Evans-Novak report.

Mr. President, we need a clear statement reaffirming our commitment to Europe. My resolution would do just that for the Senate and I believe it should be adopted.

CLOSED POLICYMAKING

Mr. President, the Senator from Kansas clearly remembers frequent pledges by President Carter that we would have an open administration.

A very significant and disturbing aspect of the reports that I mentioned earlier is that a very basic and vital policy is being discussed and decided without any public input whatsoever.

In my view, the American public would not support a policy of abrogating our treaty obligations secretly, and surrender in advance any territory of an ally.

In any event, I believe we must have a full and open public debate on any issue of this magnitude. Hopefully, the resolution I am introducing today will encourage the administration to bring a halt to this closed-door policymaking.

We shall adopt this resolution to help clarify the basic feeling of the public on this matter. Hopefully it will initiate an open discussion, if any further discussion over whether the administration should pursue the alleged policy is necessary.

Mr. President, I hope we can help dispel any doubts about our resolve to defend West Germany by adopting this resolution promptly.

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## SENATE RESOLUTION 254—SUBMISSION OF A RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY

(Referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources, jointly, pursuant to order of January 30, 1975.)

Mr. DOMENICI (for himself and Mr. SCHMITT) submitted the following resolution:

S. RES. 254

*Resolved*, That the Senate disapproves the deferral of budget authority for the Intense Neutron Source Facility project 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 28, 1977, under section 1015(a) of the Impoundment Control Act of 1974.

Mr. DOMENICI. Mr. President, I am today, on behalf of Mr. SCHMITT and myself, submitting a resolution disapproving a deferral by the administration of fiscal year 1977 funds in the Energy Research and Development Administration's magnetic fusion program. Although unannounced by the administration, this deferral has actually been in effect since February 23 of this year. It was uncovered on a recent GAO review of ERDA's fiscal year 1977 nuclear programs other than the Clinch River breeder reactor project requested by Senators JACKSON and HANSEN. Under the Impoundment Control Act of 1974, the magnetic fusion deferral should have been reported to the Congress months ago by the administration. Instead, this matter was not brought to our attention until earlier this week, when, pursuant to section 1015(a) of the Impoundment Control Act, the Comptroller General sent notification of the deferral to the House and Senate (No. OGC–77–23).

The deferred funds had been appropriated under Public Law 94–355 for construction of an Intense Neutron Source Facility (No. 76–5–b) at the Los Alamos Scientific Laboratory in New Mexico. We understand that some $13.4 million of unobligated project funds are involved. This represents a sizable fraction of the total project costs, which under Public Law 94–187 are authorized at a level of $22.1 million.

The Intense Neutron Source Facility project—consisting of a device with associated buildings, laboratories, and equipment—is a Federal effort to study the effects of high-level neutron irradiation on metals and insulators. ERDA has indicated that obtaining an understanding of these effects is essential to the development of magnetic confinement fusion as a practical energy source.

In its fiscal year 1978 request to Congress for funds to support ERDA's programs, the administration proposed that

the INS project authorization be rescinded. This was part of the administration's effort to stress short term energy options at the expense of those options whose commercial viability has not yet been proven. At least in the case of the INS project, this approach is extremely short-sighted. The engineering data provided by the INS facility will play an essential role in the design of, and materials selection for, the first large-scale magnetic fusion reactors. This information will be needed long before we move to the commercial development of fusion power, and the programed schedule for construction of the facility is directed toward providing this information on a timely basis.

Both the House and Senate authorizing committees recognized the need for moving ahead now with the INS project. As a consequence, both the ERDA fiscal year 1978 Authorization Bill which recently passed the Senate, and the one now pending before the House no longer contain the proposed INS project rescission.

We would urge our Senate colleagues to support this disapproval resolution, which is clearly in accordance with both present and past Congressional intent.

I ask unanimous consent that the July 28th message from Comptroller General Staats reporting this deferral be printed in the RECORD.

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

COMPTROLLER GENERAL,
OF THE UNITED STATES,
*Washington, D.C., July 28, 1977.*

*To the President of the Senate and the Speaker of the House of Representatives:*

This letter reports a deferral of Energy Research and Development Administration (ERDA) budget authority that should have been, but was not, reported to the Congress by the President pursuant to the Impoundment Control Act of 1974.

The Intense Neutron Source Facility (INSF) project (consisting of a device with associated buildings, laboratories, and equipment) is a Federal effort to study the effects of high-level neutron irradiation on metals and insulators. ERDA has indicated that obtaining an understanding of these effects is essential to the development of magnetic confinement fusion as a practical energy source.

Public Law 94–187, approved December 31, 1975, authorized $22.1 million to be appropriated for the INS project. (Another $3.2 million was requested by the Administration for authorization in fiscal year 1977, but was not provided by the Congress.) Total project costs—excluding operating expenses and preconstruction research and development costs—were estimated by ERDA to be $25.4 million.

Funds were first appropriated for the INSF project in fiscal year 1977 when ERDA was provided $14.4 million in Public Law 94–355, approved July 12, 1976. These funds will remain available until expended; i.e., "no-year" budget authority. Although ERDA requested an additional $10.9 million in its initial fiscal year 1978 budget, presidential budget cuts deleted this amount from the revised fiscal year 1978 budget. ERDA informed us that this deletion, if approved by the Congress, would have required termination of the project. Notwithstanding the President's request, both Houses of Congress reinstated the $10.9 million. Prior to the congressional reinstatement, however, ERDA placed $13.4 million of unobligated project funds (about $1 million had been obligated for architecture and engineering studies) in ERDA reserve account on February 23, 1977. This action was documented only in ERDA's internal financial plans and OMB was not notified of this budgetary action.

An ERDA official told us that OMB was not informed because the agency was at the time working with OMB to include language in ERDA's fiscal year 1978 authorization bill to rescind the funds previously authorized for the project—$22.1 million—less those amounts obligated. This proposed legislation was transmitted to the Congress in March 1977.

Since both Houses of Congress subsequently reinstated funding for the project and deleted the rescission language, ERDA's Office of the Controller has requested the release of the project's funds from the ERDA reserve account. In the meantime, however, the $13.4 million remains in an impounded status due to ERDA's actions placing the funds in reserve.

Section 1015(a) of the Impoundment Control Act requires the Comptroller General to report to the Congress whenever he finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employe of the United States has ordered, permitted, or approved the deferral of budget authority and the President has failed to transmit a special message with respect to such a deferral. This report is submitted in accordance with the requirement imposed by section 1015(a) and, consequently, has the same effect as if it were a deferral message transmitted by the President.

ELMER B. STAATS,
*Comptroller General of the United States.*

## SENATE RESOLUTION 255—SUBMISSION OF A RESOLUTION TO COMMEND THE PRIVACY PROTECTION STUDY COMMISSION

(Referred to the Committee on the Judiciary. Subsequently the referral of the resolution was changed from the Committee on the Judiciary to the Committee on Governmental Affairs.)

Mr. MUSKIE (for himself, Mr. RIBICOFF, Mr. PERCY, Mr. BAYH, Mr. PROXMIRE, Mr. GOLDWATER, Mr. HEINZ, Mr. ABOUREZK, Mr. ANDERSON, Mr. CASE, Mr. DANFORTH, Mr. FORD, Mr. GARN, Mr. HART, Mr. HASKELL, Mr. HUMPHREY, Mr. JACKSON, Mr. KENNEDY, Mr. LUGAR, Mr. MELCHER, Mr. METZENBAUM, Mr. PELL, Mr. RIEGLE, Mr. STEVENS, and Mr. WILLIAMS) submitted the following resolution:

S. RES. 255

Whereas our country has evolved in the last 100 years from one in which government and business maintained little personal information about individual Americans to an information-dependent society in which volumes of data are compiled with respect to each citizen in order to carry out the responsibilities of government and business; and

Whereas the increased complexity of an information-based society and its dependence upon the collection of intimate details about each of its citizens enhances the need for improved measures to insure the security and confidentiality of personal information; and

Whereas a growing number of Americans are expressing their concern for the collection of information by business and government as evidenced by a recent survey which reported that a great majority of Americans agreed that Americans begin relinquishing their privacy on the day that they open their first charge account, take out a loan, buy something on an installment plan, or apply for a credit card; and

Whereas the Privacy Protection Study Commission has completed a two-year examination of the ways in which government and business have intruded on the lives of Americans, and has presented the Congress with a broad range of recommendations designed to foster a greater expectation of privacy for every citizen; and

Whereas the recommendations of the Privacy Protection Study Commission will be a matter of legislative interest to the members and committees of the Senate and considerable effort will be required to achieve their adoption: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the Privacy Protection Study Commission, including its members and its staff, should be commended for the outstanding contribution made by its July 15, 1977, final report, entitled "Personal Privacy in an Information Society", and that the Senate and the Congress should begin now to work toward the implementation of the Commission's recommendations, and that this effort should be based upon the joint cooperation and support of all of the members of the Senate and committees of the Senate who will have the responsibility for conducting investigations and hearings and for recommending legislation which will create a climate of increased protection of individual privacy in this country.

Mr. MUSKIE. Mr. President, the Privacy Protection Study Commission on July 12, 1977, presented to the Congress the product of 2 years of study of individual privacy in America entitled, "Personal Privacy in an Information Society."

The study includes a comprehensive set of recommendations which are designed to protect against the misuse of personal information and to create an expectation of confidentiality in the treatment of the many intimate personal and financial details which are an important part of our lives.

It is with great pleasure that I join with several of my colleagues today in offering a resolution commending the Commission for its work and expressing and sense of the Senate that we should begin now on a joint effort to develop legislation which can implement many of its recommendations.

Nearly 3 years ago, the distinguished senior Senator from North Carolina, Sam J. Ervin, Jr., guided through the Congress the Privacy Act of 1974. Without his leadership for nearly a decade as chairman of the Subcommittee on Constitutional Rights and the Committee on Government Operations, the Privacy Act, the Privacy Commission, and the report which we commend today, would not be a reality.

It is important that we grasp the momentum which was created by the work of Senator Ervin and which has been advanced by the Privacy Commission. This will involve the cooperative effort of the many Members and committees who will have responsibility for drafting proposals for the protection of personal information collected and maintained by Government and business.

I would like to acknowledge at this point the valuable contribution of those Senators who have helped lay the groundwork for a cooperative effort in

developing privacy legislation. Among these are the distinguished chairman and ranking minority member of the Committee on Governmental Affairs, Senators RIBICOFF and PERCY, whose leadership was so important to the adoption of the 1974 Privacy Act.

Also assisting was the distinguished senior Senator from Wisconsin, Senator PROXMIRE who shepherded the adoption of a wide range of new consumer protections through the Fair Credit Reporting Act.

The distinguished senior Senator from Indiana, Senator BAYH generously assisted in this effort. Not only does he serve as the ranking majority member of one of the newest committees of the Senate, which was created in response to reports of invasions of individual privacy by Government intelligence agencies, he also has inherited the important mantle of chairman of the Subcommittee on Constitutional Rights.

Finally, the effort would not have been complete without the able senior Senator from Arizona, Senator GOLDWATER. In 1974 the Privacy Act might have slipped from our grasp had it not been for the strong bipartisan support which it received in the Senate from Senators GOLDWATER, PERCY, and Ervin. Senator GOLDWATER and the Honorable BARRY GOLDWATER, JR., have formed a father-son team to work on privacy interests. Congressman GOLDWATER has spent a significant part of the last 2 years serving as a member of the Privacy Commission.

As the Privacy Commission report has observed, we live in rapidly changing times with respect to the impact information technology has on each of our lives. The Privacy Act of 1974 represents a significant step forward on our effort to assure the security and confidentiality of information about individuals which is collected and used by the Federal Government. It has established the basic principle that systems of records about American citizens shall no longer be maintained in secret.

It has established in law the right of citizens to examine records held about them and established procedures for the correction of inaccuracies in personal data.

Finally, the act has established penalties and provisions for civil remedies to enforce its implementation.

We have learned a great deal from the implementation of the act. A survey by Senator Ervin's Subcommittee on Constitutional Rights published in 1974 estimated that there were 858 Government data banks containing more than 1¼ billion records on individuals.

The President's second annual report to Congress on Federal personal data systems, which is required by the Privacy Act, has increased our knowledge about Government data collection, for we now know that in 1976, 97 Federal agencies maintained 6,753 personal data systems which contained 3.85 billion individual records. Seventy-four percent of those individual records were partially or fully computerized.

The changes in information technology have been equally dramatic throughout our entire society, yet as the report of the Commission notes, we have failed to keep pace with the need for protecting personal privacy in such areas as the employer-employee relationship, the insurance industry, the banking industry, and the expanding technologies of the retail credit industry.

Three out of four Americans now live in cities or their surrounding suburbs, only one in ten of the individuals in the workforce today is self-employed, and education is compulsory for every child. . . .

In addition, most Americans now do at least some of their buying on credit, and most have some form of life, health, property, or liability insurance. . . . Government social services programs now reach deep in the population along with government licensing of occupations and professions, Federal taxation of individuals, and government regulation of business and labor union affairs. Today, government regulates and supports large areas of economic and social life through some of the nation's largest bureaucratic organizations, any of which deal directly with individuals. In fact, many of the private-sector record-keeping relationships discussed in this report are to varying degrees replicated in programs administered or funded by Federal agencies.

These excerpts from the preface to the Privacy Commission report underscore the magnitude of the task before us. It will take the combined efforts of all of us to achieve the legislative goals outlined by the recommendations of the Commission. It is a task we must set about achieving in this Congress if we are to keep abreast of the exhilarating trends in information technology in this country.

I ask unanimous consent that the recommendations of the Privacy Protection Study Commission be printed in the RECORD.

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

RECOMMENDATIONS

THE CONSUMER-CREDIT RELATIONSHIP

The Commission recommends:

*Recommendation 1*

That governmental mechanisms should exist for individuals to question the propriety of information collected or used by credit grantors, and to bring such objections to the appropriate bodies which establish public policy. Legislation specifically prohibiting the use, or collection and use, of a specific item of information may result; or an existing agency or regulatory body may be given authority or use its currently delegated authority to make such a determination with respect to the reasonableness of future use, or collection and use, of a specific item of information.

*Recommendation 2*

That the Federal Fair Credit Reporting Act be amended to provide that each credit grantor must exercise reasonable care in the selection and use of credit bureaus, independent authorization services, collection agencies, and other support organizations, so as to assure that the collection, maintenance, use, and disclosure practices of such organizations comply with the Commission's recommendations.

*Recommendation 3*

That Federal law be enacted or amended to provide that when an individual applies for credit, a credit grantor must notify the individual of:

(a) the types of information expected to be collected about him from third parties that are not collected on the application; and

(b) the types of institutional sources that are expected to be asked to provide information about him.

*Recommendation 4*

That Federal law be enacted or amended to provide that a credit grantor must limit:

(a) its own information collection practices in connection with an application for credit to those specified in the notice called for in Recommendation (3); and

(b) its request to any organization it asks to collect information on its behalf to information and sources specified in the notice called for in Recommendation (3).

*Recommendation 5*

That Federal law be enacted or amended to provide that an individual shall have a right to see and copy, upon request, all recorded information concerning him that a credit grantor has used to make an adverse credit decision about him.

*Recommendation 6*

That Federal law be enacted or amended to provide that a credit grantor must:

(a) disclose in writing to an individual who is the subject of an adverse credit decision:

(i) the specific reason(s) for the adverse decision;

(ii) the specific item(s) of information, in plain language, that support the reason(s) given pursuant to (a)(i);

(iii) the name(s) and address(es) of the institutional source(s) of the item(s) given pursuant to (a)(ii); and

(iv) the individual's right to see and copy, upon request, all recorded information pertaining to him used to make the adverse decision; and

(b) inform the individual of his rights provided by the Fair Credit Reporting Act, when the decision is based in whole or in part on information obtained from a credit bureau.

*Recommendation 7*

That the Federal Fair Credit Reporting Act be amended to provide that, upon request by an individual, a credit bureau or independent authorization service must:

(a) inform the individual, after verifying his identity, whether it has any recorded information pertaining to him;

(b) permit the individual to see and copy any such recorded information, in plain language, either in person or by mail; or

(c) apprise the individual of the nature and substance of any such recorded information by telephone; and

(d) permit the individual to use one or the other of the methods of access provided in (b) and (c), or both if he prefers.

The credit bureau or independent authorization service may charge a reasonable copying fee for any copies provided to the individual.

*Recommendation 8*

That the Federal Fair Credit Reporting Act be amended to provide that if a credit grantor learns it has reported any inaccurate information about an individual to a credit bureau or independent authorization service, it must notify the credit bureau or authorization service within a reasonable period of time so that the credit bureau or authorization service can correct its files.

*Recommendation 9*

That the Federal Fair Credit Reporting Act be amended to provide:

(a) that a credit-card issuer must have reasonable procedures to assure that the information it discloses to an independent authorization service is accurate at the time of disclosure; and

(b) that an independent authorization service shall be subject to all requirements of the Act, except the requirement to dis-

close corrected information to prior recipients upon completion of a reinvestigation of disputed information.

*Recommendation 10*

That the Federal Fair Credit Reporting Act be amended to provide that a credit grantor must have reasonable procedures for notifying a collection agency within a reasonable period of time if an individual has been referred to the agency as a delinquent debtor on the basis of inaccurate information; also, if a debt previously referred to a collection agency has been satisfied, or a satisfactory partial payment has been made, the credit grantor must so notify the collection agency within a reasonable period of time and provide the individual with proof of its notification.

*Recommendation 11*

That the Federal Fair Credit Reporting Act be amended to provide that a credit bureau must not disclose to its subscribers information about previous inquiries concerning an individual except the number and date of inquiries received.

*Recommendation 12*

That Federal law be enacted or amended to provide:

(a) that a credit grantor must notify an individual with whom it has or proposes to have a credit relationship of the uses and disclosures which are expected to be made of the types of information it collects or maintains about him; and that with respect to routine disclosures to third parties which are necessary for servicing the credit relationship, the notification must include the specific types of information to be disclosed and the types of recipients;

(b) that information concerning an individual which a credit grantor collects to establish or service a credit relationship, as stated in the notification to the individual called for in (a), must be treated as confidential by the credit grantor; and thus any disclosures to third parties other than those necessary to service the credit relationship must be specifically directed or authorized by the individual, or in the case of marketing information, specifically described in the notification;

(c) that an individual must be considered to have a continuing interest in the use and disclosure of information a credit grantor maintains about him, and must be allowed to participate in any use or disclosure that would not be consistent with the original notification, except when a credit grantor discloses information about an individual in order to prevent or protect against the possible occurrence of fraud; and

(d) that any material changes or modifications in the use or disclosure policies of a credit grantor must be preceded by a notification that describes the change to an individual with whom the credit grantor has an established relationship.

A Note on Commercial Credit

*Recommendation 13*

That the Federal Fair Credit Reporting Act be amended to provide that information concerning an individual maintained by a credit bureau may be used only for credit-related purposes, unless otherwise directed or authorized by the individual.

*Recommendation 14*

That government mechanisms should exist for individuals to question the propriety of information about individuals collected or used by commercial credit grantors, and to bring such objections to the appropriate bodies that establish public policy. Legislation specifically prohibiting the use, or collection and use, of a specific item of information may result; or an existing agency or regulatory body may be given authority or use its currently delegated authority to make such a determination with respect to the reasonableness of future use, or collection and use, of a specific item of information.

*Recommendation 15*

That the Congress amend the Fair Credit Reporting Act to provide that, upon request, a commercial credit grantor must disclose in writing to an individual who is associated with a firm that is the subject of an adverse credit decision, based in whole or in part on information provided by a commercial-reporting service, where such information pertains in whole or in part to that individual;

(a) the name and address of the commercial-reporting service that provided the information; and

(b) the individual's rights provided by law with respect to a commercial-reporting service.

*Recommendation 16*

That the Congress amend the Fair Credit Reporting Act to provide that, upon request by an individual, a commercial-reporting service must:

(a) inform the individual, after verifying his identity, whether it has any recorded information pertaining to him connected with a report about a firm;

(b) permit the individual to see and copy any such recorded information, except the identity of sources, in plain language, either in person or by mail:

(c) apprise the individual of the nature and substance of any such recorded information by telephone; and

(d) permit the individual to use whichever of the methods of access provided in (b) and (c) he prefers. The commercial-reporting service may charge a reasonable copying fee for any copies provided to the individual.

*Recommendation 17*

That the Congress amend the Fair Credit Reporting Act to provide that an individual has a right to correct or amend information pertaining to him that is maintained by a commercial-reporting service or is provided an opportunity to file a concise statement of disagreement with the commercial reporting service.

*Recommendation 18*

That the Congress amend the Fair Credit Reporting Act to provide that commercial-reporting services must have reasonable procedures to assure the accuracy of information pertaining to individuals included in reports produced by them.

*Recommendation 19*

That further examination of the need for additional requirements appropriate for commercial credit granting and credit reporting record-keeping practices be undertaken.

With respect to commercial credit granting, the following specific areas should be examined:

(a) information collection practices;

(b) the need to protect the identity of sources other than commercial-reporting services; and

(c) the adequacy of credit grantors' explanation of adverse credit decisions, pursuant to the Equal Credit Opportunity Act.

With respect to commercial-reporting services, the following specific areas should be examined:

(a) the time for reporting certain types of information, e.g., arrests and convictions;

(b) the need to protect identity of sources; and

(c) the use of commercial-reporting services for insurance underwriting and other decisions.

THE DEPOSITORY RELATIONSHIP

The Commission recommends:

*Recommendation 1*

That the Federal Fair Credit Reporting Act be amended to provide that a depository institution must exercise reasonable care in the selection and use of credit bureaus, independent check-guarantee services, and other support organizations, so as to assure that the collection, maintenance, use, and disclosure practices of such organizations comply with the Commission's recommendations.

*Recommendation 2*

That Federal law be enacted or amended to provide that when an individual applies for a depository service, a depository institution must notify the individual of:

(a) the types of information expected to be collected about him from third parties and that are not collected on the application; and

(b) the types of institutional sources that are expected to be asked to provide information about him.

*Recommendation 3*

That Federal law be enacted or amended to provide that a depository institution must limit:

(a) its own information collection practices in connection with an application for a depository service to those specified in the notice called for in *Recommendation* (2); and

(b) its request to any organization it asks to collect information on its behalf to information and sources specified in the notice called for in *Recommendation* (2).

*Recommendation 4*

That Federal law be enacted or amended to provide that an individual shall have a right to see and copy, upon request, all recorded information concerning him that a depository institution has used to make an adverse depository decision about him.

*Recommendation 5*

That Federal law be enacted or amended to provide that a depository institution must:

(a) disclose in writing to an individual who is the subject of an adverse depository decision:

(i) the specific reason(s) for the adverse decision;

(ii) the specific item(s) of information, in plain language, that supports the reason(s) given pursuant to (a)(i);

(iii) the name(s) and address(es) of the institutional source(s) of the item(s) given pursuant to (a)(ii); and

(iv) the individual's right to see and copy, upon request, all recorded information pertaining to him used to make the adverse decision; and

(b) inform the individual of his rights provided by the Fair Credit Reporting Act, when the decision is based in whole or in part on information obtained from a credit bureau or independent check-guarantee service.

*Recommendation 6*

That the Federal Fair Credit Reporting Act be amended to provide that an independent check-guarantee service shall be subject to all requirements of the Act, except the requirement to disclose corrected information to prior recipients upon completion of a reinvestigation of disputed information.

*Recommendation 7*

That the Federal Fair Credit Reporting Act be amended to provide that if a contributor learns it has incorrectly reported an individual to an independent check-guarantee service, it must notify the check-guarantee service within a reasonable period of time so that the service can correct its files.

*Recommendation 8*

That Federal law be enacted to provide:

(a) that a depository institution must notify an individual with whom it has or proposes to have a depository relationship of the uses and disclosures which are ex-

pected to be made of the types of information it collects or maintains about him; and that with respect to routine disclosures to third parties which are necessary for servicing the depository relationship, the notification must include the specific types of information to be disclosed and the types of recipients;

(b) that information concerning an individual which a depository institution collects to establish or service a depository relationship, as stated in the notification to the individual called for in (a), must be treated as confidential by the depository institution; and thus any disclosures to third parties other than those necessary to service the depository relationship must be specifically directed or authorized by the individual, or in the case of marketing information, specifically described in the notification;

(c) that an individual must be considered to have a continuing interest in the use and disclosure of information a depository institution maintains about him, and must be allowed to participate in any use or disclosure that would not be consistent with the original notification, except when a depository institution discloses information about an individual in order to prevent or protect against the possible occurrence of fraud; and

(d) that any material changes or modifications in the use or disclosure policies of a depository institution must be preceded by a notification that describes the change to an individual with whom the depository institution has an established relationship.

*Recommendation 9*

That individually identifiable account information generated in the provision of EFT services be retained only in the account records of the financial institutions and other parties to a transaction, except that it may be retained by the EFT service provider to the extent, and for the *limited period of time* that such information is essential to fulfill the operational requirements of the service provider.

*Recommendation 10*

That procedures be established so that an individual can promptly correct inaccuracies in transactions or account records generated by an EFT service.

*Recommendation 11*

That no governmental entity be allowed to own, operate, or otherwise manage any part of an electronic payments mechanism that involves transactions among private parties.

MAILING LISTS

The Commission recommends:

*Recommendation 1*

That a person engaged in interstate commerce who maintains a mailing list should *not* be required by law to remove an individual's name and address from such a list upon request of that individual, except as already provided by law.

*Recommendation 2*

That a private-sector organization which rents, sells, exchanges, or otherwise makes the addresses, or names and addresses, of its customers, members, or donors available to any other person for use in direct-mail marketing or solicitation, should adapt a procedure whereby each customer, member, or donor is informed of the organization's practice in that respect, including a description of the selection criteria that might be used in selling, renting or exchanging lists, such as ZIP codes, interest, buying patterns, and level of activity, and, in addition, is given an opportunity to indicate to the organization that he does not wish to have his address, or name and address, made available for such purposes. Further, when a private-sector organization is informed by one of its customers, members, or donors that he does not want his address, or name and address, made available to another person for use in direct-mail marketing or solicitation, the organization should promptly take whatever steps are necessary to assure that the name and address is not so used, including notifying a multiple-response compiler or a credit bureau to whom the name and address has been disclosed with the prospect that it may be used to screen or otherwise prepare lists of names and addresses for use in direct-mail marketing or solicitation.

*Recommendation 3*

That each State review the direct-mail marketing and solicitation uses that are made of State agency records about individuals and for those that are used for such purposes, direct the State agency maintaining them to devise a procedure whereby an individual can inform the agency that he does not want a record pertaining to himself to be used for such purposes and have that fact noted in the record in a manner that will assure that the individual's preference will be communicated to any user of the record for direct-mail marketing or solicitation. Special attention should be paid to Department of Motor Vehicle records and the practices of agencies who prepare mailing lists for the express purpose of selling, renting or exchanging them with others.

THE INSURANCE RELATIONSHIP

The Commission recommends:

*Recommendation 1*

That governmental mechanism should exist for individuals to question the propriety of information collected or used by insurance institutions, and to bring such objections to the appropriate bodies which establish public policy. Legislation specifically prohibiting the use, or collection and use, of a specific item of information may result; or an existing agency or regulatory body may be given authority, or use its currently delegated authority, to make such determination with respect to the reasonableness of future use, or collection and use, of a specific item of information.

*Recommendation 2*

That the Federal Fair Credit Reporting Act be amended to provide that no insurance institution or insurance-support organization may attempt to obtain information about an individual through pretext interviews or other false or misleading representations that seek to conceal the actual purpose(s) of the inquiry or investigation, or the identity or representative capacity of the inquirer or investigator.

*Recommendation 3*

That the Federal Fair Credit Reporting Act be amended to provide that each insurance institution and insurance-support organization must exercise reasonable care in the selection and use of insurance-support organizations, so as to assure that the collection, maintenance, use, and disclosure practices of such organizations comply with the Commission's recommendations.

*Recommendation 4*

That each insurance institution and insurance-support organization in order to maximize fairness in its decision-making processes, have reasonable procedures to assure the accuracy, completeness, and timeliness of information it collects, maintains, or discloses about an individual.

*Recommendation 5*

That an insurance institution, prior to collecting information about an applicant or principal insured from another person in connection with an insurance transaction, notify him as to:

(a) the types of information expected to be collected about him from third parties and that are not collected on the application, and, as to information regarding character, general reputation, and mode of living, each area of inquiry;

(b) the techniques that may be used to collect such types of information;

(c) the types of sources that are expected to be asked to provide each type of information about him;

(d) the types of parties to whom and circumstances under which information about the individual may be disclosed without his authorization, and the types of information that may be disclosed;

(e) the procedures established by statute by which the individual may gain access to any resulting record about himself;

(f) the procedures whereby the individual may correct, amend, delete, or dispute any resulting record about himself;

(g) the fact that information in any report prepared by a consumer-reporting agency (as defined by the Fair Credit Reporting Act) may be retained by that organization and subsequently disclosed by it to others.

*Recommendation 6*

That an insurance institution limit:

(a) its own information collection and disclosure practices to those specified in the notice called for in *Recommendation 5;* and

(b) its request to any organization it asks to collect information on its behalf to information, techniques, and sources specified in the notice called for in *Reccomendation 5.*

*Recommendation 7*

That any insurance institution or insurance-support organization clearly specify to an individual those items of inquiry desired for marketing, research, or other purposes not directly related to establishing the individual's eligibility for an insurance benefit or service being sought and which may be used for such purposes in individually identifiable form.

*Recommendation 8*

That no insurance institution or insurance-support organization ask, require, or otherwise induce an individual, or someone authorized to act on his behalf, to sign any statement authorizing any individual or institution to disclose information about him, or about any other individual, unless the statement is:

(a) in plain language;

(b) dated;

(c) specific as to the individuals and institutions he is authorizing to disclose information about him who are known at the time the authorization is signed, and general as to others whose specific identity is not known at the time the authorization is signed;

(d) specific as to the nature of the information he is authorizing to be disclosed;

(e) specific as to the individuals or institutions to whom he is authorizing information to be disclosed;

(f) specific as to the purpose(s) for which the information may be used by any of the parties named in (e), both at the time of the disclosure and at any time in the future;

(g) specific as to its expiration date which should be for a reasonable period of time not to exceed one year, and in the case of life insurance or noncancelable or guaranteed renewable health insurance, two years after the date of the policy.

*Recommendation 9*

That the Federal Fair Credit Reporting Act be amended to provide that any insurance institution that may obtain an investigative report on an applicant or insured inform him that he may, upon request, be interviewed in connection with the preparation of the investigative report. The insurance institution and investigative agency must institute reasonable procedures to assure that such interviews are performed if requested. When an individual requests an interview and cannot reasonably be contacted, the obli-

gation of the institution preparing the investigative report can be discharged by mailing a copy of the report, when prepared, to the individual.

*Recommendation 10*

That the Federal Fair Credit Reporting Act be amended to provide:

(a) That, upon request by an individual, an insurance institution or insurance-support organization must:

(i) inform the individual, after verifying his identity, whether it has any recorded information pertaining to him; and

(ii) permit the individual to see and copy any such recorded information, either in person or by mail; or

(iii) apprise the individual of the nature and substance of any such recorded information by telephone; and

(iv) permit the individual to use one or the other of the methods of access provided in (a)(ii) and (iii), or both if he prefers.

The insurance institution or insurance-support organization may charge a reasonable copying fee for any copies provided to the individual. Any such recorded information should be made available to the individual, but need not contain the name or other identifying particulars of any source (other than an institutional source) of information in the record who has provided such information on the condition that his identity not be revealed, and need not reveal a confidential numerical code.

(b) That notwithstanding part (a), with respect to medical-record information maintained by an insurance institution or an insurance-support organization, an individual has a right of access to that information, either directly or through a licensed medical professional designated by the individual, whichever the insurance institution or support organization prefers.

*Recommendation 11*

That the Federal Fair Credit Reporting Act be amended to provide that each insurance institution and insurance-support organization permit an individual to request correction, amendment, or deletion of a record pertaining to him; and

(a) within a reasonable period of time:

(i) correct or amend (including supplement) any portion thereof which the individual reasonably believes is not accurate, timely, or complete; and

(ii) delete any portion thereof which is not within the scope of information the individual was originally told would be collected about him; and

(b) furnish the correction, amendment, or fact of deletion to any person or organization specifically designated by the individual who may have, within two years prior thereto, received any such information; and, automatically, to any insurance-support organization whose primary source of information on individuals is insurance institutions when the support organization has systematically received any such information from the insurance institution within the preceding seven years, unless the support organization no longer maintains the information, in which case, furnishing the correction, amendment, or fact of deletion is not required; and automatically to any insurance-support organization that furnished the information corrected, amended, or deleted; or

(c) inform the individual of its refusal to correct or amend the record in accordance with his request and of the reason(s) for the refusal; and

(i) permit an individual who disagrees with the refusal to correct or amend the record to have placed on or with the record a concise statement setting forth the reasons for his disagreement; and

(ii) in any subsequent disclosure outside the insurance institution or support organization containing information about which the individual has filed a statement of dispute, clearly note any portion of the record which is disputed, and provide a copy of the statement along with the information being disclosed; and

(iii) furnish the statement of dispute to any person or organization specifically designated by the individual who may have, within two years prior thereto, received any such information; and, automatically, to an insurance-support organization whose primary source of information on individuals is insurance institutions when the support organization has received any such information from the insurance institution within the preceding seven years, unless the support organization no longer maintains the information, in which case, furnishing the statement is not required; and, automatically, to any insurance-support organization that furnished the disputed information.

(d) limit its reinvestigation of disputed information to those record items in dispute.

*Recommendation 12*

That notwithstanding *Recommendation (11)(a)(i)*, if an individual who is the subject of medical-record information maintained by an insurance institution or insurance-support organization requests correction or amendment of such information, the insurance institution or insurance-support organization be required to:

(a) disclose to the individual, or to a medical professional designated by him, the identity of the medical-care provider who was the source of the medical-record information; and

(b) make the correction or amendment requested within a reasonable period of time, if the medical-care provider who was the source of the information agrees that it is inaccurate or incomplete; and

(c) establish a procedure whereby an individual who is the subject of medical-record information maintained by an insurance institution or insurance-support organization, and who believes that the information is incorrect or incomplete, would be provided an opportunity to present supplemental information of a limited nature for inclusion in the medical-record information maintained by the insurance institution or support organization, provided that the source of the supplemental information is also included.

*Recommendation 13*

That the Federal Fair Credit Reporting Act be amended to provide that an insurance institution must:

(a) disclose in writing to an individual who is the subject of an adverse underwriting decision:

(i) the specific reason(s) for the adverse decision;

(ii) the specific item(s) of information that support,(s) the reason(s) given pursuant to (a)(i), except that medical-record information may be disclosed either directly or through a licensed medical professional designated by the individual, whichever the insurance institution prefers;

(iii) the name(s) and address(es) of the institutional source(s) of the item(s) given pursuant to (a)(ii); and

(iv) the individual's right to see and copy, upon request, all recorded information concerning the individual used to make the adverse decision, to the extent recorded information exists;

(b) permit the individual to see and copy, upon request, all recorded information pertaining to him used to make the adverse decision, to the extent recorded information exists, except that (i) such information need not contain the name or other identifying particulars of any source (other than an institutional source) who has provided such information on the condition that his or her identity not be revealed, and (ii) an individual may be permitted to see and copy medical-record information either directly or through a licensed medical professional designated by the individual, whichever the insurance institution prefers. The insurance institution should be allowed to charge a reasonable copying fee for any copies provided to the individual;

(c) inform the individual of:

(i) the procedures whereby he can correct, amend, delete, or file a statement of dispute with respect to any information disclosed pursuant to (a) and (b); and

(ii) the individual's rights provided by the Fair Credit Reporting Act, when the decision is based in whole or in part on information obtained from a consumer-reporting agency (as defined by the Fair Credit Reporting Act);

(d) establish reasonable procedures to assure the implementation of the above.

*Recommendation 14*

That no insurance institution or insurance-support organization:

(a) make inquiry as to:

(i) any previous adverse underwriting decision on an individual, or

(ii) whether an individual has obtained insurance through the substandard (residual) insurance market.

unless the inquiry requests the reasons for such treatment; *or*

(b) make any adverse underwriting decision based, in whole or in part, on the mere fact of:

(i) a previous adverse underwriting decision, or

(ii) an individual having obtained insurance through the substandard (residual) market.

An insurance institution may, however, base an adverse underwriting decision on further information obtained from the source, including other insurance institutions.

*Recommendation 15*

That no insurance institution base an adverse underwriting decision, in whole or in part, on information about an individual it obtains from an insurance-support organization whose primary source of information is insurance institutions or insurance-support organizations; however, the insurance institution may base an adverse underwriting decision on further information obtained from the original source, including another insurance institution.

*Recommendation 16*

That Federal law be enacted to provide that no insurance institution or insurance-support organization may disclose to another insurance institution or insurance-support organization information pertaining to an individual's medical history, diagnosis, condition, treatment, or evaluation, even with the explicit authorization of the individual, unless the information was obtained directly from a medical-care provider, the individual himself, his parent, spouse, or guardian.

*Recommendation 17*

That Federal law be enacted to provide that each insurance institution and insurance-support organization be considered to owe a duty of confidentiality to any individual about whom it collects or receives information in connection with an insurance transaction, and that therefore, no insurance institution or support organization should disclose, or be required to disclose, in individually identifiable form, any information about any such individual without the individual's explicit authorization, unless the disclosure would be:

(a) to a physician for the purpose of informing the individual of a medical problem of which the individual may not be aware;

(b) from an insurance institution to a reinsurer or co-insurer, or to an agent or contractor of the insurance institution, in-

cluding a sales person, independent claims adjuster, or insurance investigator, or to an insurance-support organization whose sole source of information is insurance institutions, or to any other party-in-interest to the insurance transaction, provided:

(i) that only such information is disclosed as is necessary for such reinsurer, co-insurer, agent, contractor, insurance-support organization, or other party-in-interest to perform its function with regard to the individual or the insurance transaction;

(ii) that such reinsurer, co-insurer, agent, contractor, insurance-support organization or other party-in-interest is prohibited from redisclosing the information without the authorization of the individual except, in the case of insurance institutions and insurance-support organizations, as otherwise provided in this recommendation; and

(iii) that the individual, if other than a third-party claimant, is notified at least initially concurrent with the application that such disclosure may be made and can find out if in fact it has been made; and

(iv) that in no instance shall information pertaining to an individual's medical history, diagnosis, condition, treatment, or evaluation be disclosed, even with the explicit authorization of the individual, unless the information was obtained directly from a medical-care provider, the individual himself, or his parent, spouse, or guardian;

(c) from an insurance-support organization whose sole source of information is insurance institution or self-insurer to an insurance institution or self-insurer, provided;

(i) that the sole function of the insurance-support organization is the detection or prevention of insurance fraud in connection with claim settlements;

(ii) that, if disclosed to a self-insurer, the self-insurer assumes the same duty of confidentiality with regard to that information which is required of insurance institutions and insurance-support organizations; and

(iii) that any insurance institution or self-insurer that receives information from any such insurance-support organization is prohibited from using such information for other than claim purposes;

(d) to the insurance regulator of a State or its agent or contractor, for an insurance regulatory purpose statutorily authorized by the State;

(e) to a law enforcement authority:

(i) to protect the legal interest of the insurer, reinsurer, coinsurer, agent, contractor, or other party-in-interest to prevent and to prosecute the perpetration of fraud upon them; or

(ii) when the insurance institution or insurance-support organization has a reasonable belief of illegal activities on the part of the individual;

(f) pursuant to a Federal, State, or local compulsory reporting statute or regulation;

(g) in response to a lawfully issued administrative summons or judicial order, including a search warrant or subpoena.

THE EMPLOYMENT RELATIONSHIP

The Commission recommends:

*Recommendation 1*

That an employer periodically and systematically examine its employment and personnel record-keeping practices, including a review of:

(a) the number and types of records it maintains on individual employees, former employees, and applicants;

(b) the items of information contained in each type of employment record it maintains;

(c) the uses made of the items of information in each type of record;

(d) the uses made of such records within the employing organization;

(e) the disclosures made of such records to parties outside the employing organization; and

(f) the extent to which individual employees, former employees, and applicants are both aware and systematically informed of the uses and disclosures that are made of information in the records kept about them.

*Recommendation 2*

That an employer articulate, communicate, and implement fair information practice policies for employment records which should include:

(a) limiting the collection of information on individual employees, former employees, and applicants to that which is relevant to specific decisions;

(b) informing employees, applicants, and former employees who maintain a continuing relationship with the employer of the uses to be made of such information;

(c) informing employees as to the types of records that are being maintained on them;

(d) adopting reasonable procedures to assure the accuracy, timeliness, and completeness of information collected, maintained, used, or disclosed about individual employees, former employees, and applicants.

(e) permitting individual employees, former employees, and applicants to see, copy, correct, or amend the records maintained about them;

(f) limiting the internal use of records maintained on individual employees, former employees, and applicants;

(g) limiting external disclosures of information in records kept on individual employees, former employees, and applicants, including disclosures made without the employee's authorization in response to specific inquiries or requests to verify information about him; and

(h) providing for regular review of compliance with articulated fair information practice policies.

*Recommendation 3*

That Federal law be enacted or amended to forbid an employer from using the polygraph or other truth-verification equipment to gather information from an applicant or employee.

*Recommendation 4*

That the Federal Fair Credit Reporting Act be amended to provide that no employer or investigative firm conducting an investigation for an employer for the purpose of collecting information to assist the employer in making a decision to hire, promote, or reassign an individual may attempt to obtain information about the individual through pretext interviews or other false or misleading representations that seek to conceal the actual purpose(s) of the inquiry or investigation, or the identity or representative capacity of the employer or investigator.

*Recommendation 5*

That the Federal Fair Credit Reporting Act be amended to provide that each employer and agent of an employer must exercise reasonable care in the selection and use of investigative organizations, so as to assure that the collection, maintenance, use, and disclosure practices of such organizations comply with the Commission's recommendations.

*Recommendation 6*

That except as specifically required by Federal or State statute or regulation, or by municipal ordinance or regulation, an employer should not seek or use a record of arrest pertaining to an individual applicant or employee.

*Recommendation 7*

That existing Federal and State statutes and regulations, and municipal ordinances and regulations, which require an employer to seek or use an arrest record pertaining to an individual applicant or employee be amended so as *not* to require that an arrest record be sought or used if it is more than one year old and has not resulted in a disposition; and that all subsequently enacted statutes, regulations, and ordinances incorporate this same limitation.

*Recommendation 8*

That legislative bodies review their licensing requirements and amend any statutes, regulations, or ordinances to assure that unless arrest records for designated offenses are specifically required by statute, regulation, or ordinance, they will not be collected by administrative bodies which decide on an individual's qualifications for occupational licensing.

*Recommendation 9*

That the Law Enforcement Assistance Administration study or, by its grant or contract authority, designate others to study, alternative approaches to establishing within State and local criminal justice information systems the capacity to limit disclosures of arrest information to employers to that which they are lawfully required to obtain, and to improve the system's capacity to maintain accurate and timely information regarding the status of arrests and dispositions.

*Recommendation 10*

That when an arrest record is lawfully sought or used by an employer to make a specific decision about an applicant or employee, the employer should not maintain the record for a period longer than specifically required by law, if any, or unless there is an outstanding indictment.

*Recommendation 11*

That unless otherwise required by law, an employer should seek or use a conviction record pertaining to an individual applicant or employees only when the record is directly relevant to a specific employment decision affecting the individual.

*Recommendation 12*

That where conviction information is collected, it should be maintained separately from other individually identifiable employment records so that it will not be available to persons who have no need for it.

*Recommendation 13*

That Congress direct the Department of Defense to reassess the extent to which the current military discharge system and the administrative codes on military discharge records have needless discriminatory consequences for the individual in civilian employment and should, therefore, be modified. The reassessment should pay particular attention to the separation program number (SPN) codes administratively assigned to discharges so as to determine how better to limit their use and dissemination, and should include a determination as to the feasibility of:

(a) issuing new DD–214 forms to all dischargees whose forms currently include SPN numbers;

(b) restricting the use of SPN codes to the Department of Defense and the Veterans Administration, for designated purposes only; and

(c) prohibiting the disclosure of codes and the narrative descriptions supporting them to an employer, even where such disclosure is authorized by the dischargee.

*Recommendation 14*

That the Federal Fair Credit Reporting Act be amended to provide that an employer, prior to collecting, or hiring others to collect, from sources outside of the employing organization the type of information generally collected in making a consumer report or consumer-investigative report (as defined by the Fair Credit Reporting Act) about an applicant, employee, or other individual in connection with an employment decision,

notify the applicant, employee, or other individual as to:

(a) the types of information expected to be collected about him from third parties that are not collected on an application, and, as to information regarding character, general reputation, and mode of living, each area of inquiry;

(b) the techniques that may be used to collect such types of information;

(c) the types of sources that are expected to be asked to provide each type of information;

(d) the types of parties to whom and circumstances under which information about the individual may be disclosed without his authorization, and the types of information that may be disclosed;

(e) the procedures established by statute by which the individual may gain access to any resulting record about himself;

(f) the procedures whereby the individual may correct, amend, or dispute any resulting record about himself; and

(g) the fact that information in any report prepared by a consumer-reporting agency (as defined by the Fair Credit Reporting Act) may be retained by that organization and subsequently disclosed by it to others.

*Recommendation 15*

That the Fair Credit Reporting Act be amended to provide that an employer limit:

(a) its own information collection and disclosure practices to those specified in the notice called for in Recommendation 14; and

(b) its request to any organization it asks to collect information on its behalf to information, techniques, and sources specified in the notice called for in Recommendation 14.

*Recommendation 16*

That no employer or consumer-reporting agency (as defined by the Fair Credit Reporting Act) acting on behalf of an employer ask, require, or otherwise induce an applicant or employee to sign any statement authorizing any individual or institution to disclose information about him, or about any other individual, unless the statement is:

(a) in plain language;

(b) dated;

(c) specific as to the individuals and institutions he is authorizing to disclose information about him who are known at the time the authorization is signed, and general as to others whose specific identity is not known at the time the authorization is signed;

(d) specific as to the nature of the information he is authorizing to be disclosed;

(e) specific as to the individuals or institutions to whom he is authorizing information to be disclosed;

(f) specific as to the purpose(s) for which the information may be used by any of the parties named in (e) at the time of the disclosure; and

(g) specific as to its expiration date which should be for a reasonable period of time not to exceed one year.

*Recommendation 17*

That as a matter of policy an employer should:

(a) designate clearly:

(i) those records about an employee, former employee, or applicant for employment (including any individual who is being considered for employment but who has not formally applied) which the employer will allow such employee, former employee, or applicant to see and copy on request; and

(ii) those records about an employee, former employee, or applicant which the employer will not make available to the employee, former employee, or applicant,

except that an employer should not designate as an unavailable record any recorded evaluation it makes of an individual's employment performance, any medical record or insurance record it keeps about an individual, or any record about an individual that it obtains from a consumer-reporting agency (as defined by the Fair Credit Reporting Act), or otherwise creates about an individual in the course of an investigation related to an employment decision not involving suspicion of wrongdoing;

(b) assure that its employees are informed as to which records are included in categories (a)(i) and (ii) above; and

(c) upon request by an individual applicant, employee, or former employee:

(i) inform the individual, after verifying his identity, whether it has any recorded information pertaining to him that is designated as records he may see and copy; and

(ii) permit the individual to see and copy any such record(s), either in person or by mail; or

(iii) apprise the individual of the nature and substance of any such record(s) by telephone; and

(iv) permit the individual to use one or the other of the methods of access provided in (c)(ii) and (iii), or both if he prefers,

except that the employer could refuse to permit the individual to see and copy any record if he has designated as an unavailable record pursuant to (a)(ii), above.

*Recommendation 18*

That the Fair Credit Reporting Act be amended to provide:

(a) that an applicant or employee shall have a right to:

(i) see and copy information in an investigative report maintained either by a consumer-reporting agency (as defined by the Fair Credit Reporting Act) or by the employer that requested it; and

(ii) correct, amend (including supplement), or dispute in writing, any information in an investigative report maintained either by a consumer-reporting agency (as defined by the Fair Credit Reporting Act) or by the employer that requested it;

(b) that an employer must automatically inform a consumer-reporting agency (as defined by the Fair Credit Reporting Act) of any correction or amendment of information made in an investigative report at the request of the individual, or any other dispute statement made in writing by the individual; and

(c) that an employer must provide an applicant or employee on whom an investigative report is made with a copy of that report at the time it is made by or given to the employer.

*Recommendation 19*

That, upon request, an individual who is the subject of a medical record maintained by an employer, or another responsible person designated by the individual, be allowed to have access to that medical record, including an opportunity to see and copy it. The employer should be able to charge a reasonable fee (not to exceed the amount charged to third parties) for preparing and copying the record.

*Recommendation 20*

That, upon request, an individual who is the subject to medical-record information maintained by an employer be allowed to have access to that information either directly or through a licensed medical professional designated by the individual.

*Recommendation 21*

That an employer that acts as a provider or administrator of an insurance plan, upon request by an applicant, employee, or former employee should:

(a) inform the individual, after verifying his identity, whether it has any recorded information about him that pertains to the employee's insurance relationship with him;

(b) permit the individual to see and copy any such recorded information, either in person or by mail; or

(c) apprise the individual of the nature and substance of any such recorded information by telephone; and

(d) permit the individual to use whichever of the methods of access provided in (b) and (c) he prefers.

The employer should be able to charge a reasonable copying fee for any copies provided to the individual. Any such recorded information should be made available to the individual, but need not contain the name or other identifying particulars of any source (other than an institutional source) of information in the record who has provided such information on the condition that his or her identity not be revealed, and needed not reveal a confidential numerical code.

*Recommendation 22*

That, except for a medical record or an insurance record, or any record designated by an employer as an unavailable record, an employer should voluntarily permit an individual employee, former employee, or applicant to request correction or amendment of a record pertaining to him; and

(a) within a reasonable period of time correct or amend (including supplement) any portion thereof which the individual reasonably believes is not accurate, timely, or complete; and

(b) furnish the correction or amendment to any person or organization specifically designated by the individual who may have, within two years prior thereto, received any such information; and, automatically to any consumer-reporting agency (as defined by the Fair Credit Reporting Act) that furnished the information corrected or amended; *or*

(c) inform the individual of its refusal to correct or amend the record in accordance with his request and of the reason(s) for the refusal; and

(i) permit an individual who disagrees with the refusal to correct or amend the record to have placed on or with the record a concise statement setting forth the reasons for his disagreement;

(ii) in any subsequent disclosure outside the employing organization containing information about which the individual has filed a statement of dispute, clearly note any portion of the record which is disputed, and provide a copy of the statement along with the information being disclosed; and

(iii) furnish the statement to any person or organization specifically designated by the individual who may have, within two years prior thereto, received any such information; and, automatically, to any consumer-reporting agency (as defined by the Fair Credit Reporting Act) that furnished the disputed information; and

(d) limit its reinvestigation of disputed information to those record items in dispute.

*Recommendation 23*

That an employer establish a procedure whereby an individual who is the subject of a medical record maintained by the employer can request correction or amendment of the record. When the individual requests correction or amendment, the employer should, within a reasonable period of time, either:

(a) make the correction or amendment requested, or

(b) inform the individual of its refusal to do so, the reason for the refusal, and of the procedure, if any, for further review of the refusal.

In addition, if the employer decides that it will not correct or amend a record in accordance with the individual's request, the employer should permit the individual to file a concise statement of the reasons for the disagreement, and in any subsequent disclos-

ure of the disputed information include a notation that the information is disputed and the statement of disagreement. In any such disclosure, the employer may also include a statement of the reasons for not making the requested correction or amendment.

Finally, when an employer corrects or amends a record pursuant to an individual's request, or accepts a notation of dispute and statement of disagreement, it should furnish the correction, amendment, or statement of disagreement to any person specifically designated by the individual to whom the employer has previously disclosed the inaccurate, incomplete, or disputed information.

*Recommendation 24*

That notwithstanding *Recommendation* (22), when an individual who is the subject of medical-record information maintained by an employer requests correction or amendment of such information, the employer should:

(a) disclose to the individual, or to a medical professional designated by him, the identity of the medical-care provider who was the source of the medical-record information;

(b) make the correction or amendment requested within a reasonable period of time, if the medical-care provider who was the source of the information agrees that it is inaccurate or incomplete; and

(c) establish a procedure whereby an individual who is the subject of medical-record information maintained by an employer, and who believes that the information is incorrect or incomplete, would be provided an opportunity to present supplemental information of a limited nature for inclusion in the medical-record information maintained by the employer, provided that the source of the supplemental information is also included.

*Recommendation 25*

That when an employer acts as a provider or administrator of an insurance plan, the employer should:

(a) permit an individual to request correction or amendment of a record pertaining to him;

(b) within a reasonable period of time, correct or amend (including supplement) any portion thereof which the individual reasonably . . .

(c) furnish the correction or amendment to any person or organization specifically designated by the individual who may have, within two years prior thereto, received any such information; and, automatically, to any insurance-support organization whose primary source of information on individuals is insurance institutions when the support organization has systematically received any such information from the employer within the preceding seven years, unless the support organization no longer maintains the information, in which case, furnishing the correction or amendment would not be necessary; and, automatically, to any insurance-support organization that furnished the information corrected or amended; or

(d) inform the individual of its refusal to correct or amend the record in accordance with his request and of the reason(s) for the refusal; and

(i) permit an individual who disagrees with the refusal to correct or amend the record to have placed on or with the record a concise statement setting forth the reasons for his disagreement;

(ii) in any subsequent disclosure outside the employing organization containing information about which the individual has filed a statement of dispute, clearly note any portion of the record which is disputed and provide a copy of the statement along with the information being disclosed; and

(iii) furnish the statement to any person or organization specifically designated by the individual who may have, within two years prior thereto, received any such information; and, automatically to an insurance-support organization whose primary source of information on individuals is insurance institutions when the support organization has received any such information from the employer within the preceding seven years, unless the support organization no longer maintains the information, in which case, furnishing the statement would not be necessary; and, automatically, to any insurance-support organization that furnished the disputed information; and

(e) limit its reinvestigation of disputed information to those record items in dispute.

*Recommendation 26*

That an employer assure that the personnel and payroll records it maintains are available internally only to authorized users and on a need-to-know basis.

*Recommendation 27*

That an employer:

(a) maintain security records apart from other records; and

(b) inform an employee whenever information from a security record is transferred to his personnel record.

*Recommendation 28*

That an employer that maintains an employment-related medical record about an individual assure that no diagnostic or treatment information in any such record is made available for use in any employment decision; and

*Recommendation 29*

That an employer that provides a voluntary health-care program for its employees assure that any medical record generated by the program is maintained apart from any employment-related medical record and not used by any physician in advising on any employment-related decision or in making any employment-related decision without the express authorization of the individual to whom the record pertains.

*Recommendation 30*

That an employer that provides life or health insurance as a service to its employees assure that individually identifiable insurance records are maintained separately from other records and not available for use in making employment decisions; and further

*Recommendation 31*

That an employer that provides work-related insurance for employees, such as worker's compensation, voluntary sick pay, or short- or long-term disability insurance, assure that individually identifiable records pertaining to such insurance are available internally only to authorized recipients and on a need-to-know basis.

*Recommendation 32*

That an employer clearly inform all its applicants upon request, and all employees automatically, of the types of disclosures it may make of information in the records it maintains on them, including disclosures of directory information, and of its procedures for involving the individual in particular disclosures.

*Recommendation 33*

That each employer be considered to owe a duty of confidentiality to any individual employee, former employee, or applicant about whom it collects information; and that, therefore, no employer or consumer-reporting agency (as defined by the Fair Credit Reporting Act) which collects information about an applicant or employee on behalf of an employer should disclose, or be required to disclose, in individually identifiable form, any information about any individual applicant, employee, or former employee, without the explicit authorization of such individual, unless the disclosure would be:

(a) in response to a request to provide or verify information designated by the employer as directory information, which should not include more than:

(i) the fact of past or present employment;

(ii) dates of employment;

(iii) title or position;

(iv) wage or salary; and

(v) location of job site;

(b) an individual's dates of attendance at work and home address in response to a request by a properly identified law enforcement authority;

(c) a voluntary disclosure to protect the legal interests of thet employer when the employer believes the actions of the applicant, employee, or former employee violate the conditions of employment or otherwise threaten physical injury to the property of the employer or to the person of the employer or any of his employees;

(d) to a law enforcement authority when the employer reasonably believes that an applicant, employee, or former employee has been engaged in illegal activities;

(e) pursuant to a Federal, State, or local compulsory reporting statute or regulation;

(f) to a collective-bargaining unit pursuant to a collective-bargaining contract;

(g) to an agent or contractor of the employer, provided:

(i) that only such information is disclosed as is necessary for such agent or contractor to perform its function for the employer;

(ii) that the agent or contractor is prohibited from redisclosing the information; and

(iii) that the individual is notified that such disclosure may be made and can find out if in fact it has been made;

(h) to a physician for the purpose of informing the individual of a medical problem of which he may not be aware; and

(i) in response to a lawfully issued administrative summons or judicial order, including a search warrant or subpoena.

*Recommendation 34*

That Congress direct the Department of Labor to review the extent to which medical records made to protect individuals exposed to hazardous environments or substances in the workplace are or may come to be used to discriminate against them in employment. This review should include an examination of the feasibility of:

(a) restricting the availability of records generated by medical examinations and tests conducted in accordance with OSHA requirements for use in making employment decisions; and

(b) establishing mechanisms to protect employees whose health has been affected by exposure to hazardous environments or substances from the economic consequences of employers' decisions concerning their employability.

RECORDKEEPING IN THE MEDICAL-CARE RELATIONSHIP

The Commission recommends:

*Recommendation 1*

That the Congress, through amendment of the Social Security Act, authorize the Secretary of Health, Education, and Welfare to promulgate regulations requiring:

(a) that medical-care providers whose services are paid for directly or indirectly under Titles XVIII and XIX of the Social Security Act develop specific procedures for implementing Commission Recommendations (5), (7), (9), (10), (11), (12), (13), (14);

(b) that such providers be required to show evidence of compliance with these recommendations as a condition of participation in the Medicare and Medicaid programs; and

(c) that all records of surveys of compliance with the procedures developed pursuant to the Commission's recommendations be a matter of public record and open to public inspection, provided, however, that

the names or other identifying particulars of patients are deleted prior to public release.

*Recommendation 2*

That each State enact a statute creating individual rights of access to, and correction of, medical records, and an enforceable expectation of confidentiality for medical records consistent with Commission recommendations in these areas.

*Recommendation 3*

That any medical-care provider not subject to either of the Commission's two general recommendations on implementation voluntarily establish procedures to comply with the specific recommendations set forth below.

*Recommendation 4*

That Federal and State penal codes be amended to make it a criminal offense for any individual knowingly to request or obtain medical-record information from a medical-care provider under false pretenses or through deception.

*Recommendation 5*

That upon request, an individual who is the subject of a medical record maintained by a medical-care provider, or another responsible person designated by the individual, be allowed to have access to that medical record, including an opportunity to see and copy it. The medical-care provider should be able to charge a reasonable fee (not to exceed the amount charged to third parties) for preparing and copying the record.

*Recommendation 6*

That upon request, an individual who is the subject of medical-record information maintained by an organization which is not a medical-care provider be allowed to have access to that information either directly or through a licensed medical-care professional designated by him.

*Recommendation 7*

That each medical-care provider have a procedure whereby an individual who is the subject of a medical record it maintains can request correction or amendment of the record. When the individual requests correction or amendment, the medical-care provider must, within a reasonable period of time, either:

(a) make the correction or amendment requested; or

(b) inform the individual of its refusal to do so, the reason for the refusal, and of the procedure, if any, for further review of the refusal.

In addition, if the medical-care provider refuses to correct or amend a record in accordance with the individual's request, the provider must permit the individual to file a concise statement of the reasons for the disagreement, and in any subsequent disclosure of the disputed information include a notation that the information is disputed and furnish the statement of disagreement. In any such disclosure, the provider may also include a statement of the reasons for not making the requested correction or amendment.

Finally, when a medical-care provider corrects or amends a record pursuant to an individual's request, or accepts a notation of dispute and statement of disagreement, it should be required to furnish the correction, amendment, or statement of disagreement to any person specifically designated by the individual to whom the medical-care provider has previously disclosed the inaccurate, incomplete, or disputed information.

*Recommendation 8*

That when an individual who is the subject of medical-record information maintained by an organization whose relationship to the individual is not that of a medical-care provider requests correction or amendment of such information, the organization should disclose to the individual, or to a medical-care professional designated by him, the identity of the medical-care provider who was the source of the information; and further,

That if the medical-care provider who was the source of the information agrees that it is inaccurate or incomplete, the organization maintaining it should promptly make the correction or amendment requested.

In addition, a procedure should be established whereby an individual who is the subject of medical-record information maintained by an organization whose relationship to him is not that of a medical-care provider, and who believes that the information is incorrect or incomplete, would be provided an opportunity to present supplemental information, of a limited nature, for inclusion in the organization's record, provided that the source of the supplemental information is also included in the record.

*Recommendation 9*

That each medical-care provider is required to take affirmative measures to assure that the medical records it maintains are made available only to authorized recipients and on a "need-to-know" basis.

*Recommendation 10*

That each medical-care provider be considered to owe a duty of confidentiality to any individual who is the subject of a medical record it maintains, and that, therefore, no medical care provider should disclose, or be required to disclose, in individually identifiable form, any information about any such individual without the individual's explicit authorization, unless the disclosures would be:

(a) to another medical-care provider who is being consulted in connection with the treatment of the individual by the medical-care provider;

(b) to a properly identified recipient pursuant to a showing of compelling circumstances affecting the health and safety of an individual provided that:

(i) an accounting of any such disclosure is kept; and

(ii) the individual who is the subject of the information disclosed can find out that the disclosure has been made and to whom it has been made;

(c) for use in conducting a biomedical or epidemiological research project, provided that the medical-care provider maintaining the medical record:

(i) determines that such use or disclosure does not violate any limitations under which the record or information was collected;

(ii) ascertains that use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which use or disclosure is to be made;

(iii) determines that the importance of the research or statistical purpose for which any use or disclosure is to be made is such as to warrant the risk to the individual from additional exposure of the record or information contained therein;

(iv) requires that adequate safeguards to protect the record or information from unauthorized disclosure be established and maintained by the user or recipient, including a program for removal or destruction of identifiers; and

(v) consents in writing before any further use or redisclosure of the record or information in individually identifiable form is permitted;

(d) for an audit or evaluation purpose specifically required by law, provided that an accounting of such disclosures is kept and the individual who is the subject of the information being disclosed can find out that the disclosure has been made and to whom;

(e) for an audit or evaluation purpose not specifically required by law, provided that:

(i) any further use or redisclosure of the information in individually identifiable form is prohibited;

(ii) adequate safeguards to protect the medical-record information from unauthorized disclosure are established by the user or recipient including a program for removal or destruction of identifiers;

(iii) an accounting of such disclosures is kept and the individual who is the subject of the information being disclosed can find out that the disclosure has been made and to whom;

(f) pursuant to a statute that requires the medical-care provider to report specific diagnoses to a public-health authority, and the individual is notified of each such disclosure;

(g) pursuant to a statute that requires the medical-care provider to report specified items of information about the individual to a law enforcement authority, and the individual is notified of each such disclosure;

(h) limited to location and status information (such as room number, dates of hospitalization, and general condition) provided that:

(i) the patient or his authorized representative does not object to the disclosure; and

(ii) such disclosure is limited to items specified in the general notice to the individual called for in *Recommendation (12)*; or

(i) pursuant to a lawful judicial summons or subpoena consistent with the recommendations of the Commission on government access.

*Recommendation 11*

That any disclosure of medical-record information by a medical-care provider, with or without the authorization of the individual to whom it pertains, be limited only to information necessary to accomplish the purpose for which the disclosure is made.

*Recommendation 12*

That each medical-care provider be required to notify an individual on whom it maintains a medical record of the disclosures that may be made of information in the record without the individual's express authorization.

*Recommendation 13*

That whenever an individual's authorization is required before a medical-care provider may disclose information it collects or maintains about him, the medical-care provider should not accept as valid any authorization which is not:

(a) in writing;

(b) signed by the individual on a date specified or by someone authorized in fact to act in his behalf;

(c) clear as to the fact that the medical-care provider is among those either specifically named or generally designated by the individual as being authorized to disclose information about him;

(d) specific as to the nature of the information the individual is authorizing to be disclosed;

(e) specific as to the institutions or other persons to whom the individual is authorizing information to be disclosed;

(f) specific as to the purpose(s) for which the information may be used by any of the parties named in (e) both at the time of the disclosure and at any time in the future;

(g) specific as to its expiration date, which should be for a reasonable period of time not to exceed one year, except where an authorization is presented in connection with a life or noncancellable or guaranteed renewable health insurance policy, in which case the expiration date should not exceed two years from the date the authorization was signed.

*Recommendation 14*

That each time a medical-care provider discloses information about an individual

pursuant to a valid authorization, it be required to retain a copy of the authorization and, for the purpose of *Recommendation* (5) on patient access, treat it as part of the record(s) from which the disclosure was made.

GOVERNMENT ACCESS TO PERSONAL RECORDS AND "PRIVATE PAPERS"

The Commission recommends:

*Recommendation 1*

That Congress provide an individual by statute with an exception of confidentiality in a record identifiable to him maintained by a private-sector record keeper in its provision of financial services, medical-care, insurance, or telecommunications services, which statute should specifically require that the individual, in defense against compelled production of such a record pursuant to any administrative, judicial, or legislative summons, subpoena, or similar order be permitted—

(a) to challenge the relevance and scope of the summons, subpoena, or order and to require from the government clear proof of the reasonable relationship of the record sought to the investigation, prosecution, or civil action in furtherance of which the summons, subpoena, or order was issued before a court may order disclosure of the record; and

(b) to assert in protection of the record the protections for private papers and effects articulated in the Fourth Amendment, and the due process protections articulated in the Fifth Amendment, to the Constitution of the United States.

*Recommendation 2*

That any request for an individually identifiable record made to a private-sector record keeper or agency of another government jurisdiction by a government agency or its agents be made only through recognized legal process, such as an administrative summons or judicial subpoena, unless the request is made with the consent of the individual to whom the record pertains.

*Recommendation 3*

That Congress provide by statute that an administrative summons (or other form of compulsory legal process) issued by an administrator or executive authority of government to a private-sector record keeper in order to inspect or obtain an individually identifiable record shall be issued only

(a) for the inspection of a record required to be maintained pursuant to a statute or regulation, or

(b) for the investigation of violations of law where the evidence obtained by such administrative summons (or other form of compulsory process) will be used only for administrative action, civil enforcement, or criminal prosecution directly related to the statutory purposes for which such summons power was granted, except, where evidence of unrelated criminal activity is uncovered, the existence of such activity may be reported to a proper investigating authority who may then proceed to obtain such information from the record keeper pursuant to whatever legal processes are at its command; and

(c) where a copy of the administrative summons is served by the administrative or executive authority of government upon an individual who (i) is, or is likely to become, the subject of investigation or enforcement proceedings, and (ii) is the subject of the record to be produced,

(d) where the issuance of such a summons may only be made by officials of the issuing agency who are not field agents and who exercise supervisory authority and responsibility over the agents who will serve the summons, and

(e) where an individual identified in the record and subject to notification under (c) above has standing to assert protections for those records in which he has an expectation of confidentiality as defined in Recommendation (1) above or any other defense provided by common law or statute;

except that,

(f) an administrative summons may be issued without service upon the individual where the government shows to a court that service would:

(i) pose a reasonable possibility that the record sought will be destroyed, or an attempt to destroy it will be made, by the record subject upon whom service of the summons is required; or

(ii) pose a reasonable possibility that other evidence would be destroyed or become unavailable to government, jeopardizing the investigation; or

(iii) cause flight from prosecution by the individual upon whom service of the summons is required; or

(iv) endanger the life or physical safety of any person;

provided that, before issuance of such a summons, the government must show the reasonable relationship of the record sought to the investigation in furtherance of which the summons is to be issued. Within a reasonable period of time after issuance of a summons without notice, the government must notify the subject of the record of the seizure. This provision ((f)) would not, however, apply to a record in which an individual has a legitimate expectation of confidentiality recognized by statute or common law.

*Recommendation 4*

That Congress provide by statute that a subpoena or other method of judicial summons, issued after indictment or information or after the filing of a complaint or other initial pleading, issued to a private-sector record keeper

(a) in order to obtain an individually identifiable record and

(b) where the record subject is, or is likely to become, a target of the investigation, a named party to the litigation, or otherwise publicly implicated in the proceedings, may be issued only where

(i) service of the summons or subpoena is made upon both the individual identified in the record and the record keeper,

(ii) the individual has standing to contest the summons or subpoena and to halt production of the record until his claims are litigated, and

(iii) the individual is able to assert in protection of the record the defense provided by any legal expectation of confidentiality or other defense provided by common law or statute.

*Recommendation 5*

That Congress provide by statute that a record obtained pursuant to a Grand Jury subpoena:

(a) shall be returned and actually presented to the Grand Jury under whose authority the subpoena was issued;

(b) shall be employed only for the purposes of prosecuting a crime for which an indictment or presentment was issued by the Grand Jury sitting at the time the record was obtained;

(c) shall be destroyed or returned to the record keeper if it was not used in the prosecution of a crime for which the Grand Jury issued an indictment or presentment or if it has not been made part of the official records of the Grand Jury maintained under the seal;

(d) shall not be maintained, or its contents described in any record maintained, apart from the sealed records of the Grand Jury by any agency or officer, employee, or agent of such agency of government; and

(e) the information contained in such record shall be protected by stringent penalties for improper disclosure or maintenance, including penalties to be enforced by criminal prosecution (or the exercise of judicial contempt power).

*Recommendation 6*

That Congress provide by statute that a Grand Jury subpoena duces tecum (or other Grand Jury subpoena to acquire the contents of documentary evidence, whether by testimony or otherwise) issued

(a) to obtain an individually identifiable record,

(b) where a legally protectable expectation of confidentiality exists, such as the expectation recommended by the Commission for records of a credit grantor, depository institution, insurance institution, or health-care provider, and

(c) where the record subject is, or is likely to become, a target of the investigation, named in an indictment or presentment, or otherwise publicly implicated in the proceedings, may be issued only where

(i) service of the subpoena is made upon both the individual identified in the record and the record keeper,

(ii) the individual has standing to contest the subpoena and to halt the production of the record until his claims are litigated, and

(iii) the individual is able to assert in protection of the record the defenses provided by any legal expectation of confidentiality or other defense provided by common law or statute.

*Recommendation 7*

(a) That where a private-sector record keeper is required to report information about an individual to an agency or authority of government, the scope of such reporting should be limited by Congress such that:

(i) each reporting requirement is expressly authorized in statute;

(ii) each statutory provision clearly identifies the policies and purposes which justify the reporting it authorizes;

(iii) each statutory provision details standards of relevance which must be met before the information must be reported;

(iv) no information is reported in individually identifiable form unless such reporting is essential to accomplish the statutory policies and purposes which justify the reporting; and

(vi) where individual identity is not reported by the record keeper, yet at some point such identification may be necessary to ensure compliance with law, identifiable records be maintained by the record keeper only for inspection by authorized agents of the government upon presentation of a lawful summons or subpoena:

(b) this inspection by a government agency of records maintained pursuant to statute or regulation in individually identifiable form by a private-sector record keeper be permitted to occur

(i) only upon presentation and delivery of a copy of an administrative summons, provided that

(ii) the summons identifies the particular records and items of information to be made available for inspection by the agency;

(c) that a private-sector record keeper be required to notify an individual when he enters into a relationship with the record keeper that information concerning the relationship

(i) will be reported to agencies and authorities of government pursuant to statute or regulation, or

(ii) may be open to inspection by agencies and authorities of government;

(d) that individually identifiable information obtained by government through reporting or inspection required by statute or regulation should be unavailable for civil or criminal prosecution of violations of law not directly related to the statutorily identified purposes which justify the reporting or inspection;

(e) that an individually identifiable record

required to be maintained by a private-sector record keeper pursuant to statute or regulation may be destroyed by the record keeper at any time after the statute of limitations expires for the specific violation justifying the reporting or maintenance of such record; and

(f) that an individually identifiable record collected by a government agency from information reported or maintained by a private-sector record keeper pursuant to statute or regulation be destroyed by the government agency at the time the statute of limitations expires for the specific violation justifying the reporting or maintenance of such record.

RECORD KEEPING IN THE EDUCATION RELATIONSHIP

The Commission recommends:

*Recommendation 1*

That the Family Educational Rights and Privacy Act be amended to require an educational agency or institution to formulate, adopt, and promulgate an affirmative policy to implement FERPA requirements, as well as the additional requirements recommended by the Commission.

*Recommendation 2*

That the Family Educational Rights and Privacy Act be amended to require an educational agency or institution to include in its institutional policy to implement FERPA reasonable procedures to protect against unwarranted intrusiveness and against unfairness in its education record-keeping practices including:

(a) reasonable procedures to prevent the collection and maintenance of inaccurate, misleading, or otherwise inappropriate educational records;

(b) procedures that provide a student or parent a reasonable opportunity for reconsideration of an administrative decision regarding the student that is based in whole or in part on an education record about the student that has been corrected or amended as a result of rights exercised under FERPA subsequent to the decision; and

(c) procedures to assure that except as specifically required by law, no survey or data collection activity will be conducted, assisted, or authorized by an educational agency or institution unless:

(i) the proposal for such an activity has been reviewed and approved by the educational agency or institution, and not a component thereof, to eliminate unwarranted intrusion on the privacy of students or their families; and

(ii) parents of affected students have been notified of such activity, provided a reasonable opportunity to review the collection materials, and allowed to refuse participation in such activity by their children or families.

*Recommendation 3*

That the Family Educational Rights and Privacy Act be amended to broaden the definition of an "educational agency or institution" to include organizations that provide testing or data-assembly services under contract to educational agencies or institutions or consortiums thereof, except that such organizations should not be subject to Section (b)(3) of the Act which requires educational institutions to permit access by Federal auditors to educational records without the consent of the student or his parent.

*Recommendation 4*

That the Family Education Rights and Privacy Act be amended to:

(a) broaden the definition of "student" to include an applicant for student status;

(b) make all provisions of FERPA applicable to education records pertaining directly to an applicant; and

(c) require that records created about an unsuccessful applicant be maintained by an educational agency or institution for 18 months from the close of the application process, after which time they must be destroyed.

*Recommendation 5*

That the Family Educational Rights and Privacy Act be amended to provide that the right of a student or his parent to inspect and review letters and statements of recommendation not be subject to waiver by the student or his parent, provided further, however, that letters and statements of recommendation solicited with a written assurance of confidentiality, or sent and retained with a documented understanding of confidentiality prior to the effective date of the statutory change not be subject to inspection and review by students or parents.

*Recommendation 6*

That the Family Educational Rights and Privacy Act be amended to require an educational agency or institution that conducts instructional programs to provide for parent or student participation in the establishment and review of its policies and practices implementing FERPA; and further

*Recommendation 7*

That the Family Educational Rights and Privacy Act be amended to require an educational agency or institution that conducts instructional programs to have procedures whereby parents or students may challenge its policies or practices implementing FERPA.

*Recommendation 8*

That the Family Educational Rights and Privacy Act be amended to require that an educational agency or institution establish, promulgate, and enforce administrative sanctions for violations of its policy implementing FERPA. Such sanctions should be levied upon chief executive officers of educational agencies and components thereof who are negligent in pursuit of institutional compliance as well as upon employees who violate provisions of such policy.

*Recommendation 9*

That the Family Educational Rights and Privacy Act be amended to provide that all or any portion of DHEW funds earmarked for education purposes may be withheld from an educational agency or institution when its policy does not comply with FERPA requirements or when evidence of systematic failure on its part to implement its policy is presented to the Department of Health, Education, and Welfare. Such withholding of funds should only be imposed if the Secretary has determined that compliance cannot be secured through voluntary means or that systematic failures to implement policy have previously been brought to the attention of the educational agency or institution and it has not taken sufficient steps to correct such failures. The amount withheld should be appropriate to the nature of the violation, and should provide incentives for future compliance.

*Recommendation 10*

That the Family Educational Rights and Privacy Act be amended to permit an individual (in the case of a minor, his parents or guardian) to commence a civil action on his behalf to seek injuctive relief against an educational agency or institution that fails to provide him with a right granted him by FERPA. The district courts should have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order an educational agency or institution to perform such act or duty as may be required by FERPA and to grant costs of the litigation, including reasonable attorney's fees.

*Recommendation 11*

That the Family Educational Rights and Privacy Act be amended to make it permissible for records of instructional, supervisory, and administrative personnel of an educational agency or institution, and educational personnel ancillary thereto, which records are in the sole possession of the maker thereof, to be disclosed to any school official who has been determined by the agency or institution to have legitimate educational interests in the records, without being subject to the access provision of FERPA, provided, however:

(a) that such records are incorporated into education records of the agency or institution or destroyed after each regular academic reporting period;

(b) that such records are made available for inspection and review by a student or parent if they are used or reviewed in making any administration decision affecting the student; and

(c) that all such records of administrative officers with disciplinary responsibilities are made available to parents or students when any disciplinary decision is made by that officer.

*Recommendation 12*

That the Family Educational Rights and Privacy Act be amended to provide that insofar as directory information is concerned, a student or parent may only require that address and phone number not be published without his consent or that it only be disclosed to persons who have established to the satisfaction of the institution a legitimate need to know.

*Recommendation 13*

That the Family Educational Rights and Privacy Act be amended to permit an educational agency or institution to use or disclose an education record or information contained therein in individually identifiable form for a research or statistical purpose without parent or student consent, provided that the agency or institution:

(a) determines that such use or disclosure in individually identifiable form does not violate any conditions under which the information was collected;

(b) ascertains that such use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(c) determines that the research or statistical purpose for which any use or disclosure is to be made warrants the risk to the individual from additional exposure of the record or information;

(d) requires that adequate safeguards to protect the record or information from unauthorized disclosure be established and maintained by the user or recipient, including a program for removal or destruction of identifiers;

(e) prohibits any further use or redisclosure of the record or information in individually identifiable form without its express authorization;

(f) prohibits any individually identifiable information resulting from such research from being used to make any decision or take any action directly affecting the individual to whom it pertains;

(g) makes any disclosure pursuant to a written agreement with the proposed recipient which attests to all of the above;

and provided further, that all such determinations, requirements, and prohibitions are made by the educational agency or institution (and not a component thereof).

*Recommendation 14*

That the Family Educational Rights and Privacy Act be amended so as to permit an educational agency or institution to designate in its policy implementing FERPA that disclosures may be made on a routine basis without the authorization of the parent or student to a particular welfare or social

service agency for a specified purpose that directly assists the educational agency or institution in achieving its mission, provided that the categories of information which may be disclosed to such agency are also specified and that further redisclosure by such agency is prohibited.

*Recommendation 15*

That the Family Educational Rights and Privacy Act be amended to provide:

(a) that records collected or maintained by the security or law enforcement branch of an educational agency or institution solely for a law enforcement purpose—

(i) shall not be considered to be education records subject to the provisions of FERPA when the security or law enforcement branch does not have access to education records maintained by the agency or institution; and

(ii) may be disclosed only to law enforcement agencies of the same jurisdiction and to school officials responsible for disciplinary matters;

(b) that disclosure of information may be made by an educational agency or institution to law enforcement officials without the consent of the student or parent, provided that:

(i) an official determination is made by the educational agency or institution (and not by a component thereof) that the information disclosed is necessary to an authorized investigation of ongoing violations of law which threaten the welfare of the educational agency or institution or its students or faculty; and

(ii) each determination is publicly reported to the governing board of the agency or institution including the type of information disclosed, the number of individuals involved, and the justification for such disclosure, but not the names of the individuals involved.

THE CITIZEN AS BENEFICIARY OF GOVERNMENT ASSISTANCE

The Commission recommends:

*Recommendation 1*

(a) That the Congress enact a statute that requires each State, as a condition of the receipt of Federal financial assistance for public assistance and social services programs, to enact a fair information practice statute applicable to records about public assistance and social services clients of any agency administering or supervising the administration of any federally assisted public assistance or social services program (the requirements of the State statute are described below);

(b) That Congress give a State two full State legislative sessions to enact the required statute before it is considered not to be in compliance with Federal law;

(c) That the Congress specify in the statute the general principles of the fair information practice policy, leaving to the States some discretion to tailor specific means of implementing the principles to their own needs, where appropriate;

(d) That the Congress make the Secretary of Health, Education, and Welfare responsible for determining that each State has enacted the required State statute and that it has the characteristics required by Federal law. The Secretary should consult with the heads of other Federal agencies funding public assistance and social services programs in carrying out this responsibility;

(e) That every Federal agency responsible for overseeing the administration of a public assistance or social services program be required by Federal statute to review State compliance with the record-keeping requirements set forth in Federal and State statute;

(f) That the process that States use for formulating and enacting specific fair-information practice requirements provide ample opportunity for public participation, including public hearings; and

(g) That appropriate sanctions and remedies, at the Federal and State level, be available to deal with violations of the statutorily prescribed requirements.

*Recommendation 2*

That every State enact a statute applying the fair information practices required of agencies receiving Federal public assistance and social services funds to records of cash assistance and social services agencies that do not receive any Federal funding.

*Recommendation 3*

That the Congress require the States to provide by statute that public assistance and social services agencies must, to the greatest extent practicable, collect information and documentation directly from the client, unless otherwise requested by the client.

*Recommendation 4*

That the Congress require the States to provide by statute that a public assistance or social services agency must:

(a) notify a client as to:

(i) all types of information which may be collected about him;

(ii) the techniques that may be used to collect or verify such types of information;

(iii) the types of sources that may be asked to provide each type of information.

(b) limit its collection practices to those specified in any such notice;

(c) provide the client an opportunity to indicate particular sources of information which he does not want the agency to contact and to provide alternatives to those sources so indicated;

(d) provide the client an opportunity to withdraw his application should the agency require that a source be contacted notwithstanding . . .

provided, however, that such procedures shall not be required when there is a reasonable belief that the client has violated a law relating to the administration of the assistance or services program.

*Recommendation 5*

That Congress require States to provide by statute that public assistance and social services agencies must give clients of social services programs the opportunity to require that collateral contacts, made to secure information about their eligibility in a services program, are made in a manner that, to the maximum extent possible, does not reveal the specific nature of the service sought by the client.

*Recommendation 6*

That the Congress require States to provide by statute that a client who is the subject of a record maintained by a public assistance and social services agency shall have a right to see and copy that record upon request.

*Recommendation 7*

That the Congress permit the States to enact provisions of law that:

(a) provide that a medical record may be disclosed either directly to the client or through a medical-care professional designated by the client, provided, however, that a client must be given direct access to any medical-record information that is used to make a determination about his eligibility;

(b) restrict a parent or guardian's access to a minor's record, or a minor's access to a record that contains information about him;

(c) provide that the source of information in a record, or the information itself to the extent that it would reveal the identity of the source, need not be disclosed to the client if the source is an individual who has requested an assurance of confidentiality or, absent such a request, if disclosure can reasonably be expected to result in harm to the source, provided, however, that an adverse determination may not be based on information that is not disclosed to the client;

(d) deny a client access to a record that is being used for an ongoing investigation of a suspected violation by the client of a law relating to the administration of the welfare program; and

(e) provide for segregation of information in records maintained about multiple subjects so that a client may see only that information in a record that pertains directly to him.

*Recommendation 8*

That the Congress require States to provide by statute that public assistance and social services agencies will permit a client to request correction or amendment of a record pertaining to him, and that the agency must:

(a) promptly correct, amend (including supplement), or delete any portion thereof which the individual can show is not accurate, timely, relevant, complete, or within the scope of information which he was originally told would be collected about him, except that in the case of a medical record, the agency shall disclose to the client the identity of the medical-care provider who was the source of the record, and, if the latter agrees to the requested correction, the agency must make the correction:

(b) assure that any corrections, amendments, or deletions are reflected wherever information about the client is maintained that is similar to that which has been corrected, amended, or deleted; or

(c) inform the client of its refusal to correct, amend, or delete part of the record in accordance with his request and the reason(s) for the refusal, permit the client to have the refusal reviewed at a hearing, and permit a client who disagrees with the refusal to correct, amend, or delete the record to have placed with the record a concise statement setting forth his disagreement; and further

(d) provide reasonable procedures to assure that corrections, amendments, and deletions made pursuant to (a), or statements of disagreement filed pursuant to (c), are made available to prior and subsequent recipients of the record.

*Recommendation 9*

That the Congress require States to provide by statute that public assistance and social services agencies must have reasonable procedures to assure that all records they use in making any determination about a client are maintained with such accuracy, timeliness, completeness, and relevance as is reasonably necessary to assure that the records themselves are not the cause of an unfair determination.

*Recommendation 10*

That the Congress provide by statute that no disclosures of records about a public assistance or social services client may be made without the authorization of the client, unless disclosure has been specifically authorized by State statute, which must contain:

(a) provisions relating to the permissible uses and disclosures of individually identifiable information about clients for purposes related to the administration and enforcement of the specific program for which the information was acquired, as well as for purposes related to the administration and enforcement of other public assistance and social services programs for which the individual has applied, is required to apply, or may be eligible;

(b) a prohibition on the disclosure of individually identifiable information about clients to members of the public and to legislative committees;

(c) a prohibition on the use or disclosure of individually identifiable information about clients for purposes unrelated to the provision of public assistance and social services without the consent of the client, provided, however, that:

(i) disclosure necessary to assure the health or safety of the client or another individual in compelling circumstances may be permitted;

(ii) disclosure made pursuant to a court order may be permitted if the agency has contested the order, provided, however, that adequate notice and ability to participate in any action regarding the order has been provided the client if the client is the subject of the investigation or prosecution in furtherance of which the court order is issued; and

(iii) dsclosure for a research or statistical purpose may be permitted, provided, however, that:

(A) the agency maintaining the information ascertains that use or disclosure in individually identifiable form is necessary to accomplish the purpose for which disclosure is made;

(B) further use or disclosure of the information or record in individually identifiable form is prohibited without the express authorization of the agency or the client;

(C) reasonable procedures to protect the record or information from unauthorized disclosure are established and maintained by the recipient, including a program for removal or destruction of identifiers; and

(D) the agency determines that the research or statistical purpose for which any disclosure is to be made is such as to warrant risk to the individual from additional exposure of the record or information;

(d) provisions stating which redisclosures of individually identifiable information may be made by agencies or persons authorized to obtain such information; and

(e) a requirement that all permissible disclosures be limited to information that is necessary and relevant to the purpose for which disclosure is made, including those disclosures made for collateral verification purposes.

Finally, the Congress should provide that when enacted, the required State statute shall constitute the sole authority for disclosures of client records maintained by public assistance and social services agencies receiving Federal funding except that 42 U.S.C. 4582 and 21 U.S.C. 1175, regarding the confidentiality of alcohol and drug abuse treatment records, will continue to be in force.

*Recommendation 11*

That the Congress require States to provide by statute that public assistance and social services agencies must inform each client in plain language of:

(a) the kinds of records that the agency maintains, and the purposes for which the information in those records may be used;

(b) the client's right to see, copy, and request correction of record about himself;

(c) Whether information requested of the client by the agency must be provided as a condition of eligibility for public assistance and social services, or whether providing it is voluntary;

(d) of the agency's procedures regarding collateral verification [as required by Recommendation (4)], including its use of interagency and inter-jurisdictional data exchanges; and

(e) the provisions of the State statute governing disclosure.

*Recommendation 12*

That the Congress require the States to provide by statute that appropriate remedies and penalties will be available in cases in which a public assistance or social services agency violates a provision of the State fair information practice statute.

*Recommendation 13*

That the use and disclosure of information obtained on applicants for and recipients of child support services as well as an alleged absent parents should be subject to the same statutory disclosure policy called for by Recommendation (10). Furthermore, Congress should require by statute that information obtained by State agencies from the Federal Parent Locator Service regarding absent parents may not be disclosed for purposes unrelated to the establishment of paternity, the location of the parent, or enforcement of child support obligations, except to the extent that disclosures of such information result from court proceedings.

*Recommendation 14*

That the Congress amend Title IV–D of the Social Security Act to provide that the provision requiring States to "utilize sources of information and available records" [Section 454(8)] not be construed to override State and local laws prohibiting the disclosure of certain types of information unless these laws have made provision for disclosure to the State Parent Locator Service.

*Recommendation 15*

That the Congress amend Section 453(e)(2) of Title IV–D of the Social Security Act to provide that Federal agencies maintaining information which, by other provisions of law, has been deemed to be confidential, shall not be required to provide that information to the Federal Parent Locator Service (PLS), unless disclosure to the Federal PLS is specifically authorized by a Federal statute that specifies the agency that may disclose information to the PLS; and further, that the Congress limit disclosures of information by Federal agencies to the PLS to the minimum necessary to locate the absent parent (e.g., place of employment and home address).

*Recommendation 16*

That the Congress require the heads of all Federal agencies funding public assistance and social services programs to provide assistance to the States in developing their fair information practice statutes.

THE RELATIONSHIP BETWEEN CITIZEN AND GOVERNMENT: THE PRIVACY ACT OF 1974

The Commission recommends:

*Recommendation 1*

That a Federal agency administering a health-insurance program which employs the services of a private health-insurance intermediary provide to the intermediary only that information necessary for the intermediary to carry out its responsibilities under the program.

*Recommendation 2*

That there should be a continued examination of the standards, guidelines, and general criteria for safeguards within the Federal government, but there should not be a general extension of any Federal standards, guidelines, or general criteria for safeguards for security and confidentiality of records when a record is disclosed to a person other than an agency, except as specifically provided in other recommendations of the Commission.

*Recommendation 3*

That the Privacy Act of 1974 permit the recovery of special and general damages sustained by an individual as a result of a violation of the Act, but in no case should a person entitled to recovery receive less than the sum of $1,000 or more than the sum of $10,000 for general damages in excess of the dollar amount of any special * * *

THE RELATIONSHIP BETWEEN CITIZEN AND GOVERNMENT: THE CITIZEN AS TAXPAYER

The Commission recommends:

*Recommendation 1*

That the Congress prohibit the disclosure of any tax information about a prospective juror for use in jury selection.

*Recommendation 2*

That the Congress not permit tax information about prospective Federal appointees to be disclosed to the White House and heads of Federal agencies without the consent of the individual to whom the information pertains.

*Recommendation 3*

That Federal tax information authorized to be disclosed to the Parent Locator Service be limited to the minimum necessary to locate an alleged absent parent; that such information be used only in aid of location efforts: and that no disclosures of IRS information about an individual to whom support is owed be permitted without the individual's authorization.

*Recommendation 4*

That the Congress subject all information about a taxpayer to the same restrictions on disclosure for non-tax investigations and prosecutions that the Commission recommended in its interim report.

*Recommendation 5*

That all of the information about taxpayers in the possession of the IRS, regardless of source, be subject to the same disclosure restrictions recommended by the Commission in this chapter and in its interim report.

THE RELATIONSHIP BETWEEN CITIZEN AND GOVERNMENT: THE CITIZEN AS PARTICIPANT IN RESEARCH AND STATISTICAL STUDIES

The Commission recommends:

*Recommendation 1*

That the Congress provide by statute that no record or information contained therein collected or maintained for a research or statistical purpose under Federal authority or with Federal funds may be used in individually identifiable form to make any decision or take any action directly affecting the individual to whom the record pertains, except . . .

*Recommendation 2*

That the Congress provide by statute that any record or information contained therein collected or maintained for a research or statistical purpose under Federal authority or with Federal funds may be used or disclosed in individually identifiable form without the authorization of the individual to whom such record or information pertains only for a research or statistical purpose, except:

(a) where the researcher reasonably believes that the information will forestall continuing or imminent physical injury to an individual, provided that the information disclosed is limited to that information necessary to secure the protection of the individual who may be injured;

(b) where information is furnished in compliance with a judicial order, including a search warrant or lawfully issued subpoena, and the purpose of the judicial order is to assist inquiry into an alleged violation of law by a researcher or an institution or agency maintaining research and statistical records, provided that:

(i) any information so disclosed shall not be used as evidence in any administrative, legislative, or judicial proceeding against anyone other than the researcher or research entity,

(ii) any information so disclosed shall not be used as evidence (or otherwise made public) in such a manner that the subject of the research may be identified, unless identification of an individual research subject is necessary to prove the violation of law, and

(iii) an individual identified in any information to be made public in identifiable form be given notice prior to such publication and be granted standing to contest the necessity of such publication;

(c) where information is disclosed in individually identifiable form for the purpose of auditing or evaluating a Federal research program and such an audit or evaluation is expressly authorized by Federal statute; or

(d) where information is disclosed to the

National Archives and Records Service pursuant to the Federal Records Act.

And further, that should information be disclosed under any other conditions, an individual research subject identified in the information disclosed shall have a legal right of action against the person, institution, or agency disclosing the information, the person, institution or agency seeking disclosure and, in the case of a court order, the person who applied for such an order.

*Recommendation 3*

That when a Federal statute expressly authorizes disclosure in individually identifiable form of a research or statistical record for the purpose of auditing or evaluating a Federal or federally funded program, such statute should prohibit the use or disclosure of such information to make any decision or take any action affecting the individual to whom it pertains, except as authorized by that individual, or as the Congress specifically permits by statute.

*Recommendation 4*

That any Federal agency that collects or maintains any record or information contained therein in individually identifiable form for a research or statistical purpose should be permitted to maintain such records or information in individually identifiable form only so long as it is necessary to fulfill the research or statistical purpose for which the record or information was collected, unless retention of the ability to identify the individual to whom the record or information pertains is required by Federal statute or agency regulation.

*Recommendation 5*

That whenever a Federal agency provides, by contract or research grant, for the performance of any activity that results in the collection or maintennace of any record or information contained therein in individually identifiable form for a research or statistical purpose, the terms of such contract or research grant should:

(a) require the contractor or grantee to establish and maintain reasonable procedures to protect such record or information from unauthorized disclosure, including provision for removal or destruction of identifiers;

(b) include rules for the disposition of such information or record upon termination of the contract or grant that provide appropriate protection against future unauthorized disclosure; and

(c) make the contractor or grantee subject to the requirements of the most stringent applicable Federal and State statutes.

*Recommendation 6*

That the National Academy of Sciences, in conjunction with the relevant Federal agencies and scientific and professional organizations, be asked to develop and promote the use of statistical and procedural techniques to protect the anonymity of an individual who is the subject of any information or record collected or maintained for a research or statistical purpose.

*Recommendation 7*

That unless prohibited by Federal statute, a Federal agency may be permitted to use or disclose in individually identifiable form for a research or statistical purpose any record or information it collects or maintains without the authorization of the individual to whom such record or information pertains only when the agency:

(a) determines that such use or disclosure does not violate any limitations under which the record or information was collected;

(b) ascertains that use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which use or disclosure is to be made;

(c) determines that the research or statistical purpose for which any disclosure is to be made is such as to warrant risk to the individual from additional exposure of the record or information.

(d) requires that reasonable procedures to protect the record or information from unauthorized disclosure be established and maintained by the user or recipient, including a program for removal or destruction of identifiers;

(e) prohibits any further use or redisclosure of the record or information in individually identifiable form without its express authorization; and

(f) makes any disclosure pursuant to a written agreement with the proposed recipient which attests to all the above, and which makes the recipient subject to any sanctions applicable to agency employees.

*Recommendation 8*

That when disclosure pursuant to Recommendation (7) is made to a Federal contractor or grantee, the written agreement should be between the disclosing agency and funding agency, with the latter responsible for assuring that the terms of the agreement are met.

*Recommendation 9*

That any person, who under Federal contract or grant collects or maintains any record or information contained therein for a research or statistical purpose, be prohibited from disclosing such record or information in individually identifiable form for another research or statistical purpose, except pursuant to a written agreement that meets the specifications of Recommendations (7) and (8) above, and has been approved by the Federal funding agency.

*Recommendation 10*

That absent an explicit statutory requirement to the contrary, any Federal agency that collects or supports the collection of individually identifiable information from an individual for a research or statistical purpose be required by Federal statute to notify such individual:

(a) of the possibility, if any, that the information may be used or disclosed in individually identifiable form for additional research or statistical purposes;

(b) of any requirements for disclosure in individually identifiable form for purposes other than research and statistical use; and

(c) that if any such required disclosure is made for other than a research or statistical purpose, he will be promptly notified.

*Recommendation 11*

That Congress provide by statute that when information about an individual is to be collected in individually identifiable form for a research or statistical purpose by a Federal agency or with Federal funding, an institutional review process be required to apply the principles enunciated in Recommendation (10) in order to protect the individual:

(a) who is not competent to give informed consent to provide information about himself (e.g., a minor or mentally incompetent individual);

(b) whose consent may be seriously compromised by fear of some loss of benefit or imposition of sanction (e.g., "capitive populations," such as students, welfare recipients, employees, prison inmates, or hospital patients);

(c) when the ability to conduct statistical or research activity is predicated on the individual being unaware of its existence, purpose, or specific nature.

*Recommendation 12*

That Congress provide by statute that when individually identifiable information is collected from an individual by a Federal agency or with Federal funding for a purpose other than a research or statistical one, the individual be informed that:

(a) such information may be used or disclosed in individually identifiable form for a research or statistical purpose, with appropriate safeguards;

(b) that he may be recontacted as a result of such use or disclosure.

*Recommendation 13*

That Congress provide by statute that if any record or information contained therein collected or maintained by a Federal agency or with Federal funding for a research or statistical purpose is disclosed in individually identifiable form without an assurance that such record or information will not be used to make any decision or take an action directly affecting the individual to whom it pertains (e.g., to a court or an audit agency), or without a prohibition on further use or disclosure, the individual should be notified of the disclosure and of his right of access both to his record and to any accounting of its disclosure.

*Guideline 1*

Any record or information contained therein collected or maintained for a research or statistical purpose should not be used in individually identifiable form to make any decision or take any action directly affecting the individual to whom the record pertains, except within the context of the research plan or protocol, or with the specific authorization of such individual; and

That based on the foregoing principle, a special set of information practice requirements should be established for records and information contained therein collected or maintained in individually identifiable form for a research or statistical purpose.

*Guideline 2*

Any entity that, for a research or statistical purpose, collects or maintains in individually identifiable form any record or information contained therein should be required:

(a) to establish and maintain adequate safeguards to protect such record or information from unauthorized disclosure; and

(b) to maintain such record or information in individually identifiable form only so long as is necessary to fulfill the research or statistical purpose for which it was collected, unless the entity can demonstrate that there are reasons for retaining the ability to identify the individual to whom the record or information pertains which outweigh the increase in the risks to the individual of exposure of the record.

*Guideline 3*

Except where specifically prohibited by law, an entity that collects or maintains a record or information may use or disclose in individually identifiable form either the record or the information contained therein for a research or statistical purpose without the consent of the individual to whom the record pertains, provided that the entity:

(a) determines that such use or disclosure does not violate any limitations under which the record or information was collected;

(b) ascertains that use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which use or disclosure is to be made;

(c) determines that the research or statistical purpose for which any disclosure is to be made is of sufficient social benefit to warrant the increase in the risk to the individual of exposure of the record or information;

(d) requires that adequate safeguards to protect the record or information from unauthorized disclosure be established and maintained by the user or recipient, including a program for removal or destruction of identifiers; and

(e) prohibits any further use or redisclosure of the record information in individually identifiable form without its express authorization.

*Guideline 4*

Absent an explicit statutory requirement to the contrary, no individual should be required to divulge information about himself for a research or statistical purpose. To assure that there is no coercion or deception, the individual should be informed:

(a) that his participation is at all times voluntary;

(b) of the purposes and nature of the data collection;

(c) of the possibility, if any, that the information may be used or disclosed in individually identifiable form or additional research or statistical purposes;

(d) of any requirements for disclosure in individually identifiable form required for purposes other than research and statistical use; and

(e) that if any such required disclosure is made for other than a research or statistical purpose, he will be promptly notified.

*Guideline 5*

When information about an individual is to be collected in individually identifiable form for a research or statistical purpose, an institutional review process or responsible representative should be required to apply the principles enunciated in Guideline (4) in order to protect the individual:

(a) who is not competent to give informed consent to provide information about himself (e.g., a minor or mentally incompetent individual);

(b) whose consent may be seriously compromised by fear of some loss of benefit or imposition of sanction (e.g., "captive populations" such as students, welfare recipients, employees, prison inmates, or hospital patients); or

(c) when the ability to conduct statistical or research activity is predicated on the individual being unaware of its existence, purpose, or specific nature.

*Guideline 6*

When individually identifiable information is collected for a purpose other than a research or statistical purpose the individual should be informed:

(a) that such information may be used or disclosed in individually identifiable form for a research or statistical purpose, with appropriate safeguards; and

(b) that he may be recontacted as a result of such use or disclosure.

*Guideline 7*

When research or statistical records or information are collected and maintained in conformity with all the foregoing policy recommendations, an individual should have a right of access to a record or information which pertains to him if such record or information is used or disclosed in individually identifiable form for any purpose other than a research or statistical one (e.g., an inadvertent unauthorized disclosure).

*Guideline 8*

Any entity that collects or maintains a record or information for a research or statistical purpose should be required to keep an accurate accounting of all disclosures in individually identifiable form of such record or information contained therein such that an individual who is the subject of such record or information can find out that the disclosure has been made and to whom.

*Guideline 9*

If any record or information contained therein collected or maintained for a research or statistical purpose is disclosed in individually identifiable form without an assurance that such record or information will not be used to make any decision or take an action directly affecting the individual to whom it pertains, or without a prohibition on further use or disclosure (e.g., to a court or an audit agency), the individual should be notified of the disclosure, and of his right of access to the record and to the accounting for its disclosure, as provided by Guidelines (7) and (8) above.

THE SOCIAL SECURITY NUMBER

The Commission recommends:

*Recommendation 1*

That Section 7 of the Privacy Act be retained for government agencies.

*Recommendation 2*

That the President amend Executive Order 9397 (November 30, 1943, 8 Federal Register 237, an order directing Federal agencies to use the Social Security account number when establishing a new system of permanent account numbers) so that Federal agencies may not, as of January 1, 1977, rely on it as legal authority by which to create new demands for the disclosure of an individual's SSN.

*Recommendation 3*

That the independent entity recommended by the Privacy Commission monitor the use of the SSN and other labels by private organizations and consider the desirability and feasibility of future restrictions on the use of the SSN and other labels for identification and authentication purposes.

*Recommendation 4*

That the Federal government not consider taking any action that would foster the development of a standard, universal label for individuals, or a central population register, until such time as significant steps have been taken to implement safeguards and policies regarding permissible uses and disclosures of records about individuals in the spirit of those recommended by the Commission and these safeguards and policies have been demonstrated to be effective.

GENERAL COMMISSION RECOMMENDATION

That the President and the Congress establish an independent entity within the Federal government charged with the responsibility of performing the following functions:

(a) To monitor and evaluate the implementation of any statutes and regulations enacted pursuant to the recommendations of the Privacy Protection Study Commission, and have the authority to formally participate in any Federal administrative proceeding or process where the action being considered by another agency would have a material effect on the protection of personal privacy, either as the result of direct government action or as a result of government regulation of others.

(b) To continue to research, study, and investigate areas of privacy concern, and in particular, pursuant to the Commission's recommendations, if directed by Congress, to supplement other governmental mechanisms through which citizens could question the propriety of information collected and used by various segments of the public and private sector.

(c) To issue interpretative rules that must be followed by Federal agencies in implementing the Privacy Act of 1974 or revisions of this Act as suggested by this Commission. These rules may deal with procedural matters as well as the determination of what information must be available to individuals or the public at large, but in no instance shall it direct or suggest that information about an individual be withheld from individuals.

(d) To advise the President and the Congress, government agencies, and, upon request, States, regarding the privacy implications of proposed Federal or State statutes or regulations.

BAYH COMMENDS PRIVACY COMMISSION—URGES LEGISLATIVE RESPONSE

Mr. BAYH. Mr. President, I am pleased to be able to join my colleagues in submitting this resolution of commendation for the fine work recently completed by the Privacy Protection Study Commission. Along with many of the cosponsors of this resolution I have had a strong interest in the privacy area in my years in the Senate and I am proud to have been an enthusiastic supporter of the Privacy Act of 1974 which authorized this Commission.

Since assuming the chairmanship of the Subcommittee on the Constitution, with its long and distinguished record of protecting a citizen's right to privacy, I felt a special responsibility to carry on the impressive work of my predecessors. One former chairman, Senator Sam Ervin, probably did more to protect the privacy of Americans than any single individual of our time. I find his assessment of this often technical and complicated subject refreshing in his ability to strike at the heart of the matter and remind us exactly what principles we are striving to preserve. As Senator Ervin once stated:

> Any discussion of privacy must start with the Constitution of the United States and the Bill of Rights won through the efforts of men wiser in the ways of government than any of us today. We here today must talk of physical security, of confidentiality, of the philosophical influence on privacy of Judeo-Christian ethics, of the pragmatic balancing of competing social interests, or of the legal conditions for government invasion of privacy. Those men on the other hand, did more than talk. They drafted a Bill of Rights. I believe Congress and legislatures must do more than talk about privacy. They must heed the complaints they are receiving, and act on them.

Mr. President, various technological developments since the founding of our Republic some 200 years ago have generated an informational explosion that has produced not only vast amounts of abstract knowledge but also a tremendous volume of data concerning the lives and habits of individual citizens. We need not fear these developments but we must control them or lose to technological advancement that which has been given to us as our constitutional heritage. Each generation must strive to preserve the values embodied in our Constitution, many of which are concerned with protecting a citizen's right to privacy.

The Privacy Commission has pointed out various facets of modern American life in which there exists a threat to the legitimate privacy interests of our citizens. It is now up to the Congress to act upon the recommendations of the Commission in legislative form. Last week I introduced a bill to implement one of the Commission's suggestions for Federal legislation to control the use of lie detectors in employment situations. Congressman KOCH, who served with distinction as a member of the Privacy Commission, has a similar bill in the House. The full range of issues addressed by the Commission will require a cooperative effort among various committees and members and I am happy to join today in urging my colleagues to join together in this effort. As Sam Ervin has pointed out, it is time to act upon the problems of privacy.

Mr. President, I ask unanimous consent to have printed in the RECORD an

editorial which appeared in the Washington Post concerning the work of the Privacy Commission.

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

PRIVATE LIVES ON THE RECORD

Most citizens' private business is not really private any more. The day is gone with individuals could deal with their doctors, bankers, insurance agents and the like primarily face-to-face, with some assurance that their personal affairs would remain confidential. Now people have to cope increasingly with remote, impersonal organizations whose judgments are based largely on records that an individual may know little about and over which he has very little control.

How should organizations' needs for information about people be balanced against individuals' desires for fairness and privacy? Some thoughtful answers have emerged from a federal commission's two-year study of public and private record-keeping practices. The panel has recommended steps to minimize intrusions into people's lives by government and private investigators and to buttress citizens' expectations that the details of their financial and medical affairs will be treated as confidential. Those are traditional "privacy" issues that one might expect a group called the Privacy Protection Study Commission to focus on. The panel has gone further, however, and also suggested ways to insure fairness for individuals in relationships that are no longer as private or personal as they used to be.

Any person, the commission concludes, should be able to find out what information about him a financial institution, insurance company, medical agency or other such organization has, and how those records are being used. He should have some control over the release of medical records and financial files. Organizations should have to explain the basis for adverse decisions, such as a denial of credit, and allow people to challenge records that are inaccurate, incomplete or out of date. Those basic principles have been applied to federal record-keeping, however imperfectly, by the Privacy Act of 1974. They should certainly be extended to state and local governments and private institutions as well.

One tough question is how change in the private sector should be achieved. Many businesses, notably in insurance, credit and finance, fear—with good reason—that federal regulation of record-keeping could bring on demands for new heaps of costly records and reports. Moreover, citizens will gain little if government intervention leads, even inadvertently, to greater official surveillance of citizens' affairs.

The commission is well aware of these problems. Instead of recommending an all-embracing, immensely detailed regulatory scheme, it has proposed approaches tailored to specific fields. Fairer credit practices, for instance, should be obtained largely by expanding existing laws. New policies on medical records, an acutely delicate and controversial subject, should be pursued partly by federal initiatives and partly by the states. Finally, the panel concluded that confidentiality and accuracy have to be assured in the burgeoning field of electronic funds transfers—but the financial information involved is so sensitive that government ownership or management of these networks should be prohibited.

As the whole report assumes, there is no quick, easy or technological fix for the dilemmas of an "information society." A better balance between organizational efficiency and individual rights and liberties can be reached only by many painstaking adjustments in the ways that public and private business is done. The panel has set forth some good ideas. What is needed now is a serious response from Congress, the states, and the thousands of private organizations that collect, use and exchange records on individuals.

Mr. HEINZ. Mr. President, on July 12 the Privacy Protection Study Commission presented its final report at a hearing jointly held by the Senate Governmental Affairs Committee and the House Subcommittee on Governmental Information and Individual Rights. After 2 years of hard work, lengthy study and conscientious deliberations, the Commission has unanimously agreed on a set of proposals designed to help the American people secure their rights of privacy. I am pleased today to join with a number of my colleagues in introducing a resolution expressing the Senate's appreciation for the Commission's efforts. I want to stress that this resolution also states the commitment of this body to translate the Commission's recommendations into effective, workable legislation.

In any number of areas—whether it be medical care or consumer credit, insurance or taxes—Americans are the subject of information gathering over which they too often have too little control. Individuals frequently do not know what records are being kept about them. They have no access to those records, and consequently are unable to challenge their accuracy. In both the public and private sectors, Americans have little or no effective control over the use and distribution of information about themselves that is personal in nature and which ought to be confidential in its treatment. The possibilities for abuse of this information-gathering network are frightening to consider, and since our modern age demands that we rely on this network, it is incumbent upon us to adopt safeguards that will protect people's rights of privacy.

The approach to this problem taken by the Privacy Protection Study Commission is one marked by common sense and a sense of equity. In designing its proposals, it has sought to meet three fundamental objectives. First, the Commission's recommendations attempt to create an appropriate balance between what an individual is expected to divulge to a recordkeeping organization and what he seeks in return, thereby minimizing intrusiveness. Secondly, the Commission has strived to maximize fairness by opening up recordkeeping operations in ways that will reduce the potential for inequities in the manner that information is used. Finally, the Commission has wisely suggested that Congress join with the private sector to create ligitimate, enforceable expectations of confidentiality so that people will not be victims of unfair or unreasonable dissemination of personal information.

Mr. President, I want to take this opportunity to especially congratulate the Commission for seeking solutions that do not rely on the creation of new governmental bureaucracies for their success. Rather than creating new regulatory systems, the Commission has proposed that we simply create self-enforcing rights that the public and private sectors can observe and that can be secured through our Nation's legal system. At this point in time, I believe this is a judicious course that Congress may well want to follow in enacting new privacy protection reforms, particularly with regard to the private sector.

The rights of personal privacy are central to maintaining the dignity and security of the individual. Without safeguards against the abuses of privacy, the risk is high that individuals can and will lose control over basic elements of their lives. The Privacy Protection Study Commission has provided an invaluable service in demonstrating that safeguards can be adopted in a commonsense fashion, and I hope that the Senate will respond to the Commission's work as a call to action.

## AMENDMENTS SUBMITTED FOR PRINTING

### PRESIDENTIAL POWERS IN TIME OF WAR OR NATIONAL EMERGENCY—H.R. 7738

AMENDMENTS NOS. 821 THROUGH 823

(Ordered to be printed and referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. STEVENSON submitted three amendments intended to be proposed by him to H.R. 7738, with respect to the powers of the President in time of war or national emergency.

### COAL UTILIZATION ACT—S. 977

AMENDMENT NO. 824

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them, jointly, to S. 977, the Coal Utilization Act.

### CAREER EDUCATION IMPLEMENTATION INCENTIVE ACT OF 1977—S. 1328

AMENDMENT NO. 825

(Ordered to be printed and referred to the Committee on Human Resources.)

THE CAREER EDUCATION ACT

Mr. HATHAWAY. Mr. President, I am pleased to submit today an amendment in the nature of a substitute to S. 1328, which I first introduced on April 20, 1977. The substitute version contains many modifications and improvements, both technical and substantive, over the original version. These modifications and improvements are largely a product of criticisms and suggestions which were raised at the hearings held earlier this summer.

They are also the result of input received from the offices of many of the Senators who serve on the Human Resources Committee and in particular the Subcommittee on Education, Arts, and Humanities, chaired by the distinguished Senator from Rhode Island (Mr. PELL).

The substitute has been drafted with all of these factors in mind. I am confident that as a result of this process, this amended version will receive prompt and favorable consideration by the full Human Resources Committee upon re-

sumption of legislative business in September, with a view toward Senate passage prior to adjournment. I can assure all of my colleagues, and all those in the field of career education that I shall be pushing hard toward this goal.

Of course, the substitute amendment I am introducing today does not, and cannot, address each and every concern or suggestion raised at the hearings or in any other contact. By nature, the legislative process is one in which competing interests must be willing to compromise and to seek what is acceptable to most as opposed to what is preferred by some. We have tried, and I think succeeded, in achieving a solution which preserves the original goals of the bill, corrects certain shortcomings, and responds to many suggestions. I hope that the various constituencies and interest groups will keep this in mind in examining this bill.

But at the same time, in admitting that this bill is not everything to everyone concerned, I would also insist that its financial incentives, for implementation of career education at the elementary and secondary levels, its standards of administration, its postsecondary demonstration grants, and its model grants, when viewed as a whole, promise to work a profound change and improvement in our educational system as we now know it. When enacted, this legislation will provide the means and the standards to bring about a more proper and appropriate emphasis on education as preparation for work.

I would like to highlight briefly some of the changes made in the bill since its introduction. Many of the changes are technical and stylistic, and for that reason I shall request that the text of the amendment be printed in the RECORD at the conclusion of my remarks.

First, the 5-year authorized Federal funding structure of the bill for formula allotments for elementary and secondary institutions has been changed. The substitute authorizes $50 million in fiscal year 1979, $100 million each for fiscal years 1980 and 1981, $50 million in 1932, and $25 million in 1983. It continues to be a central characteristic of the bill that at the end of 5 years Federal involvement would end, and the States and individual localities would take over the program in its entirety.

The $100 million funding in the second and third years was viewed to be necessary to provide a significant and stable level of Federal funding over 2 years of the Federal program. For postsecondary institutions, demonstration grants of $15 million per year for each of the 5 fiscal years are authorized.

Minimum Federal annual allotments to individual States are $250,000 per year. The legislation continues to require each State to provide gradually increasing "matching" payments over the 5-year life of the Federal program: no funds in the first year, 25 percent of the funds in the second and third years, 50 percent in the fourth year, and 75 percent in the fifth year. Subsequent to this the entire funding must come from State and local sources.

In the substitute, the administering agent at the State level for elementary and secondary is the State educational agency. For postsecondary grants, the Commissioner of Education is vested with the discretionary authority to make grants, contracts, or other arrangements.

The eligible uses of funds and other requirements have remained quite similar to those in the prior draft. State plan requirements have been modified to minimize paperwork and other administrative burdens. For fiscal year 1980 a full and complete detailed plan will be required. In following years, only amendments and additions need be submitted.

This is but a brief summary of the changes contained in the substitute version. In order that my colleagues and those in the field of career education, who have been steadfast in their support of my efforts, might have a better idea of the exact nature of the changes and adjustments contained in the substitute measure, I ask unanimous consent that the text of the amendment be printed in the RECORD at the conclusion of my remarks.

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

AMENDMENT NO. 825

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Career Education Incentive Act."

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that—

(1) a major purpose of education is to prepare every individual for a career suitable to that individual's preference,

(2) career education should be an integral part of the Nation's educational process which serves as preparation for work, and

(3) educational agencies and institutions (including education, higher education, adult education, employment training and retraining, and vocational education) should make every effort to fulfill that purpose.

PURPOSE

SEC. 3. It is the purpose of this Act to provide Federal financial incentives to States for 5 years to enable States and local educational agencies and institutions of postsecondary education, including collaborative arrangements with the appropriate community, to develop, implement, and strengthen career education programs for individuals, in order to improve the awareness, exploration, decisionmaking and planning skills of individuals about career opportunities, career preparation and career development, and to promote equal opportunity for individuals in making career choices through the elimination of bias and stereotyping, including bias and stereotyping on account of race, sex, economic status or handicap.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. There are authorized to be appropriated $50,000,000 for fiscal year 1979, $100,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, and $25,000,000 for fiscal year 1983 to carry out the provisions of this Act, other than section 12 of this Act.

ALLOTMENTS

SEC. 5. (a)(1) From the sums appropriated pursuant to section 4 for each fiscal year which are not reserved under paragraph (2) of this subsection, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as such State's population aged five to eighteen, inclusive, bears to the total population, aged five to eighteen, inclusive, of all the States, except that no State shall be allotted from such sums for each fiscal year an amount less than $250,000.

(2) From the sums appropriated pursuant to section 4 for each fiscal year, the Commissioner may reserve—

(A) an amount not to exceed 5 percent each year for the administration of this Act and for making model program grants pursuant to section 10,

(B) an amount not to exceed 1 percent each year for the purpose of carrying out section 11 of this Act, and

(C) an amount not to exceed 1 percent for the purpose of making payments to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands for their respective needs in career education.

(b)(1) Any funds allotted to a State under paragraph (1) of subsection (a) for which a State has not applied or for which a State application has not been approved shall be reallotted by ratably increasing the allocations of each of the States which have approved applications.

(2) If the sums appropriated for any fiscal year are not sufficient to make the allotments of the minimum amounts specified in paragraph (1) of subsection (a), such minimum amounts shall be ratably reduced. If additional sums become available during a fiscal year for which such allotments were reduced, such allotments shall be increased on the same basis as they were reduced.

WITHIN STATE DISTRIBUTION

SEC. 6. (a)(1) Any State receiving funds for the fiscal year 1979 may reserve not more than 25 percent of such funds for the purposes described in paragraphs (1), (2), and (4) of section 9(a). Not less than 75 percent of such funds shall be distributed by the State to local educational agencies within that State for the purposes described in paragraph (3) of section 9(a).

(2) Any State receiving funds for the fiscal year 1980 and for each fiscal year thereafter may reserve not more than 15 percent of such funds for the purposes described in paragraphs (1), (2), and (4) of section 9(a). Not less than 85 percent of such funds shall be distributed by the State to local educational agencies within that State for the purposes described in paragraph (3) of section 9(a).

(b) Consistent with the proportionate number of students enrolled in private elementary and secondary schools within the State, the State with respect to purposes described in paragraph (2) of section 9(a), and the local educational agencies with respect to the purposes described in paragraph (3) of section 9(a), as the case may be, shall, after consultation with the appropriate private school officials, make provision to assure that there is effective participation on an equitable basis of such students and teachers in private elementary and secondary schools within the appropriate school district.

STATE APPLICATIONS

SEC. 7. Any State desiring to receive its allotment for each fiscal year under this Act shall, through its State educational agency, submit to the Commissioner an annual application. Each such application shall include assurances that—

(1) the state educational agency will use payments made under this Act in accordance with the provisions of section 9;

(2) the State educational agency will

make every possible effort to integrate career education into the regular education programs offered in elementary and secondary schools in the State;

(3) the State educational agency will require local educational agencies within the State to carry out career education programs assisted under this Act in such a manner as will affect all instructional programs in elementary and secondary education, and not carry out such programs solely as a part of the vocational education program;

(4) the State educational agency will identify all local educational agencies which desire to develop or expand their career education programs, and such agency will develop a plan in accordance with section 8;

(5) the State educational agency will comply with the provisions of section 6 with respect to the distribution of funds to local educational agencies within the State;

(6) the chief executive of the State has been notified of the State's application for such funds;

(7)(A) the State will expend, from its own sources, for any fiscal year for which funds are received under this Act, an amount equal to or exceeding the amount which such State expended for career education during the fiscal year preceding the fiscal year for which the determination is made;

(B) the State will pay from non-Federal sources the non-Federal share of the costs of carrying out the application for fiscal year 1980 and for each of the three succeeding fiscal years;

(8) the State educational agency will employ such staff as is necessary to provide for the administration of this Act and programs of career education assisted under this Act, including a State coordinator having prior experience in the field of career education and at least one individual experienced with respect to problems of discrimination in the labor market and stereotyping affecting career education (including bias and stereotyping on account of race, sex, economic status or handicap).

STATE PLAN

SEC. 8. (a) Each State desiring to receive funds appropriated pursuant to this Act for the fiscal year 1980 and each fiscal year thereafter, shall, at the time of submission of its first annual application for the fiscal year 1980, submit to the Commissioner, a State plan. Each State plan—

(1) set forth the objectives the State will seek to achieve by the end of each fiscal year through fiscal year 1983 in implementing the purposes of this Act, with special emphasis on overcoming sex bias and stereotyping;

(2) set out the methods by which the State will seek each year to achieve the objectives with all resources available, and describe the methods by which the funds received under this Act will be used, in accordance with section 9, to contribute to achieving such objectives;

(3) set forth policies and procedures which the State will follow to assure equal access of all students (including the handicapped and members of both sexes) to career education programs carried out under the State plan; and

(4) provide proposed criteria to the Commissioner for the evaluation of the extent to which the State will achieve the objectives set out in the State plan.

(b) Each State shall, for each fiscal year after the year in which the plan is submitted, review the plan in the light of experience with the financial assistance furnished under this Act, and shall submit such amendments to the plan as may be necessary.

USE OF FUNDS

SEC. 9. (a) Subject to the provisions of sections 6 and 10, funds received under this Act may be used only to pay the Federal share of the costs of—

(1) employing such additional State educational agency personnel as may be required for the administration and coordination of programs assisted under this Act;

(2) providing State leadership for career education, either directly or through arangements with public agencies and private organizations (including institutions of higher education), in—

(A) conducting inservice institutes for educational personnel;

(B) training local career education coordinators;

(C) collecting, evaluating, and disseminating career education materials on an intrastate and interstate basis with special emphasis on overcoming sex bias and stereotyping;

(D) conducting statewide needs assessment and evaluation studies;

(E) conducting statewide career education leadership conferences;

(F) engaging in collaborative relationships with other agencies of State government and with public agencies and private organizations representing business, labor, industry and the professions and organizations representing the handicapped, minority groups, and women; and

(G) promoting the adaptation of teacher-training curriculums to the concept of career education by institutions of higher education located in the State;

(3) making payments to local educational agencies for comprehensive programs including—

(A) instilling career education concepts and approaches in classrooms;

(B) developing and implementing comprehensive career guidance, counseling, placement, and followup services utilizing counselors, teachers, parents, and community resource personnel;

(C) developing and implementing collaborative relationships with organizations representing the handicapped, minority groups, and women and with all other elements of the community, including the use of personnel from such organizations and that community;

(D) developing and implementing work experiences for students whose primary purpose is career exploration, if such work experiences are related to existing or potential career opportunities and do not displace other workers who perform such work;

(E) employing and training coordinators of career education in local educational agencies or in combinations of such agencies;

(F) providing inservice education for educational personnel, especially teachers, counselors, and school administrators designed to help such personnel to understand career education, to acquire competencies in the field of career education and to acquaint such personnel with the changing work patterns of men and women, ways of overcoming sex stereotyping in career education, and ways of assisting women and men to broaden their career horizons;

(G) conducting institutes for members of boards of local educational agencies, community leaders, and parents concerning the nature and goals of career education;

(H) purchasing instructional materials and supplies for career education activities;

(I) establishiing and operating career education resource centers serving both students and the general public;

(J) conducting needs assessments and evaluations; and

(4) reviewing and revising the State plan.

(b) The State shall make payments to local educational agencies for the purposes described in paragraph (3) of subsection (a) from funds received under this Act upon applications approved by the State educational agency. Such payments shall, to the extent practicable, be made on an equitable basis in accordance with criteria established by the State educational agency, having due regard for the special needs of local educational agencies serving sparsely populated areas or serving relatively few students.

(c)(1) To the extent consistent with the number of children enrolled in private nonprofit elementary and secondary schools within the State, with respect to services described under paragraph (2) of subsection (a), and within the school district, with respect to payments made to a local educational agency for the purposes described in paragraph (3) of such subsection, after consultation with appropriate private school officials, provision shall be made for the effective participation on an equitable basis of such children and the teachers of such children in the services and programs assisted under this Act.

(2)(A) The control of funds provided under this Act and title to materials and equipment therewith shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

(B) The provisions of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this Act to accommodate students and teachers in nonprofit private schools shall not be commingled with State or local funds.

MODEL PROGRAMS

SEC. 10. From funds reserved under section 5(a)(2)(A) of this Act, the Commissioner is authorized to make grants directly to State and local educational agencies, institutions of postsecondary education, and other nonprofit agencies and organizations to support projects to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models particularly projects designed to eliminate bias and stereotyping on account of race, sex, or handicap.

CAREER EDUCATION INFORMATION

SEC. 11. The Commissioner shall provide, either directly or by grant or contract, for—

(1) the gathering, cataloging, storing, analyzing, and disseminating of information related to the availability of, and necessary preparation for, careers in the United States, utilizing information from both the public and private sectors, including the Bureau of Labor Statistics, the Department of Commerce, the United States International Trade Commission, labor unions, and private industry;

(2) the publication of periodic reports prepared pursuant to this section and containing exemplary materials from the career education field, including research results and techniques from successful State and local programs, and highlights of ongoing analyses of career trends in the United States; and

(3) the conduct of seminars, workshops, and information sessions for the purpose of disseminating to teachers, guidance counselors, career educators and administrators, other education personnel, and the general public information compiled and analyzed under this section.

POSTSECONDARY EDUCATIONAL DEMONSTRATION PROJECTS

SEC. 12. (a) The Commissioner is authorized to arrange by way of grant, contract, or other arrangement with institutions of higher education, public agencies and nonprofit private organizations for the conduct of postsecondary educational career demonstration projects which—

(1) may have national significance or be of special value in promoting the field of career education in postsecondary educational programs,

(2) have unusual promise of promoting postsecondary career guidance and counseling, or

(3) show promise of strengthening career guidance, counseling, placement, and follow-up services relating to overcoming bias and stereotyping on account of race, sex, or handicap.

(b) The Commissioner shall approve arrangements under subsection (a) of this section if he finds—

(1) that the funds for which assistance is sought will be used for one of the purposes set forth in subsection (a) of this section, and

(2) that effective procedures, including objective measurements, will be adopted for evaluating at least annually the effectiveness of the project.

(c) For the purpose of carrying out the provisions of this section there is authorized to be appropriated $15,000,000 for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983.

PAYMENTS

SEC. 13. (a) The Commissioner shall pay to each State which the Commissioner finds—

(1) has an application for the fiscal year 1979 and each fiscal year thereafter in compliance with section 7; and

(2) is in compliance with section 8 for the fiscal year 1980 and each fiscal year thereafter,

the Federal share of the cost of such application for each such year.

(b) The Federal share of the payments made under this Act from a State's allotment shall be 100 per centum for the fiscal year 1979, not more than 75 per centum for fiscal years 1980 and 1981, not more than 50 per centum for the fiscal year 1982, and not more than 25 per centum for the fiscal year 1983.

ADMINISTRATION

SEC. 14. (a) (1) The Office of Career Education created pursuant to section 406 of the Education Amendments of 1974 shall be the administering agency within the Office of Education for the review of the State plans, applications, and reports submitted pursuant to this Act. In addition, the Office of Career Education shall perform a national leadership role in furthering the purposes of this Act.

(2) The Office of Career Education shall provide technical assistance to all participating State educational agencies and to Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b) The National Advisory Council on Career Education created pursuant to section 406 of the Education Amendments of 1974 shall perform the same functions with respect to the programs authorized under this Act as the Council is authorized to perform with respect to the programs authorized under that section.

(c) The National Institute of Education shall continue to carry out complementary functions in career education, including product and program development, evaluation, and research. The Office of Education shall cooperate with the Institute in identifying research and development priorities and, either directly or through arrangements with public agencies and private organizations (including institutions of higher education), in disseminating the results of the research and development undertaken by the Institute.

(d) The Office of Education shall provide the Office of Career Education and the National Advisory Council on Career Education with sufficient staff and resources required to carry out their responsibilities under this Act and under section 406 of the Education Amendments of 1974.

(e) Section 406(g)(1)(B) of the Education Amendments of 1974 is amended to read as follows:

"(B) not less than twelve public members broadly representative of the fields of education, the arts, the humanities, the sciences, community services, business and industry, and the general public, including (i) members of organizations of handicapped persons, minority groups knowledgeable with respect to discrimination in employment and stereotyping affecting career choices, and women who are knowledgeable with respect to sex discrimination and stereotyping, and (ii) not less than two members who shall be representative of labor and of business, respectively."

DEFINITIONS

SEC. 15. For purposes of this Act the term—

(1) "career education" means programs and activities through which educational agencies and institutions, and educators, counselors, and other individuals, seek to improve the awareness of students of all ages of career opportunities which are available to them, and to improve the ability of such students to take advantage of such opportunities, and includes activities which involve career awareness, exploration, planning, and decisionmaking, and which are designed to eliminate bias and stereotyping, including bias or stereotyping on account of race, sex or handicap;

(2) "Commissioner" means the Commissioner of Education;

(3) "handicapped" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities, who by reason thereof require special education and related services;

(4) "local educational agency" has the meaning given such term by section 801(f) of the Elementary and Secondary Education Act of 1965;

(5) "State" means the several States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(6) "State educational agency" has the meaning given such term by section 801(k) of the Elementary and Secondary Education Act of 1965.

## ENDANGERED AMERICAN WILDERNESS ACT OF 1977—S. 1180

AMENDMENT NO. 826

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

GOSPEL-HUMP AREA

Mr. CHURCH. Mr. President, I am submitting today an amendment to S. 1180, the Endangered American Wilderness Act of 1977 and a separate bill, both of which relate to the future management of the Gospel-Hump area in north-central Idaho.

At 1 a.m. on July 13, in Grangeville, Idaho, an important precedent-setting agreement was reached. After several lengthy sessions spanning the past several months, Idaho conservationists and representatives of the Grangeville Chamber of Commerce finally approved a plan for the future management of the Gospel-Hump roadless area of Idaho County.

This agreement is proof that the volatile issues surrounding the further use of our national forest roadless areas can be resolved. Furthermore, the people who have been meeting together in north Idaho have demonstrated that even in areas where there is great controversy, agreements can be reached by men and women willing to sit down and talk about their differences. Hopefully, the era of shouting matches between wilderness proponents and commodity groups can be brought to an end.

The Gospel-Hump area takes its name for the region's most prominent features: Gospel Peak and Buffalo Hump Mountain. This 450,000-acre roadless area in north-central Idaho is located to the west of the Idaho Primitive Area on both sides of the main fork of the Salmon River. This diverse area contains drastic differences in topography, varying from rugged glacier-capped peaks to heavily forested, moderately sloped plateaus. Throughout the region a wide variey of wildlife resides: moose, elk, deer, bighorn sheep, mountain goat, black bear, and cougar all abound in this area. A number of species of small game such as blue grouse, spruce grouse, ruffed grouse, chukar partridge, and mountain quail can be found here. The Gospel-Hump area also supports significant populations of resident and anadromous fish. Parts of the region are thickly forested, containing many merchantable stands of timber. In summary, Gospel-Hump is a significant part of Idaho.

However spectacular the area and its resources may be, Gospel-Hump has been the center of a maelstrom of controversy lately. After a 1972 court decision required the Forest Service to prepare environmental impact statements and land use plans prior to developing any roadless area of the national forests, Gospel-Hump area was divided up into eight planning units for further study. Land use plans for two of the units were appealed by Idaho environmentalists to the regional forester for region I and finally to the Chief of the Forest Service.

The grounds the environmentalists used for the appeal was that local USFS planners had not considered the entire Gospel-Hump roadless area in their planning, but had adopted instead a piecemeal approach. Forest Service Chief John McGuire upheld the appeal on March 8 of this year and directed his staff to evaluate collectively all of the adjacent roadless units within the Gospel-Hump area. The evaluation, which is presently ongoing, is aimed at assessing the wilderness potential of the whole area.

Ever since the roadless areas in Idaho were administratively frozen in the aftermath of the 1972 court decision, residents of Idaho County and other parts of the State have been worried about the

effects of this freeze on the economies of their small communities. Because of the appeals filed administratively, and possible future legal actions, the possibility of harvesting timber in the most heavily forested portions of Gospel-Hump has been highly uncertain. If it lasted long enough, a protracted appeals process could literally tie up development in this region for years into the future.

In March, I attended a breakfast meeting with approximately 50 members of the Grangeville Chamber of Commerce. At that meeting, we had ample opportunity to discuss the problems facing the forest products industry and other economic interests who rely on the national forests for their livelihood. The meeting pointed up the need to take some action to bring an end to the long delays and reach some decision about the future use of this large area of land.

The general consensus of those at the March meeting was that perhaps the most expeditious way to decide the future of Gospel-Hump was simply for the conservationists who had filed the appeals (and who wanted a large Gospel-Hump wilderness) and the local chamber of commerce group to sit down and work out an agreement in order to expedite the decisionmaking process. It was thought that such an approach, if it succeeded, might save years of delay and uncertainty, which would be of no benefit to either environmental or user groups, and which had the potential of causing serious economic dislocations in Idaho County.

In that context, I agreed to do what I could to bring these two diverse groups together to try to put an end to the present pall of uncertainty. At that time, I said that if the two groups could find some common ground, and if they were able to reach an agreement on the best form of management for the area, then I would seek to formalize this agreement and introduce legislation to implement it.

In late April, the first meeting of these two groups took place in Grangeville, the community most affected by the lack of a decision as to the use of Gospel-Hump. That first meeting, which I attended, was very amicable, and extremely productive. It soon became clear that both the economic interests represented by the chamber of commerce, and the conservationists might reach common agreement.

At the first meeting it was decided that about 45,000 acres of the most productive timber lands could be excluded from further study, and thus returned to a classification that would allow logging to occur. It was also agreed that the access roads leading into the Gospel-Hump area would remain open. Because much of the area is at an altitude which gets a high volume of snow each year, assurance that the existing access roads would not be closed was extremely important. Without the roads, this region would be very inaccessible.

Subsequently, the two groups met on several other occasions and were able to reach what the parties consider to be an acceptable compromise plan for that portion of the Gospel-Hump area lying north of the Salmon River. That compromise forms the basis for the legislation which I am offering today.

The main provisions of the legislation are as follows:

The high alpine regions of Gospel-Hump and the breaks country of the Salmon River would be added as a unit of the National Wilderness Preservation System. Some 220 thousand acres would be included in this wilderness area.

The most heavily forested commercial timber lands lying along the periphery of the area, and accessible by the existing road network, would be scheduled for timber harvest and development. Some 45,000 acres would thus be immediately available for harvest. This should help to reduce some of the timber supply problems anticipated for the very near future in Idaho County.

Another 78,000 acres would also become available for development, under a comprehensive resource development plan.

A seven-member advisory committee would be set up within the Department of Agriculture to help the Secretary decide upon the best way to develop the areas covered under the resource development plan, and still protect water quality, and the fish and wildlife resources of the area.

The Secretary of Agriculture would be authorized to cooperate with the State of Idaho and the Department of Interior in conducting a comprehensive fish and wildlife research program within the entire Gospel-Hump area and surrounding Federal lands. This research program would involve detailed investigations of resident and anadromous fish populations, and the status, distribution, movements, and management of game populations. Results from this research program would be integrated into the plan developed for the 78,000 acres of management lands.

The management plan for these lands would be designed to gather data on soil types and soil hazards; timber volumes, site classes, and productivity; and would use the results from the fish and wildlife research program. The 4-year plan would be developed in cooperation with the advisory committee, and would be revised as new data on the resources of the area becomes available. The completed plan would be referred to Congress for a 90-day review.

Within 30 days from the date of enactment of the bill, the timber contained in the areas scheduled for development would be returned to the annual allowable cut calculations for the Nez Perce National Forest. That should relax some of the pressures to cut trees within less productive parts of the Nez Perce, and help to assure that this part of the forest is not overcut.

Mr. President, the Endangered American Wilderness Act which I introduced on March 31 is an important piece of legislation. For the first time, Congress is asserting its exclusive authority to designate certain de facto wilderness areas as components of the National Wilderness Preservation System. By clearing the wilderness docket of measures, such as this, that have widespread agreement, we will be able to speed up the process by which decisions are made on other areas.

One of the reasons why I am introducing this legislation dealing with Gospel-Hump is to cut through the uncertainty which plagues the Forest Service's land allocation process. By seeking a legislative solution, we will avoid further delays, we will avoid plans that must be done, and redone, and then subjected to possible appeals and lawsuits. I hope the Forest Service and others will take a close look at the process which evolved at Grangeville. Perhaps the method used there can be applied to other similar situations across the country. Perhaps if environmentalists and commodity groups sit down together, they will find they have more in common than they first imagined. That was certainly the case at Grangeville.

In closing, I would like to thank those who spent many long hours working out this agreement. They spent their time and efforts unselfishly, and they deserve our thanks and appreciation.

Mr. President, I ask unanimous consent that an editorial from the Idaho Statesman entitled "Forest Compromise," and a column by the Statesman's political editor, Steve Ahrens, be printed at this point in the RECORD.

Mr. President, I also ask unanimous consent that the text of the amendment be printed in the RECORD.

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

[From the Idaho Statesman, June 19, 1977]

STEVE AHRENS—SENSIBLE TALKS FINALLY BEGIN ON WILDERNESS

To the 800,000 or so of us who live here in the Gem State, Idaho is our home, in every sense of the word.

It's the place we live in the best home we can afford, the place we earn our living, the place we play after the workweek is over, the place we raise our children, the place where we retire.

But to 220 million of our fellow Americans, Idaho is a potential playground—a nice place to visit for the scenery, for a ride on a wild river, a backpack into the mountains and then home again. They provide some of our profit, but they don't partake of our problems.

We who live here year around, not just on a two-week vacation, are the ones who must deal with the Idaho of today and the Idaho of tomorrow, based on our experiences of yesterday. I firmly believe in "Idaho for Idahoians," and if that sounds chauvinistic to peanut farmers, Jayhawkers, Texans and Brooklynites, so be it.

That's why one of the most encouraging, progressive things that's happened in Idaho in a long time is the round of negotiations going on right now between the factions in the controversy over how much of the state should be designated as wilderness area. A lot of people are watching the discussions in the McCall and Grangeville areas, and more should be paying attention.

The reason it's encouraging is that it's the first time in years that ranchers, loggers, miners, environmentalists, farmers, recreationists and townspeople have been able to

talk to each other without shouting slogans; sincerely listening to all sides of the dialog.

In the recent past, the issue of wilderness vs. multiple-use has been so polarized that the very terms became catchwords that labeled the speaker either "good" or "bad," depending on who was listening.

As soon as one person mentioned "multiple use," a lot of people stopped listening to him—and didn't hear the valid arguments presented about preserving jobs and preserving access to the natural resources we need to sustain our state lifestyle.

On the other hand, when another person said "wilderness," just as many people closed their ears to the valid arguments about saving fragile scenic areas, protecting our fisheries and wildlife—and the need to write these protections into law before the unique values of those areas are lost.

A number of people deserve credit for pointing this situation toward possible solutions.

Sen. Frank Church has thrown his imposing political weight and influence in the Carter Administration into working out a reasonable compromise. Rep. Steve Symms jumped into the whole question of the McCall closure last year, on behalf of the workers who were most directly involved. Sen. Jim McClure has worked hard (McClure got a standing ovation at the recent congressional hearing in McCall).

And an absolutely key role is being played by a young man named Dan Lechefsky. Because of his low-key, non-abrasive, open-minded (but not empty-minded) approach his title of "regional representative for the Wilderness Society" has not become a millstone around his neck, polarizing people against listening to him.

Lechefsky, Kissinger-like, is virtually commuting between Boise, McCall and Grangeville these days, meeting with citizens groups, presenting information, debating facts and values, trying to help people arrive at compromises that honestly will satisfy the basic desires of both sides.

The citizens who are involved in these dialogs deserve credit, too. Many of them have strong beliefs that their way of life is threatened in the most concrete way—loss of jobs and homes. In that context, it takes real guts to sit down and sincerely talk about these highly charged issues, when they think they have the biggest stake and the most to lose.

Sometimes we get so involved in arguments about the "wilderness experience" or "raping the land" or "preservation" or "multiple use" that we forget the human side of the situation.

Living, breathing people are involved here, not just principles and philosophies. They want to make enough to buy steak once in awhile and put their kids through school, just like anyone else. Their main problem is that they live in and depend on areas for their livelihoods that have vastly different uses and values for other people.

Church, long a wilderness advocate and leader, succinctly explains the focus of the current debate.

"Our goal should be to see that endangered and deserving areas move swiftly into wilderness designation," he said at the University of Idaho in March.

"And, equally important, that areas better suited for resource development are scheduled for such use with all deliberate speed, thus reducing the uncertainty now facing our resource-dependent industries."

So there are two interesting prospects in the discussions going on now in the Grangeville and McCall areas. One is that Idahoans will be able to work out a compromise on the number of acres—and the location of those acres—to be protected (I'd say "preserved," but that's one of those polarizing words) under the wilderness designation.

The other is that, once agreement is reached on the wilderness areas, other lands now in the limbo of "wilderness study status" can be released for the benefit of the state, which is to say for all of us. Not to be indiscriminately stripped of timber and minerals and wildlife, but to be intelligently and productively managed to yield a broad variety of values.

In an atmosphere of reason, positive compromises are possible. And in this controversy, compromise is needed for the benefit of all Idahoans.

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FOREST COMPROMISE

The peoples of central Idaho and representatives of environmental interests deserve our support and encouragement as they strive to reach a compromise on management of the Gospel-Hump area of the Payette and Nez Perce national forests.

Their agreement to sit down and talk about the issue is a tremendous step in the right direction. It gets away from the polarization, bitterness and protracted legal entanglements that have dominated much of the debate in Idaho over proper management of our valuable natural resources. It is to be hoped the process will culminate in a workable agreement, setting a precedent for future debate on similar problems.

As was aptly pointed out by Sen. Frank Church, everyone loses when our resources are locked up for years and years in endless hassles. It is only through discussion of common concerns and compromise on irreconcilable differences that we can move ahead quickly to safeguard the economy of our state while still protecting our environment.

The problem has not been, as some would suggest, that environmentalists have tied up great parcels of land for the price of a 13-cent stamp or have debated abstract philosophies to the detriment of homes and jobs.

Those who subscribe to this point of view forget that it was the chief of the U.S. Forest Service that decided the land-use plan for the Gospel-Hump area was inadequate. The blame could easily be laid to the Forest Service, which developed the plan. But why attempt to place blame? The problem is more the result of a complex set of countervailing influences.

For example, many of the small, family-held mills have been bought up by larger firms whose ties to Idaho and the land are not as close. These firms understandably tend to be more production oriented. Their aim is to keep the output of the mills as high as possible. This creates increased pressure on our forests and also on the remaining small mills, who must compete for the available timber. The result is an increasing appetite for lumber and, as that lumber becomes more difficult to locate, increased concern by the citizens of the area for the industry that is the backbone of their economy.

At the same time, we have in this country an increased consciousness about the needs of our environment. This consciousness and the needs of the timber industry conflict. Because environmentalists have had to fight very hard for whatever they have gained in the past, they tend to overstate their case, sometimes tying up inordinate amounts of land in the hope that they can at least hold on to critical parcels in the end.

Both sides in the Gospel-Hump debate have legitimate points. There are fragile alpine-like areas, particularly the Gospel Lakes and Buffalo Hump areas of the Nezperce National Forest, that deserve wilderness classification. The soil is grainy and easily eroded, the ecology is delicate. The ability of the land to withstand timber harvests or other major incursions by man is doubtful.

In other areas, the soil, rainfall and altitude suggest the forests can, and should, be made available for multiple uses, including sustained-yield logging that will help keep our mills operating.

The difficulty comes in separating these areas. This is the task that confronts the environmentalists and citizens as they sit down to talk with each other. We wish them luck. The success of their efforts is important to all of Idaho.

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AMENDMENT NO. 826

GOSPEL–HUMP AREA

SEC. 5. (a)(1) In furtherance of the purposes of the Wilderness Act, certain lands in the Nezperce National Forest, Idaho, which comprise about two hundred and twenty thousand acres, as generally depicted under the category "Wilderness" on a map entitled "Gospel-Hump Area" and dated July, 1977, are hereby designated as Wilderness and therefore, as components of the National Wilderness Preservation System.

(2) Certain other contiguous roadless lands which comprise about seventy eight thousand acres, as generally depicted on said map as the "Management Areas" shall be managed in accordance with the multipurpose resource development plan defined later in this section.

(3) Certain other contiguous roadless lands which comprise about forty-five thousand acres, as generally depicted on said map as "Development Areas" shall be immediately available for resource utilization under the relevant Forest Service land management plans.

(b) Within ninety days after enactment of this Act, the Secretary shall appoint a seven-member Advisory Committee on the Management of the Gospel-Hump Area (hereinafter referred to as the Committee) who shall advise the Secretary as to the progress of the fish and game research program, and the multipurpose resource development plan authorized under this section, and who shall appraise the results of the research program and development plan on an ongoing basis.

(1) The Committee shall be comprised of two members of the timber industry who purchase timber from the Nezperce and Payette National Forests, two members from organizations who are actively engaged in seeking the preservation of wilderness lands, and three members from the general public who otherwise have a significant interest in the resources and management of the Gospel-Hump Area.

(2) Committee members shall serve without pay except that while away from their homes or regular places of business in performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703 (b) of title 5 of the United States Code.

(3) The Secretary shall provide that the Committee shall meet as soon as practicable after all the members are appointed, but in no case later than one hundred fifty days after the enactment of this Act. Subsequently, the Committee shall meet every one hundred eighty days, or as often as the Secretary deems necessary.

(4) The Committee shall terminate one hundred fifty days after transmittal of the completed land management plan required under this section.

(c)(1) The Secretary of Agriculture shall cooperate with agencies and institutions of

the State of Idaho, and with the Secretary of the Interior, in conducting a comprehensive fish and game research program within the Gospel-Hump Area and surrounding Federal lands in north-central Idaho. The Secretary shall assure that this research program includes detailed investigations concerning resident and anadromous fisheries resources (including water quality relationships) and the status, distribution, movements, and management of game populations, in order to provide findings and recommendations concerning integration of land management and development with the protection and enhancement of these fish and game resources.

(2) To carry out the comprehensive fish and game research program, the Secretary of Agriculture is authorized to make grants of funds to agencies and institutions of the State of Idaho and to provide the assistance of personnel from agencies under his jurisdiction.

(3) The Secretary of Agriculture shall assure that that the comprehensive fish and game research program is scheduled and progressing on a timely basis so that findings and recommendations are fully integrated in preparation of the multipurpose resource development plan provided under this section.

(d) (1) Within four years after enactment of this act, the Secretary of Agriculture shall implement a multipurpose resource development plan (hereinafter referred to as the "plan") for development of the Federal lands identified on the map referenced under this section as "Management Areas."

(2) The plan shall comply with the provisions of the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528) and the Forest and Rangeland Renewable Resources Planning Act of 1974, (88 Stat. 476; 16 U.S.C. 1601) as amended, and shall conform to all respects to the provisions of the National Forest Management Act of 1976 (90 Stat. 2949; 16 U.S.C. 1600), including the regulations, guidelines, and standards promulgated pursuant to that act. In preparing the plan, the Secretary shall take particular care to gather and integrate detailed field data on soil types and soil hazards, and to consider timber volumes, timber site classes, and productivity. The current findings and recommendations of the comprehensive fish and game research program and other available information shall be integrated into the preparation of the plan. The plan may be periodically revised to accommodate new information as it becomes available.

(3) In preparing the plan, the Secretary shall assure adequate public involvement, and he shall make full use of the recommendations of the Advisory Committee established under this section.

(4) One year after the date of enactment of this act and every year thereafter, the Secretary shall review the multipurpose resource development plan being prepared in accordance with this section to determine which lands, if any, might be scheduled for development prior to the completion of the final plan.

(5) The Secretary shall publish a notice of the completion of the plan or a portion thereof in the Federal Register and shall transmit it to the President and to the Senate and House of Representatives. The completed plan or relevant portions thereof shall be implemented by the Secretary no earlier than ninety days and no later than one hundred and fifty calendar days from the date of such transmittal.

(e) Within thirty days after the date of enactment of this act, the Secretary shall include the timber resources on the land identified on the map referenced under this section as "Development Areas" and "Management Areas" within the annual allowable timber harvest level for the relevant National Forests.

(f) There are hereby authorized to be appropriated such funds as may be necessary to carry out the comprehensive fish and game research program and the multipurpose resource development plan authorized under this section. Appropriations requests by the President to implement the multipurpose resource development plan shall express in qualitative and quantitative terms the most rapid and judicious manner and methods to achieve the purposes of this act. Amounts appropriated to carry out this act shall be expended in accordance with the Budget Reform and Impoundment Control Act of 1976 (88 Stat. 297).

## NOTICES OF HEARINGS

SUBCOMMITTEE ON INTERNATIONAL FINANCE

Mr. STEVENSON. Mr. President, the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs will hold hearings on September 8 on H.R. 7738, a bill to revise the President's power to place emergency controls on international economic transactions.

H.R. 7738 passed the House of Representatives on July 12, 1977. Title I of the bill amends section 5(b) of the Trading With the Enemy Act to limit to wartime the President's authority under that section to control international economic transactions. Existing usages are grandfathered for 2 years and may be extended for additional 1-year periods.

Title II grants authority to the President to regulate specified categories of international economic transactions in nonwartime situations if the President declares a national emergency to meet an unusual and extraordinary external threat to the national security, foreign policy, or economy of the United States.

The President's declaration would be subject to the provisions of the National Emergencies Act of 1976, Public Law 94–412, which provides, inter alia, that Congress may terminate such emergencies at any time by concurrent resolution and that each House must vote every 6 months on whether to terminate any existing emergency declaration. H.R. 7738 also provides that regulations issued during a national emergency declared under title II are subject to termination by concurrent resolution of Congress.

Title III of H.R. 7738 amends the Export Administration Act to grant the President authority to control non-U.S.-origin exports by foreign subsidiaries of U.S. firms. Presidents have previously claimed such authority under the Trading With the Enemy Act.

The hearing will begin at 9 a.m. in room 5302, Dirksen Senate Office Building. Persons interested in testifying or desiring additional information should contact Robert W. Russell at 202—224–0891.

HEARINGS ON CONSULTANTS AND CONTRACTORS

Mr. METCALF. Mr. President, the Subcommittee on Reports, Accounting, and Management will conduct hearings regarding Federal consultants and contractors on Tuesday, September 13 and Thursday, September 15, beginning at 10 a.m. The hearing on Tuesday, September 13 will be held in 6226 Dirksen Senate Office Building. The place of the hearing on Thursday, September 15, will be announced at a later date.

At this hearing problems involved in use of Federal consultants and contractors will be reviewed. We shall also explore with the Office of Management and Budget and General Accounting Office ways in which the Government's reports and records dealing with use of consultants and contractors can be improved.

This week end the subcommittee is issuing a committee print, "Consultants and Contractors: A Survey of the Government's Purchase of Outside Services." I ask unanimous consent that the press release concerning this study be printed at this point in the RECORD.

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

STUDY OF FEDERAL CONSULTANTS AND CONTRACTORS REVEALS LACK OF BASIC INFORMATION ABOUT THEM

WASHINGTON, D.C.—"The Federal Government does not know how many consultants and contractors it employs, what they do or how much their services cost," Sen. Lee Metcalf (D-Mont.) said today. He released a survey of the use of consultants and contractors by 178 departments, agencies and bureaus.

Metcalf said he has asked Office of Management and Budget Director Bert Lance and Comptroller General Elmer Staats to tell his Subcommittee on Reports, Accounting and Management in a September hearing how they plan to keep track of who works for the Government.

The subcommittee survey, "Consultants and Contractors: A Survey of the Government's Purchase of Outside Services," apparently is "the single source of information" gathered on the use of consultants and contractors for professional services in the Federal sector, according to the Congressional Research Service (CRS) of the Library of Congress.

Metcalf noted that President Carter in May declared he has become aware "of a need for improved management of the excessively large volume of consulting and expert services used by the Federal Government" and sent agency heads a memo requesting information on the numbers and types of consulting arrangements.

"While the numbers of consultants and contractors are certainly increasing, no one has been able to say with certainty how many there are, who they are, or how much we spend on their services," Metcalf explained.

"Nor have we had answers to other basic questions which both Congress and the executive branch should have in order to provide informed oversight of and policy direction for consultants and contractors."

To obtain this basic information, the subcommittee sent a questionnaire and interrogatory last October to the heads of 178 executive branch units and independent agencies. The responses, which were tabulated and evaluated by CRS, deal with:

1. Development of a government-wide definition of consultants for professional services. Metcalf said the subcommittee expects "that such a definition will be proposed by the executive branch" before the September hearing.

2. Labeling of reports. Metcalf said the hearing will consider a bill by Sen. Daniel Inouye (D-Hawaii) to require that the name, address and certain other information regarding experts and consultants be included

in documents and other materials they prepare for Federal agencies.

3. Informing the public where publications by consultants and contractors are kept at each agency, and where copies of agency agreements to obtain outside services are located.

4. The cost, number and work-years of consultants and contractors.

Metcalf said CRS is still analyzing responses to five questions in the subcommittee's interrogatory. They concern (1) identification of lobbyists who are also consultants and contractors, (2) policies governing potential conflicts of interest, (3) post-contract evaluation, (4) limitations on types of work consultants and contractors may do, and (5) the response of agencies to former President Ford's July 1976 memorandum requesting agencies to identify at least five functions performed within the agency which could be contracted out.

The survey and related materials have been published as a 610-page print for the Senate Committee on Governmental Affairs. The publication is on sale by the Government Printing Office. Refer to Order/Stock No. 052-070-04158-7.

Mr. METCALF. Persons who seek additional information regarding the hearings should call Gerald Sturges, a member of the subcommittee's professional staff, at 224-1474.

GOSPEL-HUMP HEARINGS

Mr. CHURCH. Mr. President, for the benefit of my colleagues and other interested people, I would like to announce that the Subcommittee on Parks and Recreation of the Senate Energy and Natural Resources Committee will conduct a public hearing on the Gospel-Hump Land Allocation Act which I introduced today, in Grangeville, Idaho, on August 24, beginning at 10 a.m. Although the precise location of the hearing room is not completely certain, as of this date, it is expected that the hearing will be held in the cafeteria of the Grangeville High School.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SASSER. Mr. President, I wish to announce that the Committee on Governmental Affairs will continue hearings on S. 80, S. 980, and H.R. 10 relating to the political activities of Federal employees. The hearings will be held on September 8 and 9 in room 3302 Dirksen Senate Office Building at 10 a.m. each day.

NOMINATION HEARING

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Friday, September 9, 1977, at 9 a.m. in room 4232 Dirksen Senate Office Building on the nomination of Joseph D. Duffy, of the District of Columbia, to be Chairman of the National Endowment for the Humanities.

Persons wishing to testify or submit statements, please contact: Franklin Zweig in room 508 Senate Courts, phone 224-9285.

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

Mr. SASSER. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services of the Governmental Affairs Committee will hold hearings on S. 386, S. 865, and S. 1133 on September 13; that hearings on H.R. 2931 will be held on September 14; and the hearings on S. 666 will be held on September 15. Rooms and times will be announced later.

## ADDITIONAL STATEMENTS

### SENATOR WARREN G. MAGNUSON, CONGRESSIONAL LEADER IN THE FIGHT AGAINST CANCER, GIVES MESSAGE ON 40TH ANNIVERSARY OF THE NATIONAL CANCER INSTITUTE

Mr. RANDOLPH. Mr. President, our able colleague from the State of Washington, Senator WARREN G. MAGNUSON, has devoted in great degree, his public service to the cause of better health.

As chairman of the Health, Education, and Welfare Subcommittee of Appropriations, he has been a leader in cancer research and treatment. He has been responsible for providing funds through congressional measures for programs to alleviate cancer and search for cures of this dreadful disease.

In remarks prepared for delivery today on the 40th anniversary of the National Cancer Institute, Senator MAGNUSON highlights the successes and the faith in this continuing battle.

Jermaine Magnuson, wife of the distinguished Senator, read his splendid speech to an appreciative audience.

I ask unanimous consent that it be printed in the RECORD.

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

WASHINGTON.—The following is the text of a speech to be delivered by Sen. Warren G. Magnuson (D-Wash.) at ceremonies marking the 40th anniversary of the National Cancer Institute in Masur Auditorium of the Clinical Center at the National Institutes of Health (NIH), Bethesda, Md., Friday, August 5, 1977, at 11 a.m.:

It was a distinct pleasure to be invited to participate in the 40th birthday celebration of the National Cancer Institute. It is always a pleasure for me to come out to the National Institutes of Health, especially for a wonderful occasion such as this.

It is with considerable humility that I speak today for all those Members of the 75th Congress who voted for the establishment of a National Cancer Institute and who had faith in all the promise which that legislation held forth.

As I prepared to make the trip out here to Bethesda, I recalled those earliest days when this entire area was beautiful farmland, and when Bethesda was just a little crossroad without a stop sign, let alone traffic lights.

Only a very few of my colleagues in Congress today can recall that time. Sen. Jennings Randolph of West Virginia, who was here during the 75th Congress as a Member of the House of Representatives and a supporter of the Cancer Institute bill, will remember this area.

I can recall when there was no Naval Hospital here, let alone the NIH campus, and when there were only lovely homes occupied by gracious people—and in one particular instance, very generous people.

We should all pay special tribute to Luke and Helen Woodward Wilson. Their estate, "Tree Tops," occupied these grounds in 1937 and their first gift of some 45 acres was made in consideration of $10.

Over the years, the Wilsons donated some 93 acres of land for the NIH campus, and the total amount paid out by the Treasury was only $26. Without their generosity, it is possible that the NIH which we all know today would not have come into being.

All those who work out here today—about 12,000 people, I believe—might take all this for granted. But I would certainly want to pause for a moment in our birthday observances to pay special tribute to Luke and Helen Woodward Wilson for all that they did—together with members of their family—to make this day as joyful as it is.

A few days ago, I looked over the remarks which I made on the floor of the House of Representatives back in 1937 when the Cancer Act was under consideration.

I cannot take credit for having the "idea" for the establishment of a National Cancer Institute. The idea had been around Congress for at least 10 years. The idea was a composite of some of the best thinking of many people—in and out of government—and throughout the scientific community.

The idea was not universally supported. And it was not popular among some members of the health professions. But the idea was fairly simple.

We charged the surgeon general with a new mission: to investigate the cause, diagnosis and treatment of cancer; to assist and foster similar research activities by other public and private agencies; and to promote the coordination of such activities.

All of this was aimed at achieving—and now I quote from that law—"the most effective methods of prevention, diagnosis and treatment of cancer."

In 1937, an aura of gloom and hopelessness clung to the disease of cancer. To most people, a diagnosis of cancer was the equivalent of a deferred death sentence. And all too often, that was all too quickly true.

In 1937, cancer was such a feared disease that some physicians refused to use the word in their diagnoses, and newspapers would not use that word in their obituary columns.

In 1937, only one out of five cancer victims was being saved. And for most families, the fear of cancer was only equalled by the fear of polio.

That was the kind of atmosphere which we faced back then, when President Roosevelt signed our bill into public law (number 75-244) on August 5, 1937. That bill carried an authorization of only $700,000 for operations and $750,000 for construction.

Congress back then was much like Congress today in looking upon any authorization as the outward limits of any future appropriations. In that first fiscal year, 1938, the Cancer Institute received only $400,000 for operations. It was 10 years before the Cancer Institute received over $1 million for all of its operations.

A few days ago, our Congressional conference committee on the Labor-Health, Education and Welfare (HEW) Appropriations bill (H.R. 7555) approved funding for fiscal year 1978 and we voted $867 million for the Cancer Institute.

Over the entire course of its first 26 years, the Cancer Institute only received a grant total of $858.8 million. Just 10 years ago, in fiscal year 1968, the total for the Cancer Institute was $183 million, and the grand total for the grant and contract programs of all the National Institutes of Health was just above $925 million.

At the close of my remarks in the House of Representatives back in 1937, I said, "If no other major legislation comes out of this Congress, we can go home to our people and

point with pride to the passage of this bill. The altars of experiment can now be warmed by the fuel which you gentlemen have today provided."

We have come a long way in funding levels for the Cancer Institute and NIH. We have warmed those biomedical research laboratories and the altars of experiments. And we have achieved a great deal from those expenditures.

Today, polio is a rare disease, although not as rare as some of us would want. But it was research funded by NIH which made those breakthroughs on polio a reality. Today childhood leukemia is no longer tantamount to death before maturity.

Today, more than a million and a half Americans are alive and cured of cancer, that is, free of any evidence of cancer at least five years after initial diagnosis and treatment. Today, one out of three cancer victims is being saved. And if presently known techniques and new treatment methods were used to their fullest, that figure could be revised downward to one out of two.

So we have come a long way in finding those effective methods of diagnosis and treatment. I am not convinced that we are doing enough—on any front—especially in prevention, but this is not a day for admonishing anyone. This is a day of celebration—a day for us to reflect on where we were, what has been accomplished and where we are.

In 1937, this area in Bethesda was farmland and cancer was an even more greatly feared disease, but we had a bill which held forth great promise. Here we are today, meeting in this grand auditorium, which is housed in one of the most modern clinical hospitals in the entire world.

We can point to facilities on this campus which are without peer. And we could add countless similar facilities throughout our Nation which are the result of NIH programs. Those massive amounts of Federal funds are at least partially responsible for all that.

But another accomplishment of the Cancer Institute program is that it has brought together hundreds of cancer-fighting organizations into a common effort. An example of that is the recognition of a nationwide group of 19 comprehensive cancer centers which offer the widest possible spectrum of assistance to community health professionals, cancer patients and those at risk to cancer.

These activities would not be possible without the coordination of Federal, non-Federal and private programs. That example has been duplicated by other units of NIH and other disease-oriented public and private organizations.

Those efforts have fulfilled the promise of that legislation in the 75th Congress and have borne good results. We can all look forward to even greater achievements down the road. As one of those legislators of 1937, all this makes me feel both pride and humility today.

Somewhere in my files, I have a treasured letter which I received from Dr. William J. Mayo shortly after I introduced the National Cancer Institute bill. I used that letter during our debates in the House of Representatives and I will repeat a few of Dr. Mayo's words today.

He said: "My brother, Dr. Charles H. Mayo, and I, and our associates in the clinic are very glad that you have introduced this bill, the purpose of which is of the greatest importance to the welfare of the people of this country and to the world. Too much cannot be said in favor of proper means and measures to learn the cause of cancer and to cure and prevent the disease."

It is obvious to me today that we did devise the proper means in setting up the Cancer Institute. We in Congress have shown equally good sense over the years by copying much of that same language as we established the other Institutes here at NIH.

It is obvious to me today that the billions of taxpayer dollars which we have appropriated over the years—for the National Cancer Institute alone—have paid off. Those one and a half million Americans who are alive today—cured of any cancer—are ample justification for me for all that we've appropriated over the past 40 years.

I would like to be present at a similar celebration which will undoubtedly be held 40 years hence, when others will recount the progress which will be made from 1977 to the year 2017.

I would not even venture a guess about the breakthroughs which will be cited that day. But I will bet you today that those future breakthroughs will be directly traceable to research programs sponsored by NIH, to basic research which has already been done or started, to work which will be done under NIH awards, and most surely to work which will be done by people trained under NIH programs.

The successes which we celebrate today have all depended on the skill and dedication of men and women here at NIH and in the field.

While I singled out the Wilsons earlier for their generous contribution to the success of the Cancer Institute and NIH, I want to pay tribute to all those individuals who have dedicated their lives and talents to biomedical research. They are the real heroes of all that we honor today.

Forty years ago, those of us in Congress believed that legislation held forth great promise. Today we know that a goodly portion of that promise has been achieved. Those achievements are due to all those who have worked out here on this campus and at public and private institutions throughout our Nation and around the world.

You do me great honor today, and I thank you. I thank you on behalf of all those in the 75th Congress who believed in what could be done. I thank you for all those in Congress over the past 40 years who have continued to have faith in that promise of what could be done.

In all humility, I thank you, and all those associated with you, for what has been achieved. With optimism, and the faith that we haven't seen anything yet, I thank you and your successors for all that will be achieved.

## CLEAN AIR

Mr. GARN. Mr. President, like most legislation, the conference report on clean air, which the Senate and House adopted last night, was a compromise. From my point of view, it was about as good a compromise as we could hope to get under the circumstances. I would greatly have preferred a class II variance, so that large areas of States would not have to be redesignated class III. The variance procedure would have permitted the Governor to limit exceedances of class II standards to 18 days a year, rather than the full year, as can happen under class III. Environmentally, the variance is preferable.

Apart from that, the bill remains a bad bill, and one I think the country will live to regret. It contains a requirement for best available technology, whether or not that technology is needed to meet air quality standards. That, in my opinion, is overkill, and expensive overkill at that. It can only be justified on the grounds that it is our job to protect clean air from people. The bill contains a procedure for cutting off highway funds where certain procedures are not met. That is a case of blackmail, nothing more.

There are numerous other provisions of the bill which I consider unwise, which will interfere with this country's energy goals and the rational allocation of its resources. Nevertheless, it is considerably better than the bill I killed last year, and better than the one introduced this year, and even better than the one passed by the Senate 2 months ago. I guess that is all I can ask.

What I was trying to accomplish yesterday was to clarify the redesignation process. In order to get relief from the stringent class II number adopted by the Congress, it will be necessary to redesignate some areas class III. I wanted to make plain that those could be quite small areas, in fact, just the areas on mountain peaks around industrial facilities, where the class II numbers are exceeded only a few days a year. I asked that question of Senator MUSKIE, and he assured me that that was the case. So long as the procedural requirements of the bill were met, the Governor would control the size of the area redesignated.

I then turned to the procedures themselves, clearly establishing that this is not intended to be a long, involved process. It is a process that should take months at the most. Essentially, the State will establish its own procedures, as part of its State implementation plan, which must be approved by EPA. Once that is approved, EPA can review only the procedures. The substance of the analysis is at the State's discretion, as expressed in its SIP.

I was also able to establish that the redesignation had to be approved only at the State and county level. That separate hearings and investigations for each town and municipality did not have to be conducted.

All in all, I think we greatly clarified the situation and dissipated most of the fears. The process is workable. It will be up to the State and Federal officials to make it work within the framework outlined by the Congress last night.

## PROGRESS REPORT ON REGULATORY REFORM

Mr. RIBICOFF. Mr. President, 2 years ago, on July 26, 1975, the Senate passed Senate Resolution 71, which authorized the Government Operations Committee a comprehensive study of Federal regulation. The resolution evidenced what was then a growing concern over the size and complexity of Federal agencies and departments, and over the waste and ineffectiveness that appeared to characterize so many regulatory programs. As Senate Resolution 71 declared:

The proliferation of such agencies over a long period of time, and under a variety of circumstances, has resulted in overlapping regulatory jurisdictions, conflicting mandates, and procedures that have affected the

efficient operation of the Government and the economy.

Simply put, there was a general sense that much of the regulatory process was ineffective and unresponsive in light of modern concerns and conditions. A full-scale reappraisal, such as that envisioned in Senate Resolution 71, was long-overdue.

There had been other studies of the problems of Federal regulation. Indeed, the area has not lacked for careful scholarly attention. Over the past four decades, there have been numerous articles, reports, and books published on various aspects of Federal regulation. In addition, since the 1930's, there have been five major Government-sponsored studies in this area. As a result of both public and private endeavors, there exists a vast body of literature on regulatory reform.

However, few concrete reforms were implemented. Instead the studies have been left to gather dust on library shelves, useful only as the basis for still further research and reports.

Senate Resolution 71 represents a different approach. This is the first comprehensive congressionally-authorized examination of regulatory problems. The responsibility to effect significant regulatory reform rests with Congress. A study conducted by Congress, resulting in specific recommendations, stands a much greater likelihood of successful implementation than previous efforts.

The principal objective of Senate Resolution 71 was the presentation to the Senate of specific recommendations for legislative and other action. The mandate to our committee was broad in scope. Among other things, Senate Resolution 71 directed the committee to study:

The most serious deficiencies within the regulatory process;

The economic costs and benefits of regulation;

The purposes and objectives which regulation should serve;

The revision of procedures for selecting commissioners and reviewing their qualifications;

The modification of agency rules to expedite regulatory agency proceedings;

The elimination, merger, or transfer of overlapping or related regulatory jurisdictions.

Mr. President, our study consists of six volumes. This past February the first two volumes—concerning the regulatory appointments process and congressional oversight—were released. Those volumes contained more than 60 specific recommendations, many of which called for congressional action and consideration. The recommendations concerned the White House search and selection process, Senate confirmation procedures, qualifications and conflict of interest requirements, congressional access to information, and periodic evaluation of regulatory effectiveness. This week, two additional volumes, concerning undue delay and citizen participation in regulation, are being published. Early this fall, the final two studies on the economic framework for regulation and agency overlap and duplication will be released to the public.

Mr. President, I am particularly gratified to report that there has already been substantial progress on implementation of the study's recommendations. Only several months after publication, there has been legislative action on a number of proposals. This progress report recounts those recent achievements. Each of those implemented recommendations, in my opinion, will help significantly in improving the operations and efficiency of our Federal regulatory agencies.

NEW RESTRICTIONS ON "REVOLVING DOOR" PRACTICES

Volume I of the study contained a detailed survey and analysis of present Federal laws and regulations on conflict of interest. Part of that review centered on the major, executive branch-wide statute on postservice activities of former officials. The report noted that confidence in Government has been weakened by a widespread conviction that Federal officials use public office for personal gain, particularly after they leave Government service. There is a deep public uneasiness with officials who switch sides—who become advocates for and advisers to the outside interests they previosuly supervised as Government employees. It is feared that officials may use information, influence, and access acquired during Government service at public expense, for improper and unfair advantage in subsequent dealings with that department or agency.

It is clearly in the public interest that reasonable and effective standards be imposed on a former official's dealings with the same agency of which he or she was once employed.

For those reasons, the appointments study recommended new legislation be adopted restricting postservice activities by former high-level Government employees. Specifically volume I recommended that there be a new, 1-year cooling off restriction for high-level Government officials. During that period of time, such officers and employees would be prohibited from contracting their former department or agency on a matter of business then pending before that department or agency. This proposal was directed to the problem of real or apparent undue influence or unfair advantage which might be given former officials due to their association with former colleagues and subordinates.

We have acted to implement this proposal. Section 605 of the Department of Energy Organization Act, enacted by Congress and signed into law by the President on August 4, 1977, contained such a "cooling off" restriction for supervisory officers and employees of the Department. It prohibits any contact on any matter pending with the Department for 1 year after the employee leaves the Department.

The provision states:

. . . no supervisory employee shall, within one year after his employment with the Department has ceased, knowingly—

(A) make any appearance or attendance before, or

(B) make any written or oral communication to, and with the intent to influence the action of;

the Department if such appearance or communication relates to any particular matter which is pending before the Department.

An identical provision was added to the Interim Regulatory Reform Acts (S. 1532, 1533, 1535, 1536, 1537), sponsored by Senators PEARSON, MAGNUSON, PERCY, and myself. Those bills apply to six Federal regulatory commissions—the CAB, CPSC, FCC, FMC, FPC, and FTC.

Volume I recommended other changes in Federal conflict of interest law, including: First, that former officials and employees be prohibited for life from aiding, assisting or representing anyone other than the United States on matters involving specific parties in which they had personal and substantial involvement while in office; second, that the language of section 207 of title 18 United States Code, be clarified to apply to professions other than lawyers; and third, that an administrative penalty provision be added to supplement the existing criminal sanctions of the statute. The Public Officils Integrity Act (S. 555), passed by the Senate on June 27, 1977, by a vote of 74 to 5, effected each of those reforms.

STANDARDS ON THE USE OF BLIND TRUSTS

Volume I also considered blind trusts, which have been used with increasing frequency by high-ranking Federal officials. However, at present, there is no accepted legal definition or standard for what constitutes a properly constructed blind trust. As such the terms of existing blind trusts created by Federal officeholders vary considerably; and, since no Government office is expressly charged with the responsibility of overseeing such agreements, the process for monitoring blind trusts is uneven, informal, and sometimes nonexistent.

The study found various problems with the present use of blind trusts. The chief problem appears to be that they do not have the confidence of the public. They are popularly considered as little more than cosmetic arrangements, often between friends, in order to shield officials from conflict of interest statutes and regulations. Beneficiaries, it is widely thought, know what their trust contains and what their trustee is doing.

The study recommends that guidelines be established to govern the use of blind trusts by Federal officials, including a requirement that the trustee be independent of the beneficiary, and incapable of being controlled or influenced by the beneficiary in the administration of the trust; a requirement that the trustee be given express authority to invest and reinvest the assets without consultation with the beneficiary; a requirement that assets deposited in trust be free of restrictions, and that the trustee be prohibited from the purchase of holdings the beneficiary could not own outright; a requirement that the trustee prepare the income tax return for the trust; and a requirement that the trust instrument and a list of the holdings initially de-

posited be made available for public inspection.

On June 27, 1977, the Senate passed, as part of the Public Officials Integrity Act (S. 555), a provision establishing for the first time strict standards for blind trusts. S. 555 reflects the proposals made by the committee in volume I of the study.

Section 303 of the act provides for: First, standards governing an "independent trustee," and what powers he shall exercise without restriction by the beneficiary; second, disclosure of assets initially deposited in trust; third, procedures for completing the tax returns for the trust; fourth, clarification of how section 208 of title 18, United States Code disqualification requirements are affected by a qualified blind trust; fifth, restrictions on communication between the trustee and beneficiary concerning trust investments; sixth, mechanisms for review and approval of proposed blind trust agreements; and seventh, penalties for violations of those provisions, either by the trustee or the beneficiary.

It is noteworthy that the Comptroller General of the United States, in a report issued on August 1, 1977, carefully reviewed the problems of previous blind trusts as well as the recommendations of volume I as contained in S. 555. The Comptroller General found the provisions of S. 555 to be "generally consistent with our work and views, and we endorse them."

REDUCING UNDUE DELAY

Volume IV of the study examined undue delay in the regulatory process. The committee found that the regulatory process takes far too long and results in economic costs of tens of millions of dollars.

One of the principal causes of delay is that agency procedures are excessively judicial. We also found that rulemaking proceedings are faster than adjudicatory procedures for making policy decisions.

The study therefore recommended that the agencies make increased use of informal rulemaking on cases in which adjudication is currently used. In addition, the study recommended use of a new modified procedure in certain proceedings that now proceed by formal adjudication. That modified procedure would allow for a legislative-type hearing in which interested persons could fully present their views. Where necessary to resolve particular factual issues essential to the outcome of the proceeding, an adjudicative hearing could be held.

The Department of Energy Act, enacted by Congress and signed into law by the President on August 4, 1977, provides that just this procedure will be available to the newly created Federal Energy Regulatory Commission. Section 403(c) of the new law provides:

(c) Any function described in section 402 of this Act which relates to the establishment of rates and charges under the Federal Power Act or the Natural Gas Act, may be conducted by rulemaking procedures. Except as provided in subsection (d), the procedures in such a rulemaking proceeding shall assure full consideration of the issues and an opportunity for interested persons to present their views.

The conference report accompanying the Energy Act amplifies on this:

. . . Section 403(c) specifies that the Commission may utilize informal rulemaking procedures, rather than formal, on the record proceedings, to establish rates and charges under the Federal Power Act or the Natural Gas Act. Individual enforcement actions, of course, would continue to be decided by more formal procedures.

Section 403(c) provides that rulemaking procedures shall assure full consideration of the issues, and full opportunity for interested persons to present their views and to explore the issues raised in the proceedings. This could include, at a minimum, a legislative-type hearing at which interested persons would be able to orally present their views but in which there would be no formal presentation of evidence or cross-examination of witnesses by the participants. The Commission should have the discretion to limit the length of oral and written presentation. (p. 77)

Inclusion of the study's recommendations in the Department of Energy legislation should be of great help in eliminating unnecessary delay in the new Department's proceedings.

BALANCED MEMBERSHIP ON COMMISSIONS

Volume I of the study found that there is a serious problem of imbalance in the membership of the regulatory commissions, and that we have not had broad representation of various backgrounds, talent and outlook. Women and members of so-called minority groups are woefully underrepresented; lawyers predominate; and a comparatively large number of regulators come directly from the regulated industries, which is in sharp contrast to the rare selection of persons with clear identification with public interest group concerns. For example, out of a total of more than 150 appointments since 1961, only seven women and four blacks had been selected for the nine major commissions. Prior to the start of the Carter administration, five of those agencies had never had a black commissioner, and three had never had a female member. Volume I also found that economists, engineers, political scientists, accountants, and members of other professions are rarely selected.

Our study considered—and rejected—the notion of reserving, by law, seats for various groups or interests on the commissions. Specifying that certain seats be set aside for certain interest groups would, in our view, be a mistake. Instead, we believe the appropriate way to address this problem is to require by law that the President, in nominating members of these commissions, insure that commission membership is well balanced, and that there be broad representation of various talents, backgrounds, occupations and experience appropriate to the functions of that particular agency. This approach will provide the Senate with an opportunity to enforce this standard via the confirmation process. This proposal should insure that if a commission were to be predominantly composed of members from a certain sector or background, a nominee with that same background would be unacceptable.

On June 28, 1977, the Senate adopted the Interm Regulatory Reform Acts (S. 1532, 1535, 1536), sponsored by Senators PEARSON, MAGNUSON, PERCY, and myself, which contained volume I's recommendation on balance. Those acts provide that all future appointments to the FCC, FMC, and FPC will be subject to the following requirement:

In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission.

Those bills are now pending in the House of Representatives. The remaining Interim Regulatory Reform Acts (S. 1533, 1537), concerning the CAB, CPSC, and FTC, are due to be taken up by the Senate in early September.

QUALIFICATION OF REGULATORS

Qualified, experienced leadership acting in the public interest has always been considered to be critical to the effectiveness of the regulatory agencies. However, volume I found that the preeminent problem with the appointments process is that it has not consistently resulted in the appointment of people best equipped to perform regulatory responsibilities. As part of our study, we surveyed members of the practicing bar of eight commissions for their opinion on commissioner quality. With the exception of the Securities and Exchange Commission, the respondents would recommend against the reappointment of about half the commissioners. About 40 percent of the then current members of three agencies were judged not to have the necessary training and experience to be Federal regulators, and the same percentage of commissioners of six agencies were viewed as not having an understanding of the laws they administer. All too often truly outstanding men and women have not been selected for the regulatory commissions. In order to address that problem, we recommended that general standards on qualifications be established by legislative action to assure that able men and women are selected for the regulatory commissions.

The Interim Regulatory Reform Acts—S. 1532, 1535, 1536—adopted by the Senate in June, contain volume I's recommendation on qualification. Those acts provide that all future appointments to the FCC, FMC, and FPC be subject to the following requirement:

The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act.

The bills concerning the CAB, CPSC, and FTC, which contain the same provision, are due to be taken up by the Senate in early September.

We have also established qualification standards for the new Federal Energy

Regulatory Commission, created by the Department of Energy Organization Act. That act was signed into law by the President on August 4, 1977. Section 204 of the act provides that members of the FERC be individuals "who, by demonstrated ability, background, training, or experience, are specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy."

EXEMPTION FROM MANDATORY RETIREMENT

In creating the regulatory commissions, it was the intention of Congress that they be to a significant degree independent from the executive branch. It was for that reason that commissioners are appointed for set terms and may be removed from office only upon a showing of cause. However, that independence has been in the past undermined by a provision of law that compels a commissioner to resign upon reaching the age of 70 and upon completing 15 years of Federal service—unless the President exempts the regulator from that requirement. Our study found that exemptions in the recent past have been typically granted only for short periods of time, sometimes only 12 months. What that means is that the regulator is then, for all practical purposes, serving at the pleasure of the President—since his reappointment each year is subject to the continued pleasure of the President. To remedy this problem, volume I recommended that commissioners be allowed to complete their terms of office without regard to age.

The Interim Regulatory Reform Acts—S. 1532, 1535, 1536—also contained volume I's recommendation on retirement exemption. Those acts provide that all members of the FCC, FMC, and FPC be given the following exemption:

Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.

The same provision has been included in bills affecting the CAB, CPSC, — FTC—S. 1533, 1537—due to be taken up in early September.

MERIT SELECTION OF TOP AGENCY STAFF MEMBERS

Volume I of the study found that, during the Nixon administration, there had been considerable abuse in the process by which the top staff members are selected for the independent agencies. Individuals for those offices were being regularly subject to White House clearance. Too often that evaluation involved consideration of the candidate's loyalty to a particular political party and to the program of a particular administration. We believe this practice, which has grown by custom, significantly infringed upon the independent nature of these agencies. Selection of such staff members should be strictly on the basis of ability and suitability. For that reason, we recommended that top staff officials of the independent agencies not be subject to political evaluation and clearance by the White House or any other executive agency.

The Senate adopted the Interim Regulatory Reform Acts (S. 1532, 1535, 1536) which contained volume I's recommendation on staff merit selection. Those acts provide that all future top staff appointments at the FCC, FMC, and FPC would be selected in the following manner:

Any appointment or removal of an employee of the Commission to or from any position in categories GS–16, GS–17, and GS–18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to, and removals from, positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.

The same provision has been included in bills affecting the CAB, CPSC and FTC (S. 1533, 1537), due to be taken up in early September.

ADMINISTRATIVE POWERS FOR THE FCC CHAIRMAN

Volume I of the study concluded that it was in the best interest of the smooth functioning of any agency that administrative powers be focused in a single individual. Such responsibility for agency personnel and other internal matters is presently enjoyed by the chairmen of nearly every independent commission. The Federal Communications Commission is the exception. The proposal to grant administrative powers to the FCC Chairman was first made in 1948, and has reappeared from time to time since that date. However, it has not yet been enacted. In our opinion that change is long overdue.

Accordingly the following language was inserted in the Interim Regulatory Reform Act for the FCC:

The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman, and except as otherwise provided in this chapter), (B) the distribution of business among such personnel and among administrative units of the Commission, and (C) the use and expenditure of funds.

In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

There are reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Legislation containing that language was passed by the Senate on June 28, 1977 (S. 1536).

"SUNSET" PROPOSALS FOR THE REGULATORY AGENCIES

Volume II of the committee's study on Congressional Oversight concluded that Congress does not provide sufficient oversight of the regulatory agencies on a regular basis. Very few Members or their staffs systematically review the agencies under their jurisdiction. Most oversight efforts are not initiated with regard to carefully considered sets of priorities, but rather in response to a newspaper article, a complaint from a constituent or special interest group, or information from a disgruntled agency employee. The study concluded that some form of systematic oversight by Congress should be instituted. Specifically the study recommended that in order to enhance systematic congressional review of regulatory agencies, Congress should require that all regulatory agencies be made subject to a periodic authorization process. To some extent, this has been accomplished, with respect to certain regulatory commissions by the Interim Regulatory Reform Acts referred to previously.

The study also recommended that Congress insure that indepth review of the agencies be undertaken periodically and that agencies with similar functions should be reviewed in the same years. The essence of the "sunset" concept is to place a time limit on the existence of Federal agencies and programs and to require rigorous reviews before reauthorization of similar programs.

Two bills before the Committee on Governmental Affairs are translating these concepts into legislation. On July 1, 1977, the committee reported S. 2, the Program Evaluation Act of 1977, which would require authorization of new budget authority for Government programs every 5 years and would provide for reviews of programs Exempted from the coverage of S. 2, and dealt with separately in S. 600, are the independent regulatory commissions and agencies of the executive departments having regulatory functions. The committee was of the view that regulatory agencies and programs are sufficiently different from other Government programs that separate treatment was warranted. S. 600, the Regulatory Reform Act of 1977, which is before the committee's Subcommittee on Intergovernmental Relations, provides a different approach for regulatory agencies. The bill undertakes to reform the Federal regulatory agencies by imposing a discipline on the Congress and the President to insure that regulatory policies are reviewed periodically in a comprehensive way.

CONCURRENT TRANSMISSION OF BUDGET AND LEGISLATIVE PROPOSALS

The committee's study of congressional oversight considered the issue of executive branch control of information to Congress from the independent regulatory agencies. At present the independent commissions must first submit their budget and legislative proposals to Congress through the Office of Management and Budget. The OMB usually prunes the budget requests before they are submitted to Congress by the President. Congress does not see the original agency request, but only the amended and usually reduced OMB version. Very often a further reduction occurs in Congress, thus allocating to the agencies an amount significantly less than that originally requested.

The same process occurs with legislative recommendations, with a similar result. Congress does not receive from the independent regulatory commissions an uncensored view of their legislative needs and comments.

The committee's study concluded that Congress should have the information, on budgets and legislative recommendations, directly from the agencies.

Section 401 of the Department of Energy Act, enacted and signed into law by the President on August 4, 1977, provides that legislative comments and budgetary requests of the Federal Energy Regulatory Commission will be transmitted to Congress directly. A similar requirement has also been included in the Interm Regulatory Reform Acts of 1977 for the CAB, ICC, FCC, FMC, FPC, and FTC (S. 1532, 1533, 1535, 1536, 1537).

CONSUMER PROTECTION AGENCY—INCREASING CITIZEN PARTICIPATION

The oft-repeated criticism that regulatory agencies are overly responsive to the industries they regulate was examined in volume III of the committee's study, public participation in regulatory agency proceedings. In spite of legislative mandates to regulate in "the public interest," it was found that agencies often lose their perspective because the information they receive comes predominantly from the interests they regulate. It appears that the remedy to this imbalance lies in providing new sources of information. The report considered various proposals to redress this imbalance. Chief among them was the creation of a new independent agency, with authority to advocate consumer interests before administrative agencies and courts and administrative agencies. In his consumer message in April of this year, President Carter indicated his support of the CPA.

In its various forms, a proposal for a single agency to represent consumer interests has been pending before Congress since 1965. The committee's study supported creation of an independent nonregulatory agency with authority to advocate consumer interests before administrative agencies and the courts. The committee concluded that there currently is a serious underrepresentation of consumer interests in regulatory proceedings, and that the proposed consumer agency would be one of the major remedies for that underrepresentation.

The agency would not hold a monopoly on the public interest, nor would it be a "czar" dictating policy to the regulatory agencies. Rather, it would be a valuable advocate of consumer interests and would supplement the efforts of the private consumer groups and enhance the ability of the regulatory agencies to regulate in the public interest.

The committee study recommended the creation of an independent, nonregulatory, consumer agency that would: First, have full intervention and participation rights to advocate consumer interests before the Federal agencies, and the Federal courts; second, undertake studies and disseminate information of importance to consumers; third, serve as a consumer complaint clearinghouse; fourth, possess authority to obtain information needed to carry out its functions; and—59 have adequate funding to assume these responsibilities.

The Consumer Protection Act of 1977 (S. 1262), which embodies those recommendations, was favorably reported by the committee on May 10, 1977, by a vote of 13 to 2. It is presently awaiting action by the Senate. A similar proposal has been reported in the House, and is also pending.

Mr. President, I believe thus far this is a very creditable record of implementation. It is a record which demonstrates the unique potential of a study conducted by a committee of Congress: It is more than an academic exercise, because the committee has the opportunity to propose and support enactment of what is recommended. I am optimistic that the recommendations, which have been already the subject of legislative action, will be enacted into law this year. I also look forward to action on other proposals both from the studies already published and those that will appear shortly. With those results the committee's studies will not gather dust on shelves, but will instead have a decided impact on the proper functioning of the Federal regulatory process. In my opinion, it was with that objective in mind that the Senate authorized this endeavor back in July 1975.

## CHANGES IN PAY AND BENEFITS OF MEMBERS OF THE ARMED FORCES

Mr. GOLDWATER. Mr. President, at a recent hearing before the Armed Services Committee on the issue of military unionization, Vice Adm. James D. Watkins, Chief of Naval Personnel, provided a list of pay and benefits changes impacting on service members, retirees, and dependents since 1972. The list consisted of changes that impacted both favorably and unfavorably on service members as well as changes under active consideration which would further unfavorably impact on service members.

I bring this matter to my colleagues' attention because our committee just reported a bill to prohibit unionization of the military. While I feel that such a bill is necessary and urge its support and passage, a quick glance at Admiral Watkin's list of benefit changes indicates to me that Congress must also share in the responsibility for any feeling within the military that benefits are eroding and that, therefore, a union might be desirable. It is up to Congress, as well as the Department of Defense, to insure that our servicemen and women do feel Congress does care about them and is looking out for their interests.

Mr. President, let us pass the bill to prohibit unions, but after we have done that, let us not allow further erosion of service benefits. We must defeat any such future proposals if we are going to prohibit servicemen and women from belonging to a union that supposedly would represent their interests in this area. We are, in effect, saying that Congress can, in large measure, perform this function. We must not let our servicemen and women down.

Mr. President, I ask unanimous consent that the list provided by Admiral Watkins and referred to above be printed in the RECORD.

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

LISTING OF PAY AND BENEFIT CHANGES IMPACTING ON SERVICE MEMBERS, RETIREES, AND DEPENDENTS SINCE 1972

(By Vice Adm. James D. Watkins, Chief of Naval Personnel, before the Committee on Armed Services on Unionization of Military Personnel, July 18, 1977)

SECTION 1. CHANGES THAT FAVORABLY IMPACTED ON SERVICEMEMBERS, RETIREES AND DEPENDENTS

*17 items*

Item, action, date, and comment:

1. Servicemen's Group Life Insurance. Increased face amount from $15,000 to $20,000. May 74. Brought coverage more in line with amounts carried by American families and comparable to what is offered to Federal Government employees.

2. Selective Reup Bonus. Reenlistment bonus for selected MOS ($12,000 max). June 74. Improves retention, provides monetary incentive.

3. PCS Mileage Allowance. Increased from: $.06 to .08 per mile, July 74; $.08 to .10 per mile, October 76. Partial compensation for travel costs.

4. Dependent Travel Entitlements. Travel of dependents and movement of household goods authorized for E–4 with over two years of service. January 74. Morale and retention. Defrays costs of moving dependents.

5. Travel Allowance. Raised rate to 15.5c a mile for use of privately owned vehicle for local travel in conjunction with government business. October 76. Compensation for travel costs.

6. Per Diem Rates for TDY. Rates increased from $25 to $35 per day (DOD ceiling of $33 until October 76). June 76 (one year after rates increased for civilians). Aligned with civilian rates. Service member adequately reimbursed for expenses while on TDY.

7. Do-it-Yourself Move. Service member authorized to move himself. June 76. Service member reimbursed 75% of what it would have cost government to move household goods by Government Bill of Lading.

8. Income Tax Exemption on Moving Expenses. Excludes inclusion in gross income any amount received or accrued for moving which is attributable to requirements of military service. January 77. Service member not required to pay tax for something over which he has no control (moves).

9. Veterans' Education Assistance Program (VEAP). Enacted as alternate to GI Bill. Service member contributes $50–75 per month; VA matches $2 for $1. ($8100 max). January 77. Possible enlistment incentive. Service member's contributions refunded if not used. (See loss of fully funded GI Bill.)

10. Military Retired Pay Inversion. Corrective legislation enacted for retirees. October 75. Protects active duty service members from loss of retired pay for continuing on active duty. Increased motivation to continue serving.

11. Changes in Survivor Benefit. Terminated irrevocable contribution when no longer any beneficiary. Reduced new spouse coverage wait, increased minimum income provision. October 76. Favorable financial impact on certain retirees and survivors.

12. Armed Forces Health Professions Scholarships. Continues income tax relief for tax years 1977, 1978, 1979 for scholarship recipients who entered program prior to 1 Jan. 77. October 76. Favorable monetary impact on recipients who entered program prior to 1 Jan. 77.

13. Reserve Participation in Individual Retirement Account. Tax Reform Act provides that Reserve Component members may participate in IRA unless the member is on active duty for over 90 days during a tax year. October 76. Tax relief for members of the Reserve who desire to participate in IRA.

14. Restoration of Pay Group P. Congress restored funding to allow payment for up to 24 drills prior to basic training for high school seniors (within 90 days of graduation) and high school graduates who enlist in a Reserve Component. FY 76 and FY 77. Allows these service members to attend drills and be paid prior to undergoing BCT/AIT.

15. Dependency and Indemnity Compensation (DIC). Legislation was passed to increase DIC payments to widows and children by 8%. Also increased aid and attendance payments to $78 per month. October 76. Favorable monetary impact on recipient.

16. VA Pension Rates and Allow. Payment rates were increased by 7%. New income limits depend upon whether the pensioner is a widow or child. January 77. Favorable monetary impact on recipient.

17. VA Educational Benefits. Increased payment for widows and surviving children who are full time students from $270 to $292 per month. Raised the period of entitlement from 36 to 45 school months. October 76. Favorable monetary impact on recipient.

SECTION 2. CHANGES THAT UNFAVORABLY IMPACTED ON SERVICEMEMBERS, RETIREES AND DEPENDENTS

*21 items*

Item, action, date, and comment:

1. Enlisted Undergraduate Degree. Funds eliminated. FY 75. Must obtain college education on off-duty time.

2. Uniformed Services Savings Deposit Program. Fund eliminated. June 74. Savings program which paid 10% interest for service members stationed outside CONUS.

3. Enlisted Undergraduate Fully Funded Program. Funds eliminated. January 76. Enlisted personnel were authorized up to two years to obtain Associate or Baccalaureate degree in discipline related to their military skill.

4. No BAQ/BAS for Accrued Leave Payments. No payment of BAQ/BAS for leave accrued after 31 Aug. 76. September 76. Monetary and morale impact.

5. Taxation Exemption for Disability Retirement. Enactment of law limiting tax exemption to disability resulting from combat type injuries. October 76. Applies to those who enter on active duty after September 75. Monetary loss.

6. CHAMPUS. PL 94-212 eliminated funds for: special education, learning disability, certain sex therapy, certain cosmetic surgery, services and supplies not medically necessary. Established 40-mile rule. February 76. Shifted burden of cost to beneficiary.

7. Superior Performance Pay. Terminated $50 per month awarded on competitive basis to top 20% in combat skills and top 10% in combat support skills. January 75. Loss of $50 per month and incentive to study to obtain scores which would qualify for this pay.

8. Reallocation of Pay Increase. Reallocate up to 25% of basic pay raise. October 1976. Reduce take home pay for families occupying government quarters; reduces retired pay for future retirees; reduced reserve drill pay relative to active duty members.

9. Fully Funded GI Bill. Eliminated by law for those entering active duty after 31 Dec. 76. October 1976. Replaced with contributory program. Those currently authorized must use benefit within 10 years from separation but not later than 31 Dec. 89.

10. Predischarge Education Program (PREP). Eliminated by law. October 1976. Terminated high school instruction for non-high school graduates and remedial/refresher education needed to enter college or vocational studies. Replaced with program which can only be used during last six months of initial enlistment.

11. Lump Sum Reup Bonus. Eliminated lump sum payments. December 1974. Loss in actual purchasing power of the bonus. Example: $5000 bonus paid via five equal installments—the purchasing power drops to $4500 assuming a 5% rate of inflation. Morale and reenlistment impact.

12. Regular Reup Bonus. Eliminated reup bonus designed to provide everyone with a maximum $2000 within a 20-year career. June 1974 (to be phased out thru May 1977). Loss of monetary incentive to reenlist except service members holding certain shortage skills who receive selective reup bonus.

13. Appropriated Fund Support for Morale, Welfare and Recreation Activities. Appropriated fund support did not keep pace with cost of living. 1974. Service members now contribute 45% of recreation services cost thru their PX purchases and fees and charges. (Prior to 1974 most activities were free.)

14. Medical Care for Retirees and Dependents. Reduced authorization of medical officers plus failure to procure and retain sufficient physicians. Decreased services available to other than active duty personnel. Health care services being curtailed due to manpower reductions and temporary shortages of active duty physicians forcing beneficiaries to CHAMPUS.

15. CHAMPUS. 24 restrictive changes resulting in loss or reduction of health care coverage. New regulation. July 1974 to present July 1977. Increased financial burden, inconvenience, creates disproportionate and service members serving away from military installations; i.e., ROTC, Recruiting, Reserve and National Guard duty.

16. Elimination of Some Military Post Offices. Military post offices collocated with US Postal Service Offices closed. TBA. Loss of PAL and SAM parcel post rates.

17. Vending Machine Revenue. Income from on-post vending machines, except in PX, will be turned over to the states for the visually handicapped, retroactive to 1 Jan. 75. March 1977. Reduce funds for Morale, Welfare and Recreation activities resulting in increased user charges.

18. COLA in Hawaii and Alaska. COLA rates decreased or eliminated for employees who occupy government housing and/or have commissary/exchange privileges. Decmber 1976. Dependents of service members and retirees losing benefit, entitled by law, because they work for Federal Government.

19. Taxation of Health Professions Scholarships. Students entering January 77 or later required to pay federal and state income tax on value of scholarship. January 77. Monetary.

20. Shortage Specialty Pro Pay. Terminated this pay for personnel in MOS experiencing career manning shortages. June 75. Monetary and morale.

21. Commissary Surcharge. Increased from 3% in CONUS and 2½% overseas to 4% worldwide to offset reductions in MILCON. February 76. Increased food costs in commissaries.

SECTION 3. CHANGES UNDER ACTIVE CONSIDERATION WHICH WOULD UNFAVORABLY IMPACT ON SERVICEMEMBERS, RETIREES AND DEPENDENTS

*15 items*

Item, action, status, and comment:

1. Overseas Transportation of Military Exchange Cargo. Eliminate appropriated funds for transportation. Considered by Congress for FY 77 but not terminated. SAC. eliminated funds in FY 78 budget. Awaiting floor action. Cost to service members $45 or $155 annually, depending on whether price increases necessitated by loss of appropriated funds are spread world-wide or overseas only.

2. Fair Market Rental. Require service member to pay a fair market rental price for government housing instead of just forfeiting BAQ. Under active consideration at OMB/OSD. Increased cost for service members occupying government family housing. Exact increase will depend upon location, size of housing, etc. May drive military off-post to buy house/build equity. Degrade unit esprit military as a way of life.

3. Reallocation of Future Pay Raises. Reallocate up to 25% of 1977 basic pay raise to BAQ/BAS. Decision on 1977 reallocation will be made by President Carter in August. Compounds adverse impact of reallocation on future retirees and Reserve Component pay.

4. Cadet Pay. Reduce academies cadet pay and ROTC summer camp pay to $313.20/mo. Contained in Administration proposed legislative program for 95th Congress. Save pay clause will freeze academies cadet pay at $345/mo until approx 1980. ROTC rate effective for 1978 summer camp.

5. Appropriated Fund Support for MWR. Reduce appropriated fund support for morale, welfare and recreation activities. SAC FY78 action to eliminate 14,000 MWR billets. Substitute NAF civilians. Awaiting floor action. Increased user charges and/or closure of certain activities.

6. Rental Fees for On-Post Trailer Spaces. Charge prevailing local rates for on-post trailer spaces. DOD ruled OMB Circular A-45 applies (charge FMR). Service member will pay up to $100 plus utilities. Possible increase in number of service members eligible for food stamps. Government service members makes monetary profit off of service members.

7. Maximum Allowable Housing Cost (MAHC). MAHC raised from 25% to 30% of Regular Military Compensation. Appeal rejected by OSD. Drastically reduce CONUS family housing leasing authority. Adverse impact on total family housing program.

8. Commissary Baggers. Termination of use of individuals who bag groceries in commissaries for tips only. OSD has appealed to Department of Justice. 2% increase in surcharge for commissary patrons; loss of opportunity for military dependents to earn money when school is not in season.

9. VA Home Loan. VA home loan program to be terminated for service members entering active duty on or after 1 Oct 1977. All Services nonconcurred in proposed legislation. Proposed legislation has not been sent to Congress as yet. Terminate VA loan guarantee for a home, condominiums, mobile home for future service members.

10. Reductions in Military Non-disability Retirement System. Several proposals to significantly reduce military retirement have been made. Proposals will be examined by Blue Ribbon Panel. Congressman Aspin may introduce proposed legislation. Severe adverse financial impact on future retirees.

11. Military Overseas Dependent Employment Policy. Terminate overseas emloyment preference for military dependents. CSC decision expected by 31 July 1977. Loss of job opportunity for spouses that have to work to supplement family income. Severest impact on junior enlisted personnel.

12. Military Leave for Reserve Component Personnel. Payment of civilian pay would be provided Federal employees only to extent necessary to assure no loss of take-home pay while on active duty for training. Contained in Administration proposed legislative program for 95th Congress. Loss of up to 100% of civilian pay for Federal employees while on Reserve Component Active Duty for Training.

13. Contributary Health Care. Member pay a monthly charge for medical care provided. Legislation introduced 94th Congress. Monetary.

14. Commissary Subsidy. SAC FY-78 action. Phase out subsidy over 3 year period.

Is third consecutive year for this initiative. Awaiting Senate Floor Action. Monetary.

15. Military "Double-Dipping." SAC & HAC Committee FY–78 reports prohibited future retirees from collecting retired pay while employed by Federal Government. (SAC limited to annuities over $6,000 p/year). House deleted during floor debate; awaiting Senate floor action. Monetary.

## APPROVAL OF THE ACCEPTANCE OF FOREIGN EDUCATIONAL TRAVEL

Mr. STEVENSON. Mr. President, as required by rule 43, paragraph 4(b), I give notice that the Select Committee on Ethics approved the following staff acceptance of foreign educational travel at its meeting of August 4, 1977:

A Senator requested approval for the acceptance of foreign educational travel by a staff person under his supervision pursuant to the invitation of the III American-German Youth Conference jointly sponsored by the American Council on Germany, 680 Fifth Avenue, New York, N.Y., and the Atlantik Bruecke, of Berlin, West Germany, dated April 28, 1977, and the requirements of rule 43, paragraph 4(a) on gifts.

The responsible officer of the Department of State reports that the Atlantik Bruecke—Atlantic Bridge—which is to provide hotel accommodations and support services in Germany, is financed in some part by funds of the West German Government and that employee acceptance of assistance to participate in this conference specifically is approved by the Secretary of State for purposes of section 108A of the Mutual Educational and Cultural Exchange Act of 1961, as amended.

The program in which Senate staff is invited to participate is scheduled for August 14 to 18, 1977, and will deal with political, economic, and social questions of interest to the United States and Germany. The American Council on Germany will pay the necessary expenses of travel to and from Berlin. The employee works on defense and foreign affairs issues for the supervising Senator.

In accord with rule 43, paragraph 4 (a): First, the committee is informed that this program's principal objective is educational; it is sponsored in part by a foreign educational organization supported in part by foreign government funds; participation apparently is not in violation of any law and is specifically approved by the Secretary of State for purposes of section 108A of the Mutual Educational and Cultural Exchange Act of 1961, as amended; and second, the committee, therefore, finds that participation by the following Senate employee is in the interest of the Senate and the United States: Mr. Mark Bisnow, Office of Senator H. John Heinz III.

## STATE OF ALASKA BACKS THE ALL-AMERICAN GASLINE ROUTE

Mr. STEVENS. Mr. President, the State of Alaska is solidly behind the all-American trans-Alaska natural gas transportation project proposed by the El Paso Alaska Co. The reasons for that support are summarized in a recent statement by Lt. Gov. Lowell Thomas, Jr., before the California Energy Resources Conservation and Development Commission.

Thomas expresses the opinion shared by many in Alaska that the recommendations of the Federal Power Commission favoring a pipeline route through Canada were made "in a vacuum, ignoring political, international and specific environmental issues."

Alaska backs the trans-Alaska project because it means more jobs and income and will contribute significantly to the development of a stable economy for the State.

The national interest is also best served by the trans-Alaska route. This route can make Alaskan gas available to south 48 consumers 2 years or more sooner than the alternatives. That is because it simply would not be subject to the additional delays that a route through Canada would face—settling native claims, resolving environmental issues, judicial reviews, and so on. The all-American route would be subject only to the expedited procedures and limited judicial review established in the Alaska Natural Gas Transportation Act. And native claims in Alaska have already been resolved by the Alaska Native Claims Settlement Act.

The cost of service for the competing routes is about the same, assuming that they all could be built on schedule and at the cost estimated by the proponents. Any delays will increase the costs.

The State of Alaska proposes to reduce even further the cost of service for the El Paso route by providing loan guarantees. This would lower the costs to consumers by at least 3 to 5 percent. Alaska is putting its money where its mouth is.

Mr. President, the Lieutenant Governor's comments deserve to be read by all who are following the gasline decision. I ask unanimous consent to have them printed in the RECORD.

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

STATEMENT BY LT. GOV. LOWELL THOMAS, JR.

Good morning, Mr. Chairman and members of the commission. I am Lieutenant Governor Lowell Thomas, Jr. of Alaska.

I appreciate the opportunity to present the official position of my State on this urgent matter.

In addition to my statement, I am submitting the written testimony of Ernst W. Mueller, commissioner of Alaska's Department of Environmental Conservation, and that of Charles A. Champion, pipeline coordinator for the State of Alaska. Both these officials have had much experience with construction of the Alyeska oil line and their testimony is especially significant.

What are the advantages to Alaska of the trans-Alaska route?

1. Environmental—minimum additional damage, no breeching of arctic wildlife range.

2. Best possibility for future in-state use of our 12 and ½% royalty gas including a petro-chemical industry at Tidewater—gas which we can take back, with sufficient notice.

3. Jobs for Alaskans—(any U.S. citizen who resides there for 30 days with intent to stay).

4. Greater income to Alaska—Income taxes, ad valorem taxes, etc.

The Hammond administration supports the proposal advanced by El Paso. What company, or companies, construct the system, is beside the point. However, we were happy when El Paso came along!

On May 2, the Federal Power Commission advised the President that all three projects are economically viable. As you know, the Commission favored an overland pipeline system through Canada. In my opinion, that judgment was made somewhat in a vacuum, ignoring political, international and specific environmental issues. My testimony covers those broader areas—construction risks and implementation, environment, resources and financing.

The State of Alaska and nearly all of its citizens believe that the trans-Alaska, all-American route offers the earliest, most reliable delivery of Prudhoe Bay's 26 trillion cubic feet of natural gas (1/10th of the Nation's known reserves), with another 5 TCF proven nearby and more certain to be found off shore.

Alaska's Governor, Jay Hammond, appointed a gas pipeline task force several years ago consisting of cabinet-level officials. We have studied and restudied the proposals and testimony of all three applicants, evaluated reports and studies prepared by others, and conducted studies of our own. These investigations form the basis for the State's position.

We disagree vigorously with the initial decision rendered by the administrative law judge of the Federal Power Commission which the Commission apparently largely endorsed on May 2. Our lawyers filed strong exceptions to it in March. Within my testimony I will stress some of the fundamental errors we believe the Judge and the Commission made in reaching their conclusions favoring a trans-Canadian gas pipeline.

Any delay in bringing Alaska's gas to market will increase hardships throughout the country and escalate costs to the consumer. In Washington, D.C. last January, El Paso Gas announced that it could "bring much-needed natural gas to Midwest markets 1 and ½ to 2 years sooner than its competitors." We believe that statement is not only accurate, but even conservative; because, to begin with:

Support facilities costing $1 billion on the proposed trans-Alaska route are already completed.—The El Paso project which parallels the now-completed Alyeska oil line, will utilize the same haul roads, work pads, campsites, air strips, bridges and communications facilities. This alone means a 1 and ½ year head start over the 4,500 mile arctic gas proposal which would have to build its facilities from scratch, using risky construction techniques that require snow roads and snow work pads.

Regarding those risky techniques—

During periods of extreme cold, the operation of heavy equipment becomes increasingly difficult. Ordinary hydraulic fluid becomes very viscous, and special fluids are needed. Metal becomes brittle, and the shearing of bolts and breaking of axles are commonplace. Tires and electric cord insulation lose their elasticity, crack and shatter. Preventive maintenance tends to diminish because of the difficulty of working in a cold, dark environment, and consequently more time must be spent on repairs. Then there is the difficulty of making in-field repairs because of the impact of weather and darkness on logistics. Alyeska's experience on the oil pipeline has shown us all this.

Furthermore, when all construction activities for a given segment of pipe-laying work are planned in a sequential fashion and are planned to be completed in one construc-

tion season, there is very little opportunity to make up for lost time. If any delay occurs, it cannot be made up in the project schedule. The delay of construction for an entire season is possible. Exclusive utilization of snow roads or work pads may require that a good deal of the winter season be spent just in building and maintaining them, significantly slowing the laying of pipe. The dependence on unpredictable weather introduces a degree of uncertainty and makes the exclusive use of snow roads highly questionable. The F.P.C. seems to have paid little attention to the testimony of numerous persons experienced in arctic construction, including construction of the Alyeska oil pipeline, that the Arctic Gas project will not be able to meet its construction deadline. Arctic Gas's plan to construct from snow roads has been extensively reviewed by State personnel who are thoroughly familiar with all aspects of construction on the North Slope. It is their unanimous conclusion that the plan will not work. Other experts share this view; and failure to meet the proposed timetable inevitably means at least a year's delay, which in turn means an additional billion dollars of added cost to the American consumer. On the oil line—worker efficiency and morale fell off so greatly in the dead of winter that the Alyeska Pipeline Company found it wise to lay off its workforce for more than a month.

The United States Department of Transportation offered several comments to the Federal Power Commission relative to pipeline safety, namely that:

"The proposed pressure of 1680 PSIG (pounds/square inch at gauge), for a 48-inch line is above that pressure proven for large diameter pipelines, operation at 1680 PSIG pressure and subfreezing temperatures presents possibilities for significant fracture propagation . . . in order to compensate for these unknowns, Arctic Gas is proposing to install crack arrestors, which have not been proven by experience or testing.

"Although the crack arrestors are designed to prevent a failure leading to a propagating crack, it appears that they may induce stress concentration and corrosion possibilities on the line that could cause a failure."

So says the DOT, which also questioned the feasibility of snow roads.

The Department of Interior in a report to Congress in December, 1975, analyzed construction risks and uncertainties. The report showed that the trans-Canadian system (Arctic Gas) would have twice the potential for schedule slip and cost overrun as would the trans-Alaska system. A schedule slippage of 12 to 36 months and a cost overrun from $1 billion to $3 billion was forecast for the trans-Canadian route, and without even considering Canadian political delay factors.

As for the timing of these projects, the El Paso system is the only proposal that would guarantee American control over the timing of the transportation of natural gas reserves in Alaska. The trans-Alaska system would be built, operated and expanded in accordance with U.S. requirements alone. Canada's National Energy Board is now deliberating on the competing applications of Arctic Gas, Alcan and the all-Canadian "maple leaf project." A decision may be available by late June or mid July. However, that decision will not become effective unless adopted by the Cabinet. We should also keep in mind that even were the Arctic Gas proposal to be approved, or the Alcan, that decision could be subject to review by the Canadian courts.

We Alaskans sense a growing nationalism in Canada focusing on energy self-reliance. With a trans-Canada line, there would be no guarantee for any future expansion and, in addition, a line through Canada must contend with each province's powers of taxation, the limits of which are unknown at present. Add to this the need for establishment of a special protocol beyond any treaty agreements, the need for financing of any trans-Canada line with Federal Government guarantees (both by Canada and the U.S.), the fact that Canada has no gas shortage now and probably will not experience one until the 1990's and, therefore, has no reason to expedite the gas line project, and you can see that selection of any trans-Canada route runs the risks of unacceptable delay and cost overruns.

But paramount among Canadian issues that will delay any trans-Canada pipeline are the unresolved native land claims. It seems certain that they must be settled both in the Northwest territories and in the Yukon before any construction can start.

We in Alaska have had much experience with native claims. It took us five years to settle the claims of our native peoples, finally by an act of Congress, and it is likely to take as long in Canada where the process has only just begun. In fact, the Berger Report, with which you are familiar recommends that no pipeline be built in the Canadian Northwest until the claims have been settled and a period of ten years has elapsed; and that there never be any pipelines across the Northern Yukon. As for the lower Yukon, Commissioner Art Pearson, has said that claims must first be settled there, too—this he personally told Governor Hammond and me only a few months ago. (Canada's Minister of Indian Affairs and Northern Development, Warren Allmand, just with us in Juneau on June 3, appeared very sensitive to Berger's recommendations; sympathetic I would say).

Daniel Johnson, chairman of the Council for Yukon Indians, appearing before the U.S. House Subcommittee on Indian Affairs and Public Lands on March 17, stated that, "in the southern Yukon (where the Alcan line would cross), we are opposed to pipeline construction until there has been a land claims settlement which has been implemented." Mr. Johnson further stated that Indians are prepared to take court action to stop construction of a natural gas pipeline down the Alaska highway. And they refuse to negotiate with Ottawa over their land claims until a study of social impacts has been completed by the new Lysyk Commission. Some Indian groups have stated that they might wage guerrilla warfare if native claims are not settled prior to pipeline construction.

Just last month, the Governors of 13 western States decided it was too risky piping Alaska oil through Canada to the Midwest. Instead, they adopted a resolution calling for shipment of any Alaskan crude that might be surplus someday to west coast needs—via an all-American pipeline from Washington State across the northern-tier States. Both the Governors of Montana and Washington spoke of past treaty agreements broken by the Canadians. Montana's Governor used the word "shafted". Those same concerns and uncertainties must apply equally to the shipment of natural gas.

As for the all-American route, the Federal Power Commission found that the El Paso project has a "viable plan which technically can be built in an environmentally sound manner and which can deliver natural gas to all U.S. markets".

During last winter's gas crisis, actions taken under the emergency Natural Gas Act redistributing supplies from the west to the east and midwest, demonstrated that viability.

The basic conclusion of Alaska's gas pipeline task force was that from an environmental aspect, the Arctic Gas project is unacceptable, requiring all new construction as it traverses previously undisturbed terrain both in Alaska and Canada. Our conclusion is primarily based on the fact that Arctic Gas would cross the Arctic National Wildlife range. This 9 million acre range in the northeast of the State possesses a spectacular combination of Flora and Fauna, and is the best remaining example of an Eco-system that runs from the Brooks range to the Arctic shore. It is an area which supports a rich abundance of waterfowl and wildlife.

Some 139 species of birds from 31 families have been reported in the MacKenzie Delta. The Arctic National Wildlife Range is an important denning area for polar bears and the MacKenzie Estuary is reportedly an important calving ground for Beluga whales. It is the calving ground of one of the world's major caribou herds—a calving ground which the Arctic gas line would cut in two. The wildlife range is also the only portion of the Arctic coast in America not already committed to mineral exploration and development. I am certain you will hear much testimony concerning the wildlife range, and that is as it should be. We were interested in Justice Berger's recommendation that a wilderness park be created next door in the Northern Yukon, and hope it will be.

There is little doubt that pipeline construction, operation and maintenance, has the strong potential to have long-term detrimental effects on the north slope, and the Arctic National Wildlife Range-MacKenzie Delta areas. We do not believe that the FPC gave adequate consideration to the basic environmental issue posed by the Arctic Gas project. That issue: should a gas pipeline be built through the Arctic National Wildlife Range when other reasonable and acceptable alternatives exist? The FPC recommendation to the President fails to recognize that regardless of the care exercised during construction, construction and operation of the Arctic gas pipeline will substantially alter the basic character of the range as a wilderness area. The FPC recommendation also fails to recognize that the Arctic gas pipeline will be the "foot-in-the-door" for oil and gas exploration of the wildlife range.

Governor Hammond, in testimony before the FPC, noted that someday our Nation may need the oil and gas resources in the Wildlife Range, if there are any, even more than we need its wilderness value. But he also noted that that decision need not be made now, and we believe it would be unwise to take action which would hasten such a difficult decision. As Mr. Robert Leresche, one of Alaska's foremost wildlife biologists, now commissioner of our Department of Natural Resources, has said, this is "one of a kind, essentially one of the crown jewels of the wildlife refuge system." I urge you to read his statement here of caribou vulnerability.

"My observations on the calving grounds over several seasons lead me to believe that this impact would be both negative and significant. Caribou are most vulnerable to disturbances during late winter and early spring, including the calving period. Significant activity, either construction, revegetation, erosion control, or routine surveillance of a completed 'on line' gasline, would probably have the effect of displacing these caribou away from the calving grounds, that provide the foundation and the continuity for the continuing existence of populations. I believe that other impacts on caribou of a totally buried gas pipeline would be insignificant by comparison to the impacts to be expected on the calving grounds. Unfortunately, the calving grounds are the most important habitat for the healthy existence of caribou populations," so says one of Alaska's top game biologists.

The Arctic Gas project is a classic demonstration of the relationship between other aspects of this problem—like construction schedules—to environmental considerations. As previously stated, it is the State's firm belief that if Arctic Gas is permitted to proceed, their construction schedules are going to be thrown severely awry. What will happen then? What will happen to Arctic Gas's plan to minimize environmental damage in the arctic wildlife range if the project falls a year or so behind schedule and the costs mount geometrically? What if the Nation goes through another winter like the last, where the pressure to produce this gas in the Midwest becomes enormous? The State believes that if that happens, all the environmental planning will be out the window, and we would anticipate an "anything goes" attitude to get the line done. The same people who find our national interest lands so attractive today may find our natural gas more attractive tomorrow. The Arctic Gas project will make that development inevitable and signals the ultimate destruction of the range. And that's why every single environmental group in the country—and in Canada—joins with the State in opposing this route. To insure environmental control, there has to be a plan of construction that will minimize environmental damage and, equally important, a construction schedule that is realistic. Arctic Gas's plans are neither.

There's an added risk involved in denial of permanent access to the gasline, whereas Alcan and El Paso would have year-round access which would enable them to respond more effectively should emergency repairs be required during the life of the pipeline. Further, such repairs could be completed at minimal environmental expense, compared to the development of an emergency overland transportation route, as may be required by Arctic Gas.

Under the Arctic Gas proposal, several problems relative to erosion control and river crossings need to be resolved, according to Mr. Champion, Alaska's pipeline coordinator, and I refer you to his written testimony.

Alaska's commissioner of environmental conservation, Ernst Mueller indicates that another problem particularly troublesome with the Arctic Gas proposal is the projected use of methanol-water solution for the hydrotesting of the pipeline. We are strongly opposed to this use of a methanol mixture, and would probably not issue permits for its disposal in Alaska. Please refer to Commissioner Mueller's statement.

In contrast to the Arctic Gas proposal the El Paso and Alcan projects would make use of the established oil pipeline corridor, one more than the other. This has many advantages, not the least of which are a centralization of pipeline impacts and the opportunity to make use of a vast amount of experience and data developed during construction of the oil pipeline. It is clearly feasible, as many knowledgeable experts have testified, to build a gas pipeline in the same corridor as the oil pipeline.

That U.S. Department of Transportation, report earlier referred to also strongly endorsed use of the existing corridor.

Another issue involves the El Paso project's shipment of liquefied natural gas (LNG) from Alaska to California in specially constructed LNG carriers. The U.S. Coast Guard has concluded that LNG shipment is among the safest seagoing operations carried on today. LNG is not classified as a hazardous pollutant or explosive by either the Environmental Protection Agency or the U.S. Coast Guard. Admiral John B. Hayes, Coast Guard commandant for Alaska has stated, "LNG has been in world-wide commerce for 10 years without a significant accident—approximately 1,900 shipments world-wide took place during this period."—The record speaks for itself.

The Office of Pipeline Safety Operations (OPSO) which is under the U.S. Department of Transportation believes that a low risk level for the proposed LNG facilities can be achieved by appropriate siting, design, and testing.

An article in the April 1977 issue of "Scientific American" gives an excellent history and analysis of "the importation of liquefied natural gas". In their concluding remarks, the authors cite the following example:

"The risk associated with the proposed importation of liquefied natural gas to Staten Island is estimated to be about one fatality every 10 million years for people living or working along the approach route to the harbor. That level of risk is about 10 times less than the risk of dying from a fire at home and about the same as the risk of being struck by lightning."

Alaskans were pleased to hear that Governor Brown has given the go-ahead for siting an LNG regasification plant. Hopefully, that plant, or plants, will be capable of handling Alaskan gas as well as that from Indonesia.

Between El Paso and Alcan—it is difficult to decide strictly on environmental grounds. Both employ the corridor concept, at least within Alaska. But we don't know the details of Alcan's requirements for a workpad adjacent to the highway, for extraction of gravel, for work camps and other facilities—not only in eastern Alaska, but in the Yukon and beyond. Good and bad can be said about each route from an environmental viewpoint. For example, the FPC recommendation to the President noted the final word was not in yet on El Paso's plan for discharge of the LNG plant's waste heat. The State recognizes this, and I believe, so does El Paso, but the necessary baseline studies can be performed and we shall see they will be performed to make certain that the method ultimately employed does not impose unacceptable impacts on the environment. There is the distinct possibility of actually making beneficial use of the discharge of warm water by using it in a fish hatcheries program.

Seismic risk has been raised regarding an LNG plant at Point Gravina. I would only say that if the Valdez oil facilities can be designed to withstand 8+ Richter scale quakes, so can they be with the liquefaction plant.

In summarizing our environmental concerns, it is our conclusion that Arctic Gas is unacceptable because it crosses the Arctic national wildlife range, El Paso would cause the least damage, with Alcan probably close behind.

Turning now to Alaska's potential for additional gas supplies—exploration programs are currently underway in various areas. Right now our proven gas reserves on the North Slope, including the immediate area surrounding Prudhoe, are 31 trillion cubic feet with an additional 2.5 trillion cubic feet on the remainder of North Slope State land. No doubt other preserves will be discovered and proven in the Beaufort Sea as well.

Regarding Navy PET No. 4, now under the Department of Interior, the most recent estimate by the Federal Energy Administration places its total oil reserves at 5 billion barrels, and gas reserves at 14.3 trillion cubic feet.

The El Paso route would be a logical choice for transportation of gas reserves from "PET 4", at the same time offering the best means of delivering any gas found in southern sectors of the state, and the strongest incentive to find that gas.

Another point to mention for the record concerns Alaska's royalty gas. We recently sold El Paso 25% of our royalty share of Prudhoe Bay gas. This could be as much as 832 billion cubic feet, but the contract will be effective only if the trans-Alaska, all-American route is approved. About 80% of this royalty gas will go to California alone—enough to heat an additional 160,000 or so homes per year, according to El Paso. The balance of our royalty gas will go to "Tenneco" and "Southern Natural Gas" under the same terms—only if the El Paso route is approved. If either trans-Canada route gets the nod, Alaska will keep its royalty gas for its own use, or enter into new sale contracts. We have no intention of switching our support. Turning now to financing—

On May 27, the Alaska State Legislature transmitted to the Governor a resolution relating to the study of State-facilitated financing of an all-Alaska gas pipeline. This resolution gives the directive, and the legislature appropriated the funds, for the State to study the means of guaranteeing bonds or debentures needed to construct the pipeline and/or LNG facility. I stress the word "means" for State backing is a certainty. Our department of revenue estimates that the average city gate price to consumers in the Lower 48 would be lowered by at least 3%–5% by this backing, and would overcome any price disadvantage the trans-Alaska route might otherwise have had.

Testimony before the Federal Power Commission established the fact that the El Paso project is financially sound. It has no need for either State or Federal financial support. On the other hand, both trans-Canadian projects would require Federal guarantees from the U.S. and Canada. And the U.S. Treasury Department has not been happy about that.

In addition to other written testimony which has been submitted, I am including a copy of a letter written by our commissioner of revenue, Sterling Gallagher, to Mr. John Batinovich of your California Public Utilities Commission. This letter outlines in more detail Alaska's proposed financing plan, and the role our new permanent fund might play in that plan.

Turning to economics.—Many more jobs for Americans will be generated with approval of the all-American pipeline route—22,000 jobs on the pipeline, in the shipyards and building other needed facilities. An independent study commissioned by El Paso conservatively estimates that some 765,000 man-years of work will be needed to put together the El Paso facilities and run them for the life of the project. This is three times as many U.S. jobs as afforded by the Trans-Canadian proposals! Also, almost all commodity needs and equipment will be supplied by U.S. sources, fabricated in U.S. yards and shipped to the construction site in U.S. transport units. The Trans-Alaska project would result in maximization of employment opportunities for Alaskans, Californians and Americans in general—a goal I find it hard to believe President Carter would ignore.

Besides jobs, the El Paso project will pay $7 billion more in U.S. taxes than either the Arctic or Alcan routes. Beyond that, the all-American route would create no adverse effects on the U.S. balance of payments situation, in contrast with Arctic gas' $10 billion negative effect.

With these economic facts in mind, it's no surprise that such organizations as the national organization of the associated general contractors, the AFL–CIO, Teamsters Union

and others are supporting the all-American project. Some 247,000 man-years of work, or almost one-third that for the entire project, will accrue to the Pacific region. California's share alone is estimated at just over 120,000 man-years.

In its comparative analysis of December 1975, the Department of Interior concluded that the net economic benefits to the Nation would be greater with the Trans-Alaska, All-American delivery system.

The Trans-Alaska pipeline project is striving to lessen the impact of your natural gas shortage in California. Since you would be the first State to receive Prudhoe Bay gas, transportation costs will be less and, therefore, gas should be cheaper to you than to the other States. That U.S. Department of Interior analysis of '75 figured transportation costs of $1.60/mcf to California via the El Paso system—in contrast to $1.74/mcf via Arctic gas. With Alaska's financial backing, El Paso's costs will be even less.

In its May 2 advisory to President Carter the FPC stated, "it is in the best interests of the citizens of the United States that a system be built in the near future to transport natural gas from the North Slope of Alaska to the contiguous United States."

Although the commissioners expressed the desire for an overland route, it was pointed out that, "in the absence of agreement with the Canadian Government, a United States pipeline can be built in Alaska and a tanker system can deliver the gas to the contiguous United States at an economical price."

In terms of earliest delivery, the El Paso proposal appears to be far ahead for the reasons already given.

I was delighted to note that the chairman of the California Commission for Economic Development, your Lieutenant Governor and my good friend, Mervyn M. Dymally, wrote President Carter on May 23, urging approval of the El Paso proposal. Alaska wholeheartedly concurs with Lieutenant Governor Dymally when he tells the President that:

"Careful study has convinced me that, from a technical and financial standpoint, the El Paso project is superior or a close competitor on every count to the Arctic Gas and Alcan proposals. It is in the area of employment for Americans that El Paso clearly stands out.

The selection of the best route for transportation of our vast natural gas reserves is indeed a difficult decision. The key considerations to consumers must be the beginning date of delivery, the reliability and certainty of a continuing supply, the price per mcf, general benefits to cur economy, and the route which will cause the least amount of damage to the environment.

Alaska firmly believes that it is in the best interest of our two States and of the entire Nation to place this vital energy lifeline completely under the American flag. Mr. Chairman, I hope that after these deliberations your commission, and Governor Brown will choose to express support for the trans-Alaska, all-American natural gas delivery system in Washington where the President and Congress soon must make a decision.

Thank you, Mr. Chairman and Commissioners. I'll be happy to answer any questions.

## PEASE AFB CITED FOR SAC EXCELLENCE

Mr. McINTYRE. Mr. President, the Strategic Air Command's mission of strategic deterrence requires a high level of readiness. So it should come as no surprise that the men and women of the 509th Bomb Wing stationed at Pease Air Force Base are buzzing with excitement over SAC's recent ratings.

For the first time in the history of SAC all four maintenance squadrons in a bombardment wing were rated "excellent" by SAC's maintenance standardization evaluation team. In addition, the consolidated base personnel office at Pease was recently selected as the best CBPO in SAC and was named runner-up in Air Force wide competition.

I bring these ratings to the attention of the Senate to remind my colleagues that a strong national defense relies on more than weapons systems alone. Pride in a job well done is key to preparedness and at Pease Air Force Base the personnel are proud to be named the best in SAC.

These ratings are a tribute to the men and women at Pease and their commander, Col. Guy L. Hecker, Jr., and I ask unanimous consent to have two articles from Seacoast Flyer detailing the accomplishments of the 509th Bomb Wing printed in the RECORD.

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

### CBPO NAMED "BEST IN SAC"

The Consolidated Base Personnel Office here was recently selected as the best CBPO in Strategic Air Command and was named runner-up in Air Force-wide competition.

In a letter to Lt. Gen. James E. Hill, former commander of Eighth Air Force, Maj. Gen. Earl G. Peck, SAC deputy chief of staff for Personnel, said, "the sustained excellent performance in administering personnel programs by the personnel of the Pease CBPO exemplifies the value of both leadership and teamwork. You can be proud that the Pease CBPO has achieved this goal and be assured it is an example for the rest of the command."

General Hill, forwarding the Outstanding SAC CBPO Achievement Award to the commander, Col. Guy L. Hecker Jr., said, "Winning this award is a result of continuous hard teamwork, planning and professionalism on the part of your CBPO."

The trophy symbolic of the award was presented to Colonel Hecker by General Hill during a conference at Barksdale AFB, La. Colonel Hecker, in turn, presented the trophy to Maj. Neil R. Bearce, CBPO chief, during a ceremony here June 16.

Factors clinching the award for the base CBPO this year were the ratings given by various inspection teams throughout calendar year 1976.

The CBPO was rated "Excellent" following the 1976 Operational Readiness Inspection. Defense Nuclear Agency Inspection and 8th AF Human Reliability Program Inspection and was rated outstanding after the Commander's Annual Facility Inspection.

"It was primarily everyone's attention to detail and the cooperation between various sections that put it all together," pointed out CMSgt. Eugene C. Brown, Personnel Division sergeant major. "The coordination between sections and a lot of hard work, dedication and cooperation tied it up.

"This is the first time as far as I know of that Pease has earned this award, he continued. "And we've got a good start on winning it back-to-back. We've already had several evaluations and received excellent ratings," he said. "During the recent Personnel Management Improvement Team visit, 13 individuals were rated as 'Outstanding'; a rather considerable accomplishment," he added.

The PMIT is to CBPO as the Maintenance Standardization Evaluation Team (MSET) inspection is to maintenance or as the Combat Evaluation Group (CEVG) evaluation is to operations, Chief Brown explained.

"The real measure of our success, however, are the numerous individuals who either call us or write us a note or even drop by personally to thank us for the service they received," Chief Brown said. "That's when we know we're doing our job."

### MSET RATES WING "EXCELLENT"

(By T. Sgt. George H. Roberts, Jr.)

Maintenance ships throughout the base are still buzzing with excitement one full week after the outbriefing of the Strategic Air Command's Maintenance Standardization Evaluation Team, whose summary of the wing was, "Excellent!"

The MSET arrived June 12 for its annual, week-long, no-notice evaluation of the 509th Bomb Wing's maintenance and transportation capabilities.

The visit, according to Col. Allen B. Peterson, deputy commander for maintenance, resulted in the "the highest qualitative rating ever given to a bombardment wing in SAC.

"I can't help but feel elated," he exclaimed. "I'm so proud of my people that it's hard for me to express my emotions to them. I was informed by members of the MSET team that this is the first time in the history of SAC that all four maintenance squadrons in a bombardment wing have been rated 'Excellent,'" he said. "I think a lot was due to the attitude of our people. The men and women were, in fact, eager to be evaluated," continued Colonel Peterson. "I was told by MSET members that some of our people even volunteered to be evaluated. It's hard to beat an attitude like that."

"I think it says a lot for the quality of our people," added Col. Eugene F. Paquette, assistant deputy commander for maintenance. "As managers, our primary job is to establish objectives. We have to rely on the individual to do the job right. I'm pleased that we have individuals who say, I will do it, can do it, I know how to do it,' and then try to do it better."

According to Colonel Peterson, MSET's system of evaluation can be broken into two main segments: technical inspections and personnel evaluations. Technical inspections involve the evaluation of tools, equipment, aircraft and aircraft maintenance while personnel evaluations measure the degree of proficiency demonstrated by individuals in the performance of a specific task. Well over 1,300 individual evaluations were made within the four squadrons, including 703 personnel evaluations out of a minimum of 650.

The MSET also evaluated the transportation complex on base, narrowing in on the maintenance and operation of all SAC vehicles assigned. The squadron was credited with an overall "Highly Satisfactory."

"I think they did a super job in view of the harsh winter and its effect on the vehicles," said Col. Robert N. McChesney, deputy commander for resources. "It could only have been accomplished with a lot of hard work and I'm very proud of their accomplishments."

"We missed an 'Excellent' by just a hair," explained TSgt. Jeffrey B. Moore, chief of the transportation squadron's Quality Con-

trol Section. "But we're starting to work on that right now," he added, "and, next year, I'm sure we'll get it."

"How can I tell everyone how proud I am of them?" asked Col. Guy L. Hecker Jr., wing commander, at the conclusion of last Friday's outbriefing. "I just can't tell you how I really feel being a part of this wing. You're all great people and you did a super job!" he exclaimed.

Examining the results of the two previous MSET visits to the 509th reveals that the wing was rated "satisfactory" in personnel evaluations, technical inspections and overall both years. This year, however, the wing earned "Excellents" in all three categories.

Highlighting the "report card" at the conclusion of the evaluation were areas such as the 509th Avionics Maintenance Squadron's CMAA achieving a 100 per cent passing rate. In the words of the MSET chief, Col. Joseph E. Daneu, "This is the first time in five years that this has been accomplished at the squadron level."

Also highlighting the team's outbrief was the 509th Field Maintenance Squadron, the "first FMS to achieve an 'Outstanding' rating in technical inspections; the best FMS we have evaluated this cycle; and the finest Propulsion Branch we have seen in the last four years."

The significant accomplishments of the various squadrons will be highlighted in the *Seacoast Flyer* beginning this week (see page 5) with the 509th AMS and 509th Organizational Maintenance Squadron. More squadron coverage will appear in next week's issue.

## WILDERNESS TO PEOPLE

Mr. STEVENS. Mr. President, section 17(d)(2) of the Alaska Native Claims Settlement Act, ANCSA, of 1971 authorized the Secretary of the Interior to withdraw up to 80 million acres to study for inclusion in the national park, wildlife refuge, forest, and Wild and Scenic River Systems. There have been several bills introduced into the House and Senate to deal with the settlement of section 17(d)(2), all with different ideas on the proper course for Alaska lands. Certain legislation now pending before the Senate calls for approximately 145 million acres to be set aside as national parks, refuges, forests, wild and scenic rivers, and wilderness areas. This is 65 million acres more than dealt with by ANCSA.

I introduced legislation, S. 1787, which deals with the acreage withdrawn under section 17(d)(2) and calls for designation of some 25 million acres as units of the four national management systems with the additional (d)(2) acreage to be designated as Federal cooperative lands to be managed in conjunction with State and private lands. Such management will assure environmental protection and will allow further study to insure the best utilization possible for these lands which have up to now received inadequate study as to their best possible use. These lands would remain under the auspices of the Federal Government and could be designated by Congress at a later date as units of the four systems, once adequate study had been completed.

Over the July 4 recess hearings were held on another d–2 bill, H.R. 39, which has been introduced in the Senate as S. 1500, in Ketchikan, Alaska. The people of Ketchikan voiced strong opposition to H.R. 39. They felt it would be a devastating blow to their livelihood and way of life if Congress were to pass that bill. H.R. 39 and S. 1500 would put one-quarter of the vast southeastern region of Alaska into instant wilderness without study to determine what resources within those areas are of economic importance.

This instant wilderness designation would preclude economic development of Alaskan resources and would severely limit the timber industry, a primary source of jobs for the people of southeastern Alaska. They also felt that H.R. 39 and S. 1500 would not provide wilderness areas that most Americans could enjoy. The bill would create immense areas of wilderness in Alaska out of the reach of the vast majority of Americans.

After the recent hearings there were several articles printed in the Ketchikan Daily News reflecting the attitudes of the people of southeastern Alaska, some of which I just mentioned. Over the next few days I will insert three of these articles into the RECORD, Mr. President, I ask unanimous consent that the first of these articles, "Wilderness to People," be printed in the RECORD.

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

WILDERNESS TO PEOPLE

Saturday will be a big day in Ketchikan, almost as big as the day the Environmental Protection Agency began hearings last year on the pulp mill's pollution problems. At that time it looked like government regulations would shut down Ketchikan's major industry. The mill still has problems but that threat to the people and the community is over.

A new threat now appears. It is that in order to satisfy the guilt feelings of people of the lower 48 over how they've eliminated their wilderness, they are going to turn Alaska into a huge wilderness area. It is another case of correcting problems in Ohio, for example, with solutions in Alaska

Rep. John Seiberling, D-Ohio, is conducting hearings in Southeastern Alaska this week on proposals to turn one fourth of Southeastern Alaska into instant wilderness, without study to determine what other resources valuable to the people of the United States lie within those wilderness areas. The full legislative package would put one-third of the state of Alaska in four restrictive reservation systems.

The argument for H.R. 39, the proposal by Congressman Morris Udall, D-Ariz., on which Seiberling is holding hearings, is that the federal land in Alaska belongs to all the people of the U.S. and the people are entitled to have their wilderness areas and other reserves. We agree, but those reservations make no sense unless they can be used by the citizens of the U.S. to enjoy as wilderness, as game reserve or as scenic areas, parks and as recreation areas.

It costs over $500 just for the air fare from Ohio to Alaska and return. Not many of Ohio's 11 million residents can afford that for vacation travel. In fact only 280,000 people from all over U.S. and the world visited Alaska last year as hiker, sightseer, hunter or fisherman, the Alaska Division of Tourism reports. Most of the visitors were from the U.S. west coast, obviously because it costs less in time and money to travel to Alaska. Those other west coast states are rich in parks and recreation areas.

Ohio has five per cent of the people of the U.S., so how many visitors to Alaska were from Ohio, five per cent of the 280,000 or 14,000? Probably much less—less than 10,000 for sure. So how much good are parks and wilderness doing Ohio residents or two-thirds of Americans who live east of the Mississippi River? The answer is none.

There is a solution. Sen. Ted Stevens, R-Alaska, proposes taking parks to the people, like the people in Ohio. His legislation puts 25 million acres of Alaska into reservation and calls for study of another 55 million acres for the best use. Most important, his bill puts all federal and one half of all state royalties from development of federal land in Alaska into a special fund. That fund would be used to acquire private land in other states to create parks, refuges and recreation areas.

Ohio is a state of 26.3 million acres. Only 275,000 of those acres are in federal or state parks, national forests or recreation areas. That's less than one per cent of the state. No wonder Ohioans are concerned about wilderness and parks.

There are 5.5 million acres of forest land in Ohio, about twenty per cent of the state's area. And 94 per cent of those forested lands are in private ownership. Purchase of about a million of those acres to create parks in Ohio would do considerably more for the people of Ohio than creating a 2.4 million acre wilderness area for them near Ketchikan, Alaska. The royalties from the U.S. Borax development near Ketchikan, the stumpage fees from timber cut for Alaska's mills could benefit all of the people of Ohio rather than the wealthy who can afford long and expensive trips to Alaska.

Another aspect is that Southeastern Alaska can support a much larger population and some of those people could be from Ohio. Many of us here now came from other states.

Alaska has 40 million acres of commercial timber land. That is almost as big as the entire state of Washington at 42 million acres. Washington supports a timber industry of 35,000 workers, compared with 3,500 in Alaska. And Washington has wilderness areas and parks, about three million acres of them. Developing the 40 million acres of Alaska commercial forest land is no threat to the total forest. It is one-third of the total forested area in the state. Ohio, on the other hand, lists almost all of its 5.5 million acres of forest as commercial. There is the threatened wilderness.

## PRESIDENT CARTER AND OSHA

Mr. RIBICOFF. Mr. President, I am very pleased to see that President Carter is taking a major step to reform the Federal Government's efforts in the area of occupational safety and health.

The President has directed an interagency task force headed by Secretary of Labor Ray Marshall and Director of OMB, Bert Lance, to "consider ways to strengthen the Federal role in protecting workplace safety and health." I applaud this effort.

I feel strongly that the Federal Government should do everything possible to insure a safe and healthful work place. But the current Federal effort in this area has been less than effective. The

new administration has moved vigorously to make changes in this area. Secretary of Labor, Ray Marshall and the Assistant Secretary for Occupational Safety and Health, Eula Bingham have already made great strides in improving the functioning of OSHA.

The Senate Committee on Governmental Affairs has been conducting a 2-year study on Federal regulation. The final volume of the study to be published in the fall will deal with many of these issues including the use of incentives to improve worker health and safety, and I hope that the committee can work closely with the President's task force and the Senate Human Resources Committee in seeking to improve the Federal effort in this area.

I ask unanimous consent that the President's memorandum to heads of executive departments and agencies be printed in the RECORD.

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

[From the White House, Washington, D.C.]

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

I have frequently expressed my commitment to review and reform the Federal role in combatting safety and health hazards in the workplace. My aim is to improve the effectiveness of our efforts to protect the health and safety of American workers.

The Secretary of Labor, Ray Marshall, and the Assistant Secretary for Occupational Safety and Health, Eulah Bingham, have already moved vigorously to make our approach to occupational safety and health more sensible and effective. On May 19, 1977, the Labor Department announced a program to redirect the resources of the Occupational Safety and Health Administration (OSHA) away from trivial problems and toward more serious hazards to safety and health.

In another step towards common sense priorities, the Department of Labor announced on July 19 a program to reduce OSHA paperwork and streamline its record-keeping requirements. The nation's 3.4 million small businesses will be exempt from filling out complicated job health and safety forms, and the paperwork for 1.5 million larger employers will be cut in half. Over the coming weeks, the Administration will take additional steps to reduce unnecessary burdens and allow OSHA to concentrate on the most serious hazards.

To complement these internal changes at OSHA, I have asked Ray Marshall and Bert Lance to head an interagency task force that will consider ways to strengthen the Federal roll and protecting workplace safety and health. This task force will report to me with its first recommendations for action by April 30, 1978.

In addition to the Secretary of Labor and the Director of the Office of Management and Budget, this interagency group on worker safety and health protection will include the Departments of Commerce, Health, Education and Welfare and the Council of Economic Advisers, the Domestic Policy Staff, and the Small Business Administration. From time to time, I expect other departments and agencies to participate actively.

I want to be sure that federal programs actually do reduce threats to the health and safety of American workers, and that they help employers make the necessary adjustments. The inquiry will concentrate upon:

Exploration of incentives that might supplement workplace safety regulations. These might include improved education and information services, economic aid and tax incentives to help employers improve workplace safety, changes in workers' compensation and liability laws and deterrent penalty structures.

Evaluation of the government-wide administration of Federal workplace safety and health activities. This will include investigation of duplication, overlap and gaps in Federal agency jurisdiction.

Review of other ways to improve the safety and health efforts of all Federal agencies, including those programs that affect Federal employees, and resources devoted to them.

As you know, improvement of Federal health and safety protection measures is a matter of intense concern to the American people. This effort will be part of our larger program of looking at innovative approaches to many regulatory issues. It will help shape our reform program in other regulatory areas and will, I am confident, be one of this Administration's most valuable accomplishments.

You may be asked to contribute time, resources, and staff to this effort. I know I can count on your assistance.

In order to inform all affected parties that this review is underway, I have directed that this memorandum be published in the Federal Register.

JIMMY CARTER.

## DEEP SEABED MINING

Mr. STEVENS. Mr. President, my good friend and colleague Senator DANIEL PATRICK MOYNIHAN, recently delivered a speech at the christening of the nuclear submarine *New York* in which he addressed the need for the United States to pass unilateral deep seabed mining legislation allowing American corporations to exploit the resources of the deep ocean bottoms. Senator MOYNIHAN's articulate speech aptly described the failure of the Law of the Sea Conference to resolve contentious issues of ocean law.

As a former Ambassador to the United Nations, Senator MOYNIHAN comprehends the problems associated with international negotiations. My distinguished colleague has come to the conclusion that the United States must now, in the light of the failure of the Law of the Sea Conference to resolve itself, implement comprehensive deep seabed mining legislation. I am glad my good friend has joined with me in calling for a unilateral deep seabed mining law.

Mr. President, Senator MOYNIHAN and I are not the only ones who have seen the failure of the Law of the Sea Conference. With equal disappointment I am sure our own representative to that negotiation, Ambassador Elliot L. Richardson, has also concluded that the United States must reevaluate its position on that conference.

Ambassador Richardson portrayed the new Law of the Sea text as most distressing to people like Senator MOYNIHAN and myself who have followed the Law of the Sea Conference for many years.

In Ambassador Richardson's words:

The substance of the text on this issue (deep seabed mining) and the lack of fair and open process in its final preparation (meaning the text) require me to recommend that the United States undertake a more serious and searching review of both substance and procedures of the conference.

Mr. President, it is time that the Congress of the United States addressed the contentious issue of deep seabed mining legislation. We must assess this problem and pass unilateral legislation which would allow American industry to exploit the resources of the deep ocean bottom. An American deep seabed mining industry which landed its ore in the United States would reduce the reliance of the American economy and our defense systems upon the importation of strategic minerals from foreign nations. Deep seabed mining is an issue of strategic national importance as well as economic freedom of the seas.

According to Ambassador Richardson, the latest text of the Law of the Sea Conference would not guarantee the United States "reasonable assurance of access" to deep seabed mining resources. The United States cannot accept the Law of the Sea Treaty in which we are not guaranteed access to strategic minerals which are vitally needed. Additionally, the new text also provides that artifical limits on seabed production of minerals may be established. Not only would this make financing of operations difficult, but it also is antithetical to the U.S. defense interests. If the United States is to rely upon deep seabed mining operations as a source of supply for strategic minerals, we cannot allow a cartel of lesser developed nations to indicate to us how much of that strategic mineral we can mine. Minerals needed to maintain the defense readiness of the United States cannot be placed under the control of a cartel of foreign nations. Mr. President, as of the present time, no deep seabed mining bill has been filed in the Senate. Now that my colleague, Senator MOYNIHAN has joined with me in support of unilateral deep seabed mining legislation, perhaps the Senate will begin consideration of such a bill.

We all share a great concern for the future of the Law of the Sea Conference. It is time however, for all of us to reevaluate our positions on that conference in light of its present failure. I would urge each of my colleagues here in the Senate to carefully evaluate their past positions on deep seabed mining legislation. The United States has been forced into a position with no alternatives. We must now pass deep seabed mining legislation if our seabed mining technology is to be used to gain access to the resources of the deep ocean bottom.

I ask unanimous consent that Senator MOYNIHAN'S address to which I have previously referred be printed in the RECORD.

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

ADDRESS BY SENATOR DANIEL PATRICK MOYNIHAN

Trying to describe what Venice meant to the Mediterranean world of the 15th or 16th Century, the French historian Fernand Braudel writes: "Venice dominates the 'Interior Sea' as New York dominates the western world today."

We welcome this newest dimension to our influence, the nuclear attack submarine *New York City*. I would like to take this occasion to comment on development now in evidence at the United Nations Law of the Sea Conference, now underway in New York City.

It will seem odd, perhaps, but my thoughts on the occasion go back years almost to this day when I found myself sitting on the bank of the Thimphu Chu River which flows past the palace in the Himalayan kingdom of Bhutan, where I was attending the coronation of His Majesty Jigme Sinye Wangchuck. It was a memorable occasion on several scores. Of the greater personal significance was the day's fishing. A Scotsman devoted the first quarter of this century getting brown trout into those imcomparable streams, but the Bhutanese, a Buddhists, won't kill them. So there they were awaiting me, and for the first and last time in my life I caught all the fiish I could hope for. Indeed I grew weary of the work, and fell into conversation with the young Foreign Minister of Bhutan who was watching, tolerantly, from the stream bank. How much, I said, I would regret leaving the incomparable country, at the very top of the world, touching the heavens if any country could be said to do, the very outermost reach of human habitat. The Foreign Minister remarked that he, too, was sorry that he would be leaving. For what, I enquired? Why for the Law of the Sea Conference, he answered.

That was indeed a bright confident morning, and it seems so far past. In 1970 the United Nations Seabed Committee declared that the resources of the seabed and the ocean floor were the "common heritage of mankind." The United States, far from resisting this proposal, embraced it in the most forthcoming manner. President Nixon's statement on U.S. Ocean policy of that year supported the concept, and the United States entered the negotiations which led to the opening of the Law of the Sea Conference in Caracas, Venezuela on June 20, 1974.

Three years have passed, however, and confidence is fading. Just this week our chief negotiator Elliot L. Richardson, who has played a singular role in American government over so many years now, who commands a unique respect among the American people and the United States Congress, spoke of stalemate, and warned that the entire effort "now hangs in the balance."

This is not good news. Not for the seafaring nations of the world; not for the landlocked, not for those, as it were, in between. For the assertion that the seabeds were a common heritage gave to nations everywhere a common interest—Bhutan no less than Iceland, Hungary as much as New Zealand—in how this common heritage is shared.

Nor is it good news that the Soivets appear to have judged that the prospects for failure are sufficiently strong that they should no longer invest any energies in pursuing success. For a long period the Soviets in effect acknowledged that they shared the common interests of the seafaring and technologically advanced nations in getting a good treaty. Now they appear to have cut any ideological losses that might have occasioned, and are routinely supporting the most counterproductive demands of the Group of 77. Thus if the Conference fails, they will have been on the side that will blame us for the failure. If it succeeds, we will have won for them the terms they desire.

Let me state that the United States negotiators do not at all share the Soviet view. Ambassador Richardson's statement on June 13 had the desired effect of bringing forth a new draft which could be described as very substantially improved—from, that is, its predecessor which was plain unacceptable.

Some general comment might accordingly be of use from someone who was marginally involved in these negotiations at an earlier stage, and who will be one of those assessing the final result if, hopefully, a treaty is agreed upon at an early date and sent to the Senate for ratification.

I speak now to the Group of 77, now 114 countries in all, and I shall speak to what I believe to be the two principle questions involved here.

First, do the developing nations understand that by entering into these negotiations, and remaining faithfully with them, the United States and the western nations generally have agreed to negotiate for and, in the bargaining sense, to pay for rights which exist in the absence of a treaty? We did not have to do this; we wanted to do it. We wanted to do it, among other reasons, because we wanted to establish a regime for the use of the resources of the seabed which would produce resources that would be shared with the farmers of the Thimpu Chu River in Bhutan—and the Yangtze, and the Congo, and the Amazon We did not have to do this. We have under existing international law, including as Dr. S. Fred Singer has noted, the 1958 Geneva Convention, the perfect right to extract mineral resources from the deep ocean beyond the continental shelf. Moreover, we have the technology to do so.

I remember at the United Nations I had breakfast one morning with officers of the Kennecott Corporation, which has its headquarters on 42nd Street in New York. We spoke of the matter, and I asked the company's President: if it were decided to go into deep sea mining that day, how long would it be before manganese nodule copper would be used in lamps on sale in Brooklyn? 1985 was his reply. That was two years ago, and so I assume his answer today would be 1987. We have lost two years and the developing world has lost two years also.

And, we need some of those metals. We now import 82 percent of our nickel and manganese, 72 percent of our cobalt. We are dependent on other nations for minerals which verge on the strategic. And we would not have to be—we could quickly become almost wholly self-sufficient—if we simply went ahead to do what we have the right to do and the know-how to do.

What we do not have to do is to bog down in an endless parley in which every concession we make is instantly transformed into the next item to be negotiated.

There is a second and larger question. It is well known that the greatest obstacle to agreement at this point has to do with the nature of the Seab-d Resource Authority. How will it be run? Will it have complete control over who may or who may not undertake seabed mining, or will these exist a right of access by all parties, public and private?

The Group of 77 clearly opts for an all powerful international authority. Their newest draft states: "All activities in the area shall be conducted on the Authority's behalf." " . . . All activities in the area shall be conducted, organized, and controlled by the Authority . . . " We resist this. We want to make sure, among other things, that the seabeds will be open to private businesses which meet internationally agreed standards for such operations. We remind ourselves of Grotius' great dictum: the oceans "can neither be seized nor enclosed." (*Mare Liberum*)

Here once again we glimpse what my senior colleague Senator Javits, in a brilliant address to the Senate reporting on the recent (and failed) North–South conference in Paris (the Conference on International Economic Cooperation), termed "the abyss of difference between the developing countries and the developed world."

There is a simple point to be made here. The members of the Group of 77 will not like hearing it, but if they really want a Law of the Sea Treaty they are going to have to try to understand us, just as we must try to understand them.

The simple point is this: Most of us in the West—not all of us, by any means, but most of us—regard free economic activity as an indispensable condition of free political activity. We know that most nations in the Group of 77 do not believe this, or don't think it matters. We do not ask them to change their views. But we do ask them to understand that we do believe this and we do think it matters.

It comes to this: Of the 114 nations in the Group of 77, the Freedom House survey can find only sixteen that could be listed as Free, which is to say, these are nations in which citizens enjoy free political activity. Now obviously for many of the governments of the other 98 nations free economic activity—after a point at least—poses as much a threat to their way of doing things as would free political activity. And so they will not have it. Which is all well and good.

But they must not tell us that we cannot have it. For to do so is to tell us that we must risk losing the political freedoms that are precious to us beyond all things.

The Group of 77, so adept at asserting principles, must understand that for us, too, there is an issue of principle at stake in these negotiations.

We will not abandon the economic and political principles that have created our society in order to provide ideological sanction for the dictatorships of the Group of 77. I speak not as a negotiator of course, but as a Senator. I speak in the desire that there should be a treaty, but in the conviction that nothing would be worse than a bad treaty. I speak as one who wholly supports the efforts of Senator Lee Metcalf of Montana to make it possible for American firms to get on with the job pretty soon now, treaty or no treaty.

We want a treaty. We want a regime of shared responsibility and shared resources. But we remind the new nations of the world that by law the seas are free today, and we are not about to negotiate away that freedom in order to provide international sanction for political systems that are so painfully different irom and usually opposed to our own. Do not suppose we do not understand you on this. We understand you well enough.

Do not suppose it is going to come as any surprise to us when some regime accuses a Woods Hole survey of stealing vital secrets of its continental shelf. The freedom of science is as threatening to repressive regimes as is any other freedom.

But this does not mean we cannot work together. It means only that we must seek agreement in open awareness of the complexity of each other's concerns.

At whatever cost in the small change of diplomatic niceties, the Group of 77 must

acquaint themselves with the full range of our interests in this negotiation and the steadfastness of purpose with which we will pursue these interests.

## A SUCCESS STORY FOR COLLINS RADIO

Mr. CULVER. Mr. President, as a member of the Senate Armed Services Committee, I have long been concerned about deficiencies in our military readiness posture. A major contributor to readiness problems is unreliable equipment, either because of poor design or manufacture or because of a premature shift from research and development into production.

When equipment fails earlier than planned, whole systems such as aircraft can be rendered inoperable until spare parts can be obtained or items can be switched from another plane. Unreliable equipment consequently leads to wasted man-hours and to reduced combat capability.

In view of the generally gloomy picture of aircraft readiness, since many of our newest planes are operationally ready less than half the time, it is reassuring to learn of a genuine success story in improved reliability.

Collins Radio of Cedar Rapids, Iowa, a major supplier of airborne communications and navigation equipment to the Government and private industry for many years, has developed and is supplying to the Air Force dramatically more reliable equipment for Tactical Air Navigation—TACAN.

The Collins Radio TACAN, known technically as the AN/ARN-118(V), is an airborne system to give pilots essential navigational information concerning the distance and direction to a known location of a ground station. Nearly all military aircraft are required to have some kind of TACAN on board.

When Collins Radio entered the competition to develop a new TACAN using solid state technology in 1970, the older, tube-type systems were suffering failures on an average of every 50 to 100 hours of flight. Maintenance costs alone have taken about $25 million per year.

The Air Force applied new management techniques to the TACAN competition, including a "design to cost" requirement—of $10,000 per set, a high reliability requirement, and a "Reliability Improvement Warranty"—RIW. The U.S. Government was consequently more confident than the new TACAN would be low in life-cycle costs as well as in initial production costs.

The specialty warranty, RIW, requires the contractor to replace all equipment malfunctions at a predetermined minimum rate for a period of 5 years. Knowing that they will have to foot the bill if repair costs become excessive, contractors take extra care to build in genuine reliability.

Collins Radio won the TACAN competition and is now under contract to build 8,500 TACAN sets. The warranty will be in force until 1982. Operational data on the new TACAN sets show a dramatically increased Mean Time Between Failure—MTBF—of over 800 hours, compared with the 50 to 100 hours on the older sets. These figures mean, of course, that equipment failures are less frequent, maintenance costs are down, and readiness is improved.

Mr. President, I cite this example not only because of pride in the superior product of a company in my State but also because of the direct contribution which that product makes to a more cost-effective defense.

## H.R. 6502: EXTENSION OF AUTOMOBILE ASSISTANCE ALLOWANCE AND EQUIPMENT ELIGIBILITY

Mr. CRANSTON. Mr. President, I wish to explain the provisions of H.R. 6502, a bill, passed unanimously by the Senate on August 3, to extend the automobile assistance allowance and equipment eligibility to certain severely disabled veterans who served in World War I, and before and after that time.

Mr. President, the reported bill would amend chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain service-connected seriously disabled veterans who served in the Armed Forces of the United States prior to September 16, 1940. The committee bill would amend section 1901 of title 38 to extend these benefits to those veterans of World War I and any eligible veterans who served before or after World War I.

### BACKGROUND

Mr. President, the program of basic automobile grants—now chapter 39 of title 38—was established by the Congress in Public Law 79-663, enacted on August 8, 1946. Under that law, certain disabled veterans of World War II—with service between December 7, 1941, and December 31, 1946—were provided with or assisted in the purchase of an automobile or other conveyance. Public Law 82-187, enacted on October 20, 1951, extended these benefits to veterans of the Korean conflict. Public Law 90-77, enacted October 1, 1967, further extended these benefits to any veteran with service after January 31, 1955, who met eligibility requirements under a more restrictive criterion of having disability incurred in the line of duty as the direct result of performance of military duty, rather than under the standard service-connection criterion, of having a disability resulting from an illness or injury sustained or aggravated in service in the line of duty, applied to World War II and Korean conflict veterans.

Public Law 90-666, enacted on December 31, 1970, effective on January 11, 1971, increased the maximum amount payable toward the purchase of an automobile or other conveyance from the then $1,600 to a level of $2,800. The law also provided, for the first time, for VA payment, in addition to the dollar grant, of the cost of necessary adaptive equipment, as well as of the maintenance, replacement, and installation thereof. Public Law 93-538, enacted on December 22, 1974, extended the automobile and adaptive equipment entitlement to all veterans who had served from and after the beginning of World War II, as defined by section 101(8) of title 38, and thereafter. Public Law 94-433 extended the duration of this entitlement to all veterans who served on or after September 16, 1940—the date of the first general callup of troops for World War II.

Thus, Mr. President, the program in present law does not distinguish between periods of war-time and peace-time service except that veterans who served prior to September 16, 1940, are ineligible for such assistance. The House-passed bill makes eligible only those who served during the period of World War I as defined in section 101(7) of title 38 and thus leaves uncovered under chapter 39 a group who served in the peace-time armed services between 1920 and 1940—a distinction applicable only to this program among all service-connected title 38 programs for which such veterans could otherwise be eligible.

### DISCUSSION

Mr. President, the Veterans' Administration's basis for not approving this extension of eligibility was that this entitlement was a "rehabilitative benefit * * * principally a means of assisting certain disabled veterans in their employment endeavors." The committee was unwilling to accept that reasoning. Although the automobile allowance may have originally been intended to be a rehabilitative benefit, over the years the law granting this benefit has changed extensively and its provisions have become more encompassing. It has now become a general, rather than a rehabilitative benefit.

Accepting, as the committee did, the reasoning that the benefit has become general, it is difficult to justify the exclusion of those veterans who served in the Armed Forces between 1920 and 1940. It should be pointed out that the number of "regular establishment" armed services members during that period of time was very small in number, and thus, we believe that the number of eligibles who served during that period of time would be very small.

Additionally, the committee felt that just because a benefit that expedites placement in the community might well be considered rehabilitative in nature, does not suggest that such a benefit should not be generally applied. Indeed, chapter 21 of title 38, which provides specially adapted housing grants to certain severely disabled veterans, enabling many to live outside the hospital environment, makes no such distinction either among service periods or between rehabilitative and nonrehabilitative purposes.

Thus, Mr. President, the bill as reported would cover not only veterans who served during World War I but also those who served before then and those who served since then prior to 1940. This conforms to the philosophy of extending such service-connected benefits generally to all those who are basically eligible regardless of the period of time when their service occurred.

Mr. President, the committee, based on information supplied by the Congres-

sional Budget Office, estimates a cost for H.R. 6502 as reported of just under $2 million over a 5-year period. On the other hand, the Veterans' Administration estimates a cost of $3.9 million for the reported bill over a 5-year period.

CONCLUSION

I believe, Mr. President, that it is long past time that we extend these benefits to these veterans, particularly those of World War I, who are certainly no less deserving than those who served at any other time in our Nation's history. I am hopeful, therefore, that the bill as reported and passed will be acceptable to the other body.

## SITUATION IN LITHUANIA DEMONSTRATES NEED FOR GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, each time that I travel to Wisconsin, I have the opportunity to meet with many groups of diverse backgrounds and heritages. One group that has always impressed me as being particularly dedicated to preserving our freedoms is the Lithuanian people. But that should hardly be surprising, for they have not forgotten the tragedy of the Soviet-planned genocide of their tiny Republic.

It was some 37 years ago that the Soviets invaded Lithuania. Within days the Russians were in total control. They immediately sent members of the lawful government to jail and substituted a puppet regime. Soon thereafter the country was incorporated into the Soviet Union. The Lithuanian people, needless to say, were never asked for their consent.

In the nearly four decades since those fateful weeks, the Lithuanians have been subjected to abject poverty, isolation from the West, and total loss of freedom. Perhaps most terrifying, however, has been the loss of a sizable portion of the country's population as a result of a predetermined, systematic program of genocide by the Soviet authorities.

The Soviets incredibly slew some 285,000 people. They seized approximately 400,000 men, women, and children in a series of raids and horrifying deportations to Siberia. Records show that from 1944 to 1953, more that 100,000 freedom fighters were killed as well.

Mr. President, this small nation still looks to us for support, as do all oppressed people. It is time that we declare our unqualified opposition to the terrible crime of genocide. For almost three decades, the Genocide Convention has gone without action by this Nation. The Senate of the United States has failed even to consider it. Now that the new administration has renewed and strengthened our commitment to human rights, it is time that we finally act. Let us ratify the convention this session.

## SENATOR SCOTT'S NEWSLETTER

Mr. SCOTT. Mr. President, our office is currently processing a newsletter to constituents and I ask unanimous consent that a copy be printed in the RECORD for the information of colleagues.

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

PANAMA CANAL

For more than a decade officials of the Department of State have been discussing proposed changes in the status of the Panama Canal. Proposals include transfer of title and control of the Canal Zone and the canal itself to Panama. It is also proposed that we increase the annual compensation paid to Panama but retain troops there to protect the canal.

Many Americans have expressed concern that our officials would even consider such action because of the economic, political and military importance of the canal to our own country.

History records that the French first attempted to construct a canal through the Isthmus of Panama, while it was still a part of Colombia, but their efforts were unsuccessful. Thereafter, the portion of Colombia now known as Panama became an independent nation and our government, by treaty, acquired the right, in perpetuity, to use, occupy and control an area ten miles wide from the Atlantic to the Pacific oceans with all rights, power and authority as if the United States were sovereign to the entire exclusion of the Republic of Panama. For this privilege the United States agreed in 1903 to pay Panama the initial sum of $10 million and to make annual payments of $250,000 thereafter, which was later substantially increased.

Let me add, however, that the United States not only made these and other payments to Panama, but we also paid France and Colombia for their interests, as well as owners and squatters upon the property, and constructed the canal at a cost of $367 million. When a question was raised with regard to our title, the Supreme Court stated, "It is hypercritical to contend that the title of the United States is imperfect and that the Canal Zone does not belong to this Nation, because of the technical terms used in ordinary conveyance of real estate."

During a recent trip, I flew over the canal by helicopter with the Commanding General, had its operation explained, visited the locks with other officials, talked with the Governor of the Canal Zone, the American Ambassador, a former Foreign Minister of Panama, and a group of American canal employees. The issue was discussed with more than 100 individuals, some American citizens living in Panama, Argentina or Chile, and some foreign nationals. There was substantial agreement that the United States had constructed the canal and utilized it in the best interests of all nations, with toll charges only sufficient to cover the cost of operation. Fear was expressed that the Panamanians might let the facilities deteriorate; that they might increase tolls; that the facility might not be open impartially to all nations; and that it might come under communist control. Should you desire a more detailed report, as presented to the Senate Armed Services Committee, kindly let me know.

In view of these facts, it appears untenable for our government officials to negotiate the transfer of ownership and control to the country of Panama, and to couple this with agreement to pay Panama hundreds of millions of dollars. Unless the Congress or the American people can prevail upon the White House or the Department of State not to enter into a treaty to give away our property, the only other recourse is for the Senate to refuse to ratify the treaty and for Congress to refuse to appropriate funds specified in the proposed treaty. Such action could result in a confrontation between the United States and Panama. Yet we have a government of checks and balances and in my opinion the Congress cannot permit this valuable national asset to be lost because of agitation within Panama brought about by the desire of its political leaders to acquire the property and the encouragement our State Department has lent to them by acting as if we had no further interest in this vital artery of commerce.

BUSING

The Senate Judiciary Committee recently approved legislation to indicate when the busing of children can or cannot be ordered to obtain a racial balance. The measure would require a preliminary finding by a court that the school intended to discriminate against students before busing could be ordered. It would also limit the busing order to the extent necessary to provide a remedy for the actual discriminatory act and in practical effect tend to eliminate massive busing.

Because of time limitations for the balance of this calendar year, it is doubtful that the bill will come before the Senate directly but will probably be considered as an amendment to a House passed bill.

ENERGY DEPARTMENT

Legislation recently cleared the Congress that would consolidate various energy activities of the federal government in a new cabinet-level Department of Energy. Some argued that a centralized agency was needed to effectively coordinate national energy policies. However, a number of Senators expressed concern over establishment of a new department which is estimated to cost taxpayers more than $10 billion during its first year of existence.

It has been suggested that a typical federal agency starts small, grows slowly for a while and then expands significantly later on. We are advised that since the Department of Health, Education, and Welfare was established, total spending for HEW programs has jumped from less than $7 billion in 1954 to about $160 billion today; and the number of employees has increased from fewer than 36,000 to more than 140,000. Those having reservations about the proposal also pointed out that federal officials would have the authority to pursue economic planning activities which could well result in increased government regulation and control over the operation of the competitive marketplace. It appears the private economy could have served the nation's energy needs without the creation of a new super-agency.

PRESIDENTIAL ELECTIONS

A resolution is being considered by the Senate Judiciary Committee for the direct election of the President and Vice President. The procedure to amend the Constitution would require a two-thirds vote of both the House and the Senate and ratification by three-fourths of the states.

Of course each colony was independent before a national constitution was adopted and a major issue at the Constitutional Convention was the extent of authority to be delegated to the national government. The smaller states were concerned that they would be dominated by the larger, more populous ones. As you know, however, a compromise was reached providing for a House of Representatives based upon population and two Senators from each state, regardless of size. The electoral college system for the selection of a President and Vice President similarly provided for two electoral votes from each state corresponding to the representation in the Senate and additional electoral votes equal

to the number of members of the House of Representatives from each state.

Almost everyone would agree that the present electoral college has outlived its usefulness and that even if the electoral system is retained, the unfaithful elector should be eliminated.

Opponents of direct election have expressed concern in hearings before our Committee that citizens in sparsely populated areas, or small states, would not have the influence under a direct election system that they have today. Concern has also been expressed that candidates for President and Vice President would concentrate their campaign efforts, through the mass media, on large metropolitan areas of the country. Proponents, however, tend to believe that the only democratic method of electing our chief executives is by direct popular vote of the people.

Under present law, each state casts all of its electoral votes for the candidates who receive the most popular votes in the state, so that Virginia, for example, casts all of its 12 votes for the Presidential and Vice Presidential candidates who carry the state. Compromises between the present system and direct elections which have been suggested include the "Proportional Plan", under which the electoral votes of each state would be prorated on the basis of the percentage of the votes received by various candidates. A second alternative, known as the "District Plan", would have a vote cast for candidates who received a majority of the votes of each congressional district and two votes of each state cast for the candidates who received the greatest number of votes statewide.

Hearings have been concluded and the Judiciary Committee has agreed to a vote not later than September 16 on reporting the resolution to the Senate. This could be a close vote but in all probability the measure will be favorably reported.

There is doubt that the direct election efforts will be successful because many Senators will oppose the resolution based on the concept of federalism and the dual sovereignty concept of our state and national governments. On the other hand, some organizations, such as the National Association for the Advancement of Colored People and the Americans for Democratic Action, have indicated their opposition because of a belief that minority influence will not be as effective under a direct election and this combination probably will prevent the proponents from obtaining the necessary 67 votes in the Senate.

Of course the views of constituents on matters of this nature are always appreciated and especially so in this instance because, as ranking minority member of the Subcommittee on the Constitution, I may be one of the floor leaders when the resolution is considered in the Senate.

MILITARY UNIONS

By unanimous vote our Senate Armed Services Committee has favorably reported a measure banning unionization of our military forces. The bill also would make it unlawful for military or civilian employees of the Department of Defense to bargain on military issues. In addition it would be unlawful for any individual to organize or attempt to organize a strike or other action by military members against the government or use any military property for purposes of union activities.

The committee held a number of hearings on this matter and witnesses appeared from the Department of Defense, from various military and veterans organizations and from certain labor unions. These witnesses generally agreed that labor unions within our military services would have undesirable effects on morale and readiness of military servicemen and have no place in the military services.

Apparently the American people agree with this since a recent Gallup Poll indicated that 74 percent of Americans opposed unionization of the military services with 13 percent supporting such unionization and 13 percent undecided.

WASTEFUL SPENDING

Citizens generally have expressed concern over the high cost of government and duplication in federal programs. Of course we recognize the need for government to provide needed services but would eliminate nonessential spending. In this connection the General Accounting Office was requested to determine the overall cost of the federal government's public relations activities and to suggest ways to curb unnecessary expenditures. However, after surveying 20 departments and agencies, the Comptroller General responded that it was very difficult to make such a determination because of a lack of government-wide information and a common definition of activities that should be included as public relations.

The report indicates that no one in the Federal government knows how much is being spent each year on advertising, filmmaking, publishing of books and pamphlets, token gifts provided by various agencies, and related programs. A few days ago our office suggested that the Senate Governmental Affairs or Appropriations Committees consider holding hearings or otherwise investigate the cost of items mentioned in the General Accounting Office report and other promotional activities of the government. It seems desirable to eliminate low-priority spending programs in order to reduce the deficit and the cost of government. Copies of my floor statement which includes the GAO report are available upon request.

PROPOSED LEGISLATION

Your views would be welcome on any of the following proposals which may be considered in the Senate later this year:

National voter registration.
Energy regulation and gas taxes.
Increase in the minimum wage.
New consumer advocacy agency.
Delay in banning saccharin.
Hospital cost controls.
Unionization of the military.
Federal no-fault insurance.

SOMETHING TO PONDER

"In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."—Thomas Jefferson

## A NATIONAL DOMESTIC DEVELOPMENT BANK—A CURE FOR URBAN FINANCE ILLS

Mr. HUMPHREY. Mr. President, the future of our State and local governments is troubled and uncertain. We can no longer neglect the fiscal difficulties that confront them. Mr. President, Congress is not a passive body. The American people have given the Congress a mandate to act when the need is there. In this case, there is most certainly a need for action. When New York City's crisis passed, we heaved a sigh of relief—and proceeded to ignore its urgent warnings. Our generosity rebuilt Europe after World War II. Why, then, can we not do the same for our own good?

For several years I have been proposing the concept of a National Development Bank for our troubled cities as a viable alternative to the municipal bond market. On July 28, the Subcommittee on Economic Growth and Stabilization and the Subcommittee on Fiscal and Intergovernmental Policy of the Joint Economic Committee held an informative hearing on this topic. A forceful case for a Federal intermediary for State and local governments was presented by Dr. Jean Gray, chairperson of the department of finance and insurance at Rider College in Lawrenceville, N.J.

She believes that a National Domestic Development Bank "can improve and strengthen the market for tax-exempt issues that continue to be offered; can impose reasonable credit standards on would-be borrowers—and can operate independently of other Federal programs."

Dr. Gray strongly favors a Domestic Development Bank as an effective financing alternative available to State and local governments. Among the potential benefits would be: First, tax equity and efficiency problems would be reduced by the substitution of a taxable obligation for some tax exempt securities; second, a single debt instrument of recognized credit standing would replace a heterogeneous collection of local issues; third, the investor base for municipal financing would be extended to all those for whom high grade, marketable securities are an attractive investment; fourth, interest rate volatility on new issues in the tax-exempt market resulting from cyclical or other changes in investors' tax liabilities would be reduced by the availability of a taxable financing option; fifth, supply conditions in the tax-exempt market would be improved by reducing the volume of securities traded in that market; and sixth, State and local governments would be able to borrow at maturities which reflect the life expectancy of the asset being financed, with payments of interest and principal scheduled to coincide with anticipated cash flows.

Mr. President, how long will we tolerate the inequity and ineffectiveness of our present municipal financing system? How long can our State and local governments continue to tolerate it? It seems to me that the near financial disaster of New York City should have taught us a lesson. I urge the speedy passage of S. 1396, the National Development Bank Act, so that we need not continue to operate by crisis management and can offer our State and local governments relief from their fiscal distress.

Mr. President, I ask unanimous consent that a copy of Dr. Gray's prepared statement for the hearing be printed in the RECORD.

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

THE CASE FOR A FEDERAL INTERMEDIARY FOR STATE AND LOCAL GOVERNMENTS

The proposition that the availability of funds to states and political subdivisions could be improved by the creation of a new financial intermediary is not new.[1] Opposition to such an intermediary has already been voiced. Representatives of the securities industry oppose it on the grounds that an existing capital market would be at least partly destroyed. There is a fear that an intermediary would encourage fiscal irresponsibility. Some municipal financial officers foresee a possible loss of local autonomy and the substitution of loans by the intermediary for outright federal grants. However, there are a number of reasons that suggest that a carefully conceived National Domestic Development Bank can improve and strengthen

Footnotes at end of article.

the market for tax-exempt issues that continue to be offered; can impose reasonable credit standards on would-be borrowers; can enter into local decision-making only through negotiation of the terms of the loan; and can operate independently of other federal programs (other than guarantee programs). The Bank should not, therefore, warrant opposition. The idea of a Domestic Development Bank is a good one whose time may have come.

This statement will briefly review some of the reasons why financial market conditions support the establishment of a Domestic Development Bank; [2] it will suggest some of the kinds of functions that the Bank should undertake; and will indicate why the concept of a Bank is seen as more efficient than a so-called "taxable-bond option.

MUNICIPAL MARKET CONDITIONS

On the assumption that national goals include providing assistance in allocating funds to municipalities similar to that already available to farmers and home owners, the overriding argument in favor of the establishment of a National Domestic Development Bank is that the present system for directing resources to state and local public uses is inefficient. It is inefficient as a means of subsidizing state and local financing, it is inefficient in providing financing at equivalent costs for equivalent default risks, and it is inefficient as a means of carrying out the intent of existing federal programs to provide incentive to local governments to promote socially desirable projects.

Something of the nature of these inefficiencies can be demonstrated by the data pictured in Charts I and II. Chart I shows the ratios of tax-exempt to taxable yields for new issues of "prime" (Aaa) and "good" (A) grades of municipal and corporate bonds. Chart II shows short- and long-term interest rate movements on prime and medium (Baa) grade municipal bonds since 1969.

First, there is the evidence that the exemption from federal income taxes of the interest paid on municipal bonds is an inefficient and inequitable subsidy [3] to borrowing governments. It is inefficient in that the tax revenues lost to the federal government exceed the interest costs saved by municipal borrowers. The exemption is inequitable in that the difference accrues as a tax-free surplus to investors in high tax brackets. The argument is a familiar one and it has been substantiated many times by those interested in tax reform.[4] It is also supported by the high ratios in Chart I. Under a progressive tax system, the higher the ratio of yields on tax-exempt securities to those on corporate securities of comparable risk, the lower is the tax rate required to induce marginal investors to enter the market and the greater is the surplus in the form of tax-free income which accrues to those in higher tax brackets.

The chart shows that the ratios on prime bonds often rise above 70 percent, and, like those on good bonds, occasionally rise above even 80 percent in response to high interest rates or unsettled market conditions, such as existed in 1976. When the ratios rise, those on lower grade bonds, usually rise relative to those on prime securities. What has been true since 1969 was also true for earlier periods.[5]

These high ratios have opened the municipals market to a much broader segment of individual investors, many with relatively modest incomes.[6] Indeed, Table I shows that in the first quarter of 1977 households accounted for more than half the net purchases of state and local securities. The advent of the tax-exempt mutual fund has further democratized the opportunities for tax-sheltered income, but only because the ratios are high enough to attract individual investors with relatively low marginal tax rates.

The high returns on tax-exempt as compared to comparable taxable securities induce individual investors into the market, but are engendered by the departure of institutional investors from it. So far as borrowers are concerned, the real problem is not so much tax exemption as the fact that so few investor groups benefit from it. In other words, the market for municipal securities is not a broadly based capital market. Traditionally, commercial banks, fire and casualty companies and individuals have accounted for about 90 percent of net purchases.[7] (Table I). When either of the institutional investors leave the market, yields on municipals rise relative to those on corporates, and individuals with lower tax rates enter the market. When institutional investors return, the ratios fall and the marginal individual investors leave. Or at least that was the scenario until 1975 and 1976. The financial crises in New York increased awareness of the inadequacies of disclosure in the underwriting requirements for state and local obligations, and growing suspicion of the reliability of ratings discouraged even individual investors. In response to high returns, some changes in tax laws, and occasionally, political pressures, state and local retirement funds, thrift institutions and life insurance companies took up the slack.

TABLE I.—NET PURCHASES OF STATE AND LOCAL SECURITIES BY SECTOR

[Dollar amounts in billions]

| | Households | | Commercial banks | | Fire and casualty insurance | | Other [1] | | |
|---|---|---|---|---|---|---|---|---|---|
| | Amount | Share of total (percent) | Amount | Share of total (percent) | Amount | Share of total (percent) | Amount | Share of total (percent) | Total amount |
| 1966 | $3.4 | 61.0 | $2.4 | 43.0 | $1.3 | 23.0 | −$1.5 | −27.0 | $5.6 |
| 1967 | −2.2 | −28.0 | 9.1 | 1.2 | 1.4 | 18 | −.5 | −6.0 | 7.8 |
| 1968 | −.7 | −7.0 | 8.6 | 90.0 | 1.0 | 10 | .6 | 6.0 | 9.5 |
| 1969 | 9.1 | 92.0 | 0.6 | 6.0 | 1.2 | 12 | −1.0 | −10.0 | 9.9 |
| 1970 | −.8 | −7.0 | 10.7 | 95.0 | 1.4 | 12 | −.1 | −.9 | 11.2 |
| 1971 | −.3 | −1.7 | 12.6 | 72.0 | 3.9 | 22 | 1.3 | 7.4 | 17.5 |
| 1972 | 2.2 | 14.0 | 7.1 | 46.0 | 4.8 | 31 | 1.3 | 8.0 | 15.4 |
| 1973 | 7.2 | 44.0 | 5.7 | 35.0 | 3.5 | 21 | −.1 | −.6 | 16.3 |
| 1974 | 11.2 | 57.0 | 5.5 | 28.0 | 2.5 | 13 | .4 | 2.0 | 19.6 |
| 1975 | 8.7 | 50.0 | 1.7 | 10.0 | 1.8 | 10 | 5.1 | 29.0 | 17.3 |
| 1976 | 6.4 | 37.0 | 2.9 | 17.0 | 3.6 | 21 | 4.3 | 25.0 | 17.2 |
| 1977 (1st quarter) | 7.2 | 51.0 | 0.6 | 4.0 | 4.8 | 34 | 1.6 | 11.0 | 14.2 |

[1] Includes nonfinancial corporations, thrift institutions, life insurance companies, brokers and dealers, State and local government general funds and State and local government retirement funds. All were very small participants in the market until 1975 when life insurance companies, thrift institutions and State and local government retirement funds increased their purchases substantially over earlier years. Net purchases for each were:

[Dollar amounts in billions]

| | Life insurance | Thrift institutions | State and local government retirement funds |
|---|---|---|---|
| 1975 | $0.8 | $1.2 | $1.9 |
| 1976 | 1.0 | 1.0 | 1.5 |
| 1977 (1st quarter) | .7 | .3 | |

Source: Board of Governors, Federal Reserve System, Flow of Funds Accounts, 1946–75 and 1st quarter, 1977.

Prospects for a return to the traditional patterns of investment appear doubtful, as does any significant addition to demand by thrift, insurance or retirement institutions. Commercial banks have found new tax shelters and have decreased their net purchases every year since 1971.[8] Fire and casualty companies who left the market in 1974 and 1975 have returned as their profits have improved, but their liquidity requirements probably preclude a much higher share of total assets in municipals.[9] Partial exemption from federal taxes precludes much greater participation by life insurance and thrift institutions and, barring municipal rates as high as corporates, there is no logical financial reason for retirement funds to invest in tax-exempt securities. State and local governments will have to rely more heavily on individual investors to supply their increasing demand for long-term funds, and there may be some question as to the overall capacity of individual investors to absorb an increased supply of long-term tax exempt securities except at ratios that will steadily increase the tax-free surplus.[10]

The market for municipal securities is a curious one in which state and local government borrowers must not only share the benefits of tax exemption with investors, but pay the high costs engendered by wide swings in investor portfolio adjustments in a market dominated by tax considerations.

Footnotes at end of article.

The market should also be examined in terms of its efficiency in allocating credit on the basis of equal cost for equal risk. Charts I and II show that the ratios for the two grades of bond tend to move together except when long-term interest rates are high or market conditions unsettled. Then the ratios rise for both grades of bond, but the degree by which they increase ordinarily varies inversely with the rating. The ratios rise as the interest rates paid by municipal borrowers rise relative to those paid by corporations. The market, in effect, responds to tight credit conditions by imposing an additional risk premium on the cost of municipal borrowing: one which rises as the credit rating of the borrower declines. If the assumption can be made that, in general, comparably rated municipal and corporate debt should carry equivalent default risk, the additional premium results from investors' perceptions of increased market risk. That is, the market judges the potential risks of capital loss from secondary market trading as now relatively greater on municipal than on corporate securities. Further, the risk is judged greater for lower-rated securities.

This re-pricing mechanism is efficient: borrowing costs have changed because risk perceptions have changed. However, risk perceptions have changed not because of any necessary deterioration in the borrowers ability to repay, but because the market for municipal securities is not as broad, deep and resilient as the corporate bond market. It lacks breadth because tax exemption narrowly restricts the kinds of investors attracted to the market. It lacks depth because the number and diversity of both issues and issuers restricts secondary market trading. Both factors combine to limit its resilience. that is, the quickness with which prices snap back after temporary market disruptions.

Table II demonstrates the heterogeneity of the market from the supply side. In 1976 some 5,716 government units, including states, counties, municipalities, school districts, special districts and statutory authorities, issued some $35.2 billion in long-term debt obligations for an average issue size of approximately $6.2 million.[11] However, if the 330 largest issues totalling some $20.6 billion[12] are subtracted, the remaining 5,386 issues averaged only $2.7 million each. Most State and local government debt issues are serial: that is, they carry multiple maturities and coupon rates, so the available supply of any given component of an issue is very limited.

Further diversity among issues is created by the nature of the commitment to service the debt. General or limited tax revenues may be pledged, the obligation may be merely "moral" or it may be dependent on user charges or sales revenue. Finally, the largest and most rapidly growing category of borrower is the statutory authority. They may be spun off from both state and local governments and are used to finance public purposes that range from sports complexes to hospitals and pollution control.

The result is a secondary market in which it is virtually impossible to find continuous price quotations, regular grading, or information on changes in credit worthiness quickly and accurately for any more than a handful of securities.

TABLE II.—*Municipal Bond Sales—1976*

*Sales by type of issues: Long term*

| | Billion |
|---|---|
| States | $7.1 |
| Counties | 3.1 |
| Municipalities | 6.8 |
| School Districts | 2.8 |
| Special Districts | 2.7 |
| Statutory Authorities | 12.7 |
| Total | 35.2 |

Footnotes at end of article.

*Sales by types and number of issues*

| Long-term | Volume Billion | Number of Issues |
|---|---|---|
| General obligation | 18.1 | 3,689 |
| Revenue | 17.1 | 2,027 |
| Total | 35.2 | 5,716 |
| Short-term | 21.9 | |

Source.—Public Securities Association, Municipal Market Developments, April, 1977.

The structure of the secondary market clearly influences the determination of re-offering rates in the primary markets. Even with competitive bidding, underwriters must assign spreads which cover the risks of marketing such diverse issues, and primary investors will require returns commensurate with the potential risks of capital loss from sale.[13] Uncertainty with respect to disclosure standards,[14] and questions regarding the reliability of municipal bond rating standards [15] compound the problem.

The wonder is not that investors favor shorter-term and prime-rated securities with lower relative yields, but that the premiums for raising funds at long-term for less than prime-rated borrowers have not been greater.

One reason premiums on long-term debt are not greater is that cost conscious borrowers respond to market conditions. They may delay floating issues until interest rates go down,[16] the average maturities on serial issues may be reduced, or long-term projects may be financed at short-term through the issuance of bond anticipation notes (with the expectation that the notes can be rolled over until more propitious market conditions arrive.) A rise in the use of short-term debt has been particularly pronounced since 1969. Short-term issues increased from about 50 percent of the long-term funds raised in 1968 to over 100 percent between 1969 and 1975.[17]

Unfortunately, none of these alternatives serves the public purposes for which the funds need to be raised. Facilities are either not put in place or borrowers jeopardize their liquidity and solvency by agreeing to too rapid paybacks and high debt-service costs on essentially long-lived projects. Bond anticipation notes may be a useful expedient to finance start-up costs for slow projects, but can present problems when their retirement is predicated upon the flotation of long-term debt in an unreceptive and expensive market.

Finally, the tax-exempt market is being mis-used and further segmented by a proliferation of federal assistance programs. The social intent of these programs may be laudable, but their impact on the efficient functioning of the market for state and local government debt can be pernicious. Some programs, notably housing and pollution control, provide subsidies and guarantees which funnel tax-exempt funds raised at long-term directly to private, unsecured borrowers.[18] Some provide federal guarantees for new types of tax-exempt debt.[19] Others prodebt issued on a taxable basis,[20] and still others provide local government units with access to the Federal Financing Bank.[21]

Programs which promote the issuance of long-term tax-exempt debt by new borrowers or for new purposes raise the cost of funds to all who require access to a market in which demand is already restricted to a very narrow band of investors. Programs which guarantee the tax-exempt issues of a select group of borrowers, presumably because their access to the market is limited, discriminate against non-guaranteed borrowers of all sizes and creditworthiness. Clearly, pressure to be included in the select group will grow. Providing access to the Federal Financing Bank or a taxable-bond option simply multiplies the existing variety of municipal debt instruments.

Singly, the programs each attack some special problem. Taken together they create a plethora of credit opportunities and obligations which are likely to become competitive in their efforts to re-direct financial resources to social objectives. Finding the right credit alternative could become as complicated as finding the cheapest air fare.

THE POTENTIAL BENEFITS OF FEDERAL INTERMEDIATION

The inefficiencies in the operation of the tax-exempt market for state and local government obligations could be significantly reduced, if not eliminated, by the creation of an institution like a National Domestic Development Bank. As a financing alternative available to state and local governments at their discretion, it could effect improvements along the following lines.

(1) The tax equity and efficiency problem would be reduced by the substitution of a fully taxable obligation for some tax-exempt securities. The degree to which tax-free income would be reduced will depend on the relative costs of borrowing through the new intermediary as compared to the tax-exempt market, the share of municipal financing done through the intermediary and the relative returns on tax-exempt as compared to taxable securities.

(2) A single debt instrument of recognized credit standing which would trade in broader, deeper and more resilient markets would replace a heterogeneous collection of local issues.

(3) The investor base for municipal financing would be extended to all those for whom high grade, marketable securities are an attractive investment.

(4) Interest rate volatility on new issues in the tax-exempt market resulting from cyclical or other changes in investors' tax liabilities would be reduced by the availability of a taxable financing option.

(5) Supply conditions in the tax-exempt market would be improved by reducing the volume of securities traded in that market.

(6) Municipal financing cost differentials which stem from factors other than credit worthiness, such as size of issue, would be eliminated by access to the Development Bank.

(7) Specialization and economies of scale of operation which accrue to the Development Bank would result in lower flotation costs.

(8) Proliferation of various kinds of federal guarantees with and without access to tax-exempt financing would be ended. Units of government receiving federal guarantees for their debt would be required to borrow through taxable issues.

(9) State and local governments will be able to borrow at maturities which reflect the life expectancy of the asset being financed, with payments of interest and principal scheduled to coincide with anticipated cash flows. Intermediary loans could be serialized, amortized or include balloon payments.

(10) Since the loan portfolio of the intermediary would be diversified by geographic region, project purpose, terms to maturity and debt service schedules, it would be free to market its own fully collaterialized obligations in denominations and at maturities which would minimize its borrowing costs. Known cash inflow from debt service payments and known loan commitments would allow the bank to shorten the average maturity of its liabilities as compared to that of its assets.

Controversy over the establishment of a National Domestic Development Bank has centered on the scope and nature of its operations. Critics contend that, among other things, the Bank could lead to federal domination of local financial decisions; erode established private market financial relationships; destroy incentives to local governments to improve their credit standings; and, in general, lead to higher social costs

and to greater misallocation of resources than prevail under the present system. Some thoughts on the characteristics and functions appropriate to a financial intermediary for state and local governments follow.

First, the institution should be free from Congressional and Executive Office control. A federally sponsored credit agency with public control and public plus participant ownership seems the ideal form of organization. However, most of the intermediary functions, and the benefits which would derive from them, could be achieved by establishing a much smaller organization within the Department of Housing and Urban Affairs or by expanding the areas of responsibility of an existing public body, such as the Advisory Commission on Intergovernmental Relations. The Advisory Commission has the appropriate public, federal, and local government representatives and, apparently, the expertise to analyze state and local problems.

Second, the scope of the intermediary's operations should be limited to providing an alternative source of long-term capital financing for state and local government units. These would include special districts and statutory authorities but should probably exclude business-for-profit operations of government units. There is a clear danger that an institution designed for a purpose as broad as assisting the nation's cities might be called upon the fund programs designed to cure all manner of social and economic ills. This could lead to the kinds of excesses associated with tax-emept housing and pollution control bonds.[22] The problems associated with raising capital funds for the nation's cities may warrant creation of a special financial institution, but reallocation of financial resources to public purposes raises the costs of private capital formation. Private capital formation creates jobs and income for the majority of the population, including people in the cities. When public funds are re-directed to private purposes, resource mis-allocation does occur.

Third, all state and local governments should have equal access to Bank funding, though not necessarily at equal cost. However, the initiative to use the Bank's facilities should, with one exception, be at the discretion of the borrower. When loans are to be guaranteed by an agency of the government, such as the Government National Mortgage Association or Housing and Urban Development, the funds should be made available only on a fully taxable non-interest subsidized basis, whether this is through the Development Bank or the private market. Unsubsidized private market financing may be unlikely, but, in any event, the Treasury should not forgo tax revenues on federally guaranteed debt.

In all other cases, whether federal matching grants are involved or not, the borrowing government should be able to compare directly and quickly the general terms and services offered by the intermediary with those available from private underwriters in the tax-exempt market. High-rated borrowers with established underwriting procedures may never approach the Development Bank. Small or lower-rated borrowers may be pleased to approach the Bank directly. In other cases, putting private underwriters in direct competition with the Development Bank could have a salubrious effect on both institutions, particularly in those cases where underwriting contracts must be negotiated or only a single bid is received on an issue.[23]

The Bank would have three functions: ordinary lending, refunding, and trading in its own or tax-exempt securities in secondary markets.

The lending function requires two interdependent decisions: determination of eligibility standards and determination of the rates to be charged borrowers. Both will affect the number of kinds of borrowers the Bank will attract. If the Bank were to be financially self-sufficient, its lending rate would have to at least equal its borrowing rate. Since federally sponsored credit agency debt usually trades at rates slightly above those on U.S. Treasury obligations, there will be a few borrowers for whom the Bank has a cost advantage over the tax-exempt market. Table III provides a kind of rough benchmark for this group. It shows the ratios of twenty-year A-rated municipal bond reoffering yields to long-term Treasury rates. A-rated securities have comprised somewhat more than one-half the new issues floated since 1973.[24] If Baa and lower- or unrated securities are added, the group makes up better than 60 percent of new issues. A-rated securities are often offered at rates very close to the prevailing market rates on long-term Treasuries and occasionally exceed them. The ratios for lower-rated or longer-dated securities would be higher. Thus, assuming credit standards appropriate to this class of borrowers, on a break-even interest rate basis, the Bank's clients would include low- and unrated borrowers much of the time and good, or, sometimes, better-rated municipalities when the tax-exempt market is unreceptive to new issues.

Debt absorbed by the Bank will generate federal tax revenues. Some, if not all, of these additional revenues could be transferred from the Treasury to the Bank, enabling it to offer borrowers rates below those at which the Bank acquires funds. The size of the transfer, and whether it exceeds or falls short of new revenues collected, is a political decision. Whatever the amount, the Bank's basic lending rate should be a fixed percentage of its borrowing rate. The funds transferred from the Treasury would then be the difference in the two rates times the volume of loans in the Bank's portfolio.[25] The larger the differential between the Bank's borrowing and lending rates, the more municipalities would use the Bank and the larger would be the annual transfer from the Treasury. The transfer should be viewed as a firm commitment to return to Bank-financed municipalities some or all of the benefits previously shared with investors in the tax-exempt market. The transfer should be automatic and not subject to Congressional appropriation.[26] The amount of the transfer would vary from year to year with changes in the volume of loans in the Bank's portfolio.

TABLE III.—RATIOS OF 20-YR MUNICIPAL BOND REOFFERING YIELDS TO LONG-TERM U.S. TREASURY SECURITIES (QUARTERLY AVERAGES)

| Year | Quarter | Yield ratio |
|---|---|---|
| 1969 | I | 0.87 |
| | II | .93 |
| | III | .99 |
| | IV | .99 |
| 1970 | I | 1.00 |
| | II | 1.02 |
| | III | .98 |
| | IV | .98 |
| 1971 | I | .93 |
| | II | .99 |
| | III | 1.01 |
| | IV | .93 |
| 1972 | I | .93 |
| | II | .95 |
| | III | .96 |
| | IV | .90 |
| 1973 | I | .85 |
| | II | .82 |
| | III | .82 |
| | IV | .82 |
| 1974 | I | .81 |
| | II | .88 |
| | III | .94 |
| | IV | .99 |
| 1975 | I | 1.03 |
| | II | 1.01 |
| | III | 1.00 |
| | IV | 1.02 |
| 1976 | I | .98 |
| | II | .98 |
| | III | .95 |
| | IV | .97 |
| 1977 | I | .82 |

Source: Public Securities Association, "Municipal Market Developments" and Board of Governors, Federal Reserve System, "Federal Reserve Bulletin."

Both the Bank's borrowing and lending rates would vary with credit conditions, but the extra volatility associated with the tax-exempt market would be eliminated. Long-term project financing might still be delayed because of cyclically high rates, but tax-exempt bond anticipation notes could be converted to taxable long-term debt at the Bank if there is a sudden decline in investor interest in the non-Bank market.

If the Bank's role is to supplement the tax-exempt market rather than to eliminate it, the difference between the Bank's borrowing and basic lending rate might be set close to the historic mean ratio between the yields on long-term good (A) grade municipals and federally sponsored agency obligations.[27] Credit standards applied to the basic loan might reflect those currently used to assign "A" ratings. Beyond the basic rate and its associated credit standards, there might be two or three tiers of standards applicable to higher risk borrowers. Lower credit standards would require higher interest rates and more restrictive loan covenants. The risk premiums on less creditworthy borrowers could be used to build up a loan loss reserve commensurate with the overall loss experience on similar municipal debt.[28] Eligibility standards for the different classes of borrowers should be made readily available to municipal finance officers so that they can quickly determine the kinds of information needed for loan applications and have an approximate idea of the rate that they would be charged.

The co-existence of a tax-exempt market with a Domestic Development Bank would continue to provide communities with incentives to achive high credit ratings. Financing costs would be lowest for prime borrowers in the tax-exempt market, although it is always possible that in times of great credit stringency even these borrowers might use the Bank. Borrowers with good credit standards could examine both sources of credit and choose the one that costs less or better suits their needs. The rates charged by the Bank to less credit-worthy borrowers should be lower than those available to them in the tax-exempt market, but the premiums over the basic rate should be high enough to induce fiscal improvements. Note that the elimination of the very high tax-exempt rates will increase Treasury revenues extra-proportionally.

The volume of loans made by the Bank will vary over the credit cycle, but may also vary because of conditions specific to the tax-exempt market. It is quite possible that good- and medium-grade municipalities might borrow from both sources and might, if and when conditions change, want to convert debt from bank to tax-exempt debt or vice versa. The Bank should accommodate such refunding operations at a prescribed cost.

A final function of the Bank would be trade in its own and tax-exempt securities in secondary markets. It would trade in its own securities to equate its liabilities with its outstanding assets so that it would neither hoard nor ration funds. The Bank would trade in tax-exempt securities purely for the purpose of reducing any excessive volatility in that market. Trading in the tax-exempt secondary market might generate income for the Bank since it would tend to buy

Footnotes at end of article.

when prices were low and to sell when prices were high.

Other income would be generated by earnings on the loan-loss reserves and by any fees and charges made to clients. It is possible that the Bank might develop into a provider of project-planning and financial-analysis services to state and local governments, irrespective of whether the Bank would be used as the source of funds.

As it is outlined here, a National Domestic Development Bank would assist the states and political subdivisions of the nation by increasing the efficiency of the market for their debt. Financing through the Bank would lower the costs or borrowing for some borrowers—partly by requiring a lower interest rate and partly by reducing flotation costs and market risks. For borrowers in the tax-exempt market, the reduced volume of debt issued and traded should reduce yields and the stabilizing function of the Bank's trading should reduce interest rate volatility.

THE ALTERNATIVES: FEDERAL INTERMEDIATION OR TAXABLE BOND

Two proposals have emerged as the most likely candidates for improving the access of state and local governments to long-term funds: a federally sponsored intermediary and a taxable-bond option. Under the latter scheme the Federal Government would agree to subsidize directly the interest costs of state and local obligations by between 30 and 50 percent. The higher the subsidy, the greater will be the inducement to issue taxable bonds in lieu of tax-exempts.[28]

The two schemes are comparable in several dimensions. The two most important are their effect on the equity and efficiency problem and on the volatility of the new-issues market. For equivalent net interest costs to municipalities, both will increase federal tax revenues at the expense of intramarginal lenders and both will provide municipalities with the option of issuing bonds in two markets instead of one.

Beyond these common elements, the Bank has two clear advantages over a taxable bond option. It will likely be less costly to the Federal Government and it will be more effective in improving the efficiency of the market.

The larger gain lies in the size of the subsidy required to reduce municipal borrowing costs to a specified level. Under a taxable bond option, the Treasury would be committed to paying a fixed percentage of the interest cost for borrowers of all sizes and grades for whom the taxable bond option is cheaper. The Bank, on the other hand, would subsidize the same borrowers to the same degree by substituting its own credit rating and the marketability of its issues for those of the municipalities. Assuming that the market exaggerates the risk premiums on lesser-known borrowers, the subsidy paid by the Bank will be less than that paid under the taxable-bond option for equivalent issues. A simple arithmetic example will illustrate the mechanism. Let the ratio of municipal to corporate yields for a given grade be 70 percent and the ratio of tax-exempts of the same grade to agency debt be 90 percent.[29]

To equate the net borrowing costs of the municipality, the Bank would absorb only ten percent of the total interest costs while the taxable bond option would require the absorption of 30 percent. The Bank, by substituting its own debt for that of ultimate borrowers, will reduce the cost of funds raised in primary markets. Only if the borrowers from the Bank have high bankruptcy rates would the Bank prove more expensive. On an administrative cost basis, the Bank need not be at a great disadvantage since the taxable-bond option would require a mechanism to distribute the payment of interest to thousands of government units who have loans outstanding.

The impact of the Bank on the efficiency of the market in which municipals compete for funds can be an equally important characteristic of the Bank alternative. The diversity and large number of different small issues with the inherent instability that such a mix implies, will not be reduced by the taxable-bond option.[30] Per contra, the Bank will drastically reduce the number of issues with poor marketability. The costs of flotation are high for small borrowers in private markets and this cost would be virtually eliminated by the Bank, but not by the option. The market for the remaining tax-exempts (under the Bank alternative) would be smaller and contain only the better grade and more actively traded of bonds. This will be a more efficient source of funds for the better-rated borrowers and will be further aided by intelligent trading in the secondary market by the Bank.

In conclusion, there seems to be little doubt that the present system is inefficient. At issue is the means by which to improve its operation. This statement takes the position that a financial intermediary, like the National Domestic Development Bank, is the best alternative.

The degree of subsidy to be granted under any proposal is a political decision dependent on the degree to which Congress wants to direct economic resources to local public expenditures. For any degree of subsidy, Bank financing should be more economical and should bring about some beneficial changes in the structure of the municipal bond market.

One caveat is in order here. The Bank should be a low-cost, specialized organization. It should not be involved in finding solutions to the broad economic and social problems of the nation's states, cities and towns. To do so would dissapate its savings in huge administrative expenditures.

With that qualification, a National Domestic Development Bank would, by providing a financing option, smooth the flow of funds to the nation's communities and improve the overall functioning of an important financial market.

FOOTNOTES

[1] An early proposal for an "Intergovernmental Loan Corporation" appears in Alvin H. Hansen and Harvey Perloff, *State and Local Finance in the National Economy*, (W. W. Norton & Company, 1944), pp. 203–05. The "Case for an Urban Development Bank" is put by Peter Lewis in *Financing State and Local Governments*, (Federal Reserve Bank of Boston, 1970), pp. 159–180. Proposals considered by the Congress include those of then Vice President Humphrey in 1969 for an Urban Development Bank and Senator Humphrey in 1971 for a National Domestic Development Bank.

[2] Many of the problems of the municipal bond market have been carefully researched elsewhere. See, for example, John Peterson, *Changing Conditions in the Market for State and Local Government Debt*, A Study Prepared for the Use of the Joint Economic Committee of the Congress of the United States, April 16, 1976. The review of the problems presented in this testimony serves only as a reminder that most remain unresolved.

[3] Because it originates in Constitutional interpretation by the Supreme Court, some observers object to calling tax exemption a subsidy. So far as the loss of federal tax revenues is concerned it is as much a tax subsidy as an investment tax credit.

[4] David Ott and Allan H. Meltzer, *Federal Tax Treatment of State and Local Securities*, (Washington, D.C.: The Brookings Institution, 1963). The U.S. Treasury estimated that for 1976 only $3.5 billion of the 4.8 billion in revenues lost to the Treasury would be passed on to state and local borrowers. ("The Municipal Bond Market: Why it Needs Help," *Congressional Record*, December 17, 1975, S. 22558. Cited in Peterson, *Changing Conditions*, p. 56.

[5] Ratios on prime bonds rose to 75 percent in 1961 and those on medium grade bonds (Baa) approached 90 percent in the mid-1950's. (Peterson, *Changing Conditions*, p. 34 and John E. Peterson, *The Rating Game*, Twentieth Century Fund, New York, 1974, p. 36).

[6] Mutual funds provide investors with greater liquidity through the redemption of shares as well as smaller minimum investments than does direct market participation.

[7] In general, commercial banks prefer shorter-term obligations. One result of their dominant position in the market for tax-exempts is that the yields on shorter-term obligations rarely, if ever, rise about those on longer-dated securities, as they do in other markets under tight credit conditions.

[8] See, for example, Ralph C. Kimball, "Commercial Banks, Tax Avoidance, and the Market for State and Local Debt Since 1970," *New England Economic Review*, Federal Reserve Bank of Boston, January/February. 1977, pp. 3–21. Kimball points out an interesting facet of using tax subsidies to achieve social goals: they tend to become competitive as their number increases, and the benefits accruing to any single subsidized activity decrease. For example, municipal borrowing costs may be sacrificed to investment tax credits as bank leasing activities expand.

[9] A high of 46 percent of their total assets were invested in municipals in 1974. Fire and casualty companies need more liquidity in their investment portfolios than life insurance companies because their claims are less predictable.

[10] Life insurance, pension funds and Keogh plans already tax shelter a substantial portion of middle income long-term savings. Residual investments in municipal securities, either directly or through mutual funds, may have to compete with riskier, but potentially higher returns in equities or equity substitutes.

[11] The 3,689 general obligation bonds averaged just under $5 million per issue and the 2,027 revenue bonds about $8.5 million per issue. Petersen estimated in *The Rating Game*, (p. 32) that outstanding obligations included some 120,000 issues from some 34,-000 government units.

[12] Derived from *Municipal Finance Statistics*, The Bond Buyer, Volume 15, June, 1977, pp. 9–20.

[13] Apparently both very large and very small issues will carry higher yields than medium size issues. The market is too limited to absorb very large issues and very small issues may be unrated, locally underwritten and locally held. (American Enterprise Institute, *Proposed Alternatives to Tax-exempt State and Local Bonds*, Legislative Analysis No. 3, 93rd Congress, February 14, 1973, p. 11).

[14] See Peterson, *Changing Conditions*, pp. 41–46.

[15] See Petersen, *The Rating Game*, especially pp. 85–117 for an analysis of the difficulties in rating municipal securities.

[16] Paul F. McGouldrick and John E. Petersen, "Monetary Restraint and Capital Spending by Large State and Local Governments in 1966," *Federal Reserve Bulletin*, July, 1968 and "Monetary Restraint, Borrowing and Capital Spending by Small Local Governments and State Colleges," *Federal Reserve Bulletin*, December 1968.

[17] *Municipal Finance Statistics*, 1976, p. 7.

[18] See John Peterson, *Changing Conditions*, pp. 12–22, for a critique of these programs. Conservative estimates indicate that by 1980 the total tax losses since 1970 will amount to $640 million from outstanding pollution control bonds. In addition, state and local governments will be paying an additional $150 million each year in debt service costs, corporations will enjoy a total of $425 million in interest savings and investors will receive an

additional $365 million in tax-sheltered income (p. 21).

[19] For example, the Small Business Investment Act Amendments of 1975 (Public Law 94–305) authorize the Small Business Administration to guarantee tax-exempt bonds for small business pollution control. The Guaranteed Student Loan Amendments (Public Law 94–482) allow non-profit corporations to issue tax-exempt bonds to acquire student loans. (Lynda Rich, "State and Local Government Financing: Federal Guarantee and Subsidy Programs," *Municipal Market Developments,* October, 1976, pp. 1–2).

[20] For example, the Coastal States Management Act Amendment (Public Law 94–370). (*Ibid.*, p. 2)

[21] The Federal Water Pollution Control Act Amendment of 1976 (Public Law 94–482) enables "select" users to guarantee sewage treatment bonds through the Environmental Protection Agency and to issue the bonds directly to the Federal Financing Bank. (*Ibid.*, p. 2).

[22] Petersen, *Changing Conditions,* pp. 9–22.

[23] See Reuben A. Kessel, "The Economic Consequences of the Exclusion of Bank Competition from the Underwriting of Revenue Bonds," *Hearings Before the Subcommittee on Financial Institutions of the Committee on Banking and Currency,* United States Senate, 90th Congress, 1st session on S1306, August 1967.

[24] Advisory Commission on Intergovernmental Relations, *Understanding the Market for State and Local Debt,* Washington, D.C., May, 1976, p. 25.

[25] The Bank's loans could be made on a variable rather than a fixed interest rate basis to reflect changes in its borrowing costs.

[26] This would be similar to the automatic funding for federal interest reduction payments on a taxable bond option provided in the bill introduced by Senator Proxmire in 1972. (S. 3215, 92nd Congress). (A.E.I., p. 4).

[27] A cheaper alternative would be to float the Bank's debt through the Federal Financing Bank.

[28] An initial Treasury grant or loan could fund the loss reserve in the early years of the Bank's existence. Low insurance premiums might be required of all borrowers.

[29] The average ratio in Chart I for A-graded municipal and corporate new issues is 71 percent. The ratio for twenty-year A-rated municipal reoffering yields to long-term Treasury securities in Table III is 94 percent. Ratios of long-term municipals to Agency debt would be somewhat lower.

[30] Federal guarantees on taxable bonds could bring a degree of homogeniety to the market.

APPENDIX I

RATIOS OF MUNICIPAL TO CORPORATE YIELDS ON NEW ISSUES (QUARTERLY AVERAGES)

[In percent]

| | Aaa | Aa | A | Baa |
|---|---|---|---|---|
| 1968: | | | | |
| I | 64.7 | ..... | 66.7 | ..... |
| II | 62.8 | ..... | 67.4 | ..... |
| III | 64.7 | ..... | 67.0 | ..... |
| IV | 64.1 | ..... | 65.6 | ..... |
| Annual average | 64.1 | 64.5 | 65.6 | 68.4 |
| 1969: | | | | |
| I | 66.8 | ..... | 69.7 | ..... |
| II | 70.8 | ..... | 71.9 | ..... |
| III | 72.3 | ..... | 74.7 | ..... |
| IV | 70.9 | ..... | 74.7 | ..... |
| Annual average | 70.2 | 71.2 | 72.7 | 71.9 |
| 1970: | | | | |
| I | 71.8 | ..... | 74.1 | ..... |
| II | 80.1 | ..... | 75.6 | ..... |
| III | 71.0 | ..... | 70.4 | ..... |
| IV | 68.2 | ..... | 68.6 | ..... |
| Annual average | 72.8 | 72.3 | 72.2 | 69.6 |
| 1971: | | | | |
| I | 69.1 | ..... | 70.3 | ..... |
| II | 71.3 | ..... | 72.6 | ..... |
| III | 70.4 | ..... | 73.1 | ..... |
| IV | 66.7 | ..... | 68.6 | ..... |
| Annual average | 69.4 | 69.8 | 71.1 | 70.2 |
| 1972: | | | | |
| I | 68.7 | ..... | 71.5 | ..... |
| II | 69.2 | ..... | 71.2 | ..... |
| III | 69.4 | ..... | 73.1 | ..... |
| IV | 68.2 | ..... | 69.8 | ..... |
| Annual average | 68.8 | 70.3 | 71.4 | 70.0 |
| 1973: | | | | |
| I | 67.0 | ..... | 69.1 | ..... |
| II | 65.5 | ..... | 68.0 | ..... |
| III | 63.5 | ..... | 64.6 | ..... |
| IV | 61.6 | ..... | 64.0 | ..... |
| Annual average | 64.4 | 65.6 | 66.4 | 67.3 |
| 1974: | | | | |
| I | 62.5 | ..... | 63.3 | ..... |
| II | 64.6 | ..... | 65.0 | ..... |
| III | 65.5 | ..... | 62.9 | ..... |
| IV | 69.0 | ..... | 69.6 | ..... |
| Annual average | 67.2 | 65.0 | 66.9 | (1) |
| 1975: | | | | |
| I | 71.9 | ..... | 71.2 | ..... |
| II | 71.4 | ..... | 72.5 | ..... |
| III | 71.8 | ..... | 75.8 | ..... |
| IV | 71.1 | ..... | 79.2 | ..... |
| Annual average | 71.7 | 72.5 | 74.7 | (1) |
| 1976: | | | | |
| I | 70.6 | ..... | 82.7 | ..... |
| II | 68.4 | ..... | 80.7 | ..... |
| III | 67.2 | ..... | 79.4 | ..... |
| IV | 65.0 | ..... | 80.5 | ..... |
| Annual average | 67.8 | 71.7 | 80.8 | 78.5 |
| 1977: I | 63.2 | ..... | 74.5 | ..... |

[1] Insufficient observations for realistic averages to be calculated.

Notes: Annual averages only are given for Aa and Baa rated bonds for comparison. The Aa bond ratios usually follow those of Aaa bonds quite closely, as do those for Baa and A rated bonds. Ratios for A rated bonds were calculated in preference to Baa bonds because there were sufficient observations of new Baa issues.

Sources: The ratios are quarterly averages of the yields of new issues of municipal to new issues of corporate bonds of the same rating. The municipal yield series is "Municipal Bond Yield Averages (Long-term Bonds)" in "Moody's Municipal and Government Manual." The corporate yields are taken from "Composite Average of Yields on Newly issued Corporate Bonds" given in "Moody's Industrial Manual."

APPENDIX II.—1- AND 20-YR REOFFERING YIELDS ON Aaa AND Baa RATED BONDS

[Quarterly averages; in percent]

| | Aaa—term to maturity | | Baa—term to maturity | |
|---|---|---|---|---|
| | 1 yr | 20 yr | 1 yr | 20 yr |
| 1969: | | | | |
| I | 4.06 | 4.92 | 4.15 | 5.44 |
| II | 4.00 | 5.55 | 4.66 | 5.87 |
| III | 5.03 | 5.78 | 5.43 | 6.41 |
| IV | 5.00 | 6.15 | 5.64 | 6.77 |
| 1970: | | | | |
| I | 4.47 | 6.10 | 5.13 | 6.83 |
| II | 4.57 | 6.57 | 4.87 | 7.25 |
| III | 4.21 | 6.17 | 4.67 | 6.88 |
| IV | 3.42 | 5.72 | 3.65 | 6.70 |
| 1971: | | | | |
| I | 2.39 | 4.90 | 2.93 | 5.75 |
| II | 2.85 | 5.41 | 3.35 | 6.22 |
| III | 3.14 | 5.32 | 3.62 | 6.12 |
| IV | 2.76 | 4.93 | 3.03 | 5.43 |
| 1972: | | | | |
| I | 2.64 | 5.02 | 3.02 | 5.48 |
| II | 2.82 | 5.17 | 3.17 | 5.62 |
| III | 2.95 | 5.06 | 3.22 | 5.52 |
| IV | 2.90 | 5.00 | 3.16 | 5.25 |
| 1973: | | | | |
| I | 3.57 | 5.03 | 3.62 | 5.35 |
| II | 3.95 | 5.00 | 4.13 | 5.26 |
| III | 4.65 | 5.13 | 5.0 | 5.60 |
| IV | 4.08 | 4.97 | 4.48 | 5.41 |
| 1974: | | | | |
| I | 4.10 | 5.21 | 4.67 | 5.75 |
| II | 4.94 | 5.68 | 5.40 | 6.27 |
| III | 5.61 | 6.16 | 6.16 | 7.25 |
| IV | 4.48 | 6.28 | 5.37 | 7.28 |
| 1975: | | | | |
| I | 3.81 | 6.53 | 5.25 | 6.85 |
| II | 3.82 | 6.28 | 5.28 | 7.29 |
| III | 4.04 | 6.47 | 5.05 | 7.70 |
| IV | 3.81 | 6.37 | 4.50 | 9.4 |
| 1976: | | | | |
| I | 3.20 | 6.00 | 4.43 | 6.87 |
| II | 3.31 | 5.86 | 5.26 | 7.12 |
| III | 3.13 | 5.75 | 4.09 | 6.58 |
| IV | 3.00 | 5.62 | NA | 6.25 |
| 1977: I | 2.80 | 5.36 | 3.94 | 6.13 |

Source: Public Securities Association, Municipal Market Developments, various issues.

## RURAL COMMUNITY INITIATIVES

Mr. DOMENICI. Mr. President, at a time when a big and ever-growing Federal Government has slowly but steadily confiscated personal liberties and initiative from Americans, I believe it is indeed refreshing to find communities such as Mt. Dora and Clapham, N. Mex., which are willing to undertake a complex project such as installing telephone cables to their isolated and distant homes without the aid of Government or other institutions.

The two rural communities has wanted and needed telephone service for some time, but because of the isolation of their area, the cost of having the telephone cable installed by the telephone company was prohibitive.

So the citizens of Mt. Dora and Clapham decided to install the telephone cable themselves, with the assistance of Mountain Bell. Mountain Bell provided the cable and technical assistance while the citizens did the actual back-breaking labor of digging the long trench and filling it with inch-thick cable.

Through the sweltering New Mexico sun, the citizens of the tiny but proud communities worked tirelessly to complete their task. Thus, with a minimum of assistance from external sources, the industrious residents of Mt. Dora and Clapham have provided themselves with an invaluable service.

This self-reliance is what America is all about. America has become a great nation because of what its people have done for themselves, not because of what others have done for them and to them.

I congratulate these fine New Mexicans and Americans, and trust that they will be an example to the rest of the Nation of what the rewards and benefits of self-reliance and initiative are.

Mr. President, I ask unanimous consent to have an "Albuquerque Journal" article, "Group Effort Gets Phone to Rural Area," printed in the RECORD.

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

GROUP EFFORT GETS TO RURAL AREA

(By Denise Tessier)

Excitement pervaded the Jack Pagett household Friday. A telephone was installed in the house—its first, though three generations had lived there.

It was also the first phone in the entire ranching communities of Mt. Dora and Clapham, N.M., because the cost of stringing lines to the sparsely populated area was too much

for the ranchers. Until they decided to do the installation themselves.

The plan had been in the works for more than a year, but it was Monday when the ranchers started pitching in together to begin digging 47.5 miles of trench and filling it with the inch-thick cable that would link the homes of the rolling range country to friends and business in Clayton, almost 25 miles away.

Working side-by-side, hand-over-hand, dust-covered neighbors held black cable in place while it was laid by a Mountain Bell spool rig trailing a farmer's Caterpillar tractor. The trench had been dug by another neighbor on another donated tractor. Some of the men guided the rigs, pulled fences for passage and then put them back up again.

Rancher Mamie Carter, a resident of the area 57 years, helped out by delivering cake and ice tea to the "boys" who worked along the rural dirt roads.

The 19 families who will receive phone service as a result of the community labor have never had phone service in the area before. Mountain Bell charges rural residents a percentage of labor and cost to provide service, but the remainder was prohibitive for the ranchers. So the ranchers offered to do the work themselves and Mountain Bell agreed to provide the cable, the spool rig and a full-time employe to supervise the project.

Mountain Bell's public information office personnel said they believe the cooperative agreement is the first of its kind in the Bell system. And they said the company wouldn't mind working similar arrangements in other rural areas where service is needed.

As a beige desk phone was being installed in his kitchen Friday, Jack Pagett commented that he needed to call the folks, the kids, the people in town, and "get more help on this telephone line." But first he called his cousin, Joy Gilbert. "I've used her phone for the last 10 or 11 years. She even gave me a key to her house so I could use it." The house is about 20 miles away.

"It's a dream come true," Pagett's wife, Violet, added. "We didn't think we'd ever get this." Cousin Joy seemed to be finding it hard to believe as Pagett placed his call. "No, I'm not. I'm right here in the old kitchen," he told her.

Sometimes when their girls were unable to get home from school, they'd tell the Clayton radio station, and Mrs. Pagett would know when to expect them from the radio announcer on her kitchen AM. Most of the other ranchers in the area have used a two-way radio system out of Clayton, which served in emergency situations and general conversation. But most agreed the system just wasn't private enough. "You're talkin' to the whole county on that," commented Fred Mapes as he took a break with Mrs. Carter's cake on the road.

The radio didn't work well with business either. "There's no sense in buying and selling cattle over a PA system," said rancher J. M. Poling Jr., who donated the trench-pulling tractor. "You can go to auction in Clayton for that."

Poling's son, George, 32, said, "Everybody's real eager to get a telephone. We never really have had one. We won't have to go to town so often.

He explained that the families put about $150 each into a "kitty" managed by the wife of one of the working ranchers, Irene Meara. "If it runs out," he said, "it might have to be added to." The money is used for fuel to run the tractors, the leasing of the digging attachment, miscellaneous. Mrs. Meara gets all the bills. Ranchers who donate equipment, like Poling's father, don't pay as much.

"Everybody's happy to donate what they can," A. J. Poling said.

The project got started through the efforts of Joe Bob Baker, the Mountain Bell Clayton manager, who heads the local exchange (as opposed to long distance). He obtained the names of ranchers who wanted service and then moved to estimate the cost to the ranchers and Mountain Bell. He hesitates to quote figures, as does Jon Schumard, the district manager out of Santa Fe. But they say the cost is going to be just more than half of the six-figure amount it might have been, and a portion of that would have been borne by the ranchers.

The families, many of whom have already applied for additional phone lines for their teenagers, will be paying about $15 a month for each four-party line, Baker said.

Bob Daves, who's been around since 1917, thinks it will be worth it—in gasoline and time savings as well as for emergencies. "We get so many bills, one more won't matter," Pagett said.

George Gonzales said he has fencing to do, alfalfa to cut and bale. But: "I'd give up what I'm doing just to get a telephone," he said. "It's really gonna be handy." Pagett concurred. "We've got a few things buildin' up, but we'll take care of that later."

Schumard said the ranchers are even doing the cable splicing, with Mountain Bell foreman Steve Scott showing them how. He estimates the work will continue two more weeks before all the phones can be put in.

Time has worked to one advantage, however. Unlike their rural neighbors around Springer about an hour to the southwest, the Clayton tie-ins won't have telephone poles and lines to mar the beauty of their "little stretches." Baker said underground cables are more practical as well. "There's so much wind and blizzard up here, it's the only way to go. If a line was knocked out, it'd take days to fix it."

As Pagett reached for the brand-new phone book to look up another number, Mrs. Pagett lamented, "I'll never be able to get Jack off of there." Later, on the porch, she talked about the distance to her neighbors' homes.

The Gonzales' house, she said, is about 13 miles away. "We don't have any close neighbors." Pagett quietly nudged her and said, "We do now."

## COMMON MARKET PROCEEDS WITH BREEDER REACTOR

Mr. CHURCH. Mr. President, we have recently had occasion to debate administration policy concerning fast breeder reactors during our consideration of funding for the Clinch River breeder reactor project.

It has been my contention that Western Europe and Japan will proceed with the fast breeder and reprocessing technology despite the President's attempt to persuade foreign nations to stay with the current generation of light water reactors as electrical power generators. The pressing energy needs of these nations, when pitted against uncertain foreign supplies of uranium, the energy stretching nature of the breeder reactor, dangerous dependence on imported petroleum, and the emergence of a uranium cartel, all cause them to pursue breeder reactors and reprocessing.

I am persuaded that the United States must recognize these realities and commence the urgent task of designing the international control structure necessary to deal with the arrival of the plutonium age. We simply cannot allow nuclear anarchy to develop.

I call attention to a recent statement of the Common Market Commission which rejects President Carter's advice that they abandon breeder reactor construction. A report on this statement in the July 16 edition of the Washington Post leaves no doubt that the EEC is determined to aggressively develop and market fast breeder reactors.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD.

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

EEC TO STRESS FAST BREEDER TECHNOLOGY

(By William Drozdiak)

BRUSSELS, July 15.—The Common Market Commission, in an effort to reduce Europe's dependence on outside fuel suppliers, intends to push for urgent development of fast breeder and reprocessing technology.

Rejecting President Carter's advice to shun breeder reactors in an effort to restrict nuclear proliferation, the Commission said in a statement yesterday that the European Economic Community must build such plants to cope with an expected world shortage of uranium in the 1980s and the lack of space in Europe to store nuclear waste.

"The Communist cannot afford to throw away spent nuclear fuel which can be reprocessed and reused in advanced types of reactors such as fast breeders," the EEC Commission noted in a statement explaining its nuclear strategy.

The Community's nine member countries now import 80 per cent of their uranium supplies, which have been subject to nagging delivery delays in the past from the United States and Canada. By the year 2,000, the European Community will account for one-third of total world demand for uranium, so the Commission hopes to bolster construction of fast breeder plants to cut Europe's dependence on foreign sources of uranium and oil.

The EEC's nuclear energy branch, Euratom, has concluded that there are adequate safeguards for storing and recycling plutonium, a highly lethal element extracted from spent uranium, which can be used to make bombs as well as to fuel nuclear power plants. Breeder reactors produce more plutonium than they absorb, a fact that has raised a controvery over their use.

Euratom contends that building four or five nuclear strongholds in member countries would accommodate European needs for nuclear waste disposal and plutonium storage.

"Such joint reprocessing facilities would be subject to strict controls by Euratom and would help toward the general aim of avoiding the proliferation of potentially dangerous nucear material. These regional centers would also simplify the security problems of countering theft and sabotage," the EEC Commission statement said.

Euratom officials believe breeder and reprocessing plants could trim the EEC'S annual uranium import requirements by up to 20 percent starting in the late 1980's. In the long term, such technology could assure "virtual freedom from dependency on external supplies."

The EEC Commission plans to increase the number of joint nuclear ventures within the European Community, like the giant 1,200-megawatt "Superphenix" fast breeder reactor built in Creys-Malville in France by a consortium of French, German and Italian companies. France, West Germany and a group of other EEC members signed agreements July 5 for a joint venture to develop and market fast-breeder reactors.

Most nuclear specialists acknowledge that France has the most sophisticated fast breeder technology. By merging its expertise with West German industrial and financial strength, the European Community hopes to intensify nuclear research and development.

French and West German atomic energy agencies agreed recently to increase research funds for breeder technology.

West Germany, in cooperation with Belgium and The Netherlands, is constructing its own fast breeder prototype at Kalkar along the Dutch border. Britain already has a 250-megawatt fast breeder plant in operation at Dounreay, Scotland.

Conscious of the hazards posed by growing amounts of plutonium generated by fast breeder reactors, the EEC Commission said that reprocessing plants will diminish the bulk of nuclear waste and ease security problems.

"Radiological risks for future generations might be greater if reprocessing were not undertaken. In that case, the plutonium would remain in the spent fuel elements and its storage would be a long term risk," the Commission paper said.

The EEC nuclear strategy involves establishing five centers for nuclear waste disposal by the end of the century. Euratom also plans to study nuclear processes that would preclude diversion of materials into weapons manufacturing, a concept the U.S. administration wants explored on a global basis.

## TRIBUTE TO ARCHBISHOP MAKARIOS

Mr. WILLIAMS. Mr. President, it was with deep sadness that I learned of the passing of his beatitude, Archbishop Makarios, the President of Cyprus. This tragic loss of one of the world's most courageous leaders creates a void that will not soon be filled. I join with the people of Cyprus and with freedom-loving people everywhere in mourning the archbishop's untimely death.

Archbishop Makarios came to symbolize the character and destiny of the island republic of Cyprus. Born as the son of a village goatherd, he became head of the Greek Orthodox Church and a leader in his country's struggle for independence. Seventeen years ago, when his vision became a reality, Makarios won an overwhelming victory in the first presidential election ever held on the island. Unique, as both the spiritual and temporal leader of his people, Makarios served his country faithfully and selflessly until his death.

I had the great honor of meeting this great man in August 1975 when the archbishop came to the United States seeking economic assistance. I know that no successor can command the authority and prestige that accrued to him in his nearly three decades of leadership. A man of great intelligence, strong principle and profound faith, Makarios asserted the democratic values which we all share and cherish. His deep-rooted ties to his own people enabled him to sustain them and lead them courageously. He was a tower of strength and a vital stabilizing force.

The archbishop had a dream—a dream for a peaceful and independent nation. It is a great tragedy indeed that he will never live to see the realization of his hopes for his beloved Cyprus. His rare and extraordinary qualities will be deeply missed. His passing deprives the world and the Republic of Cyprus of a great statesman.

## FARMERS TURN TO OTHER JOBS

Mr. McGOVERN. Mr. President, lest some of my colleagues continue to believe that things are fine down on the farm, I call their attention to a recent newspaper article appearing on July 25, 1977, in the Huron, S. Dak., Daily Plainsman. Small farmers just are not making a living from farm income alone and must supplement it through off-farm jobs or working wives. What is alarming is that of an average farm income of slightly over $19,000, $11,000 of this total comes from non-farming-related activity. Regardless of the size of the farm as reflected by gross sales, every category of agriculture relied in one degree or another on a substantial part of the family income coming from seasonal, part-time, or spouse-held employment.

Mr. President, I ask unanimous consent that this article be printed at this point in the RECORD.

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

FARMERS TURNING TO NONFARM INCOME TO SUPPORT THEMSELVES

(By Don Kendall)

WASHINGTON.—The Agriculture Department says thousands of American farmers found it necessary to rely on nonfarm income to support themselves last year.

The department reports that the nation's 2.8 million farms averaged a total income each of $19,059 in 1976, an increase from the $17,558 average for each farmer in the previous year.

But officials also said new figures show that only $7,885 of the 1976 total average income came from farming profits. The remaining $11,174 came from "off-farm" income such as moonlighting jobs by farmers themselves or from jobs held by spouses and other members of their families.

In other words, the department said, a farmer earning less than $20,000 from his farm found it necessary to rely on nonfarm income to live.

The off-farm earnings were most pronounced for the smallest category of farms, those with annual sales of crops and livestock of $2,500 or less. These often have been called "country residences" by some authorities, rather than farms.

Those averaged $1,921 each from farm income and $15,630 in 1976 from off-farm earnings, a total income last year of $17,551 per farm.

But the $2,500-or-less farms account for more than one million of the nation's 2.8 million farms, about 30 percent. On the basis of dollar value of farm product sales, those accounted for only 1.4 percent of the nation's food and fiber last year.

Not until annual farm product sales reach $20,000 a year do the off-farm earnings drop below those of actual farm income.

For example, in the category of sales ranging from $2,500 to $4,999 a year, farm earnings—net income—averaged $1,725 a farm and off-farm income $12,067 each for a total of $12,067 or well below the smallest category.

In the $5,000 to $9,999 class of farm sales, farm income averaged $3,030 last year and nonfarm earnings $9,124 or a total of $12,154 for total income. The total income, incidentally, includes a value USDA economists place on food and housing used by a family on the farm.

The farms with product sales of $10,000 to $19,999 last year averaged $5,248 from farming and $7,060 off the farm, a total of $12,308 in 1976.

Collectively, the groups of farms having product sales of less than $20,000 last year—meaning what they sold in crops and livestock—accounted for 10 percent of 1976 U.S. farm production, based on the value of products marketed. But they comprised nearly two million or about 72 percent of all the farms in the country.

Put another way, there were about 782,000 farms which sold more than $20,000 worth of products each last year—28.1 percent of the U.S. total—and those accounted for about 90 percent of the nation's 1976 production, based on sales value.

But off-farm earnings still are important to the larger farms. In the sales category of $20,000 to $39,999 last year, farm income averaged a net income of $16,558 a farm against $6,906 from off-farm income.

In the largest category—units with farm sales of $100,000 or over last year—net farm incomes averaged $55,716 while off-farm earnings were $13,310.

Increasingly, partly because of higher prices of commodities since 1972, more farms have moved up into the higher categories of annual sales. For example, the report said that last year there were 155,000 farms which marketed at least $100,000 worth of products, compared with 141,000 in 1975.

In 1971, there were 63,000 farms in the $100,000-plus category. Those increased to 82,000 in 1972, to 138,000 in 1973 and to 150-000 in 1974 before dropping—largely due to sagging livestock prices—to 141,000 in 1975.

The figures are included in a new "Farm Income Statistics" report issued by USDA's Economic Research Service.

Mr. McGOVERN. Mr. President, further indications of the serious nature of the agricultural problems are contained in the August 1, 1977, issue of the Farm Paper Letter of USDA. This publication reports the current farm parity level at 65—the lowest parity ratio since March of 1933.

I ask unanimous consent that the text of the August 1 Farm Paper Letter be printed in the RECORD.

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

INSIDE: PRICES RECEIVED BY FARMERS CONTINUE DOWN; PARITY AT 44-YEAR LOW . . . BEEF REFERENDUM TURNED DOWN BY FARMERS

Net realized farm income for 1976 now placed, by USDA's Economic Research Service, at $21.9 billion. That's up slightly from the revised $20.8 billion total for 1975. And, though it's well below both the record $29.9 billion total for 1973 and 1974's $27.7 billion, it's still the 3rd highest in history, nearly double that for 1964.

Cash receipts from farm marketings hit a record high $94.3 billion, up 7 percent from a year earlier, 2 percent above the previous high (of $92.4 billion) set in 1974. Though livestock receipts were record high, they were exceeded by receipts from crops for the 3rd straight year.

At $47.9 billion, crops' receipts were up 6 percent from a year earlier, but 6 percent below the record $51.1 billion for 1974. Livestock receipts totaled $46.4 billion, up 8 percent from a year earlier, 12 percent above those for 1974, but only 1 percent above the $45.9 billion total of 1973.

Realized gross farm income a record $103.6 billion, up from $96.7 billion in 1975. But, farm production expenses totaled a record $81.7 billion, up from the previous high of $75.9 billion set a year earlier and more than double those for 1968.

On a per farm basis, cash receipts averaged $34,704, realized gross income, $37,303, and production expenses $29,418. That left

a realized net of $7,885, up from $7,410 in 1975, but below both the $12,529 for 1973 and 1974's $9,801.

The nation's largest farms, those with cash receipts of $100,000 or more, totaled 155,000, accounted for only 5.6 pct. of all farms. But, they accounted for nearly 60 pct. of all cash receipts. The smaller farms, those with cash receipts less than $5,000, accounted for more than 50 pct. of all farms, but less than 3 pct. of the cash receipts from farming.

Direct government payments to farmers totaled $735 million, averaged only $264 per farm. (Farm Income Statistics).

U.S. red meat production up sharply during June. At nearly 3.3 billion lbs. for the month, it was 5 pct. above that of a year earlier. Beef output, at 2.2 billion lbs., up 1 pct. from a year ago. Veal, at 66 million lbs., up 5 pct.; pork, at 1.0 billion lbs., up 14 pct.; lamb and mutton, 29 million lbs., up 7 pct. from June 1976.

June output brought red meat production for the first 6 months to 19.5 billion lbs., up 3 pct. from last year's record pace. Though beef output, at 12.5 billion lbs., was down 1 pct. from the first 6 months of 1976, veal, at 397 million lbs., was up 3 pct.; pork, at 6.5 billion lbs., was up 14 pct.; and lamb and mutton, at 176 million lbs., was unchanged from a year earlier. (Livestock Slaughter).

Prices received continue down; Parity at 44-year low! Index of Prices Received by Farmers declined 4 points (2 pct.) during the month ended July 15. It was the second straight month of decline. At 180 (pct. of its Jan.–Dec. 1967 average), the index was down 14 points (7 pct.) from both two months earlier and a year eailer.

Lower prices for soybeans, all grains, hay, oranges and tobacco were mainly responsible for the decline. Higher prices for hogs, cattle, eggs and broilers were partially offsetting.

At $6.30 per bu., soybeans were down $1.91 from a month earlier. Hay averaged $56.80, down $4.50 per ton; corn averaged $1.93 per bu., 19 cents lower. Oats, at $1.06, were 23 cents a bu. lower. Barley decreased 20 cents to $1.73 per bu.

Beef cattle prices were up 80 cents per cwt. to $34.90; hogs were up $3.00 per cwt. to $44.90. Eggs were up 3.9 cents per doz. to 50.7 cents and broilers were up 1.5 cents per lb. to 26.2 cents.

Meanwhile, the Index of Prices Paid by Farmers declined 1 point (½ of 1 pct.) to 203. It was still 9 points (5 pct.) above a year earlier. The Ratio of the Index of Prices Received to Prices Paid declined 1 point to 89. It had stood at 100 a year earlier.

Under the old 1910–14 formulas, Prices Received declined 11 points to 450 and were 486 a year earlier. Prices Paid declined 3 points to 689 and were at 660 a year ago. And, the Parity Ratio declined 2 points to 65. That's the lowest since March of 1933—when it stood at 55. A year ago it was at 74. (Agricultural Prices).

Cattle producers apparently have turned down a national beef research and information program. Preliminary results of a nationwide referendum indicate that only 56.5 pct. of voters approved the measure. While 322,175 beef producers registered to vote, only 231,046 (or 72 pct.) voted. A total of 130,464 voted in favor of the measure, 100,582 voted gainst it. Under the Beef Research and Information act, at least 50 pct. of beef producers registered had to vote; and ⅔ needed to vote affirmatively. (USDA 2016–77).

NEW AND REVISED USDA PUBLICATIONS

Packaged Fluid Milk Sales in Federal Milk Order Markets: By Size and Type of Containers, and Distribution Method During November 1975 (AMS 553), . . . Building Hobby Greenhouses (ARS Agriculture Information Bulletin No. 357), . . . Conservation Tillage for Wheat in the Great Plains (ES Program Aid No. 1190), . . . Ponds and Marshes for Wild Ducks on Farms and Ranches in the Northern Plains (Farmers' Bulletin No. 2234), . . . Wood Siding: Installing, Finishing, Maintaining (Home and Garden Bulletin No. 203), . . . Compartmentalization of Decay in Trees (FS Ag. Inf. Bulletin No. 405).

ABOUT YOU . . . 'N ME

Pete Hendry from FAO regional information advisor in Washington, D.C., to chief editor of Ceres magazine (in Rome). A one-time editor of the old Family Herald (in Canada), Hendry moved into the FAO slot after the Family Herald folded in 1970. He'll assume his new duties on Sept. 1. . . . Deborah Clubb, who has a M.S. in Journalism from Northwestern and a B.A. in English from Transylvania U. in Lexington, Ky., looking for a Washington ag reporting slot. She has a dairy/tobacco farm background, served as an intern for Medill News Service, covering capitol hill and USDA last winter. Contact her at 2337 N. Dickerson St., Arlington, Va. 22207. (tele: 703–532–5678). . . . Joseph Vansickle, 28, former reporter for the Fairmont (Minn.) Sentinel and Albert Lea (Minn.) Tribune, now associate editor of the National Hog Farmer. . . . Charles Lyon, managing editor of American Hereford Journal, notes that this year's 54th annual Herd Bull Edition "is not our largest in history, containing a mere 1,036 pages." AHJ's annual issues almost always exceed 1,000 pages, he says, "and we've published a couple that were near the 1,200-page mark." All this, in addition to regular monthly issues that vary from 200 to 400-plus pages. . . .

## INSURANCE AND SENIOR TRANSPORTATION

Mr. CHURCH. Mr. President, many transportation programs for older Americans are now threatened by rapidly escalating insurance costs and other restrictions.

This point was made very convincingly at a recent Idaho conference on aging.

In some cases insurance premiums have doubled or tripled in a year's time.

Many programs are now denied coverage because their drivers are 65 years or older.

A Committee on Aging hearing held on July 12 makes it clear that this problem has reached crisis proportions in some areas of our Nation and demands immediate attention. Some of the major points which emerged were:

Premium increases or nonrenewal actions are not based on actual safety records in many instances. For example, the insurance rate for an area agency on aging in Idaho leaped forward by 600 percent over a 2-year period. Yet, vehicles used by local Idaho offices on aging have not been involved in any accidents. In Virginia, one office had a policy canceled, ironically, because its vehicles had not been involved in any accidents. The insurance agent apparently felt that the drivers were riding a wave of good luck which was about to end.

The high cost of insurance undermines the capacity of agencies to provide services for the elderly. The net impact is that many older Americans continue to live in isolation, cut off from their families, friends, and service providers.

Certain restrictions, such as a 50-mile radius limitation for the vehicles of one Idaho office on aging, make it impossible to serve large numbers of the rural aged.

Mr. Leon Harper, president of the National Association of Area Agencies on Aging, estimated that insurance already accounts for at least 20 percent of the transportation costs of offices on aging. It is no wonder that many transportation programs are financially hard-pressed because they are also being strained by rapidly rising costs for vehicles, maintenance, and gasoline.

One insurance company terminated its underwriting of nationwide supplemental personal liability coverage for volunteer drivers. Unless alternative coverage is provided, some 9,000 volunteers must either stop driving their own cars for those in need or risk potentially ruinous liability if they are involved in an accident.

The Committee on Aging has already initiated some action.

We are developing, as rapidly as possible, the information required to come to grips with the problem. The National Association of State Units on Aging is, on our behalf, soliciting information from their members. And the National Association of Area Agencies on Aging has mailed out a questionnaire to nearly 600 member agencies. Those questionnaires will be returned directly to the committee for evaluation.

Because regulation of the insurance industry is largely the responsibility of the States, I plan to communicate with all 50 insurance commissioners to let them know of our findings and deep concern.

We have also been in contact with groups representing the insurance industry. We have been assured that they will work closely with us in obtaining appropriate rate classifications and reasonable premium charges for these programs. Rates for senior transportation should be based on an understanding of their purpose and their actual safety record, not on fears, ignorance or conjecture.

Mr. President, until better information is forthcoming and various alternatives are explored, it is difficult to say what is the best approach to this problem. However, I hope it can be corrected as satisfactorily and rapidly as possible. Perhaps some good can emerge from the present situation. Already the common insurance crisis is fostering new avenues of communication and cooperation between local offices on aging and others facing similar problems. I plan to seek solutions which can overcome or minimize the barriers which produce fragmentation in these federally supported special transportation programs. This is essential if our Nation is to improve the quality of life for older Americans in cities, suburbs, and the country.

## CAMPAIGN FINANCING: THE PROSPECTS FOR THE 1978 ELECTIONS

Mr. CLARK. Mr. President, since the defeat of public financing for congressional elections last Tuesday, there have been numerous statements regarding the significance of that defeat. The minority leader, Senator BAKER, has called it a demonstration that Senate Republicans are the most potent political force in town. Others have painted a picture of defeat for the Carter administration and

its entire election reform package. Still others have called it a clear signal of the demise of moderate Republicans.

My own views on the reasons for this defeat were clearly stated following the final cloture vote on Tuesday and I shall not take the Senate's time to repeat them.

More important than who won and lost, however, is the question of what impact the failure, nevertheless, absent among much of the discussion of who won and who lost was any attempt to analyze the impact that the failure to enact public financing will have on the 1978 elections. I would like to take a few minutes to address that point.

The public financing provisions of S. 926 had three major goals:

First, to help minimize the increasing influence and importance of special interest money in congressional elections;

Second, to help reduce the overwhelming advantages that incumbents now hold over challengers; and

Third, to attempt to discourage—within the limits set down by the Supreme Court in Buckley against Valeo—wealthy candidates from committing vast amounts of their own funds in the effort to win election to public office.

Now that the public financing provisions of S. 926 have been stripped from the bill, let us examine what is likely to occur with regard to each of these problems.

In recent years special interest contributions to congressional campaigns have grown by leaps and bounds; from a total of $8.5 million in 1972, to $12.5 million in 1974, to the staggering sum of $22.6 million in 1976.

But the tremendous growth in special interest political activity cannot be fully understood by looking at dollar figures alone. Since the end of 1974 there has also been a phenomenal rise in the number of so-called political action committee—PAC's—the source of special interest dollars. At the end of 1974 there were 607 PAC's in existence; by last month that figure had nearly doubled, to 1207. The number of cooperate PAC's alone increased fivefold—from 89 in 1974 to 477 last month.

Each political action committee is limited to contributing $5,000 to a candidate in a Federal election. But there is no limit to the number of PAC's that can be created. They have doubled in 2½ years, and there is every reason to believe that trend will continue.

Absent congressional public financing, candidates who intend to run competitive campaigns will have no alternative but to turn to the special interests for funds. The record of campaign finance disclosure since 1972 clearly shows that individual contributions alone are not enough—that to generate individual contributions requires large amounts of seed money available only from PAC's or personal resources.

With special interest groups growing rapidly, and with their treasuries expanding each day, the 1978 congressional elections promise to be virtually flooded with special interest dollars.

The unchecked growth of special interest money in politics should also serve to strengthen the already firm grip of congressional incumbents. Historically, special interest contributions flow to incumbents over challengers at a rate of better than 3 to 1. In some cases incumbents' campaigns have been dependent on special interest groups for more than 50 percent of their financing.

A strong infusion of public funds into the political process would greatly strengthen the position of challengers in the struggle to raise enough money to get their messages across to the electorate. But there will be no public funds in the 1978 campaign; and we can expect that—as usual—more than 90 percent of incumbents will be returned to office, many after receiving no serious opposition.

But one kind of challenger—the multimillionaire—will be riding high in 1978. Under Buckley against Valeo it is unconstitutional to restrict the expenditures of a candidate on his own behalf. But through public financing, it is possible to protect a candidate of modest means from being inundated by wealthy opposition. With the death of public financing, the prospect for such protection in 1978 was effectively eliminated, and all candidates—incumbents and challengers alike—will be looking over their shoulders in fear of rich opposition.

To sum up, Mr. President, the prospect for 1978 is for more of the same—massive contributions by special interest groups, continued victories for incumbent officeholders, and huge advantages for wealthy candidates. Public financing of elections could have made this prospect considerably brighter.

But it appears that the day when candidates will be forced to depend on all the people—not just the special interests and the rich—is still to come.

## A TRIBUTE TO THE CITY OF HOPE

Mr. CHURCH. Mr. President, on July 16 the City of Hope, a pilot medical center, celebrated its 64th anniversary in Los Angeles. Since 1913 this remarkable institution has been providing the best health care and conducting pioneer research in developing new treatment for catastrophic illness. The City of Hope has been an outstanding success.

In a speech to the biennial convention last month, the executive director, Ben Horowitz, provided an overview of the programs which have proved so valuable. Also, at that convention, I had the honor of delivering the main address at the banquet, where I spoke of the spirit and the philosophy which has attracted national attention to this extraordinary medical center.

I ask unanimous consent that both addresses be printed in the RECORD.

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

KEYNOTE ADDRESS

(By Ben Horowitz)

Welcome to our 1977 National Convention.

Our City of Hope is a unique phenomenon on the American scene. Among its many extraordinary components, conventions occupy a significant position. Such biennial gatherings are not mere exercise in ceremonial ritual. In our framework, they give vibrant testimony to our ideas and ideals, geared to advancing health and humanism everywhere.

You delegates, representing tens of thousands of members in the family of the City of Hope, were selected on the basis of special qualifications. You have accepted weighty responsibilities and rendered outstanding service in your auxiliaries. The progress our organization has made during the past two years reflects in great measure the money, time, energy and talents you have given to our cause.

Leaders of the City of Hope must be dreamers and doers! Our vision for the American people is grand, indeed. Its fulfillment demands that we commit ourselves to a maximum effort to convert creed into deed.

When the word "miracle" is used, it is usually associated with a single incident. In connection with the City of Hope, I dare to say, miracles are virtually a daily occurrence. The central focus of everything we do is to relieve the agony of those who suffer, to prolong life and effect cures for the victims of crippling and killer diseases. Apart from the awesomeness of human creation, what greater marvel is there in the universe?

The founders of the City of Hope 64 years ago began our wondrous adventure by establishing a modest haven of healing to combat the pestilence of tuberculosis. As their successors, we have built a world-renowned Medical Center broadening the targets to the major catastrophic ailments. Superb patient facilities and research laboratories conduct the struggle gainst ancient enemies of humanity.

My keynote address tonight will give you a general overview of recent developments and perspectives, to be spelled out more specifically on other days of this Convention. You will hear heartening reports from our physicians and scientists. You will see at first hand how the battle for life is being won on the grounds of our Medical Center. Reports of various Committees will provide you with detailed information of our activities—organizational, programmatic and ideological. What I will be telling you is a story of substantial accomplishment. It is your story because, in a real sense, you are the authors of this Book of Life.

OUR HOSPITAL

Economic recession and skyrocketing inflation of recent years have compounded a decade-long health crisis in this country. Many hospitals have been forced to retrench and some have even closed down. In the final analysis, the patient has borne the burden of soaring costs, depersonalized treatment and any deterioration of services.

Imbued with its purpose and relying on the devotion of its supporters, the City of Hope not only refused to cut back during this crucial period, it went even further. Since 70% of our patients are afflicted with malignancies, exciting new programs were launched in medical oncology, cancer immunotherapy and bone marrow transplantation.

Shortly, we will also be inaugurating an expanded pediatrics service in the Sunny and Isadore Familian Children's Center. It will admit little patients with immunological, respiratory and metabolic conditions.

Our comprehensive facilities, equipped with the latest technology, are housed in intimate and beautiful surroundings rather than in a cold institution-like setting. The finest quality of service is dispensed by our highly competent staff. Care is rendered free, in an atmosphere of loving concern for patients and their families. Only the best is good enough for those who come to the doors of our hospital.

OUR CONSULTATION SERVICE

Medical practice has leaped from bygone years when knowledge was carried in the

brain and satchel of a doctor to the present era with its dozens of specialties, complex facilities and hundreds of medical journals.

The City of Hope is distinctively well-qualified to offer physicians the benefit of our advice and assistance regarding diagnosis and therapy for their patients' conditions. In response to ever-increasing requests for such consultations, we have added several boards in specialized areas.

We are pleased with the wide use of our consultation services. Our Department of Anatomic Pathology serves as a national reference center for clinical lymphoma. Our Department of Hematology is a national center in disorders involving red cells. Our Department of Metabolism and Endocrinology has particular expertise in the area of diabetes. It is our intention to boltser this source of reassurance to our patients.

OUR PILOT MEDICAL CENTER

Unquestionably, medical science has made headway against the ravages of disease. But what consolation are statistics as we see those near and dear to us endure torment and die prematurely. The body count of casualties is numbered in the millions.

The need for an arsenal in this all-out war against major maladies motivated the emergence of our Pilot Medical Center, encouraging and emphasizing intensive clinical and basic research.

Since the 1975 Convention, 320 reports have come from our laboratories. In the last decade, a total of 2,000 reports from our investigators have been published in the world's leading professional journals and presented at hundreds of meetings. National and international recognition has come to them in the form of awards, honors, appointments to editorial posts, designations to eminent offices in professional societies, and invitations to lecture and collaborate with colleagues at other prestigious institutions.

The thrust of the City of Hope in probing the biological processes will lead to more effective prevention, detection, diagnosis and treatment of illnesses. One newcomer to our ranks is a specialist in occupational diseases, an appointment reflecting the fact that 80% of malignancies are environmentally induced.

It is noteworthy that our research is supported by millions of dollars in government grants and by similar large funds from our own sources.

OUR THINK TANK FOR HOSPITALS

Hospital budgets have doubled in the past five years. This has little relationship to better services but is rooted in the double-digit inflationary pattern affecting all hospitals.

Improvement in the health delivery system is therefore a fundamental consideration of the City of Hope. Our task forces are studying various phases of hospital function in contributing to upgrading the irquantity, quality, economy and efficiency.

Our role as a think tank has been highlighted by piloting projects of our administrative, nursing, pharmacy, social work and rehabilitation staffs.

OUR AUXILIARIES

Throughout the years the auxiliary movement has been the heartbeat of our endeavors. The lofty aspirations of the City of Hope have stirred the hearts, minds and souls of these humanitarian men and women.

Auxiliary members have provided a vital portion of our fiscal needs, constituted the democratic hub of our policy-making, and conveyed our objectives to communities in every part of the land. Much of our success can rightfully be credited to their heroic exertions.

We now have 522 auxiliaries in 236 cities in 31 states and Washington, D.C. This is the largest number of chartered affiliates in the widest geographical area in our history.

OUR FUNDRAISING

The income for 1975–1977 will be approximately $57,600,000—an increase of more than $10,000,000 over the previous biennium.

Spurring the attainment of this record sum was the initiation of Operation Breakthrough, a campaign for unprecedented fundraising ventures. The response was overwhelming and this will be amply demonstrated at our Roll Call tomorrow evening.

Is our emergency over? Definitely not. True, we will meet in full the operating costs of the current year; it should interest you to know that we started the fiscal year with an estimated expenditure budget of $29,500,000 which will wind up closer to $30,500,000. A cause of anxiety was that we were compelled to delay many New Horizons plans and were unable to lay aside money for such construction and equipment; this must be completed in the next fiscal year.

OUR LEADERSHIP

It is appropriate at this time to pay tribute to the active and creative efforts of our President, Mike Hersch, the officers and members of our Board of Directors, Honorary President Mannie Fineman, Executive Medical Director Dr. Rachmiel Levine, Associate Medical Director Dr. Melville L. Jacobs, Medical Center Administrator Robert Sloane and the professional staff. Their leadership has given impetus to higher levels of achievement by our organization.

OUR MISSION

We seem to be living in an age of deepening pessimism about the future of humankind. There is great cynicism about the nature of the human being, which is characterized as selfish, corrupt and bent on self-destruction.

It would be foolhardy to deny the prevalence of these evils. Philosophers have given thought and engaged in heated controversy about these sordid facets of human existence. But authoritative observers of behavior assert that self-image is a determining force of action, for the person and the society as a whole. Consequently, it is essential that the blanket indictments of the human race be decisively rejected.

The performance and promise of City of Hope volunteers is solid evidence of the capacity and potential of human beings, individually and collectively, for goodness and compassion. This is represented by our manifold mission.

We have accepted the obligation of stimulating people to be vigorously concerned about other human beings in distress.

We have assumed the responsibility of assuring the drastically stricken that assistance will be forthcoming.

We have espoused an ideology that insists upon respect for the dignity, worth and preciousness of each individual.

We have undertaken to build a mass movement to enlist advocates of our cause and to raise the funds which will implement our goals.

The theme of this Convention, "City of Hope Cares," is an affirmation of our commitment. It recognizes that "caring" means energetic action rather than a mere verbal expression of sentimentality. It insists that "caring" should be a constant reaching out for new areas of application. It signifies a readiness to make living a joyful experience for the many and not for the few.

As you participate in the sessions of this Convention, give your best thinking and wisdom to the deliberations. Remember that what you do here will advance hope as against despair, comfort as against pain, life as against death.

Our Biennial Convention must be a shining beacon to America that the City of Hope is determined to hold high for those who need and believe in us—who look to the expertise of our physicians and scientists for physical healing—who look to the humanism of our auxiliary workers for spiritual healing.

So, delegates, to work. Let's transform prophesy into reality!

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THE CITY OF HOPE: A BEACON FOR THE FUTURE

Bethine and I are very proud to be here tonight. To begin with, we were captivated by the first official action you took in approving your rules. We haven't witnessed a vote cast with that degree of unanimity since we attended the all-Ukranian Soviet Congress in Kiev nine years ago! Now, as I listened to those rules, I noted one of them prescribed that no one could speak for more than three minutes, and another required the speaker to stick to the subject. Well, you just can't expect a United States Senator to comply with rules like those, especially when you didn't even give me a chance to vote no!

During the day, it was our pleasure to visit the City of Hope. I confess I came here from Washington with a speech that I had edited, but which in fact had been written for me. I was sufficiently satisfied with it to distribute it to the press, and, of course, I stand by everything in it. But, after we visited the City of Hope, and I had my first opportunity to see the facility, to meet with those who administer it, to visit with some of the doctors and research people there, I came away with the feeling that my prepared speech was not sufficient for this occasion. And so I have discarded it, and I will free-wheel instead, in order to more genuinely express my own reaction to the experience we had this afternoon. If my remarks are not so polished as they might have been, at least they will come from the heart and you will know that they are mine.

Life is a learning experience, and I learned a lot today. Throughout most of my career in the Senate, I have been a member of the Committee on Aging, and during the past five years, I have been its Chairman. When first appointed to that committee, 16 years ago, I was still in my 30's, and I looked, I'm told—hard as this may be to believe—as if I were still in my 20's. Now, on the day of my appointment, I went over to the New Senate Office Building, to a particular elevator I always liked to use because the operator, an older man, possessed a wry sense of humor. He always had something original, something different, something humorous to say, about the day's events, and I liked to ride with him. So I boarded the elevator, and he said, "What floor, Senator?" And I said, "the fifth." He took me all the way to the fifth floor and didn't say a word. But when the doors opened, he turned to me and he said, "Why are you coming to the fifth floor, Senator? You usually go to the third or the fourth." And I replied very proudly, "I've come to the fifth today, because I have been appointed the newest member of the Select Committee on the Problems of the Aging." Well, he looked me up and down a couple of times, shook your head, and said, "Wouldn't you know, that's just the way the government would do it!"

Now I want you folks to know, having spent the afternoon at the City of Hope, that I surely like the way you do it. I think that the City of Hope is an institution in which anyone associated can take heartfelt pride. In reviewing your literature, I noticed that you stress the fact that the City of Hope is a medical center, a kind of pilot plant for medical research and patient care. Other institutions make such claims, but few live up to their own billing. I saw evidence today that impressed me very deeply. The City of Hope is indeed a pilot plant.

Having had something to do with the establishment of the National Institutes of Health in Washington, D.C., I am conscious of the large amounts of your tax money they consume. The Institutes represent a great medical center. But it plagiarism is the high-

est form of flattery, then let me describe the way the National Institutes of Health operate. First of all, they take in patients afflicted with acute illness, where treatment is rendered free of charge. Secondly, they constitute a center for medical research in developing new methods for the treatment of catastrophic illness, where patients can be helped, some enabled to live, others to grow better, while the patients themselves assist in advancing the research. Finally, discoveries at the National Institutes, funneled through the National Library of Medicine and in other ways, are made available to other hospitals and medical centers throughout the country and the world, free of charge.

Doesn't that sound a lot like an institution you know about? Doesn't that demonstrate that the City of Hope, which put these very principles into practice years before the National Institutes of Health ever came into being, operated as a pilot plant which led the way for the whole country?

Since our visit this afternoon, I've looked again at your Thirteen Articles of Faith which have governed the life and growth of this remarkable institution, since its inception 64 years ago. Let me read you Article II:

"Since major diseases are difficult to diagnose, and costly to cure, the people who suffer from major disease require specialized attention. It is our duty to offer the best care known to medical science."

Well, it didn't take long to realize, after we had visited the laboratories and talked with some of the research specialists, that every effort is being made to extend to the patients at the City of Hope the most advanced medical care known. We were told, for example, about the latest breakthrough, where bone marrow transplants are being used to assist leukemia victims. A tremendously promising breakthrough in the treatment of leukemia for adults is today taking place at the City of Hope—one of the few places in the world where this advanced treatment is available.

But it is not only the treatment that counts, it is also the way the treatment is given. At the City of Hope, when you visit it tomorrow, you will be impressed—as we were—by the beautiful grounds, by the philosophy that the patient counts—that the buildings, the internal and external arrangements, the architecture itself should reflect the needs of the patients.

Thus we were told that the hospital rooms have been placed on the first floor so that patients can see out and enjoy the flowers, the landscaping, and the beautiful grounds. We were shown how carpeting had been placed in the hallways. A few years ago, Bethine had an operation at the Georgetown Hospital in Washington. They located her on the floor where they had placed carpeting, explaining that this was an innovative experiment to reduce noise that they had learned about. I wouldn't be surprised if they had learned about it from the City of Hope.

We also visited the new Children's Hospital, and here again marvelled at the extraordinary design. It wasn't just that I met some of my favorite characters on the walls: Snoopy and Mickey Mouse, and Donald Duck—but the rooms were built around a wonderful playground. And it was clear that the children there didn't feel estranged.

We were told, too, about the ratio of nurses to patients, two nurses for every five patients. I doubt you'll find that kind of ratio in any other hospital in the world.

Dr. Mel Jacobs is here tonight. He got a nice hand; it's clear he's much loved. This afternoon we looked at a model of the cobalt machine he designed, the original of which is now on display at the Smithsonian Institute. It happens that I was a cancer patient years ago, at the age of twenty-four, long before the cobalt machine was perfected. I was given X-ray, as much as I could tolerate. The X-ray burned the outer flesh so that one could take only a limited dosage. As a result, the effectiveness of X-ray was limited. When the cobalt machine came along, it penetrated into the region of the malignancy without burning the flesh. I remember my excitement when first reading about it, an excitement I felt again this afternoon.

We also visited a pharmacy in one of the wards and learned about the new technique for making certain that drugs are dispensed properly. I heard for the first time that one of the serious problems in our hospitals across the land is that pharmacists don't play the role they're trained to play. Typically, the pharmacist is in the basement some place dispensing drugs without having any direct connection with the patient. Furthermore, the drugs are dispensed with such laxity that many mistakes are made. Throughout the country, the percentage of error runs as high as 15 to 20 percent: the wrong drugs being given in the wrong quantities to the wrong patients! Here at the City of Hope we saw the extraordinary precautions being taken to assure that the right drugs get to the right patients in the right dosages. We were told about how the pharmacist is brought in as part of the medical team, to become acquainted with the patient, and to counsel with the doctor about the combination of drugs that ought to be administered. This new method of dispensing drugs is now the subject of a film which is being sent all around the country so that every hospital can benefit, for the results have been dramatic. As compared to a 15 or 20 percent margin of error in many hospitals in this country, at the City of Hope the margin has been cut to 1/10 of one percent. Imagine that!

Let me turn now to Article V, which reads: "since the fight against major diseases requires maximum physical and mental strength, and the cost of financing the cure of a patient of a major disease is often beyond the reach of the patient, it is our duty to give the patient all necessary care and treatment on a free basis in order to set his mind at rest and enable him to obtain a more certain and speedy recovery. Imagine what a radical doctrine that must have been back in 1913 when the City of Hope was first established. It's a pretty radical doctrine in most circles today!

For example, compare it with what our society has done, generally, in addressing this very question. Remember that at the City of Hope the standard is: what are the health needs of the person, not what can the person afford to pay. The standard at the City of Hope involves no means test, yet the care is given without any suggestion of charity. Insofar as the patient can be helped and can contribute to the growth of knowledge with respect to his or her particular illness, the patient is invited in. And the service received is free.

Well, back in 1913, when there were just two tents located on five acres of ground at the City of Hope, our society recognized begrudgingly that the destitute should not be denied medical care, which was sparingly spooned out at county hospitals or "poor houses," as they were known, if it was available at all.

We've made some progress in the 50 years that have elapsed since that time. As a society we now recognize an obligation to extend public health care beyond the utterly destitute. Through Medicaid, some states offer, with federal help, a program that covers not only the indigent, but those of low income who cannot meet the high costs of modern medicine. Also, through Medicare as an adjunct of Social Security, we have provided for the elderly partial medical insurance that at least accommodates most of the cost of hospitalization and associated doctors' fees. All of this represents progress. But I couldn't honestly say to you that the problem of providing our people adequate medical care is even close to being solved. For the truth is that those who qualify for help are in the distinct minority. And the programs, themselves, are full of holes.

Nor can I honestly say that these programs have been administered in a way that has effectively controlled costs or even prevented widespread graft and corruption. Costs are soaring out of control. This was recognized as early as 1971, at the White House Conference on Aging. A great cry arose from that Conference to find alternatives to institutionalization. But very little has been done. In Medicare, less than one percent of the expenditures go for home health care. Nearly everything goes for institutionalized care, which is, of course, the most expensive kind. And when I speak of waste, let me refer to HEW Secretary Joseph Califano's recent statement that of the 700,000 patients in our hospitals throughout the nation, 100,000 have no need to be hospitalized at all! That's 15 percent of the total occupying hospitals designed, equipped and costed for patients in need of the most intensive care. That's 15 percent who should be in nursing homes, or receiving out-of-hospital patient care, or being treated at home, if only there were the flexibility to do it. Once again, I suggest to you that the City of Hope is a pilot program that can lead the way. For those hundred thousand patients in our hospitals who don't need to be there—what is the cost? It's a staggering $2.6 billion a year! Think what could be done with $2.6 billion a year if it were applied to the kind of health care these people really need?

And so when I was told today, that there are outpatient care facilities at the City of Hope which accommodate ten times the number of patients inside the institution, I say here is a pilot program that the whole country should study and emulate!

Now let's turn to the Sixth of your Articles of Faith, which reads:

"Since the high spirit of the patient is most vital in the fight against disease, and the feeling of being a recipient of charity lowers the morale of the patient, and since we feel there is no profit in saving the body, if in the process we destroy the soul, it is our duty to maintain the dignity of the patient by avoiding all implication of charity in our service."

I mention this article because it is one of several I could read that has to do with the humanism in the treatment extended to the patients at the City of Hope. This ingredient is so often lacking in publicly financed medical care. I learned the other day of a case in Cleveland that I would like to relate to you tonight, because it typifies the problem that frequently afflicts our public programs.

It had to do with a man who went to the Cleveland City Health Department Clinic and complained about arthritis pains and respiratory difficulty. Now he was fortunate, because he found somebody there who began to take an interest in him as a person. It happened, as it so often does, that he didn't fit any of the categories. But this person just attracted the attention of one of the administrators who went out and investigated his condition and discovered that this man, who was 82 years of age, was living alone in an old, unheated store front, without decent cooking or sanitary facilities. His problems could never have been known at the clinic—only when he was treated as a person and his whole life condition was looked at, was it possible to begin to prescribe some help.

But it took months, because he didn't fit into any of the established categories. It took a lot of negotiating, counselling, cajoling and nagging before it was possible to find him better housing, and enroll him in a senior citizens' center for meals to improve his nutrition. And then it took months to

get him a pair of glasses because, you see, Medicare doesn't cover glasses, and he couldn't afford to buy them. But finally a pair of glasses were contributed, and he started to read again. That person was fortunate, for the truth is that there are countless thousands of people in his situation today who fall through the cracks of the existing programs and get no help at all. Somehow we must find a way to incorporate the philosophy that has so long governed the City of Hope, that's expressed, directly or indirectly, in all of your Articles of Faith: which is to recognize that, above all, the patient is a human being, not a case number, a human being whose physical and psychological and spiritual needs must be taken into account. That's what you're striving to do. And that's the only way we'll find a humane solution to our health care problems in this country.

I'd like to close by telling you a story of a friend of mine who now lives in Paris—a very successful lawyer, and one of the brightest men I know. As a boy, he was incarcerated in a Nazi concentration camp and was one of the few to come out alive. Every moment of his terrible ordeal was indelibly inscribed in his memory. I asked him how it was that the many Germans associated with the camp could possibly have sent thousands of human beings to the ovens to be gassed and rendered into soap. He said, "Frank, there were some beasts at Auschwitz, but most of the people who administered the camp were not beasts."

"Then how," I asked, "could they endure being part of that mad and murderous exercise?" And he said, "Because they didn't think about it. They never looked at it as a whole. They never assumed a responsibility for the end result. They had little parts of the operation to take care of, and they confined themselves to distributing the clothing or cooking the food, or providing the transportation, or taking care of the paperwork, doing those little parts that didn't force them to face up to the monstrous truth of the whole evil scheme. And that's how they lived with themselves, by segmentizing everything that happened."

Segmentization is what we must avoid in developing a health care system for this country. Otherwise, too many of our own people will be abused, those who don't fit this segment or that. We must treat them, instead, as whole human beings, entitled to be cared for with dignity, with concern, and compassion. That's what you're doing at the City of Hope.

So I commend you for your wonderful work, and I'll close by quoting your own words. For you say, "We bear witness that democracy, properly organized and intelligently directed, can develop a large reservoir of leadership. Democracy is becoming a faceless thing, a mere matter of counting noses which encourages the one leader cult. Organizations like the City of Hope must resist this trend, making it possible for people to be somebodys in a world of nobodys."

I think President Carter, in just a few months in office, has made it clear that he sees people as individuals. I think that Congress, having witnessed the serious mistakes which have marred Medicare and Medicaid, is beginning to see that health care programs must be people-centered, rather than category-centered.

But the Congress and the White House aside, what really counts most, is what people like you insist be done to assure good health care for everyone of every age in every part of this nation. You and other concerned citizens can tell the policymakers that you are tired of outrages, tired of out-of-sight costs, inadequacies and inequities in our health care system. You and other concerned citizens can help all of us start taking pride in accommodating people who need medical care and humane support in this rich country.

That would be a good feeling—a good feeling to have once again. That would be the City of Hope feeling extended to all parts of our country. Shouldn't we hope for the best and then work for it, just as a few people did back in 1913 when they first dared to believe that a city called Hope could become real. And won't we then make it happen throughout the land?

## FEDERAL MEAT INSPECTION ACT

Mr. BENTSEN. Mr. President, last week I introduced S. 1940, a bill designed to provide relief for the small State-inspected meat-processing establishments. This bill would give the small operator a chance to compete with the larger federally inspected meat-processing establishments. I have received a copy of House Concurrent Resolution No. 101, which was passed by the house of representatives and senate of the State of Texas during the regular legislative session earlier this year. As you can see, this problem is one which State legislatures are concerned about, but which only the U.S. Congress can correct.

Mr. President, the small operator is not asking for any special favors; he only wants to be able to operate in a competitive situation with the large federally inspected meat processors. I believe this bill will alleviate an inequity currently existing in the meat industry, and will benefit the cattleman, processor, and consumer alike. I am hopeful that the Senate will give timely consideration to S. 1940, in order to provide the small businessman the same opportunity that is currently enjoyed by the larger operator.

Mr. President, I ask unanimous consent to have House Concurrent Resolution No. 101 printed in the RECORD in its entirety.

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

HOUSE CONCURRENT RESOLUTION NO. 101

Whereas, when provisions were made in the Federal Meat Inspection Act and the Poultry Products Inspection Act to prohibit interstate distribution of products inspected in state rather than federal facilities, most states did not have inspection programs which met federal standards; and

Whereas, U.S.D.A. authorities have recognized that state inspection plants in Texas have standards equal to the federal standards, yet state-inspected packers are still unable to sell their products to federally-inspected packers; and

Whereas, Federal law and regulations, despite the equal standards, only permit federally-inspected packers to sell to state-inspected packers; and

Whereas, This situation narrows the market for state-inspected products and places the state-inspected packer at a competitive disadvantage; and

Whereas, The state-inspected packer is placed at a further disadvantage in competing with foreign producers because, once a foreign product is introduced into a federal plant and is commingled with the federally-inspected domestic products, it also moves with complete freedom throughout the United States; and

Whereas, Federal embargo on free movement of state-inspected meat products must be corrected if small packers are to receive equal treatment under the law and the state meat inspection program is to survive; and

Whereas, A change in the federal provisions would promote freedom of trade within the packing industry and help to improve all agribusiness related to meat production; now therefore, be it

Resolved by the House of Representatives, the Senate concurring, That by this resolution the 65th Legislature of the State of Texas hereby memorialize the Congress of the United States to take affirmative action to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide that meat or poultry which is inspected in a state facility that meets federal standards shall be eligible for acceptance in federal plants and for distribution in commerce in the same manner as meat or poultry which is inspected in a facility subject to federal supervision; and, be it further

Resolved, That a copy of this resolution be forwarded to each senator and representative in the Congress from Texas with the request that this resolution be officially entered into the Congressional Record as a memorial to the Congress.

## DAY CARE—AN ALTERNATIVE FOR THE ELDERLY

Mr. WILLIAMS. Mr. President, many communities have recognized the need for an alternative to traditional forms of institutional care for the elderly. Studies have shown that nursing home care, in addition to being very costly, can have a deteriorating effect on an aged individual, as this type of care tends to foster dependency. "Senior citizen" centers provide important opportunities for social contacts, but often do not have facilities for medical treatment.

A new option in care for the elderly which has found acceptance and success in a growing number of American communities is the concept of day care. Day care centers for senior citizens are designed to accommodate those who do not require the full-time medical facilities of a nursing home, yet need some medical supervision. These programs are run by professionals who are able to provide medical and dietary care as well as create an atmosphere where the elderly can meet others and participate in social activities. For many older Americans, previously faced with the prospect of entering a nursing home or living alone, such centers can be a welcome opportunity for a more enjoyable life.

In my own State, the Daughters of Miriam day care program for the elderly in Clifton, N.J., has proved to be enormously successful and popular among the surrounding communities' senior citizens. The center is free of charge to participants and is the first such facility in New Jersey to accept medicaid patients. The granting of medicaid approval for day care can mean a savings of millions of dollars for State governments over the cost of full-time institutionalized care. For the senior citizens in need of part-time care and able to take advantage of day care opportunities, these programs would seem to offer a more satisfactory solution. Elderly persons participating in day care are more likely to maintain their individuality and independence.

The establishment of the Daughters of Miriam Center has promoted the plan-

ning of two other day care programs in northern New Jersey, which will be funded in large part by Federal grants. One of the several Government programs which provides funds for the establishment of senior citizen day care centers is the model projects program under the Older Americans Act. I was honored to join with the distinguished chairman of the Senate Aging Committee in sponsoring legislation enacting model projects, and I am particularly pleased to note its successful application.

These three projects are described in a recent article in the Record, a Bergen County, N.J., newspaper. Mr. President, I ask unanimous consent that this most interesting article, entitled "Staying Sharp Together," be printed in the RECORD.

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

STAYING SHARP TOGETHER: DAY CARE—AN ALTERNATIVE FOR THE ELDERLY

(By Barbara L. Archer)

"If it weren't for this, I would just sit on my porch and watch the world go by," said Esther Arnowitz, taking time out from an afternoon sing-along at the Daughters of Miriam Day Care Program for the Elderly.

"Here, I'm amongst people. It's harmony and togetherness. At home, it's emptiness. This gives me a chance to get out of the house and be with other people, and when you're with other people, you forget your own troubles."

For the 74-year-old Paterson widow, who must spend most of her time in a wheelchair, the day care program is a happy alternative to two depressing prospects—becoming a shut-in or entering a nursing home.

Until recently, this alternative did not exist. The free day care program, operated by the nonprofit Daughters of Miriam in Clifton, is the first of its kind in northern New Jersey. It is also the first such program to receive state approval to accept Medicaid patients. This fall, however, Bergen County plans to open a center, using the successful Daughters of Miriam program as a model.

MINIBUS SERVICE

Forty-five persons from nearby Passaic, Paterson, Elmwood Park, and Fair Lawn are signed up for the program. Some attend five days a week, some go only three times a week, putting the average daily attendance at about 20. Minibuses pick up the participants every morning and take them home every afternoon at about 3. One minibus is equipped with a hydraulic lift, which is essential to transport wheelchair-bound clients.

Day care programs for the elderly differ from simple senior citizen centers in that they are run by professionals who attend to the medical and psychological as well as the social needs of the participants.

The Daughters of Miriam program provides supplementary medical and nursing care in consultation with the participants' personal physicians. Clients like Mrs. Arnowitz benefit from daily physical therapy, while others receive necessary medications. As a part of the larger Daughters of Miriam complex on Hazel Street—the organization runs a 275-bed nursing home and 130 apartment units for senior citizens—the day care program has access to special services such as dentistry, podiatry, and ophthalmology. Though the program is nondenominational, hot lunches and snacks are prepared according to kosher dietary laws. In cases in which clients live with their families, the program offers counseling and referral services.

COST BREAKDOWN

A federal program under Title 20, administered through the New Jersey Department of Human Resources, cover about 75 per cent of the program's basic costs. The Jewish Federation of North Jersey donates the other 25 per cent, and the Daughters of Miriam itself provides the money for countless extras.

Day care for the elderly is designed to fill a gap in the services provided to the increasing population of aging Americans, according to social worker Bill Poznik, the program's director. While candidates for day care programs usually are frail or have some medical problems, they do not need full-time professional care, Poznik said in a recent interview.

"The average age of our clients is 80," he said. "Our goal is to provide supportive services so that the elderly person can remain in the community and postpone or eliminate the need to enter an institution.

"Before this was available, many of these people would have had to choose between giving up their independence and becoming a burden on their families, staying home alone, and going into a home. This prolongs their life in the community."

In some cases, the program prolongs life, period, Poznik and the other professionals at the center believe. It has been their experience that when the elderly enter an institutional home, no matter how good the home may be, they tend to give up and become totally dependent. This alone can cause a deterioration in an aging person's condition. In contrast, day care participants come out of their shells and become involved in life again, Poznik and his staff said.

ONE STAFFER'S REWARD

For Lynne Bolson of Teaneck, a former teacher who directs activities for the program, seeing participants become more outgoing is one of the most rewarding aspects of her work.

"Although older people can become egocentric and self-centered, here I have seen them become tremendously interested in each other," she said.

Ms. Bolson's job is largely devoted to keeping participants interested in the world outside themselves. To achieve this goal, she holds daily discussions on current events.

"We focus on today, what happened today," she said. "We follow the news, particularly issues that interest the clients. During the presidential election we had speakers here to talk about the campaign.

"Many of the clients have had little formal education, but they are tremendously knowledgeable about the arts and history. I have to read several newspapers to keep up with them."

Ms. Bolson also plans other activities. Passaic pianist Gertrude Holtzman and Saddle River pianist Neil Fishman volunteer their services for music sessions. The clients also like to play word games, work at crafts, and simply chat with each other, Ms. Bolson said.

"We emphasize freedom of choice in order to foster independence rather than encouraging dependence on us. So, although the schedule of activities is posted, there are several options. Someone may decide to read a book in the quiet room rather than come to the discussion period."

The discussion period is usually well attended, however, and can get quite lively, as a visitor found out. Ms. Bolson said she will never forget the day a 94-year-old woman got up and, using her cane, did an imitation of Charlie Chaplin.

The program at Daughters of Miriam is a team effort, and Roberta Hausman is a key member of that team. A registered nurse specializing in community health, Ms. Hausman supervises the diet and medical care of the clients, seeing that they get necessary therapy and prescribed medications.

Ms. Hausman said that while the center is equipped to handle a variety of medical problems, total senility or incontinence would make a person ineligible for day care.

"Other than that, we're taking people whom no one else would take on this basis," she said.

Ms. Hausman said she thought it was not just the well-rounded services of the center but its atmosphere that contributed to its success. The chance to socialize with each other is invaluable to the elderly, she said. "It becomes like a second family."

A vistor's observations confirmed Ms. Hausman's. During the sing-along, the participants responded to each other with great warmth. They applauded when one woman sang for them, and took great delight in seeing other clients take turns dancing with Lynne Bolson or with each other.

The group seemed especially fond of Joseph and Lena Lazinski of Passaic, the only couple enrolled at the program. The Lazinskis have been married 64 years and still seem to be in love. That afternoon, the 88-year-old Lazinski tapped out the rhythm of the songs while his 89-year-old wife sat beside him, smiling and giving him an occasional pat on the shoulder or head.

Lazinski, who delivers one-liners in a style reminiscent of George Burns, said the center gave the couple something to do and that they enjoyed the outing. "I think it's been very good for my wife," he said.

There are plans to expand the year-old program, said Harvey Adelsberg, executive vice-president of the Daughters of Miriam. Now that the center has Medicaid approval it should be able to take on 25 to 30 more clients.

Adelsberg said, however, that under present guidelines it was easier for an elderly person to qualify for Medicaid payments to cover full-time nursing home care than part-time day care. He said he found this ironic since nursing-home care is so much more costly than day care. To keep an aged person in a home, Medicaid may pay as much as $900 a month, whereas it reimburses for day care at the rate of about $540 a month, Adelsberg said.

In granting Medicaid approval to the Daughters of Miriam program earlier this year, New Jersey Commissioner of Human Service Ann Klein said day care could save the state and federal governments millions of dollars. Adelsberg said he hoped Medicaid eligibility requirements for day care reimbursements would be relaxed so as to make such programs available to more people.

IT'S NOT CHEAP

"Because of the intricacies and needs of the people who participate, the ratio of professionals to clients is higher than for other types of day care, so it's not cheap," Adelberg said. "But it's a lot cheaper than supporting someone in an institution, and more importantly the quality of life is better in day care than in a home."

In Bergen County, reconstruction work began last week at the former county nursing home on East Ridgewood Avenue in Paramus. Nancy Noonan, R.N., project director for the Bergen County Adult Day Care Center, said she hoped to be able to accommodate 25 persons daily at the center, with about 100 persons on the roster. As in Clifton, not all participants would come every day.

Mrs. Noonan said the Bergen center would be open from 8 a.m. to 5:30 p.m. to meet the needs of working families that cannot care for an elderly relative during the day. The county's minibuses will pick up most participants, she said, but some families might be asked to drive a client back and forth themselves.

Three-quarters of the center's funding will come from a $55,000 federal grant under the Older Americans Act. The Board of Chosen

Freeholders is paying the rest of the cost. Mrs. Noonan said there would be no charge for services, and that the eligibility requirements of the Older Americans Act would apply.

In addition to the freeholder-sponsored program, the Community Mental Health Center of Dumont, with a grant of $119,000 from the federal Community Development Act, plans to open another day care program. Marion Ritano said the center hoped to handle 100 clients a day at its annex on Park Avenue in Dumont. The program would be run on an ability-to-pay basis.

## VERL W. SNYDER IS SPLENDID EXAMPLE OF DEDICATED PUBLIC SERVANT WHO MAKES A SIGNIFICANT CONTRIBUTION TO AMERICA

Mr. RANDOLPH. Mr. President, an esteemed educator is retiring after many years of significant service with the Federal Government.

This tribute to him and to the many Americans who devote a substantial part of their lives, energy and wisdom to the performance of public service, is noteworthy.

Verl W. Snyder is a native of West Virginia, and resides in Berkley Springs. In addition to distinguished service in the U.S. Navy during World War II, Mr. Snyder served in public schools as a teacher, coach, and as superintendent of schools in Morgan County. From 1954 until 1964 he served as assistant State superintendent of schools of West Virginia. He then joined the U.S. Office of Education as an education program officer administering ESEA title III.

In 1966, Mr. Snyder returned to West Virginia to serve as administrative assistant to Gov. Hulett Smith. In 1967, he rejoined the Office of Education as a program officer and branch chief with both the ESEA title V program and the consolidated title IV program primarily working with State departments of education to improve the leadership resources and management of those agencies. Mr. Snyder ably represented the Federal Government while serving as an individual program officer, as a member of State management review teams, as coordinator of a special project on interstate planning, and as an expert in the area of the organization and administration of the State departments of education.

In these capacities, Mr. Snyder has made a significant contribution, and I am pleased to note that distinguished service to the field of education and to the Federal Government, and through this Government, to the youth of the Nation. It is hoped that his commitment, contribution, and dedication will serve as an example to others who carry on the governmental function of providing an equal and adequate educational opportunity for the young people of our great country.

## THE ALASKAN NATURAL GAS PIPELINE

Mr. BAYH. Mr. President, the Congress will adjourn shortly for the August recess and will not come back into session until September 7. It is quite likely that by the time we reconvene the Canadian Government will have taken a definitive position on a trans-Canadian pipeline, which they have not done to date, and that the President will have sent us a recommendation about his preference for a transportation system to bring Alaskan natural gas to the lower 48 States.

The Alaskan Natural Gas Transportation Act provides for congressional approval of the President's recommendation for an Alaskan gas pipeline. Under this act, President Carter is to recommend a route to the Congress by September 1, although he can take an additional 90 days if he needs to. The Congress will then have 60 days to approve the President's recommendation by joint resolution. If we fail to approve it, the President is allowed 30 days to offer a second and final recommendation.

Every indication we have is that the President will make a recommendation at an early date and that we will be faced with a decision on this issue shortly after we reconvene in September. For this reason, Mr. President, I wanted to take this opportunity to indicate the importance of a prompt and well-considered resolution of this issue to our country, review recent events relative to the Alaskan gas decision, and share my analysis of the comparative advantages of the two remaining possibilities for transmitting Alaskan gas to the lower 48 States with my colleagues.

### IMPORTANCE OF THE PIPELINE DECISION

Mr. President, there is no doubt that the Senate will be spending almost all of its time this fall debating and acting on the President's energy program. One area that will doubtlessly be controversial will be the question of how to best increase the Nation's supply of natural gas. Few of us from areas heavily dependent on natural gas can easily forget the severe hardships and economic disruptions caused this past winter by natural gas shortages.

Twenty States suffered unemployment as a result of the gas curtailments in 1977. Approximately 1.2 million workers were thrown out of work as a result of factory, school, and other closings. We must do everything possible to keep these things from happening again.

My colleagues from States heavily dependent on oil imports, I am sure, can remember similar experiences in their States during the Arab oil embargo.

All of us know that there is no magic process, no bill we can pass that will prevent similar events tomorrow. The President's energy package addresses these concerns by stressing conservation and a switch from heavy reliance on natural gas and oil to coal, which we have in abundance, and clean renewable energy resources, currently in the research and development stage.

This is an admirable goal, and well worth our efforts. But, even with the best research and development efforts, and smoothest possible conversion from oil and gas to coal and other energy sources, we are going to be heavily dependent on natural gas for the rest of this century.

Natural gas is a critical component of the Nation's total energy supply, making up about one-third of all energy used in this country. It seems to me only prudent to assure ourselves the most stable supply possible. One critical factor in giving us this assurance will be prompt access to our Alaskan gas and continued exports of Canadian gas until we can manage comfortably without it. Only the proposed trans-Canadian Alcan proposal can meet these needs.

Mr. President, if the green light is given to this project soon, we will likely begin receiving additional Canadian gas during the winter of 1979–80 and Alaskan gas in the winter of 1982–83. Further, this gas will be delivered to those areas of the country in desperate need of it.

The 1979–80 delivery date is possible because the Alcan consortium has already contacted for additional Canadian gas from Alberta for delivery to the lower 48.

We know that gas is there, and the Canadian Government has commented favorably on its sale to the United States. By starting construction on the southern end of the proposed gas pipeline, the Alcan Consortium can distribute Canadian gas to the Midwest, Atlantic region, and the west coast by the winter of 1979–80 and continue these deliveries until the northern segments of the pipeline are built to bring our own Alaskan gas south. This should avoid the risk of too many more winters like the one we had last year.

This compares to a presently predicted completion date of 1984 for the El Paso route, which will deliver energy to areas already experiencing a surplus of energy—areas which do not want the El Paso route because of the severe environmental problems associated with it.

In addition, Mr. President, the trans-Canadian Alcan proposal is the only one which offers continued Canadian exports of natural gas to the United States in the coming decades.

Canada now supplies some 5 percent—2.7 billion cubic feet per day—of total U.S. gas consumption. In some States, this constitutes a sizable portion of all supplies—for example, 65 percent in Washington and Idaho, and 45 percent in Oregon and northern California.

The most recent Canadian National Energy Board—NEB—analysis of their gas demand/supply outlook reveals that continuation of these exports will shortly curtail domestic Canadian consumer deliveries. To avoid these curtailments, U.S. imports will have to be cut back as early as 1982 or 1983, and will cease altogether by 1989. The NEB presumes that access to frontier reserves by 1989 will avoid the necessity to curtail Canadian consumers beginning in that year. No Canadian frontier reserves are economically accessible now.

We can expect some Canadian flexibility on the timing of gas export curtailments. Nevertheless, this predictable curtailment and possible cessation of gas exports will have a devastating impact here. And, this impact will be nationwide as priority residential users in the Northern Tier, the West and the Pacific coast preempt less preferred users everywhere.

The most effective means to avoid cur-

tailments in the early 1980's is for the United States to facilitate Canadian access to frontier reserves. As originally designed, and particularly as modified by the NEB on July 4, the Alcan route does facilitate such access. In fact, it will open for exploration the McKenzie Delta, Canada's cheapest frontier reserve—and a reserve not now economically accessible without Alcan. This access via Alcan will delay any import curtailment until at least the late 1980's and even beyond if additional Delta and Polar gas reserves are discovered.

In short, selection of Alcan offers the most certain way to avoid import reductions or even their cessation in the 1980's—a cessation—2.7 bcf per day—which, should it occur, would not even be entirely offset by the new Alaskan gas flows—2.4 bcf per day through either system. A choice of El Paso will actually diminish the volume of gas available to our consumers by the mid-1980's from Canada and Alaska combined. And, it will markedly weaken our bargaining position when Canada initiates gas export curtailments. Put another way, within a decade or so, gas supplies totaling 5.1 bcf daily will be available as a result of an Alcan selection; El Paso will only result in 2.4 bcf daily being available.

RECENT EVENTS

As most of my colleagues are aware, both the Canadian and American Governments have completed a series of major studies in the last few months, which have narrowed the choice of natural gas transmission systems for Alaskan gas to two radically different alternatives.

Originally, three major proposals to transport Alaskan natural gas to the lower 48 States were submitted to the Federal Power Commission—FPC—for application approval. They included the Arctic Gas and Alcan all-pipeline projects, which called for transporting Alaskan natural gas through Canada to U.S. markets on both sides of the Rockies, and the El Paso proposal, a combined pipeline-liquefied natural gas—LNG—system. This system follows the trans-Alaskan oil pipeline corridor to an Alaskan facility in which El Paso proposes to liquefy the gas for super tanker shipment to California, where it would have to undergo a regasification process.

The Arctic proposal has now been eliminated as a possibility due to decisions made by the Canadian Government and the U.S. Arctic sponsors have decided to coordinate their efforts in support of the Alcan route. As the companies involved in Arctic have stated themselves, they have opted to join with Alcan because they believe it will bring Alaskan gas to American consumers at the least cost, in the largest quantity, at the earliest date, in the most environmentally acceptable and equitable manner and because it also offers possible access to northern Canadian reserves, which will buttress Canada's ability to maintain present levels of gas exports to the United States, which the El Paso project would forfeit.

Therefore, Mr. President, we are down to two vastly different alternatives and deliberations in both the United States and Canada are reaching a decisive stage. Both Governments will soon announce their preferences. The Canadians must make a decision about whether they want a trans-Canadian pipeline at all, and if so, under what conditions. President Carter must choose between two alternatives, the trans-Canadian pipeline proposed by Alcan Pipeline Co., and the El Paso liquefied natural gas—LNG—system.

Here, in this country, the Federal Power Commission and the administration's task forces have sent final recommendations to the President. While the FPC was divided in its judgments about the relative merits of the two trans-Canadian routes, it clearly found either of them superior to the El Paso proposal. The Alcan route received the strongest backing from the Interagency Task Forces set up by the President. These analyses judged Alcan able to deliver North Slope gas sooner, cheaper, and with less environmental damage than El Paso.

This is true despite the indirect Federal subsidy the El Paso proposal would receive through the Merchant Marine Act shipbuilding loan guarantees. In addition, the reports found that Alcan's net national economic benefit would be significantly higher than El Paso, that its all-pipeline system would consume about half as much of the gas as El Paso's LNG system, and that its deliveries of gas would be less likely to suffer from interruptions and delays. The only clear advantage the task forces found with El Paso was its ability to provide more jobs for American workers. However, Mr. President, I would point out that the Federal analyses drastically reduced El Paso's claims for 730,000 person-years of employment by El Paso to 271,000 person-years, only slightly more than Alcan's 240,000 person-years.

Finally, Mr. President, the Senate, just the other day, ratified the United States-Canada Transit Pipeline Agreement signed on January 28, 1977 and submitted to the Senate in March. The agreement provides reciprocal assurances that pipelines carrying hydrocarbons such as oil, natural gas, petroleum products, coal slurries or even petrochemical feedstocks owned by one country across another will not be interrupted or subject to discriminatory taxation. These protections apply to both existing and yet to be constructed pipelines.

The Canadian Government has received its final agency reports from the Canadian National Energy Board, which is their equivalent of our Federal Power Commission, the Hill Panel, established to assess the environmental impact of the Alcan proposal, and the Lysyk Inquiry, established to review the economic and social implications of the Alcan route.

While these various commissions have recommended some modifications to the Alcan proposal, all have concluded that a trans-Canadian pipeline is in the best interest of the Canadian people. The issues raised by these advisory bodies—such as the precise route the pipeline will follow, the socio-economic costs assessed on the pipeline company for impact aid, and the actual date of initiation of construction—are negotiable. The machinery is in place for these negotiations to start just as soon as Prime Minister Trudeau and President Carter are ready to talk. I anticipate that these talks will be starting shortly and that both governments will do their best to resolve outstanding issues in such a way that approval for a trans-Canadian pipeline will be forthcoming soon. This is in the interests of both ourselves and the Canadians, for the benefits from this pipeline will be mutually shared.

Mr. President, I will not take the time of the Senate now to go into more specific detail on the comparative advantages of the Alcan proposal over El Paso's. However, I intend to circulate a fact sheet to my colleagues in the coming weeks which will address, in more detail, some of the issues that I have touched on briefly here—environmental and safety considerations, delays due to siting problems, equitable gas allocation, and comparative costs to consumers.

Mr. President, for the information of my colleagues, I would like to insert a copy of a letter to President Carter that I recently sent, along with 14 of my colleagues, urging the President to pursue negotiations with the Canadians toward consummating an acceptable agreement on the Alcan route and recommending this route to the Congress. Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

In closing, Mr. President, I would urge my colleagues to take some time to consider this issue in depth.

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

U.S. SENATE,
*Washington, D.C. July 29, 1977.*

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

DEAR MR. PRESIDENT: We have been following recent developments relative to the proposed routes for the Alaskan gas pipeline with great interest. We are writing to express our deep concern that this issue be resolved in such a way that the safest and most economical and environmentally acceptable pipeline is completed at the earliest possible date.

As we understand the current situation, deliberations in both the United States and Canada are reaching a decisive stage, and both governments will soon announce their preference for a route. The Canadian government has already received recommendations from the Berger Inquiry and the National Energy Board, both of which were critical of the Arctic pipeline. It is currently awaiting reports from the Lysyk Inquiry, which will address the economic and social costs of the Alcan Route, and from the Environmental Assessment Review Panel, which will assess the environmental impact of the Alcan route. Both of these reports are expected by August 1, 1977.

Here, in this country, the Federal Power Commission and the Administration's Task Forces have also sent final recommendations to you. While the FPC was divided in its judgment about the relative merits of the Alcan and Arctic routes, it clearly found either of them superior to the El Paso proposal. The Alcan proposal received the strongest backing from your own Task Forces, and even more recently the Justice Department issued a report criticizing the Arctic route because of its anticompetitive aspects.

Though in the past many of us have favored the Arctic route, which was the first

proposal for bringing Alaskan gas to the eastern half of the country, and still do, it has become clear from reviewing the various reports and recommendations, especially those issued by the Canadian government, that the only viable trans-Canadian option available is the route that follows the Alcan Highway. This is particularly so if the issues raised by the National Energy Board about the Alcan route can be negotiated in a way that does not compromise the technical or financial viability of the Alcan proposal. For this reason, we hope that American representatives at these negotiations will endeavor to resolve these issues so that this proposal, which is in the mutual interest of both countries, will proceed promptly and in a mutually satisfactory manner.

Mr. President, we feel certain that with the demise of the Arctic route, the pressure on you to recommend the El Paso route will become increasingly intense. We respectfully urge you to follow the thoughtful and well documented recommendations of both the Federal Power Commission and your Task Forces which came to the conclusion that the El Paso route is not advisable. The Alcan route is developing as the only acceptable route to the Canadians. It seems to us also to be the route which would be most beneficial to the United States. We hope you will share our conclusions, and we are looking forward to a successful resolution of this important problem.

The Alaskan Natural Gas Transportation Act provides for Congressional approval of your recommendation for an Alaskan gas pipeline. We write with the sincere belief that it would be most unfortunate if a lack of prior consultation between Congress and the Executive Branch led to a difference of opinion at the time you send us your recommendation. Thus, we emphasize our feelings at this time and urge you to make a prompt decision so that Congress will have ample time to act on this crucial issue before it adjourns.

Thank you for your personal consideration of this matter.

Sincerely,

Birch Bayh, Wendell R. Anderson, Hubert H. Humphrey, James Abourezk, Wendell H. Ford, Donald W. Riegle, Jr., George S. McGovern, Clifford P. Case, John Glenn, Richard G. Lugar, Quentin N. Burdick, Howard M. Metzenbaum, Thomas F. Eagleton, Edward M. Kennedy, and John C. Culver.

## H.R. 7345: VETERANS AND SURVIVORS PENSION ADJUSTMENT ACT OF 1977

Mr. CRANSTON. Mr. President, I rise to explain the provisions of H.R. 7345, the Veterans and Survivors Pension Adjustment Act of 1977, passed unanimously by the Senate on August 3, 1977. The purpose of this bill is to provide a 6.5-percent cost-of-living increase in the rates applicable to pension for needy wartime veterans who are disabled for non-service-connected reasons and their needy survivors, and for surviving parents receiving dependency and indemnity compensation.

### AMOUNT OF INCREASE

The original House-passed version of this bill contained a 7-percent increase. The committee initially, however, on July 15, amended H.R. 7345 to include a 6.7-percent increase the amount which the Congressional Budget Office had informed us that the Consumer Price Index would be increased for the period from January 1, 1977—the date of the last cost-of-living increase—to January 1978. Subsequently, on July 21, CBO revised its percentage slightly downward, to 6.5 percent, and the committee, on July 22, revised the bill accordingly. I should point out that the pension benefit dollar rates remained unchanged when the committee changed the increase from 6.7 percent to 6.5 percent. Only the income limitations—the amount of countable annual income a person may not exceed in order to be eligible—were changed, from $3,775 for a single veteran with no dependents to $3,770, and from $5,080 for a veteran with one dependent to $5,070. Thus, the slight percentage point change will have only minimal effect on pensioners.

### SUMMARY OF BILL AS REPORTED

The basic purpose of H.R. 7345 as reported is to provide a cost-of-living adjustment in the rates and annual income limitations applicable to pension for non-service-connected disabled veterans and their surviving spouses, for surviving parents receiving dependency and indemnity compensation, and the annual income limitations applicable to persons receiving pension under section 9(b) of the Veterans' Pension Act of 1959—"old law."

The cost of this bill as reported is as follows:

For the 9 months of fiscal year 1978, $128.5 million; for fiscal year 1979, $166.7 million; for fiscal year 1980, $162.4 million; for fiscal year 1981, $159.9 million; and for fiscal year 1982, $155.5 million.

For those pensioners who also receive social security or railroad retirement benefits and who received a 5.9-percent increase on July 1, a 6.5-percent increase in rates will largely offset the decline in aggregate income which many of these persons would otherwise experience in January when the amount of pension is redetermined. I would like to emphasize that the pension program is a program based on need. It is intended to provide a minimum income for those who have no other income and an income supplement to those who do have other income.

As chairman of the Veterans' Affairs Committee, and as one who has taken a deep and continuing interest in the problems experienced by aging wartime veterans who are in need, I am fully aware of the need for a general overhaul of the pension program. I hope to introduce shortly, with the cosponsorship of all the members of the committee, a bill to thoroughly restructure the pension program in a way that will respond to he inequities, anomalies, and inconsistencies in the current program.

In summary, the basic provisions of the Veterans and Survivors Pension Adjustment Act of 1977 would:

First, provide an increase of approximately 6.5 percent in the rates of disability and death pension under current law, including the additional amount authorized for dependents;

Second, increase by approximately 6.5 percent the rates of dependency and indemnity compensation—DIC—payable to parents;

Third, increase by the same percentage the maximum income limitations applicable to pensioners and parents entitled to DIC under current law, and for beneficiaries under the protected pension law;

Fourth, increase by the same percentage the amount of additional pension and DIC payable to those recipients so entitled based upon aid and attendance or housebound status; and

Fifth, increase by the same percentage additional allowances for recipients of wartime death compensation payable based upon need for regular aid and attendance.

### DISCUSSION

#### NEED FOR PENSION REFORM

Again, Mr. President, I would like to stress that the committee bill is a stopgap measure, and that the increased rates are not intended as a substitute for comprehensive structural reworking of the pension program.

Restructuring the needs-based pension program under chapter 15 of title 38, United States Code, for non-service-connected disability or death has been a priority of the committee for some time. In June 1973, the Veterans' Administration testified that the current pension program contained "inconsistencies, inequities, and anomalies, which cannot be corrected unless the entire framework of the program is restructured." Following extensive investigation, congressional hearings, and studies conducted by the VA, the Senate Committee on Veterans Affairs favorably reported on December 9, 1975, S. 2635, a comprehensive pension reform measure. This bill was passed unanimously by the Senate on December 15, 1975, but the House did not act on it.

Since December 15, 1975, the Congress has enacted two pension rate adjustment acts: Public Law 94–169, enacted December 23, 1975, and Public Law 94–432, enacted September 30, 1976. Neither of these acts affected any pension reform; however, section 404(a) of Public Law 94–432, the Veterans and Survivors Pension Adjustment Act of 1976, declared it to be the sense of the Congress that the existing pension program:

First, does not provide sufficient assistance to meet the needs of some eligible veterans and survivors;

Second, has developed some inconsistencies, inequities, and anomalies which prevent it from operating in the most efficient and equitable manner; and

Third, subjects many pensioners annually to reductions in their pensions.

The Congress also declared that it lacked sufficient long-range information as to actual and anticipated financial characteristics of potential pensioners and their families upon which to estimate costs of existing alternative pension programs; and in section 404(b) it directed the VA to conduct a thorough and comprehensive study of existing and alternative non-service-connected pension programs and to submit its report to the Congress on October 1, 1977.

The committee has been advised by the Veterans' Administration that the study mandated by Public Law 94–432 is well under way and will be submitted in a timely manner.

The committee, in its March 15, 1977,

report to the Budget Committee of its Budget Views and Estimates for Fiscal Year 1978, reiterated its commitment to pension reform by allocating $500 million for this purpose in its recommendations to the Budget Committee for Function 700—Veterans' Benefits and Services. This commitment was highlighted in a letter which I wrote, together with Senator ROBERT T. STAFFORD, the ranking minority member, transmitting the committee's report, as follows:

The committee would like to stress the critical need for pension-reform legislation (subfunction 701). Last year the committee favorably reported and the Senate passed a pension-reform bill (S. 2635). The House did not consider the reform measure; instead it passed a 7 percent cost-of-living increase which Congress enacted in Public Law 94–432. That law required the VA to complete and submit a major study of the VA pension system by October 1, 1977. The committee is particularly concerned over the state of the law which may result in the reduction of a needy veteran's pension when social security payments are increased to compensate for rises in the cost-of-living, thus denying increases needed to offset the impact of inflation. S. 2635 could have avoided this result. Anticipating enactment of a new pension-reform law after receipt of the VA study, the committee has included additional budget authority and outlays of $500 million to fund pension reforms its expects to become effective April 1, 1978.

The committee recommended to the Budget Committee that $20.471 billion in budget authority and $20.501 billion in outlays be allocated to Function 700 in the first concurrent resolution on the budget for fiscal year 1978. However, the Budget Committee, in its recommendations to the Senate reduced each of these amounts to $19.8 billion. Thereafter, during floor consideration by the Senate of the first concurrent resolution on the budget for fiscal year 1978—Senate Concurrent Resolution 19—the members of the committee successfully cosponsored an amendment, based in substantial part on the need for additional funding for pension-reform legislation, which resulted in increases of $500 million in budget authority and $400 million in outlays for the allocation to veterans' benefits and services—to $20.3 billion in both budget authority and $20.2 billion in outlays—in the Senate-passed version of the first concurrent resolution. In the final version of that resolution, those increases were retained almost entirely, the final budget authority figure being decreased to $20.25 billion and outlays being retained at $20.2 billion. These levels allow for the enactment of pension-reform legislation with an effective date in fiscal year 1978.

At a meeting of the committee on July 15, 1977, members of the committee again expressed their interest in the pension study underway at the VA and their commitment to pension reform, emphasizing that the cost-of-living increase in pension rates in H.R. 7435 was intended as a stopgap measure, and that a pension-reform measure would be introduced in this session of Congress in order to provide for a new pension program under which automatic annual benefit increases would be keyed to the rise in the Consumer Price Index to protect needy veterans and survivors against pension reductions attributable solely to cost-of-living increases in social security. Such a pension-reform measure would equalize benefits between veterans and survivors and would provide a basic amount sufficient to remove veterans and their families who are dependent on pension income from "poverty" status.

NEED TO ADDRESS IMMEDIATE PROBLEM OF PENSIONERS

Nevertheless, pending the development and consideration of pension-reform legislation, the committee recognizes the need to address the immediate hardship suffered by pensioners who must live on fixed incomes in the face of continued inflation. It has carefully monitored the increase in the Consumer Price Index—CPI—from the date since the last increase became effective—on January 1, 1977—to the present, and the predictions made by the Congressional Budget Office for the period remaining before January 1, 1978, the effective date of the next increase.

The increase recommended in the committee bill is intended to offset the decline in purchasing power attributable to inflation experienced by veterans and survivors receiving pensions and is measured by the predicted increase in the CPI as estimated by the Congressional Budget Office. On July 21, 1977, the Director of the Congressional Budget Office, responding to my request, advised in a letter that, based on current economic indicators, the CPI increase over the period January 1977 to January 1978 would be 6.5 percent. The Veterans' Administration had previously recommended an increase in pension rates of 6.7 percent, and the Congressional Budget Office had confirmed this as the likely CPI increase. On July 15, 1977, the committee ordered the bill reported with a 6.7-percent increase to offset the then anticipated CPI increase. On July 22, based on the economic projections made available by the Congressional Budget Office, the committee adjusted the increase to 6.5 percent in the bill as ordered reported.

Mr. President, in order that all Senators and the general public may have a full understanding of the various provisions of this measure, I ask that there be inserted in the record at this point pertinent excerpts from the committee report, No. 95–374, accompanying this bill.

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

SUMMARY OF H.R. 7345 AS REPORTED

*Basic purpose*

The basic purpose of H.R. 7345 as reported is to provide a cost-of-living adjustment in the rates and annual income limitations applicable to pension for non-service-connected disabled veterans and their surviving spouses, for surviving parents receiving dependency and indemnity compensation, and in the annual income limitations applicable to persons receiving pension under section 9(b) of the Veterans' Pension Act of 1959 ("old law").

*Summary of provisions*

The basic provisions of the Veterans and Survivors Pension Adjustment Act of 1977 would:

(1) provide an increase of approximately 6.5 percent in rates of disability and death pension under current law including the additional amount authorized for dependents;

(2) increase by approximately 6.5 percent the rates of dependency and indemity compensation (DIC) payable to parents;

(3) increase by the same percentage the maximum income limitations applicable to pensioners and parents entitled to DIC under current law, and to beneficiaries under the protected pension law;

(4) increase by the same percentage the amount of additional pension and DIC payable to those recipients so entitled based upon aid and attendance or housebound status; and

(5) increase additional allowances for recipients of wartime death compensation by the same percentage based upon need for regular aid and attendance.

DISCUSSION

*Pension reform*

Restructuring the needs-based pension program under chapter 15 of title 38, United States Code, for non-service-connected disability or death has been a priority of the Committee for some time. In June, 1973, the Veterans' Administration testified that the current pension program contained "inconsistencies, inequities, and anomalies, which cannot be corrected unless the entire framework of the program is restructured." Following extensive investigation, congressional hearings, and studies conducted by the VA, the Senate Committee on Veterans' Affairs favorably reported on December 9, 1975, S. 2635, a comprehensive pension reform measure. This bill was passed unanimously by the Senate on December 15, 1975, but the House did not act on it.

Since December 15, 1975, the Congress has enacted two pension rate adjustment acts: Public Law 94–169, enacted December 23, 1975, and Public Law 94–432, enacted September 30, 1976. Neither of these acts addressed the question of pension reform; however, section 404(a) of Public Law 94–432, the Veterans and Survivors Pension Adjustment Act of 1976, declared it to be the sense of the Congress that the existing pension program—

(1) does not provide sufficient assistance to meet the needs of some eligible veterans and survivors;

(2) has developed some inconsistencies, inequities, and anomalies which prevent it from operating in the most efficient and equitable manner; and

(3) subjects many pensioners annually to reductions in their pensions.

The Congress also declared that it lacked sufficient long-range information as to actual and anticipated financial characteristics of potential pensioners and their families upon which to estimate costs of existing and alternative pension programs; and in section 404(b) it directed the VA to conduct a thorough and comprehensive study of existing and alternative non-service-connected pension programs and to submit its report to the Congress on October 1, 1977.

The Committee has been advised by the Veterans' Administration that the study mandated by Public Law 94–432 is well under way and will be submitted in a timely manner.

The Committee, in its March 15, 1977, Report to the Budget Committee of its Budget Views and Estimates for Fiscal Year 1978, reiterated its commitment to pension reform by allocating $500 million for this purpose in its recommendations to the Budget Committee for Function 700 (Veterans' Benefits and Services). This commitment was highlighted in the letter from Senator Alan Cranston, the Chairman, and Senator Robert T. Stafford, the Ranking Minority Member, transmitting the Committee's report, as follows:

"The Committee would like to stress the critical need for pension-reform legislation (subfunction 701). Last year the Committee favorably reported and the Senate passed a pension-reform bill (S. 2635). The House did not consider the reform measure; instead it passed a 7 percent cost-of-living increase which Congress enacted in Public Law 94–432. That law required the VA to complete and submit a major study of the VA pension system by October 1, 1977. The Committee is particularly concerned over the state of the law which may result in the reduction of a needy veteran's pension when social security payments are increased to compensate for rises in the cost-of-living, thus denying increases needed to offset the impact of inflation. S. 2635 could have avoided this result. Anticipating enactment of a new pension-reform law after receipt of the VA study, the Committee has included additional budget authority and outlays of $500 million to fund pension reforms it expects to become effective April 1, 1978."

The Committee recommended to the Budget Committee that $20.471 billion in budget authority and $20.501 billion in outlays be allocated to Function 700 in the First Concurrent Resolution on the Budget for Fiscal Year 1978. However, the Budget Committee, in its recommendations to the Senate, reduced each of these amounts to $19.8 billion. Thereafter, during consideration by the Senate of the First Concurrent Resolution on the Budget for Fiscal Year 1978 (S. Con. Res. 19), the members of the Committee successfully sponsored an amendment, based in substantial part on the need for additional funding for pension-reform legislation, which resulted in increases of $500 million in budget authority and $400 million in outlays for the allocation to Veterans' Benefits and Services, from $19.8 to $20.3 billion in both budget authority and $20.2 billion in outlays, respectively, in the Senate-passed version of the First Concurrent Resolution. In the final version of that Resolution, those increases were retained virtually intact, the final budget authority figure being decreased to $20.25 billion and outlays being retained at $20.2 billion. These levels allow for the enactment of pension-reform legislation with an effective date in fiscal year 1978.

At a meeting of the Committee on July 15, 1977, members of the Committee again expressed their interest in the pension study underway at the VA and their commitment to pension reform, emphasizing that the cost-of-living increase in pension rates was intended as a stopgap measure, and that a pension-reform measure would be introduced in this session of Congress in order to provide for a new pension program under which automatic annual benefit increases would be keyed to the rise in the Consumer Price Index to protect needy veterans and survivors against pension reductions attributable solely to cost-of-living increases in social security. Such a pension-reform measure would equalize benefits between veterans and survivors and would provide a basic amount sufficient to remove veterans and their families who are dependent on pension income from "poverty" status.

Nevertheless, pending the development and consideration of pension-reform legislation, the Committee recognizes the need to address the immediate problem of the hardship which pensioners who must live on fixed incomes suffer from inflation. It has carefully monitored the increase in the Consumer Price Index (CPI) for the period from the date on which the last increase became effective, January 1, 1977, to the present and the predictions made by the Congressional Budget Office for the period remaining before January 1, 1978, the effective date of the next increase.

The increase recommended in the Committee bill is intended to offset the decline in purchasing power attributable to inflation experienced by veterans and survivors receiving pension and is measured by the predicted increase in the CPI as estimated most recently by the Congressional Budget Office. Only 21, 1977, the Director of the Congressional Budget Office, responding to a request from the Chairman, advised in a letter that, based on current economic indicators, the CPI increase over the period January 1977 to January 1978 would be 6.5 percent.

The Veterans' Administration had previously recommended an increase in pension rates of 6.7 percent, and the Congressional Budget Office had then confirmed this as the likely CPI increase. Accordingly, on July 15, 1977, the Committee had ordered the bill reported with a 6.7-percent increase to offset the then anticipated CPI increase. On July 22, based on the economic projections made available by the Congressional Budget Office, the Committee adjusted the increase to 6.5 percent in the bill as ordered reported.

It should be noted that there are no differences in the dollar amounts payable under a 6.5-percent increase, on the one hand, and a 6.7-percent increase, on the other. For example, the basic amount of pension for an eligible veteran who has no dependents and who has countable income of $500 or less under a 6.7-percent increase would be $197; under a 6.5-percent increase, this amount would be the same. The annual income limitation for a veteran with no dependents, however, is $3,775 with a 6.7-percent increase, and $3,770 with the 6.5-percent increase proposed by H.R. 7345 as amended, and for a veteran with dependents, the comparable figures are $5,080 with a 6.7-percent increase and $5,070 with a 6.5-percent increase. These increases would become effective January 1, 1978.

*Current pension benefits and characteristics of pensioners*

Under current law, a veteran may be eligible for pension benefits if:

First, he or she served in the Armed Forces at least 90 days, including at least 1 day of service during wartime;

Second, his or her income does not exceed the limits specified in the law—currently $3,540 if the veteran is single and $4,760 if he or she has a dependent;

Third, he or she is permanently and totally disabled (for the purposes of the pension law, veterans age 65 or older are defined as totally disabled); and

Fourth, his or her net worth is not excessive as determined by the Veterans' Administration.

Surviving spouses and children of deceased wartime veterans are also eligible for pension benefits if they qualify on the basis of need.

As provided by Public Law 94–432, for an eligible veteran without dependents, the monthly pension rates range from $5 to $185 with a limitation on countable annual income of $3,540. Monthly rates of $5 to $185 are provided for veterans with dependents where the annual countable income does not exceed $4,760. Suurviving spouses with no children are subject to the same income limitations as veterans alone although the pension rates vary from $5 to $125. The $4,760 annual income limitation for veterans with dependents also applies to surviving spouses with children. The rates for surviving spouses with one child range from $57 to $149; the applicable rate is increased by $24 per month for each child in excess of one.

Currently, there are more than 2 million veterans and surviving spouses receiving pensions of whom approximately 1 million are veterans and the remainder are their surviving spouses. The present cost of the nonservice-connected pension program is approximately $3.1 billion a year. The following table shows the distribution of all active compensation, dependency, and indemnity compensation and pension cases as of June 1977:

TABLE 1.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES BY PERIOD OF SERVICE, JUNE 1977

| Entitlement | Disability total cases | Death total cases | Death beneficiaries | | | |
|---|---|---|---|---|---|---|
| | | | Total | Widows/ widowers | Children | Parents |
| Total | 3,262,752 | 1,637,015 | 2,191,310 | 1,206,053 | 831,098 | 154,159 |
| Service-connected | 2,244,527 | 365,507 | 478,885 | 222,046 | 102,680 | 154,159 |
| Compensation | 2,244,527 | 77,322 | 85,811 | 121 | 9 | 85,681 |
| Dependency and indemnity compensation | | 283,894 | 384,072 | 217,917 | 102,531 | 63,624 |
| Dependency and indemnity compensation and compensation | | 4,291 | 9,002 | 4,008 | 140 | 4,854 |
| Nonservice-connected | 1,017,904 | 1,271,488 | 1,712,404 | 983,996 | 728,408 | |
| Public Law 86–211 | 944,888 | 1,190,943 | 1,631,020 | 904,665 | 726,355 | |
| Prior law | 73,016 | 80,545 | 81,384 | 79,331 | 2,053 | |
| Special acts | 33 | 20 | 21 | 11 | 10 | |
| Retired emergency officers | 287 | | | | | |
| Retired Reserve officers | 1 | | | | | |
| World War II | 1,919,981 | 750,848 | 1,036,976 | 479,067 | 461,857 | 96,052 |
| Service-connected | 1,267,207 | 184,360 | 210,066 | 100,339 | 13,675 | 96,052 |
| Compensation | 1,267,207 | 60,886 | 66,755 | 66 | 5 | 66,684 |
| Dependency and indemnity compensation | | 120,327 | 136,774 | 97,296 | 13,604 | 25,874 |
| Dependency and indemnity compensation and compensation | | 3,147 | 6,537 | 2,977 | 66 | 3,494 |
| Nonservice-connected | 652,774 | 566,488 | 826,910 | 378,728 | 448,182 | |
| Public Law 86–211 | 645,373 | 563,824 | 824,156 | 376,075 | 448,081 | |
| Prior law | 7,401 | 2,664 | 2,754 | 2,653 | 101 | |
| World War I | 329,806 | 585,650 | 599,124 | 573,885 | 24,991 | 248 |
| Service-connected | 44,389 | 33,341 | 33,863 | 32,609 | 1,006 | 248 |
| Compensation | 44,389 | 113 | 121 | 35 | 1 | 85 |
| Dependency and indemnity compensation | | 33,225 | 33,736 | 32,571 | 1,005 | 160 |
| Dependency and indemnity compensation and compensation | | 3 | 6 | 3 | | 3 |

TABLE 1.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES BY PERIOD OF SERVICE, JUNE 1977—Continued

| Entitlement | Disability total cases | Death total cases | Death beneficiaries | | | |
|---|---|---|---|---|---|---|
| | | | Total | Widows/ widowers | Children | Parents |
| Nonservice-connected | 285,129 | 552,309 | 565,261 | 541,276 | 23,985 | |
| Public Law 86-211 | 220,630 | 489,927 | 502,277 | 478,955 | 23,322 | |
| Prior law | 64,499 | 62,382 | 62,984 | 62,321 | 663 | |
| Special acts | 1 | | | | | |
| Retired emergency officers | 287 | | | | | |
| Korean conflict | 307,309 | 147,154 | 293,578 | 55,052 | 216,316 | 22,210 |
| Service-connected | 239,309 | 39,305 | 49,974 | 20,259 | 7,505 | 22,210 |
| Compensation | 239,309 | 13,294 | 15,461 | 6 | | 15,455 |
| Dependency and indemnity compensation | | 25,127 | 32,633 | 19,449 | 7,484 | 5,700 |
| Dependency and indemnity compensation and compensation | | 884 | 1,880 | 804 | 21 | 1,055 |
| Nonservice-connected | 68,000 | 107,849 | 243,604 | 34,793 | 208,811 | |
| Public Law 86-211 | 67,142 | 107,801 | 243,552 | 34,746 | 208,806 | |
| Prior law | 858 | 48 | 52 | 47 | 5 | |
| Vietnam era | 501,043 | 84,825 | 175,080 | 44,928 | 107,862 | 22,290 |
| Service-connected | 489,806 | 60,145 | 118,862 | 34,739 | 61,833 | 22,290 |
| Compensation | 489,806 | 15 | 22 | 3 | 3 | 16 |
| Dependency and indemnity compensation | | 60,112 | 118,784 | 34,723 | 61,807 | 22,254 |
| Dependency and indemnity compensation and compensation | | 18 | 56 | 13 | 23 | 20 |
| Nonservice-connected | 11,237 | 24,680 | 56,218 | 10,189 | 46,029 | |
| Public Law 86-211 | 11,237 | 24,680 | 56,218 | 10,189 | 46,029 | |
| Regular establishment | 203,838 | 48,161 | 65,922 | 33,925 | 18,638 | 13,359 |
| Service-connected | 203,805 | 48,153 | 65,914 | 33,917 | 18,638 | 13,359 |
| Compensation | 203,805 | 3,013 | 3,451 | 10 | | 3,441 |
| Dependency and indemnity compensation | | 44,901 | 61,940 | 33,696 | 18,608 | 9,636 |
| Dependency and indemnity compensation and compensation | | 239 | 523 | 211 | 30 | 282 |
| Special acts | 32 | 8 | 8 | 8 | | |
| Retired reserve officers | 1 | | | | | |
| Spanish-American War | 468 | 19,428 | 19,665 | 18,426 | 1,239 | |
| Service-connected | 4 | 193 | 197 | 178 | 19 | |
| Compensation | 4 | 1 | 1 | 1 | | |
| Dependency and indemnity compensation | | 192 | 196 | 177 | 19 | |
| Nonservice-connected | 464 | 19,227 | 19,460 | 18,245 | 1,215 | |
| Public Law 86-211 | 206 | 4,119 | 4,212 | 4,111 | 101 | |
| Prior law | 258 | 15,108 | 15,248 | 14,134 | 1,114 | |
| Special acts | | 8 | 8 | 3 | 5 | |
| Mexican Border Service | 307 | 595 | 608 | 592 | 16 | |
| Service-connected | 7 | 3 | 3 | 3 | | |
| Compensation | 7 | | | | | |
| Dependency and indemnity compensation | | 3 | 3 | 3 | | |
| Nonservice-connected | 300 | 592 | 605 | 589 | 16 | |
| Public Law 86-211 | 300 | 592 | 605 | 589 | 16 | |
| Indian Wars | | 61 | 62 | 49 | 13 | |
| Service-connected | | 1 | 1 | | 1 | |
| Dependency and indemnity compensation | | 1 | 1 | | 1 | |
| Nonservice-connected | | 60 | 61 | 49 | 12 | |
| Prior law | | 60 | 61 | 49 | 12 | |
| Special acts | | | | | | |
| Civil War | | 293 | 295 | 129 | 166 | |
| Service-connected | | 6 | 5 | 2 | 3 | |
| Dependency and indemnity compensation | | 6 | 5 | 2 | 3 | |
| Nonservice-connected | | 283 | 285 | 127 | 158 | |
| Prior law | | 283 | 285 | 127 | 158 | |
| Special acts | | 4 | 5 | | 5 | |

Source: RCS 21-14. Veterans' Administration, Washington, D.C., Office of Controller, Reports and Statistics Service.

The following tables illustrate the historical development of both current law pensions and protected or "old law" pensions for veterans:

TABLE 2.—HISTORICAL DEVELOPMENT OF PROTECTED LAW PENSION FOR VETERANS

| Law and effective date | Income limits | | Rates of pension | | | | Aid and attendance | Housebound |
|---|---|---|---|---|---|---|---|---|
| | Single | With dependent | Single | 1 dependent | 2 dependents | 3 dependents | | |
| WW VA, July 1, 933 | $1,000 | $2,500 | $30 | $30 | $30 | $30 | | |
| Public Law 77-601, June 10, 1942 | 1,000 | 2,500 | $40 | $40 | $40 | $40 | | |
| Public Law 78-313, May 27, 1944 | 1,000 | 2,500 | $50, age 65 or after 10 yr $60. | $50, age 65 or after 10 yr $60. | $50, age 65 or after 10 yr $60. | $50, age 65 or after 10 yr $60. | | |
| Public Law 79-662, Sept. 1, 1946 | 1,000 | 2,500 | $60, age 65 or after 10 yr $72. | $60 age 65 or after 10 yr $72. | $60, age 65 or after 10 yr $72. | $60, age 65 or after 10 yr $72. | | |
| Public Law 82-149, Nov. 1, 1951 | 1,000 | 2,500 | $60, age 65 or after 10 yr $72. | $60, age 65 or after 10 yr $72 | $60, age 65 or after 10 yr $72 | $60, age 65 or after 10 yr $72 | $120.00 | |
| Public Law 82-356, Public Law 82-357, July 1, 1952 | 1,400 | 2,700 | $63, age 65 or after 10 yr $75. | $63, age 65 or after 10 yr $75. | $63, age 65 or after 10 yr $75. | $63, age 65 or after 10 yr $75. | 129.00 | |
| Public Law 83-698, Oct. 1, 1954 | 1,400 | 2,700 | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after $78.75. | 135.45 | |
| Public Law 90-77, Oct. 1, 1967 | 1,400 | 2,700 | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | 135.45 | 100 |
| Public Law 90-275, Jan. 1, 1969 | 1,600 | 2,900 | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | 135.45 | 100 |
| Public Law 91-588, Jan. 1, 1971 | 1,900 | 3,200 | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | 135.45 | 100 |
| Public Law 92-198, Jan. 1, 1972 | 2,200 | 3,500 | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | 135.45 | 100 |
| Public Law 93-527, Jan. 1, 1975 | 2,600 | 3,900 | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | 135.45 | 100 |
| Public Law 94-169, Jan. 1, 1976 | 2,900 | 4,200 | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | 135.45 | 100 |
| Public Law 94-432, Jan. 1, 1977 | 3,100 | 4,460 | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | $66.15, age 65 or after 10 yr $78.75. | 135.45 | 100 |

TABLE 3.—HISTORICAL DEVELOPMENT OF CURRENT LAW PENSION FOR VETERANS

| Law and effective date | Income limits | | Rates of pension | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Single | With dependent | Single | 1 dependent | 2 dependents | 3 dependents | Aid and attendance | Housebound |
| Public Law 86-211, July 1, 1960 | $1,800 | $3,000 | $85 down to $40 | $90 down to $45 | $95 down to $45 | $100 down to $45 | $70 added | |
| Public Law 88-664, Jan. 1, 1965 | 1,800 | 3,000 | $100 down to $43 | $105 down to $48 | $110 down to $48 | $115 down to $48 | $100 added | $35 added. |
| Public Law 90-77, Oct. 1, 1967 | 1,800 | 3,000 | $104 down to $45 | $109 down to $50 | $114 down to $50 | $119 down to $50 | $100 added | $40 added. |
| Public Law 90-275, Apr. 1, 1968 | 2,000 | 3,200 | $110 down to $29 | $120 down to $34 | $125 down to $34 | $130 down to $34 | $100 added | $40 added. |
| Public Law 91-588, Jan. 1, 1971 | 2,300 | 3,500 | $121 down to $29 | $132 down to $34 | $127 down to $34 | $142 down to $34 | $110 added | $44 added. |
| Public Law 92-198, Jan. 1, 1972 | 2,600 | 3,800 | $130 down to $22 | $140 down to $33 | $145 down to $38 | $150 down to $43 | $110 added | $44 added. |
| Public Law 93-177, Jan. 1, 1974 | 2,600 | 3,800 | $143 down to $38 | $154 down to $39 | $159 down to $44 | $164 down to $49 | $110 added | $44 added. |
| Public Law 93-527, Jan. 1, 1975 | 3,000 | 4,200 | $160 down to $5 | $172 down to $14 | $177 down to $19 | $182 down to $24 | $123 added | $49 added. |
| Public Law 94-169, Jan. 1, 1976 | 3,300 | 4,500 | $173 down to $5 | $186 down to $5 | $191 down to $5 | $196 down to $5 | $133 added | $53 added. |
| Public Law 94-432, Jan. 1, 1977 | 3,540 | 4,760 | $185 down to $5 | $199 down to $5 | $204 down to $5 | $209 down to $5 | $155 added | $57 added. |

Over 18 percent of veterans and over 14 percent of surviving spouses reported no annual countable income exceeding $100, other than pension, in December 1976. The annual income of pensioners (other than their pensions and excludable income) is shown in the following tables:

TABLE 4.—ALL VETERANS ON PENSION ROLLS

| Annual income not over | Apr. 30, 1976 | | | | | Apr. 30, 1977 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Total | Old law | New law | Percent old law | Percent new law | Total | Old law | New law | Percent old law | Percent new law |
| $100 | 168,293 | 7,945 | 160,348 | 4.7 | 95.3 | 182,929 | 6,616 | 176,313 | 3.6 | 96.4 |
| $200 | 4,282 | 586 | 3,696 | 13.7 | 86.3 | 4,154 | 498 | 3,656 | 12.0 | 88.0 |
| $300 | 4,180 | 510 | 3,670 | 12.2 | 87.8 | 4,002 | 431 | 3,571 | 10.8 | 89.2 |
| $400 | 3,315 | 478 | 2,837 | 14.4 | 85.6 | 3,134 | 402 | 2,732 | 12.8 | 87.2 |
| $500 | 3,567 | 395 | 3,172 | 11.1 | 88.9 | 3,433 | 337 | 3,096 | 9.8 | 90.2 |
| $600 | 3,102 | 387 | 2,715 | 12.5 | 87.5 | 2,947 | 328 | 2,619 | 11.1 | 88.9 |
| $700 | 2,249 | 297 | 1,952 | 13.2 | 86.8 | 2,305 | 252 | 2,053 | 10.9 | 89.1 |
| $800 | 3,440 | 360 | 3,082 | 10.5 | 89.5 | 3,143 | 295 | 2,848 | 9.4 | 90.6 |
| $900 | 4,562 | 345 | 4,217 | 7.6 | 92.4 | 2,669 | 265 | 2,404 | 9.9 | 90.1 |
| $1,000 | 11,065 | 434 | 10,631 | 3.9 | 96.1 | 6,814 | 271 | 6,543 | 4.0 | 96.0 |
| $1,100 | 31,324 | 2,349 | 28,975 | 7.5 | 92.5 | 11,631 | 350 | 11,281 | 3.0 | 97.0 |
| $1,200 | 16,060 | 1,034 | 15,026 | 6.4 | 93.6 | 28,978 | 1,950 | 27,028 | 6.7 | 93.3 |
| $1,300 | 17,522 | 1,258 | 16,264 | 7.2 | 92.8 | 14,973 | 823 | 14,150 | 5.5 | 94.5 |
| $1,400 | 17,891 | 1,265 | 16,626 | 7.1 | 92.9 | 16,778 | 976 | 15,802 | 5.8 | 94.2 |
| $1,500 | 20,360 | 1,584 | 18,776 | 7.8 | 92.2 | 18,539 | 1,117 | 17,422 | 6.0 | 94.0 |
| $1,600 | 24,793 | 2,017 | 22,776 | 8.1 | 91.9 | 18,408 | 1,089 | 17,319 | 5.9 | 94.1 |
| $1,700 | 27,077 | 2,239 | 24,838 | 8.3 | 91.7 | 22,249 | 1,459 | 20,790 | 6.4 | 93.4 |
| $1,800 | 29,499 | 2,492 | 27,007 | 8.4 | 91.6 | 25,856 | 1,751 | 24,105 | 6.8 | 93.2 |
| $1,900 | 28,996 | 2,753 | 26,243 | 9.5 | 90.5 | 25,837 | 1,875 | 23,962 | 7.3 | 92.7 |
| $2,000 | 33,894 | 3,258 | 30,636 | 9.6 | 90.4 | 30,136 | 2,215 | 27,921 | 7.3 | 92.7 |
| $2,100 | 30,480 | 3,467 | 27,013 | 11.4 | 88.6 | 26,439 | 2,025 | 24,414 | 7.7 | 92.3 |
| $2,200 | 30,487 | 3,622 | 26,865 | 11.9 | 88.1 | 29,869 | 2,867 | 27,002 | 9.6 | 90.4 |
| $2,300 | 31,696 | 3,900 | 27,796 | 12.3 | 87.7 | 28,738 | 2,619 | 26,119 | 9.1 | 90.9 |
| $2,400 | 32,236 | 3,902 | 28,334 | 12.1 | 87.9 | 29,889 | 3,055 | 26,834 | 10.2 | 89.8 |
| $2,500 | 36,702 | 6,002 | 30,700 | 16.4 | 83.6 | 30,066 | 3,072 | 26,994 | 10.2 | 89.8 |
| $2,600 | 36,861 | 4,471 | 32,390 | 12.1 | 87.9 | 31,416 | 3,393 | 28,023 | 10.8 | 89.2 |
| $2,700 | 34,092 | 3,338 | 30,754 | 9.8 | 90.2 | 34,727 | 4,713 | 30,014 | 13.6 | 86.4 |
| $2,800 | 37,373 | 4,543 | 32,830 | 12.2 | 87.8 | 31,512 | 3,072 | 28,440 | 9.7 | 90.3 |
| $2,900 | 35,083 | 2,990 | 32,093 | 8.5 | 91.5 | 33,322 | 2,918 | 30,404 | 8.8 | 91.2 |
| $3,000 | 34,612 | 2,319 | 32,293 | 6.7 | 93.3 | 35,850 | 3,720 | 32,130 | 10.4 | 89.6 |
| $3,100 | 26,505 | 2,268 | 24,237 | 8.6 | 91.4 | 32,425 | 2,407 | 30,018 | 7.4 | 92.6 |
| $3,200 | 23,691 | 2,306 | 21,385 | 9.7 | 90.3 | 30,174 | 1,918 | 28,256 | 6.4 | 93.6 |
| $3,300 | 22,532 | 2,267 | 20,265 | 10.1 | 89.9 | 26,925 | 1,852 | 25,073 | 6.9 | 93.1 |
| $3,400 | 19,153 | 2,393 | 16,760 | 12.5 | 87.5 | 23,622 | 1,843 | 21,779 | 7.8 | 92.2 |
| $3,500 | 16,703 | 2,303 | 14,400 | 13.8 | 86.2 | 22,213 | 1,926 | 20,287 | 8.7 | 91.3 |
| $3,540 | | | | | | 988 | | 988 | | 100.0 |
| $3,600 | 15,716 | 2,325 | 13,391 | 16.5 | 83.5 | 19,572 | 1,946 | 17,626 | 9.9 | 90.1 |
| $3,700 | 13,400 | 2,209 | 11,191 | 16.5 | 83.5 | 16,780 | 1,882 | 14,898 | 11.2 | 88.8 |
| $3,800 | 12,494 | 1,924 | 10,570 | 15.4 | 84.6 | 15,320 | 1,858 | 13,462 | 12.1 | 87.9 |
| $3,900 | 11,544 | 1,922 | 9,622 | 16.6 | 83.4 | 14,284 | 1,744 | 12,540 | 12.2 | 87.8 |
| $4,000 | 9,735 | 610 | 9,125 | 6.3 | 93.7 | 12,707 | 1,515 | 11,192 | 11.9 | 88.1 |
| $4,100 | 8,915 | 473 | 8,442 | 5.3 | 94.7 | 10,895 | 1,198 | 9,697 | 11.0 | 89.0 |
| $4,200 | 8,954 | 395 | 8,559 | 4.4 | 95.6 | 9,638 | 541 | 9,097 | 5.6 | 94.4 |
| $4,300 | 5,072 | | 5,072 | 0 | 100.0 | 8,684 | 273 | 8,411 | 3.1 | 96.9 |
| $4,400 | 4,511 | | 4,511 | 0 | 100.0 | 8,155 | 219 | 7,936 | 2.7 | 97.3 |
| $4,460 | | | | | | 211 | 211 | | 100.0 | |
| $4,500 | 4,012 | | 4,012 | 0 | 100.0 | 7,226 | | 7,226 | | 100.0 |
| $4,600 | | | | | | 4,423 | | 4,423 | | 100.0 |
| $4,700 | | | | | | 3,779 | | 3,779 | | 100.0 |
| $4,760 | | | | | | 2,317 | | 2,317 | | 100.0 |
| (1) | | | | | | 1,011 | | 1,011 | | 100.0 |
| Not stated | 96 | 34 | 62 | 35.4 | 64.6 | 70 | 21 | 49 | 30.0 | 70.0 |
| Total | 998,126 | 91,969 | 906,157 | 9.2 | 90.8 | 1,012,162 | 76,108 | 936,054 | 7.5 | 92.5 |

[1] In excess of income limitation, but receiving special A & A allowance.

TABLE 5.—ALL SURVIVING SPOUSES ON PENSION ROLLS

| Annual income not over | Apr. 30, 1976 | | | | | Apr. 30, 1977 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Total | Old law | New law | Percent old law | Percent new law | Total | Old law | New law | Percent old law | Percent new law |
| $100 | 134,144 | 1,782 | 132,362 | 1.3 | 98.7 | 142,304 | 1,578 | 140,726 | 1.1 | 98.9 |
| $200 | 4,976 | 134 | 4,843 | 2.7 | 97.3 | 4,911 | 131 | 4,780 | 2.4 | 97.6 |
| $300 | 5,943 | 131 | 5,812 | 2.2 | 97.8 | 5,639 | 111 | 5,528 | 2.0 | 98.0 |
| $400 | 5,200 | 127 | 5,073 | 2.4 | 97.6 | 4,750 | 109 | 4,641 | 2.3 | 97.7 |
| $500 | 5,784 | 157 | 5,627 | 2.7 | 97.3 | 5,498 | 116 | 5,382 | 2.1 | 97.9 |
| $600 | 6,915 | 198 | 6,717 | 2.9 | 97.1 | 6,374 | 174 | 6,200 | 2.7 | 97.3 |
| $700 | 5,809 | 157 | 5,652 | 2.7 | 97.3 | 5,229 | 140 | 5,089 | 2.7 | 97.3 |
| $800 | 7,925 | 278 | 7,647 | 3.5 | 96.5 | 7,043 | 231 | 6,812 | 3.3 | 96.7 |
| $900 | 8,943 | 234 | 8,709 | 2.6 | 97.4 | 7,655 | 199 | 7,456 | 2.6 | 97.4 |
| $1,000 | 16,649 | 498 | 16,151 | 3.0 | 97.0 | 9,789 | 249 | 9,540 | 2.5 | 97.5 |
| $1,100 | 51,405 | 1,920 | 49,485 | 3.7 | 96.3 | 21,052 | 626 | 20,426 | 3.0 | 97.0 |

TABLE 5.—ALL SURVIVING SPOUSES ON PENSION ROLLS—Continued

| Annual income not over | Apr. 30, 1976 | | | | | Apr. 30, 1977 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Total | Old law | New law | Percent old law | Percent new law | Total | Old law | New law | Percent old law | Percent new law |
| $1,200 | 24,823 | 1,140 | 23,683 | 4.6 | 95.4 | 48,687 | 1,759 | 46,928 | 3.6 | 96.4 |
| $1,300 | 25,525 | 1,421 | 24,104 | 5.6 | 94.4 | 23,341 | 1,010 | 22,331 | 4.3 | 95.7 |
| $1,400 | 25,618 | 1,761 | 23,857 | 6.9 | 93.1 | 22,741 | 1,289 | 21,452 | 5.7 | 94.3 |
| $1,500 | 29,129 | 2,280 | 26,849 | 7.8 | 92.2 | 25,156 | 1,543 | 23,613 | 6.1 | 93.9 |
| $1,600 | 34,175 | 3,058 | 31,117 | 8.9 | 91.1 | 27,753 | 2,170 | 25,583 | 7.8 | 92.2 |
| $1,700 | 34,740 | 3,139 | 31,601 | 9.0 | 91.0 | 31,853 | 2,602 | 29,251 | 8.2 | 91.8 |
| $1,800 | 35,622 | 3,531 | 32,091 | 9.9 | 90.1 | 34,030 | 2,855 | 31,175 | 8.4 | 91.6 |
| $1,900 | 36,027 | 4,030 | 31,997 | 11.2 | 88.8 | 34,373 | 3,096 | 31,277 | 9.0 | 91.0 |
| $2,000 | 40,541 | 4,578 | 35,963 | 11.3 | 88.7 | 36,404 | 3,537 | 32,867 | 9.7 | 90.3 |
| $2,100 | 40,333 | 5,000 | 35,333 | 12.4 | 87.6 | 34,759 | 3,846 | 30,913 | 11.1 | 88.9 |
| $2,200 | 42,022 | 5,020 | 37,002 | 11.9 | 88.1 | 39,187 | 4,322 | 34,865 | 11.0 | 89.0 |
| $2,300 | 43,613 | 7,314 | 36,299 | 16.8 | 83.2 | 40,094 | 4,444 | 35,650 | 11.1 | 88.9 |
| $2,400 | 38,310 | 5,540 | 32,770 | 14.5 | 85.5 | 39,135 | 4,351 | 34,784 | 11.1 | 88.9 |
| $2,500 | 42,767 | 6,241 | 36,526 | 14.6 | 85.4 | 41,578 | 6,784 | 34,794 | 16.3 | 83.7 |
| $2,600 | 40,721 | 7,143 | 33,578 | 17.5 | 82.5 | 37,411 | 5,225 | 32,186 | 14.0 | 86.0 |
| $2,700 | 31,754 | 1,836 | 29,918 | 5.8 | 94.2 | 42,819 | 6,606 | 36,213 | 15.4 | 84.6 |
| $2,800 | 35,023 | 1,395 | 33,628 | 4.0 | 96.0 | 33,074 | 3,288 | 29,786 | 9.9 | 90.1 |
| $2,900 | 28,538 | 672 | 27,866 | 2.4 | 97.6 | 30,503 | 1,788 | 28,715 | 5.9 | 94.1 |
| $3,000 | 22,577 | 30 | 22,547 | .1 | 99.9 | 34,376 | 879 | 33,497 | 2.6 | 97.4 |
| $3,100 | 9,747 | 23 | 9,724 | .2 | 99.8 | 26,099 | 503 | 25,596 | 1.9 | 98.1 |
| $3,200 | 7,146 | 20 | 7,126 | .3 | 99.7 | 18,996 | 15 | 18,961 | .2 | 99.8 |
| $3,300 | 6,212 | 22 | 6,190 | .4 | 99.6 | 11,242 | 14 | 11,228 | .1 | 99.9 |
| $3,400 | 1,718 | 33 | 1,685 | 1.9 | 98.1 | 6,615 | 18 | 6,597 | .3 | 99.7 |
| $3,500 | 1,683 | 26 | 1,657 | 1.5 | 98.5 | 5,650 | 30 | 5,620 | .5 | 99.5 |
| $3,540 | | | | | | 1,235 | | 1,235 | | 100.0 |
| $3,600 | 1,634 | 19 | 1,615 | 1.2 | 98.8 | 1,670 | 19 | 1,651 | 1.1 | 98.9 |
| $3,700 | 1,519 | 25 | 1,494 | 1.6 | 98.4 | 1,508 | 14 | 1,494 | .9 | 99.1 |
| $3,800 | 1,421 | 13 | 1,408 | .9 | 99.1 | 1,528 | 17 | 1,511 | 1.1 | 98.9 |
| $3,900 | 1,272 | 19 | 1,253 | 1.5 | 98.5 | 1,354 | 15 | 1,339 | 1.1 | 98.9 |
| $4,000 | 1,348 | 4 | 1,344 | .3 | 99.7 | 1,415 | 16 | 1,399 | 1.1 | 98.9 |
| $4,100 | 1,141 | 6 | 1,135 | .5 | 99.5 | 1,179 | 7 | 1,172 | .6 | 99.4 |
| $4,200 | 1,698 | 3 | 1,695 | .2 | 99.8 | 1,181 | 3 | 1,178 | .3 | 99.7 |
| $4,300 | 789 | | 789 | 0 | 100.0 | 1,043 | 3 | 1,040 | .3 | 99.7 |
| $4,400 | 721 | | 721 | 0 | 100.0 | 977 | 4 | 973 | .4 | 99.6 |
| $4,460 | | | | | | 0 | 0 | | 0 | |
| $4,500 | 1,487 | | 1,487 | 0 | 100.0 | 1,508 | | 1,508 | 0 | 100.0 |
| $4,600 | | | | | | 719 | | 719 | 0 | 100.0 |
| $4,700 | | | | | | 723 | | 723 | 0 | 100.0 |
| $4,760 | | | | | | 929 | | 929 | 0 | 100.0 |
| Not stated | 55 | 5 | 50 | 9.1 | 90.0 | 39 | 14 | 25 | 35.9 | 64.1 |
| Total | 945,142 | 70,963 | 874,179 | 7.5 | 92.5 | 963,128 | 65,770 | 897,358 | 6.8 | 93.2 |

*Scheduled pension reductions on January 1, 1978*

A prospective pension reduction faces a majority of our veterans and surviving spouses.

Most pensioners are elderly—and the most common source of income available to them is social security (Old Age Survivors Insurance). About 75 percent of all pensioners have some income from social security. The following table shows the number of non-service-connected pensioners and DIC parents receiving social security benefits:

TABLE 6.—NONSERVICE-CONNECTED PENSIONERS AND DIC PARENTS WITH SOCIAL SECURITY (OLD AGE SURVIVORS INSURANCE), JUNE 1977

| | Veterans (new law) | Survivors (new law) | DIC parents |
|---|---|---|---|
| Social security only | 465,551 | 469,680 | 29,131 |
| Social security and other income | 298,699 | 218,997 | 8,553 |
| No social security | 232,156 | 246,673 | 28,652 |

The following table shows the numbers of non-service-connected pensioners and DIC parents whose benefits were terminated, reduced, or increased (or which remained unchanged) following the Annual Income Questionnaire (required of all recipients) in December 1976, and the pension redeterminations made in January 1977, through June 1977:

TABLE 7.—INCOME ADJUSTMENTS—ALL PENSION AND DIC PARENTS, JUNE 1977

| | Total | Old law | | New law | | |
|---|---|---|---|---|---|---|
| | | Veterans | Survivors | Veterans | Survivors | DIC parents |
| Terminated | 41,812 | | | | | |
| Persons with social security income | 2,591 | 45 | 29 | 1,748 | 703 | 66 |
| Social security and other income | 26,432 | 444 | 322 | 13,906 | 11,320 | 440 |
| No social security | 12,789 | 123 | 149 | 3,508 | 8,716 | 293 |
| Reduced | 810,435 | | | | | |
| Social security only | 470,893 | 0 | 1 | 186,248 | 271,630 | 13,013 |
| Social security and other income | 279,612 | 0 | 3 | 135,501 | 139,549 | 4,553 |
| No social security | 59,930 | 0 | 1 | 19,429 | 38,990 | 1,506 |
| Increase or no change | 1,333,288 | | | | | |
| Social security income only | 547,696 | 26,180 | 28,046 | 279,303 | 198,050 | 16,118 |
| Social security and other income | 316,813 | 38,447 | 31,726 | 163,198 | 79,448 | 4,000 |
| No social security | 468,779 | 13,749 | 7,478 | 212,727 | 207,683 | 27,146 |
| Total | 2,185,535 | | | | | |

Solely because of the 5.9-percent cost-of-living increases in social security benefits in July 1977, approximately 47.5 percent of all current law pensioners are scheduled to sustain annual pension reductions averaging $91.0 if no rate increase is enacted. Another 18,040 veterans and survivors will be dropped from the pension rolls altogether.

*Pension increases effective January 1, 1978*

As a result of changes in the Consumer Price Index and because of the large number of veterans and survivors who will sustain

pension reductions on January 1, 1978, the bill provides for adjustments in the current program effective January 1, 1978.

A 6.5-percent increase in the rates payable and a comparable increase in the maximum annual income limitations are provided for veterans and survivors in the current program.

Similarly, maximum annual income limitations for the "old law" pensioners are increased by $200 and $300, respectively, for a veteran or surviving spouse without dependents and a veteran or surviving spouse with one or more dependents. A 6.5-percent increase in rates and in the annual income limitations is authorized also for needy parents receiving dependency and indemnity compensation. Finally, aid and attendance allowances for certain recipients of wartime death compensation are increased by 6.5 percent.

Thus, under the current program the maximum rate for a veteran without dependents would be increased from $185 to $197 a month, while the rate for a veteran with a dependent would be increased from $199 to $212. The following tables show the rates currently payable and those proposed:

TABLE 8.—CURRENT RATES AND THOSE PROPOSED BY H.R. 7345 AS AMENDED

| Annual income not over | Pension[1] | | | |
|---|---|---|---|---|
| | Veteran alone | Veteran and 1 dependent | Surviving spouse alone | Surviving spouse with 1 dependent |
| 0 | $197 | $212 | $133 | $159 |
| $100 | 197 | 212 | 133 | 159 |
| $200 | 197 | 212 | 133 | 159 |
| $300 | 197 | 212 | 133 | 159 |
| $400 | 194 | 212 | 132 | 159 |
| $500 | 191 | 212 | 131 | 159 |
| $600 | 187 | 210 | 130 | 159 |
| $700 | 183 | 208 | 127 | 159 |
| $800 | 178 | 205 | 124 | 158 |
| $900 | 173 | 202 | 121 | 157 |
| $1,000 | 167 | 199 | 117 | 156 |
| $1,100 | 161 | 195 | 113 | 155 |
| $1,200 | 154 | 191 | 108 | 153 |
| $1,300 | 147 | 187 | 103 | 151 |
| $1,400 | 140 | 183 | 98 | 149 |
| $1,500 | 133 | 179 | 93 | 147 |
| $1,600 | 126 | 175 | 88 | 145 |
| $1,700 | 119 | 171 | 83 | 142 |
| $1,800 | 111 | 167 | 78 | 139 |
| $1,900 | 103 | 163 | 72 | 136 |
| $2,000 | 95 | 159 | 66 | 133 |
| $2,100 | 87 | 154 | 60 | 130 |
| $2,200 | $79 | $149 | $54 | $127 |
| $2,300 | 71 | 144 | 48 | 124 |
| $2,400 | 63 | 139 | 42 | 121 |
| $2,500 | 55 | 134 | 36 | 117 |
| $2,600 | 47 | 129 | 30 | 113 |
| $2,700 | 39 | 124 | 24 | 109 |
| $2,800 | 31 | 119 | 17 | 105 |
| $2,900 | 23 | 114 | 10 | 101 |
| $3,000 | 15 | 109 | 5 | 96 |
| $3,100 | 7 | 103 | 5 | 91 |
| $3,200 | 5 | 97 | 5 | 86 |
| $3,300 | 5 | 90 | 5 | 81 |
| $3,400 | 5 | 83 | 5 | 76 |
| $3,500 | 5 | 76 | 5 | 71 |
| $3,540 | 5 | | 5 | |
| $3,600 | 5 | 69 | 5 | 66 |
| $3,700 | 5 | 61 | 5 | 61 |
| $3,775 | | 53 | | 61 |
| $3,900 | | 45 | | 61 |
| $4,000 | | 37 | | 61 |
| $4,100 | | 29 | | 61 |
| $4,200 | | 21 | | 61 |
| $4,300 | | 13 | | 61 |
| $4,400 | | 5 | | 61 |
| $4,500 | | 5 | | 61 |
| $4,600 | | 5 | | 61 |
| $4,700 | | 5 | | 61 |
| $4,760 | | 5 | | 61 |
| $4,800 | | 5 | | 61 |
| $4,900 | | 5 | | 61 |
| $5,000 | | 5 | | 61 |
| $5,080 | | 5 | | 61 |

[1] Veterans housebound allowance increased from $57 to $61 per month and aid and attendance increased from $155 to $165

TABLE 9.-DEPENDENCY AND INDEMNITY COMPENSATION (PARENTS)

| Annual income not over | 1 parent | 2 parents together | 2 parents not together |
|---|---|---|---|
| 0 | $152 | $103 | $107 |
| $100 | 152 | 103 | 107 |
| $200 | 152 | 103 | 107 |
| $300 | 152 | 103 | 107 |
| $400 | 152 | 102 | 107 |
| $500 | 152 | 102 | 107 |
| $600 | 152 | 102 | 107 |
| $700 | 152 | 102 | 107 |
| $800 | 152 | 102 | 107 |
| $900 | 149 | 102 | 105 |
| $1,000 | 146 | 102 | 103 |
| $1,100 | 141 | 100 | 101 |
| $1,200 | 136 | 98 | 96 |
| $1,300 | 130 | 96 | 91 |
| $1,400 | 124 | 94 | 86 |
| $1,500 | 118 | 92 | 81 |
| $1,600 | 110 | 90 | 76 |
| $1,700 | 102 | 88 | 71 |
| $1,800 | $94 | $86 | $66 |
| $1,900 | 86 | 84 | 61 |
| $2,000 | 78 | 82 | 56 |
| $2,100 | 70 | 79 | 45 |
| $2,200 | 62 | 76 | 39 |
| $2,300 | 54 | 73 | 35 |
| $2,400 | 46 | 70 | 27 |
| $2,500 | 38 | 67 | 21 |
| $2,600 | 30 | 64 | 15 |
| $2,700 | 22 | 61 | 8 |
| $2,800 | 14 | 58 | 5 |
| $2,900 | 6 | 55 | 5 |
| $3,000 | 5 | 51 | 5 |
| $3,100 | 5 | 47 | 5 |
| $3,200 | 5 | 43 | 5 |
| $3,300 | 5 | 39 | 5 |
| $3,400 | 5 | 35 | 5 |
| $3,500 | 5 | 31 | 5 |
| $3,540 | | | |
| $3,600 | 5 | 27 | 5 |
| $3,700 | 5 | 22 | 5 |
| $3,775 | | 17 | |
| $3,900 | | 12 | |
| $4,000 | | 6 | |
| $4,100 | | 5 | |
| $4,200 | | 5 | |
| $4,300 | | 5 | |
| $4,400 | | 5 | |
| $4,500 | | 5 | |
| $4,600 | | 5 | |
| $4,700 | | | |
| $4,760 | | 5 | |
| $4,800 | | | |
| $4,900 | | 5 | |

According to information supplied by the Veterans' Administration, if the adjustments contained in this measure are enacted, none of the 18,040 veterans or survivors currently scheduled to be terminated because of social security increases will be dropped. Further, 1,718,850 veterans, surviving spouses and dependents can expect to receive an average annual gain in pension of approximately $95.

And although no veteran or survivor will sustain a loss in aggregate income, solely as a result of social security increases, it should be acknowledged that even if provisions contained in titles I and II are enacted, 62,575 veterans and survivors will sustain an average annual reduction of $2 in pension despite such adjustments. The following table shows the projected gains and losses with respect to the current pension population if H.R. 7345 is enacted into law (NOTE: The figures shown in this table are based on a 6.7-percent increase rather than a 6.5-percent increase. However, any variations in figures based on a 6.5-percent increase can be expected to be very slight):

TABLE 10.—ESTIMATED EFFECTS OF 5.9 PERCENT OASI INCREASE AS OF JANUARY 1978 (NEW LAW ONLY)

[Effective July 1, 1977]

| | Number gaining pension | Average annual gain | Number reduced pension | Average annual reduction | Number gaining aggregate | Average annual gain | Number reduced aggregate | Average annual reduction | Number terminated |
|---|---|---|---|---|---|---|---|---|---|
| With no change in law: | | | | | | | | | |
| Veteran alone | 0 | 0 | 218,136 | $99 | 241,976 | $46 | 0 | 0 | 3,874 |
| Veteran with dependent | 0 | 0 | 465,477 | 118 | 482,165 | 94 | 0 | 0 | 7,947 |
| Widow alone | 0 | 0 | 508,518 | 70 | 567,004 | 71 | 0 | 0 | 5,518 |
| Widow with dependent | 0 | 0 | 100,419 | 48 | 113,862 | 83 | 0 | 0 | 702 |
| Total | 0 | 0 | 1,292,549 | 91 | 1,405,006 | 76 | 0 | 0 | 18,040 |
| With enactment of VA 6.7-percent increase: | | | | | | | | | |
| Veteran alone | 319,298 | $128 | 19,379 | 1 | 319,298 | 128 | 0 | 0 | 0 |
| Veteran with dependent | 542,907 | 114 | 24,901 | 1 | 542,907 | 114 | 0 | 0 | 0 |
| Widow alone | 713,989 | 60 | 18,295 | 4 | 713,689 | 60 | 0 | 0 | 0 |
| Widow with dependent | 142,958 | 126 | 0 | 1 | 142,958 | 126 | 0 | 0 | 0 |
| Total | 1,719,150 | 95 | 62,575 | 2 | 1,718,850 | 95 | 0 | 0 | 0 |

COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress) the Committee, based on information supplied by the Congressional Budget Office, estimates that the 5-year cost resulting from the enactment of the Committee bill would be $128.5 million in fiscal year 1978; $166.7 million in fiscal year 1979; $162.4 million in fiscal year 1980; $159.9 million in fiscal year 1981; and $155.5 million in fiscal year 1982. A detailed report on these costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE

*Cost estimate*

1. Bill number: H.R. 7345 (Senate version).

2. Bill title: Veterans and Survivors Pension Adjustment Act of 1977.

3. Bill status: This bill has been ordered reported by the Senate Committee on Veterans' Affairs.

4. Bill purpose: The Senate version of H.R. 7345 provides an increase of approximately 6.5 percent to the rates of disability and death pension, to the rates of DIC for

parents, and to the income limits under the Veterans Pension Act of 1959. These increases would be effective on January 1, 1978.

5. Revised cost estimate:

| Fiscal year: | *Cost (millions)* |
|---|---|
| 1978 (9 months) | $128.5 |
| 1979 | 166.7 |
| 1980 | 162.4 |
| 1981 | 159.9 |
| 1982 | 155.5 |

6. Basis for estimate: This estimate was prepared using a computer simulation model. The model is based on a 1-percent sample of the pension caseload. For each of the 5 years of the simulation, the income of each sample case is updated based on current economic assumptions and a pension payment is computed using the proposed rate structure. The cost for the sample cases is then inflated to the level representative of the total pension caseload.

7. Estimate comparison: None.

8. Previous CBO estimate: The House version of H.R. 7345 contained a 7 percent increase in rate levels and an increase of 25 percent in the pension payable to a surviving spouse age 78 or older. The estimated cost of this version for 9 months of fiscal year 1978 was $185.9 million.

An earlier Senate version of H.R. 7345 contained a 6.7 percent rate increase. On July 18, 1977, CBO submitted an estimate of this version which showed a cost of $131.2 million for fiscal year 1978.

9. Estimate prepared by: K. W. Shepherd.

10. Estimate approved by: C. G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

REGULATORY IMPACT STATEMENT

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are described below.

The Committee bill would provide rate increases of approximately 6.5 percent, including additional allowances for aid and attendance and for housebound status, for non-service-connected disability and death pensioners and parents entitled to dependency and indemnity compensation (DIC), effective January 1, 1978. It would also provide for an increase, by approximately the same percentage, of the maximum annual income limitations applicable to pensioners and parents entitled to DIC under the current law and for beneficiaries under the protected pension law. Moreover, it would provide for an increase of approximately 6.5 percent in the maximum unearned annual income limitation for children entitled under current pension law, as well as an approximate 6.5-percent increase in the aid and attendance allowance available to a surviving spouse or parent in receipt of death compensation based on a service-connected death prior to January 1, 1957. In light of the nature of this legislation, its regulatory impact will be minimal.

The requisite evaluation of such impact is as follows:

A. Estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses:

No individuals would be regulated under the bill, which simply increases statutory rates of disability and death pension and parents' dependency and indemnity compensation for approximately 1,719,000 individuals in fiscal year 1978, and increases statutory annual income limitations for approximately 16,400 individuals during fiscal year 1978.

Likewise, no businesses would be regulated under the provisions of H.R. 7345 as reported.

B. Determination of the economic impact of such regulations on individuals, consumers, and businesses affected:

Since the Committee bill does not call for the promulgation of any regulations, there would be no economic impact resulting from regulations promulgated under the Committee bill. Under the substantive provisions of the Committee bill, however, increased statutory rates and maximum income limitations would result in the distribution of aproximately $128.5 million in VA benefit payments to eligible individuals during fiscal year 1978.

C. Determination of the impact on the personal privacy of the individuals affected:

Increasing these statutory rates and maximum income limitations would have no effect on the personal privacy of the recipients of such benefits beyond the financial disclosures required by current law.

D. Determination of the amount of additional paperwork that will result from regulations to be promulgated under the bill:

Since the proposed increased rates are statutory, little regulatory change would be necessitated by their enactment. The generation of additional paperwork would essentially be limited to the notification of recipients by the Veterans' Administration of the new rates, and to the internal directives and programing necessary to effect the rate increases.

The above comment is equally applicable to the proposed statutory increase in the maximum annual income limitations.

SECTION-BY-SECTION ANALYSIS OF H.R. 7345 AS REPORTED

*Section 1*

This section provides that the Act may be cited as the "Veterans and Survivors Pension Adjustment Act of 1977".

TITLE I—VETERANS' AND SURVIVORS' PENSIONS

In general, title I of the Act would provide an average 6.5-percent cost-of-living increase in current pension rates and increases in the maximum annual income limitations for all pensioners effective January 1, 1978.

*Section 101*

Provides, effective January 1, 1978, an average 6.5-percent increase in the rates of pension and a $230 increase in the maximum annual income limitation for eligible veterans under section 521.

Clauses (1) and (2) of section 101 amend subsection (b) of section 521, which prescribes pension rates for unmarried veterans. Currently, a veteran with no dependents and with an annual countable income of $300 or less receives a maximum monthly pension of $185 which is gradually reduced to $5 subject to a limitation on annual countable income of $3,540. This section would provide that a veteran with no dependents and an annual countable income of $300 or less would receive a maximum monthly rate of $197 reduced to $5, subject to a limitation on annual countable income of $3,770.

Clauses (3) and (4) of section 101 amend subsection (c) of section 521 prescribing rates for veterans with dependents. Currently, the maximum monthly pension payable to a veteran with annual countable income of $500 or less, and with one dependent is $199, for two dependents $204 and with three or more dependents $204. This decreases gradually to the minimum monthly payment of $5, until the veteran's annual income reaches $4,760 whereupon he or she would be ineligible for a pension. As amended, subsection (c) would provide for a monthly payment of $212 to a veteran with one dependent, $217 to a veteran with two dependents, and $222 to a veteran with three dependents, b sed on income of $500 or less, ranging downward to a minimum monthly payment of $5 and limited by a maximum annual countable income of $5,070.

Clauses (5) and (6) of section 101 amend section 521(d), which authorizes additional allowances payable to veterans receiving pension who are in need of regular aid and attendance, by increasing the monthly rate from $155 to $165, and section 521(e), which authorizes who do not qualify for aid and attendance but who are permanently housebound, by increasing the monthly allowance from $57 to $61.

*Section 102*

Provides, effective January 1, 1978, an average 6.5-percent increase in the rates of pension and a $230 increase in the maximum annual income limitation for eligible surviving spouses of veterans under section 541 of title 38, United States Code.

Clauses (1) and (2) of section 102 amend subsection (b) of section 541, prescribing pension rates for surviving spouses with no dependents. Currently a surviving spouse with no dependents and with an annual countable income of $300 or less receives a maximum monthly pension of $125 which is gradually reduced to a minimum monthly payment of $5 subject to a limitation on annual countable income of $3,540. As amended, this subsection would provide that a surviving spouse with no dependents and an annual countable income of $300 or less would receive a maximum monthly pension of $133 reduced to $5 subject to a limitation on annual countable income of $3,770.

Clauses (3) and (4) of section 102 amend subsection (c) of section 541, which prescribes rates for surviving spouses with dependents. Currently the maximum monthly pension to a surviving spouse with one dependent and an annual countable income of $700 or less is $149 which decreases gradually to a minimum monthly payment of $61 and is limited by annual countable income of $4,760. As amended, this subsection would provide that a surviving spouse with one dependent and an annual countable income of $700 or less would receive a maximum monthly pension of $159 reduced to $5 subject to a limitation on annual countable income of $5,070.

Clause (5) of section 102 amends subsection (d) of section 541, which provides for additional payments for dependents in excess of one, by increasing the monthly pension for each additional child from $24 to $26.

*Section 103*

Provides, effective January 1, 1978, an average 6.5-percent increase in the rates of pension and a $190 increase in the maximum annual income limitation for eligible children where there is no surviving spouse.

Clause (1) of section 103 amends subsection (a) of section 542, which provides for payment of pension at a monthly rate of $57 for one child and $24 for each additional child, by increasing the monthly rates to $61 and $26, respectively.

Clause (2) of section 103 amends the eligible child's maximum annual income limitation from $2,890 to $3,080.

*Section 104*

Provides, effective January 1, 1978, a 6.5-percent increase from $74 to $79 for any surviving spouse entitled to additional monthly allowances for aid and attendance.

*Section 105*

Amends section 4 of Public Law 90-275 (82 Stat. 68) to increase the maximum annual income limitations applicable under the "old law" pension plan, effective January 1, 1978. A veteran or surviving spouse

without a dependent, or a child alone, would remain eligible for pension with a maximum countable annual income of up to $3,300 a year as contrasted with the current $3,100 limitation. A veteran with a dependent or a surviving spouse with a child would remain eligible for pension with a maximum countable annual income of up to $4,760 as opposed to the current maximum of $4,060.

TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

In general, title IV of this Act would provide an average 6.5-percent cost-of-living increase and an increase in the maximum annual income limitations effective January 1, 1978, for those parents receiving need-based dependency and indemnity compensation.

*Section 201*

Clauses (1) and (2) of section 201 increase the rates of dependency and indemnity compensation (DIC) and annual income limitation for a sole surviving parent receiving dependency and indemnity compensation under section 415(b).

Currently, a sole surviving parent receives a maximum monthly DIC payment of $142 if his or her annual countable income is less than $800, decreasing to $5 subject to a limitation on annual countable income of $3,540. As amended, this section would provide for a maximum monthly payment of $152 with an annual income of $800 or less, decreasing down to $5 and limited by an annual income of $3,770.

Clauses (3) and (4) of section 201 increase the rates of dependency and indemnity compensation (DIC) and the annual income limitation for two parents not living together but receiving DIC under section 415(c). Currently, each of two parents who are not living together receives a maximum monthly DIC payment of $100 if annual countable income is $800 or less, decreasing on a graduated scale to $5 subject to a limitation on annual countable income of $3,540. As amended, this section would provide for a maximum monthly rate of $107 with an annual income of $800 or less, decreasing down to $5 subject to a limitation on annual income of $3,770.

Clauses (5) and (6) of section 201 increase the rates of dependency and indemnity compensation (DIC) and the annual income limitation for parents receiving DIC under section 415(d). Currently, if there are two parents who are living together or if a parent is remarried and is living with his or her spouse, each parent receives a maximum monthly DIC payment of $96 if their annual income is $1,000 or less, decreasing gradually to $5 subject to a limitation on annual countable income of $1,760. As amended, this section would provide for a maximum monthly payment of $102 with an annual income of $1,000 or less, decreasing down to $5 for an annual income of $5,070.

Clause (7) of section 201 increases the allowance payable under section 415(h) to parents in receipt of DIC who are in need of aid and attendance. Currently, this additional allowance is $74 per month. As amended, it would be increased to $79.

TITLE III—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

*Section 301*

Increases the aid and attendance allowance by approximately 6.5 percent of those surviving spouses and dependent parents receiving death compensation. The rate would be increased from $64 to $69, the same as that provided for surviving spouses under the non-service-connected-pension program.

*Section 302*

Provides for an effective date of January 1, 1978.

CONCLUSION

Mr. CRANSTON. Mr. President, I would like to congratulate Senator HERMAN TALMADGE, the chairman of the Subcommittee on Compensation and Pension, for his invaluable assistance in preparing this bill for consideration by the Senate, and I would also like to thank all the Senators on the Veterans' Affairs Committee and the members of their staffs for their patience, cooperation, and hard work in this matter. The staff of the Veterans' Affairs Committee has also worked diligently and tirelessly in assisting the committee, and I would like to take this opportunity to thank them as well—particularly Mary Sears, Harold Carter, Ed Scott, Jon Steinberg, Garner Shriver, and Gary Crawford. In carrying out their duties, they have often requested the assistance of the Veterans' Administration in technical matters, and the VA staff, under the direction of its new Administrator, my good friend Max Cleland, and General Counsel Guy McMichael, has been most helpful and responsive. We thank them also.

## PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD the notifications I have just received.

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

[Transmittal No. 77-51(A)]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(B) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Switzerland.

(ii) Total estimated value:

| | Million |
|---|---|
| Major Defense Equipment * | $81.8 |
| Other | 22.3 |
| Total | 104.1 |

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) *Description of articles or services offered:*

Fifteen-thousand five-hundred and forty-four (15,544) Dragon missiles M-222 and six-thousand four-hundred and twenty-six (6,426) Dragon practice missiles M-223, one-thousand three-hundred and fifty-four (1,354) trackers and support equipment.

(iv) Military Department: Army.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: August 4, 1977.

[Transmittal No. 77-51(B)]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Switzerland.

(ii) Total estimated value:

| | Million |
|---|---|
| Major Defense Equipment* | $75.3 |
| Other | 10.3 |
| Total | 85.6 |

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Fifteen-thousand five-hundred and forty-four (15,544) Dragon missiles M-222, and six-thousand four-hundred and twenty-six (6,426) Dragon practice missiles M-223, and three-hundred and fourteen (314) trackers, and co-production of trackers and support equipment.

(iv) Military Department: Army:

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress:

[Transmittal No. 77-54]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Greece.

(ii) Total estimated value:

| | Million |
|---|---|
| Major Defense Equipment* | $7.5 |
| Other | .6 |
| Total | 8.1 |

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Eleven (11) M-88A1 medium full-track recovery vehicles, one year spare parts, tools, spare engines and transmissions.

(iv) Military department: Army.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: August 4, 1977.

[Transmittal No. 77-55]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Korea.

(ii) Total value:

| | Million |
|---|---|
| Major defense equipment* | 10.4 |
| Other | 2.4 |
| Total | 12.8 |

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or service offered: Fifteen (15) M88A1 full-track recovery vehicles.

(iv) Military department: Army.

(v) Sales commission, fee, etc., paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: August 4, 1977.

[Transmittal No. 77-56]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Spain.

(ii) Total estimated value:

| | Million |
|---|---|
| Major defense equipment* | $32.9 |
| Other | 6.2 |
| Total | 39.1 |

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or service offered: Six (6) SH-3D anti-submarine helicopters, support equipment, and repair parts.

(iv) Military department: Navy.

(v) Sales commission, fee, etc., paid, offered or agreed to be paid: **(Deleted.)

D. Same as paragraph iii above.

E. The information contained in paragraph (v) consists of **

(vi) Date report delivered to Congress: August 4, 1977.

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[Transmittal No. 77-57]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Greece.

(ii) Total estimated value:

| | Million |
|---|---|
| Major Defense Equipment* | $21.8 |
| Other | 2.6 |
| Total | 24.4 |

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Eleven (11) self-propelled 155mm howitzers (M109A1B) and one-hundred forty-four (144) towed 105 howitzers (M101A1).

(iv) Military department: Army.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: August 4, 1977.

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[Transmittal No. 77-58]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Greece.

(ii) Total estimated value:

| | Million |
|---|---|
| Major Defense Equipment* | $9.1 |
| Other | 3.7 |
| Total | 12.8 |

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: One-hundred (100) AIM-7E-3 Sparrow missiles, spare parts, and training.

(iv) Military department: Navy.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: August 4, 1977.

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** Proprietary data within the meaning of 18 U.S.C. 1905, and accordingly may not be disclosed except pursuant to the provisions of the code.

[Transmittal No. 77-59]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Republic of Korea.

(ii) Total Estimated Value:

| | Million |
|---|---|
| Major Defense Equipment [1] | $36.7 |
| Other | 3.8 |
| Total | 40.5 |

[1] As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Forty-eight (48) UH-1H helicopters, armament, and support equipment.

(iv) Military department: Army.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid:** (Deleted.)

(vi) Date report delivered to Congress. August 4, 1977.

**D. Same as paragraph iii above.

E. The information contained in paragraph (1) consists of proprietary data within the meaning of 18 U.S.C. 1905, and accordingly may not be disclosed except pursuant to the provisions of the code.

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## PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the two notifications, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

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

[Transmittal No. 77-60]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.

(ii) Total estimated value:

| | Million |
|---|---|
| Major Defense Equipment* | $75.5 |
| Other | 16.9 |
| Total | 92.4 |

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: [Deleted] armored personnel carriers, full-tracked, M113A1 plus support.

(iv) Military department: Army.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: August 4, 1977.

Classified by the Department of State subject to general declassification schedule of Executive Order 11652. Automatically downgraded at two year intervals. Declassified on 31 Dec. 83.

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[Transmittal No. 77-61]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.

(ii) Total estimated value:

| | Million |
|---|---|
| Major Defense Equipment* | $8.8 |
| Other | .8 |
| Total | 9.6 |

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: [Deleted] TOW missiles launchers M22OA1.

(iv) Military department: Army.

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: August 4, 1977.

Classified by the Department of State subject to general declassification schedule of Executive Order 11652. Automatically downgraded at two year intervals. Declassified on 31 Dec. 83.

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## THE 1977 FARM BILL

Mr. ANDERSON. Mr. President, happily, it appears that the House-Senate conferees will soon reach an agreement on the 1977 farm bill. The Senate conferees deserve the thanks of those who are truly concerned with the fate of the American family farmer. The Senate made few concessions to the House on items in which the Senate position was more generous than that passed by the House. And, I am pleased to note that the Senate conferees were eager to accept the House position when, as in the case of a sugar program, the House had enacted a better provision.

I must say that the 1977 farm bill, as it is now before us, exceeds my expectations, although it does not quite measure up to my best hopes. Fortunately, it is a much better bill than the Carter administration promised early in the spring. That is because of the constant pressure that came from those who know first hand the bitter difficulties our farmer constituents are facing as they try and sell high cost crops such as corn, wheat, and sugarbeets for fire sale prices and worse.

We must now urge the President to sign this bill. The $2.90 wheat target price, based as it is on planted rather than allotted acres, will help many wheat farmers from going under. And the sugar program will at least give Midwest area sugarbeet farmers a fighting chance to survive another year.

I know that the President's own inclination is to rescue thousands of farmers from the brink of ruin. I am sure he

would very much like to sign the bill and recent signals from the White House have been encouraging. But there are others who will advise him differently. Powerful voices will be urging the President to veto the bill. The budget experts within the administration will see the farm bill as an easy way to cut the budget. There are those who enthusiasticadlly want low farm prices as a simple way to curb inflation. Others honestly do not care whether or not thousands of family farmers fall victim to international market forces during a time of rapidly rising farm production costs. Still others point to obvious imperfections in our farm program as an excuse for scrapping the entire effort.

I sincerely hope that President Carter will reject these arguments. If any further evidence is needed that Midwestern farmers are truly in the midst of an economic depression, consider these facts. According to our new Minnesota Commissioner of Agriculture, Bill Walker, outstanding debts of Minnesota farmers as of mid-1977 were in excess of a record $4.3 billion. This figure surpasses the annual budget of Minnesota State government, and it is by far more than the annual cost of the commodity price supports contained in the 1977 farm bill.

Even more startling is the fact that this huge debt level for Minnesota farmers has increased by nearly 77 percent, or $2 billion, just in the last 3 years.

Mr. President, I would suggest that a survey of our neighboring States will reveal a similar or worse pattern.

Budget bureaucrats, bankers, and big city newspapers, including I am sad to say our own Minneapolis Star, will supply the President with plenty of rhetoric suggesting directly or indirectly that he veto the farm bill. But the facts of life in rural Minnesota and in rural America will, I hope, speak more persuasively, and will convince the President to heed the danger signals from the farm belt. For thousands of farmers, a farm depression is not a potential threat, it is already here.

## ENCOURAGEMENT OF WOMEN ENTREPRENEURS

Mr. SASSER. Mr. President, the Carter administration took a step forward this week in its efforts to guarantee equal economic opportunities for women.

I am referring to the national women's business ownership campaign.

The Small Business Administration proposes to increase the number of women in small businesses by doing the following:

Sponsoring seminars and conferences which tell women how to enter business and how to develop and expand the businesses they work for;

Having SBA district offices pay more attention to the borrowing needs of women;

Assisting eligible, women-owned small businesses which desire to participate in Government contract work;

And by providing general management assistance through the use of preexisting SBA programs.

These steps are small but important ones in a larger effort to end discrimination against women who choose to enter the business field.

All one has to do is to look at the figures to see the present imbalance in business ownership and management. Today women constitute 51.3 percent of the population in the United States; yet they own only 4.6 percent of the businesses.

In 1976, only 11 percent of SBA loans went to women.

Women must not be denied a chance to participate in the economic life of the Nation. Recent figures indicate that they are more eager than ever to enter the business field.

Whereas in 1975 and 1976, 27 percent of those attending SBA training sessions were women, this year the average has risen to 40 percent. Implementation of the women's business ownership campaign should allow this percentage to increase even further.

In addition to this commendable new SBA program, the Small Business Administration assures me that it will put greater emphasis on the appointment and promotion of women within its own ranks. The agency should, of course, practice what it preaches, and I hope its example will be followed by all government agencies.

In conclusion, Mr. President, I support this latest step in assuring an equal chance for women in the business world. Women should be able to pursue their interests just as easily in this sphere as in any other they may choose.

## WEST VIRGINIA BUSINESS LEADER CREATES THRIVING ROADSIDE SERVICE COMPLEX

Mr. RANDOLPH. Mr. President, there was a time, as many of us can recall, when there was nothing particularly unusual about an individual success story.

Now it seems to be a generally accepted fact that the corporate approach is the only way to make good in business.

That being so, it is heartening and worthy of mention when you find there are exceptions to that rule.

I encountered an example of that individual achievement a few weeks ago on a trip to West Virginia when I talked with Frank Schirtzinger, the owner and operator of the Charleston West Auto/Truck Stop.

His facility, located at exit 9 off Interstate 64, at Hurricane, is one of approximately 2,200 being operated in other parts of the country, as it is not unique in itself.

It is what this 45-year-old West Virginian has done to develop the establishment, from a modest beginning, which makes his accomplishment impressive.

He has, in the first place, thought and built big to the point that his property is more than twice the size of the national average, with an investment of about $1.7 million in land, buildings, and equipment.

The complex features a restaurant, motel, gift shop, store, and diesel repair shop to supplement fuel service facilities. The combination is producing annual sales estimated at $6.2 million.

From the Government's standpoint that translates into annual taxes of $1.3 million.

The way he figures it, that comes out to some $2.49 per minute of his operations.

Those operations also translate into jobs for 144 people with an annual payroll of $856,000.

His story does not stop there. Along with managing and expanding that enterprise he serves as president of Citizens for Community Improvement, as a trustee of the Thomas Memorial Hospital, as past president of the West Virginia Truckstop Operators and second vice-chairman of the National Association of Truckstop Operators.

Granted, it took the Federal highway program to provide Frank Schirtzinger with his opportunity.

What he did with that opportunity proves that individual initiative, imagination, and hard work do pay dividends in our free enterprise system.

That is why I wanted to share his story.

## SOLAR ENERGY ON FARMS

Mr. BAYH. Mr. President, I would like to commend two of my colleagues for their leadership in conserving energy on farms. Senator LEAHY and Senator ROTH introduced S. 1738 and S. 1923 which would assist farmers who want to apply the benefits of solar technology on their farms. I am happy to join in cosponsorship of both bills. This legislation represents the foresight and action needed to meet the growing demands for energy in agricultural production.

Blessed with rich natural resources, the United States is the greatest agricultural producer in the world. Through hard work and efficient management, America's family farmers, who comprise less than 4 percent of U.S. population, feed nearly the entire Nation. People in foreign countries also turn to the U.S. for supplies of food and for leadership in agricultural development. In the past American farm production has steadily increased, but we are now entering a new era in agriculture. We must feed an ever expanding population with diminishing supplies of farm land and fossil fuels.

It is estimated that 22 percent of the total energy used in the United States is related to the production, processing, marketing, and consumption of agricultural and forest products. On-farm agricultural energy usage accounts for 3 percent of the Nation's total. At the Agriculture, Nutrition and Forestry Subcommittee on Rural Development hearing on Energy in Agriculture, Prof. Howard Hjort testified that 1300 trillion Btu of energy are used directly in U.S. farm production. Indirect use—chemicals for fertilizers and pesticides—adds about 700 trillion Btu. This requires about 8.1 billion gallons of petroleum products, 164 billion cubic feet of natural gas, and 32

billion kilowatt hours of electricity. Agriculture is the largest single nontransportation user of energy and its appetite is growing. According to the National Rural Electrical Cooperative Association, consumption per individual user increased and total farm and residential consumption in rural areas went up more than 6 percent in 1976.

Clearly efforts to conserve energy and find new energy sources are needed now. The Agricultural Research Service directed approximately $10.3 million into 140 projects related to energy research for agriculture for fiscal year 1977. Fifty-eight of these projects involve solar energy.

Solar energy is a good example of new technology which has been proven efficient and environmentally sound. The Office of Technology Assessment recently found that—

(s)olar equipment is technically capable of providing almost any kind of energy: it can be used to heat and cool buildings, provide heat for industrial processes, provide mechanical power for pumps and other equipment and generate electricity. Moreover, it can meet these demands with minimal adverse effect on society or the natural environment.

Furthermore they found that although the cost of solar technology continues to be a barrier to wide use—

(t)here is a market for some types of onsite solar equipment at today's prices and this market could expand rapidly if relatively modest increases occur in the cost of conventional energy. Solar equipment can produce hot water for domestic use at costs which are competitive with the cost of water heated by conventional electric water heaters. If the price of electricity increases by about 40% (in constant dollars) by the year 2000, it should be possible by 1980 to build solar systems which supply 100% of the heating and hot water needs of large buildings in three of the four cities examined by this report at prices which are competitive with electricity from other sources in all of the cities examined (Albuquerque, Omaha, Boston, Ft. Worth). If electricity prices increase slightly faster (e.g. by a factor of 1.5 to 2 over the next 3 decades) and if the cost of solar cell arrays is reduced by a factor by about 30 from current levels (the ERDA price goal for 1985), onsite solar devices would be able to generate supplemental electricity at prices competitive with electricity from other sources in wide areas of the country.

The study notes that although the technical feasibility of solar energy is "beyond serious question," it now only supplies less than one-thousandth of 1 percent of current U.S. energy requirements. The report explains that—

(u)seful thermal and electrical power can be provided by onsite solar devices which are as simple to install and maintain as conventional air-conditioning systems . . . Building orientation will not be a major barrier to retrofitting many existing structures with solar equipment. A building must be heavily shaded or have a particularly poor orientation and roof shape in order for a collector mounted on its roof to gather less than 70 percent of the energy that could be collected by a device pointed in an optimum direction . . . Regional differences in the attractiveness of solar energy are often due more to differences in the prices of conventional energy than to differences in the amount of sunlight available.

The OTA concluded that—

(o)nsite technology clearly works. Apart from being desirable for a number of societal and environmental reasons, its possible future costs fall within a range where they could well be competitive with other energy sources in a variety of applications during the next two decades. Thus, if there is a single conclusion of this analysis, it is that given the ambiguities of the future, the limited number of alternatives, and the grave consequences of being without a reliable future source of energy, onsite solar energy must be regarded as an important option.

ERDA estimates that by the year 2000 about 50 percent of the U.S. agricultural energy demand could be met by solar energy. ERDA's research on the agricultural uses of solar energy centers on four projects: First, grain drying; second, livestock shelter and dairy water heating; third, heating greenhouses and rural residences, and fourth, food processing. Researchers at Purdue University in Lafayette, Ind., have determined that with only slight increases in gas prices solar-farm equipment including solar heating of farrowing and poultry houses and greenhouses, tobacco curing barns, and solar grain dryers, will be economically justified. For instance, solar energy for the later stages of grain drying could reduce by 50 percent the energy required for grain drying without disrupting or dangerously extending drying schedules. As 90 percent of the corn produced in Indiana is artificially dried, this innovation could provide substantial energy savings. Financial benefits of solar technology vary according to location. Dr. George H. Foster of Purdue University testified at the Energy and Agriculture hearing that, based on present cost of liquified petroleum gas, fuel savings will meet only half the cost of investments in solar collectors which run $20 per square meter and up. However electricity costs differ around the country and in some areas, solar energy is now competitive cost-wise with electricity for crop drying.

Livestock barn heating and cooling is one of the most promising applications of solar energy especially when coupled with energy conservation methods. Wind and shade protection by trees around buildings have been found to reduce energy requirements by as much as 12 percent for heating in the winter and 20 percent for cooling in the summer. Adequate insulation and weatherization provide another major reduction in heating and cooling requirements.

In another area, research on solar irrigation pumps in Willard, N. Mex., shows that this technology could provide additional savings. Thirteen percent of all energy used in farm products is for pumping irrigation water. This and the other studies comprise an impressive accumulation of research. Daily we learn of other developments in solar technology. ERDA and USDA should be encouraged to continue this research and promote its application.

Interested in keeping costs down and maintaining the high-production capacity of their land, family farmers have traditionally been conservative energy users. Small farmers, who are especially beset by the hardships of high production costs and low prices deserve assistance in developing energy improvements in farming. The President projects solar systems in 2½ million homes by 1985. As explained above, the technology already exists for many implementations of solar energy. The task is now to get this solar energy out of the labs and onto the farms. The Farmers Home Administration, on which small farmers depend for necessary credit, should be authorized to make loans for investment in solar equipment. S. 1738 and S. 1923 make this specific authorization by amending the Consolidated Farm and Rural Development Act.

On June 22, 1977, Senator LEAHY introduced S. 1738 to help family farmers get credit for solar equipment in the homes. Senator ROTH's bill, introduced July 27, 1977, would authorize FmHA loans for solar farm equipment as well as residential heating and cooling. Without these loans, many farmers cannot afford or may choose not to invest in the initial cost of solar units which will later provide energy savings. I am very pleased that the conference committee on the Agriculture Act of 1977, S. 275, has also given consideration to agricultural applications of solar energy. I hope the conference committee decides to include a provision which will explicitly authorize FmHA loans for solar equipment, consistent with S. 1738 and S. 1923.

Not only does onsite solar equipment save scarce and expensive fossil fuels, reduce pollution, and eliminate inefficient transmission, it also minimizes farmers' dependence on distant and often unreliable energy sources. If enacted this legislation would be a step in helping farmers lower their future power bills and enhance their energy autonomy. By combining energy alternatives with conservation efforts, American farmers can continue to produce abundant yields both economically and at a profit while protecting our energy resources.

## THE NATIONAL CLIMATE PROGRAM ACT

Mr. SCHMITT. Mr. President, I am pleased to be an original cosponsor of the new National Climate Program Act introduced by my distinguished colleague, Senator PEARSON, on August 2.

It is vital that the Senate immediately act to establish the organizational framework for research in climate prediction. This is necessary to enhance conditions for attracting the scientific expertise which can establish and utilize a worldwide system of monitoring facilities that will be capable of detecting, evaluating and eventually predicting climate phenomena.

Six days of hearings by the Science, Technology, and Space Subcommittee on an earlier draft of the bill produced much insight into the complexity of climate prediction. Few of the witnesses were as persuasive in their testimony as those who spoke to the need for immediate action.

The capability for climate prediction requires long-term technological ad-

vances. We need time to determine which variables are meaningful and which are not. We need time to establish a multidisciplinary and international team of scientists, all focusing their attention on climate prediction. Finally, we need time to understand how to relaize the enormous economic benefit to be gained by accurate knowledge of future temperature and rainfall conditions.

There is an urgent need for better climate information than now available. New Mexico, and the Southwestern United States, has a great, if not a greater, interest in climate prediction as the other sections of the Nation. Our basic southwestern climate is compatible with ranching and farming, but it is a marginal situation. The more accurately we can predict annual and multiannual climate variations, the more economical will be our agricultural activities.

This example has more general application. The industrial nations of the world are straining their capacity to produce energy at rates sufficient to meet demand. Thus, annual and multiannual variations in climate, specifically heat and cold, can cause major crisis of energy supply. We saw this last winter in this country.

The rapidly increasing populations of the developing nations of the world are straining the world's capacity to produce food supplies in seasonal quantities sufficient to meet demand. Thus, small annual and multiannual variations in climate, specifically rainfall, can cause major crises of food supply. We see these crises each year in many parts of the world.

The common factor is that the world is pushing at the present limits of the Earth's ability to support the material and population growth that we demand. In the future, technology offers major relief, but for the next several decades improved climate prediction is absolutely necessary if we are to buy time for politics and technology to expand the limits we now face. This is as true for the United States as it is for the world.

Mr. President, I commend Senator PEARSON for his personal leadership in recognizing the need for this scientific effort and for initiating this important legislation. I join with him in seeking expeditious and positive action on this bill.

## GASOLINE TAXES

Mr. RIEGLE. Mr. President, I would like to bring to your attention the action taken yesterday in the House of Representatives which overwhelmingly defeated two separate proposals to increase the Federal gasoline tax by 4 or 5 cents per gallon.

I welcome this action in the other body as it dramatically demonstrates the folly of the proposals in question. Without question, we all want to do everything reasonable to conserve energy. At the same time, however, we must recognize that actions taken as mere symbols or demonstrations of dedication often can be disastrously costly and yield no significant conservation. The gasoline taxes are precisely such empty, but terribly painful, gestures.

No advocate of the gasoline tax, inside the administration or elsewhere, seriously argued that such gasoline taxes would result in substantial savings in petroleum consumption. What was argued was that such a tax would generate useful revenue and that it would be a symbol of the conservation ethic. Now gestures and symbols are fine, so long as they do not cause more harm than good. These taxes would have cost consumers $4 to $5 billion each year. I for one do not think gestures are worth that price. On the other hand, if our goal was to generate needed revenue, we should not propose a tax which would fall hardest on those least able to afford it.

The gasoline sales tax would be a grossly regressive tax. While those who were well off financially could easily afford the added financial burden and may even reap a strange sort of pleasure from the symbol of conservation, those people with lower incomes, those people least able to afford either the new tax or new, more efficient cars, would have another burden to carry as they struggled to make ends meet.

I hope that the Senate draws the obvious conclusion from the House action, and rejects the quick but futile and costly route of these gasoline taxes as part of a comprehensive energy policy.

## THE NEUTRON BOMB: ARGUMENTS PRO AND CON

Mr. JAVITS. Mr. President, according to his announced timetable, President Carter will soon be reviewing the arguments for and against a decision to proceed with further development and production of the neutron bomb. When the President has made his decision, the Congress will then be in a position to make its own decision in accordance with the procedures established in the Public Works Appropriations Act, which has been sent to the President for his signature and enactment into law.

There are serious substantive arguments by both the opponents and proponents of the decision to add this new weapon to our tactical nuclear weapon inventory. The Congress and the President must weigh these arguments in making a national decision. Two articles appearing recently in the Washington Post, in my judgment, effectively state the reasoning of the proponents and opponents respectively of the neutron bomb. I believe it would be helpful to my colleagues to have these articles available to them. They are "The High Risks of Neutron Weapons" by Alton Frye of the Council on Foreign Relations, and "Those Blasts Against Neutron Weapons" by George Will. I ask unanimous consent that they be printed in the RECORD.

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

[From the Washington Post, July 17, 1977]

THE HIGH RISKS OF NEUTRON WEAPONS

(By Alton Frye)

Although they have come to public attention only lately, arguments over the military utility and deterrent value of "enhanced radiation weapons"—the neutron bomb—have occupied the national security community for two decades. They have always been inconclusive.

Army commanders have been reluctant to procure such weapons largely because the radiation effects on which they rely would kill enemy personnel instantaneously, leaving many irradiated troops capable of fighting for some period after an attack. This problem is bound to persist with the systems currently proposed. If, as some sources indicate, personnel within 200 to 300 yards would be incapacitated in a few minutes, others might receive lethal doses out to more than half a mile, although they could survive for days or weeks. The battlefield scene would deserve Herman Kahn's famous caption: "Will the living envy the dead?"

One of the greatest uncertainties concerns the likely behavior of these "walking corpses." Knowing that they face prolonged agony and certain death, would these troops lay down their arms or would they exact vengeance? The matter is especially pressing if the affected forces control nuclear weapons of their own.

Given such battlefield uncertainties, what accounts for the Army's recent shift to favor neutron weapons? Political, bureaucratic and technical factors appear to have combined. Worried about the aging nuclear components of its European arsenal, the Army was rebuffed three years ago when it sought congressional approval to modernize its tactical warheads. Influential members of the Joint Committee on Atomic Energy, prompted by experts from the Los Alamos and Livermore nuclear laboratories, withheld support, complaining that the tactical nuclear innovations were too "conventional." Politically, it was clear that the Army would have to suggest more dramatic changes.

Bureaucratically, some figures in the Army had come to fear the steady erosion of their nuclear mission. The drastic decline in nuclear-capable air defense forces had been followed by the negotiated abandonment of the Army's anti-ballistic missile (ABM) system, the service's best hope for a long-term nuclear role. There was talk in NATO and in the Mutual Balanced Force Reduction discussions of cutting the number of theater nuclear weapons in Europe. Thus, there were powerful institutional reasons for the Army to devise novel and exciting weapons to protect its claim to a nuclear mission.

Technologically, work on warheads for the ABM system had made significant progress toward enhancing various types of radiation. Weapon engineers had explored different kinds of "kill mechanisms" for use against missiles and had tinkered with ways to "fine-tune the output spectrum" from nuclear detonations. There was much interest in finding an alternative application for this costly and hard-won knowledge.

Furthermore, the legacy of James Schlesinger's tenure as Secretary of Defense was a heightened interest in the Pentagon and among our NATO allies in forging nuclear systems capable of discrete attacks and less wholesale destruction. Faced with these inducements and the very impressive threat of Soviet armored forces, the Army hierarchy overcame its persistent skepticism of enhanced radiation devices.

Yet this history only underscores the fact that policymakers have not addressed the vital issues. Would such weapons increase or decrease the likelihood that nuclear weapons would actully be used, raising or lowering the so-called nuclear threshhold? Would they strengthen or weaken deterrence of Soviet attack? Would they facilitate or impede negotiated restraint on the use of force in Europe and, more generally, on the nuclear arms race between the United States and the Soviet Union? In sum, would they contribute to American security? These questions defy final answers but they demand scrupulous judgment.

WHY THE SECRECY

The disreputable procedure through which the weapons nearly evaded legislative and public scrutiny may prejudice one's initial view of the case. If the purpose of enhanced radiation warheads is to bolster deterrence, why were they cloaked in such secrecy? Deterrence exists in the mind of a potential adversary, not in the hidden recesses of the public works budget.

Though unaware of the original proposals, President Carter has become a party to a badly tainted procedure by urging Congress to pass the appropriations before he has completed his own review of the program's merits. He can redeem this violation of democratic process only by the most thoroughgoing and critical evaluation of the program. Carter's evident concern for the horrors of nuclear war gives hope that he will attend the problem with special care—but that same concern may make him vulnerable to the tempting prospect of "more humane" weapons.

One can be sure that no presidential study will resolve the fundamental dilemmas posed by all tactical nuclear weapons. It may be that the deployment of neutron weapons could reinforce deterrence by persuading Moscow that NATO could use them, if necessary, to repeal a convention attack. That increment of deterrence, however, is likely to be minor compared to the overwhelming influence of 7,000 U.S. nuclear weapons already deployed on the continent, weapons which the Russians have every reason to fear would be employed, not only against invaders but behind their lines.

Moreover, we must reckon with a perverse consequence of deploying enhanced radiation systems. To the very degree that the Soviets expect such weapons to be used against conventional armor, we increase Moscow's incentives to launch preemptive nuclear strikes against our tactical forces. Russian doctrine already emphasized the likelihood that any war would go nuclear; preemptive nuclear attacks are common topics in Soviet military discourse. Thus, the price of a putative increase in deterrence by deployment of neutron bombs is further pressure on the Soviets to go first with weapons that would render meaningless any hypothetical limits on damage promised by new U.S. weapons. The net result is likely to be a reduction in the slender chances that a conflict could remain conventional long enough for diplomacy to exercise its own powers of damage-limitation.

The proposed investment in neutron warheads to fit three tactical weapons systems in Europe—the Lance missile and both 8-inch and 155-millimeter artillery—would also divert funds from the pressing need to improve survivability for nuclear forces deployed in Europe.

If we are serious about a tactical nuclear option for NATO, the urgent requirement is to reduce the vulnerability of such weapons to the kinds of preemptive strikes the Soviet might mount. Only by concerted action on this front can we diminish the danger that nuclear weapons will be used at the very outset of a European war. Money spent on enhanced radiation weapons, which could ultimately approach $3 billion, will do nothing to meet this central weakness in the force.

Equally important is the fact that a comparable expenditure could well buy a more effective and usable conventional capability to deal with the threat of Soviet tanks. With the advent of precision-guided munitions (PGM), Soviet tanks are becoming far more vulnerable to destruction by high explosives. The neutron bomb budget could add more than 100,000 precision anti-tank weapons to the NATO arsenal. Such "smart" weapons avoid the severe operational difficulties of nuclear explosives. They do not require the same degree of centralized command and control, since they are presumably authorized to attack any Soviet tank on Western territory. And needless to say, hundreds of PGMs can be fired without yielding the devastation of a handful of nuclear weapons.

Army studies acknowledge the trade-off between enhanced radiation weapons and PGMs, but they contend that the nuclear devices could deliver a faster shock to an attacking enemy. This might turn the tide of a conventional battle. Undoubtedly, there would be a dramatic and traumatic effect from the use of neutron warheads, but the claimed advantage highlights some other troublesome features of Army employment doctrine.

In order to achieve the desired shock treatment, the Army contemplates not discrete and singular use of neutron weapons, but barrages of dozens of such rounds. Indeed, some employment packages are said to involve well over 100 nuclear warheads. This reckless employment doctrine is scarcely a plan for selective and discriminating use.

In a setting like Germany, where average population densities exceed 650 people per square mile, the Army's ideas for using enhanced radiation weapons offer no meaningful protection to civilians in the combat zone. One hundred nuclear rounds could easily be another Hiroshima. Furthermore, knowing the approximate lethal radius of nuclear weapons, the Soviets can vary their own tactics, separating their tanks enough to prevent multiple kills even by neutron weapons. This may force NATO to target each tank individually; if so, conventional PGMs will clearly be more cost-effective than nuclear devices.

All of these contingencies reveal the difficulty of calculating the consequences of a neutron weapons deployment. Some years ago, when pressed in the Senate Armed Services Committee to estimate collateral damages and casualties from using a portion of its tactical nuclear force, Army witnesses confessed their inability to do so. The same confession is in order today. The variables are simply too numerous—and too variable. The recommended force rests more on guesswork than calculation. If one doubts that assertion, let him consider the conclusion of the Army's attempt last year to treat the matter systematically: With the shift to enhanced radiation weapons and substantial adjustments in employment doctrine, the authors found that the ideal number of weapons to deploy in Europe was the number currently deployed there. *Sic semper status quo.*

STOKING THE ARMS RACE

As the President deliberates on this subject, his commitment to arms control will be very much at stake. While it is possible that the Soviets have been pursuing enhanced radiation techniques, it is certain that they will do so if the United States goes forward with testing and production of neutron weapons. Every experience to date indicates that Moscow's military authorities will insist on retaining the option to match the United States technologically.

The real choice confronting the President, then, may be whether he prefers a neutron bomb or comprehensive ban on nuclear tests, with all that it portends for the efforts to curb proliferation and to curtail the Soviet-American strategic competition. Coinciding with U.S. movement toward the cruise missile, projected improvements in the capacity of U.S. missiles to strike Soviet missile silos and the general malaise of detente, the neutron bomb controversy inevitably creates the impression that the technological arms race is continuing unabated. That is not the objective to which the Carter administration proclams its dedication.

To be sure, the Soviet Union shares responsibility for provoking these new developments in the technological competition. Moscow's introduction of mobile SS-20 missiles to cover targets in Western Europe has triggered much alarm there and allies are anxiously asking what the United States proposes to do to meet the rising Soviet threat. The steady growth in Russian armor forces created an imbalance that demands correction or countermeasures. It may even be that some members of the administration hope to play the neutron bomb option as a bargaining chip to elicit cutbacks in the number of Soviet armored divisions.

Out of this commotion some goods may emerge. Close study of the Army's proposals may persuade the President more vividly than anything else that plans to use tactical nucelar weapons in Europe are a snare and a delusion. He may well discover that the most refined nuclear weapons cannot relieve the defects of the schemes to employ them. The President could well conclude, as others have, that NATO cannot reasonably expect to counter a Soviet conventional threat except by adequate conventional forces of its own. And he may well perceive the truth too long ignored by all of us, namely, that the only proper function of tactical nuclear weapons is to defer the use of similar weapons by the other side. If the neutron bomb debate leads Jimmy Carter to these essential insights, it will have made its contribution to national security.

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[From the Washington Post, July 7, 1977]

THOSE BLASTS AGAINST NEUTRON WEAPONS

(By George F. Will)

Sen. John Heinz (R-Pa.) says a neutron warhead for battlefield missiles or artillery is "dehumanizing" because it "singles out people for destruction, choosing to preserve buildings instead." Newspaper reports have said that neutron weapons destroy people "rather than" property, or "while sparing" property.

In fact, neutron weapons do not "preserve" or "spare" property. But this kind of rhetoric has stimulated intemperate and uninformed outcries against such weapons. So before the debate boils to an irrational climax, this should be noted:

The principal objection to neutron weapons is not that they destroy people. Rather, the objection, made in the name of moral sensitivity, is that they do not destroy people and property as indiscriminately as the less precise tactical nuclear weapons that neutron weapons would replace.

All nuclear explosions produce four lethal effects: blast, heat, radiation and fallout. Neutron weapons produce only about one-tenth of the blast, heat and fallout produced by regular nuclear weapons.

Radiation from neutron weapons is more intense, but more confined; it can be confined to a radius of 300 yards. And it is short-lived; an area hit by a neutron weapon can be occupied the next day.

One newspaper reports that neutron weapons are "more detrimental to humans than to buildings," a description that also applies to bullets. Sen. Mark Hatfield (R-Ore.) says neutron weapons are "in the realm of such devastation that it is difficult to comprehend."

Not really. Nuclear weapons that neutron weapons would replace would destroy civilians and homes far beyond the battlefield area to which the effects of neutron weapons would be confined.

Since industrial organization became the basis of military power, and especially since the development of air power, the theory and practice of war has blurred the distinction between combatants and noncombatants. Neutron battlefield weapons are a step back from the indiscriminateness of modern war technologies. They make possible reduced collateral damage to civilians.

And that is why they are opposed.

Paul Warnke, President Carter's arms-control adviser, once said, with character-

istic excess, that new tactical nuclear weapons capable of more controlled devastation would be "an absolute disaster." Weapons "with lower yield and greater accuracy and presumably few collateral consequences" would undermine the self-deterrence of nations that possess them.

In other words, a weapon must be so indiscriminately destructive in blast and fire effects that we will be deterred from using it. Similarly, Hatfield objects to neutron weapons because, being precise, they "invite" use.

Sen. Sam Nunn (D-Ga.) rightly notes that opponents of neutron weapons fear that the United States might not be sufficiently reluctant to use them. But as Nunn argues, a deterrent is credible only to the extent that it is usable:

"Those who oppose the warhead apparently believe in self-deterrence . . . that we should keep the weapons so destructive we would never use them or if we did use them, it would only be under the most desperate of conditions. . . . By deterring ourselves from using tactical nuclear weapons, except weapons which would destroy the territory we are pledged in NATO to protect, the advantages which the Soviets now maintain in conventional arms are greatly magnified. . . . I remind my colleagues that the purpose of deterrence in Europe is to deter Soviet aggression, not to deter ourselves from responding to that aggression."

Rejection of clean, precise neutron weapons would be destabilizing in two senses. On the one hand, the Soviets would be given reason for doubting that the United States would use existing tactical nuclear weapons, with their devastating collateral effects, while fighting on allies' soil. On the other hand, while NATO forces are equipped only with such imprecise weapons, NATO will be under pressure to use them early against attack, before superior Soviet conventional forces move the battlefield from the border into the heart of Western Europe.

The basic objection to neutron weapons constitutes an objection to tactical nuclear weapons in general. Neutron weapons do not involve a departure from established principles for defending Europe with tactical weapons.

Opponents should calculate the cost—in money and, in the event of war, in allied and civilian lives—of alternative means of coping with the Soviet advantage in conventional forces. They should, but they won't.

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## AMERICAN AND SOVIET ARMED SERVICES, STRENGTHS COMPARED, 1970–76

Mr. HELMS. Mr. President, John M. Collins is Senior Specialist in National Defense with the Congressional Research Service of the Library of Congress. He is well known for his authoritative and definitive analyses of defense problems, particularly the study "United States/Soviet Military Balance, a Frame of Reference for Congress," published last year, and "United States and Soviet City Defense, Considerations for Congress." Both received unanimous favorable comment from every quarter.

Mr. Collins has now prepared a new study, "American and Soviet Armed Services, Strengths Compared, 1970–76." This study is more exhaustive than the previous work on the military balance since it shows the trends for the 6-year period. But more important, for the first time, it assembles in one place a total compendium of unclassified statistics from the best official sources, chosen according to a universal rule of counting.

Those who deal with unclassified statistics are faced with the problem of different sets of numbers which count force levels and equipment available in different ways—some items actually deployed, others in stock or in training use, others without proper distinctions between tactical and strategic deployment, and so forth. Mr. Collins has taken his statistics directly from unclassified DOD computer printouts, and from declassified DIA estimates, and has arranged them in totals of true comparability. The product has been thoroughly reviewed by the defense and intelligence communities, as well as by a number of specialists in the Library of Congress.

Thus for the first time public debate can take place on an unclassified basis with the assurance of reliable and uniform statistics. Those who have access to classified statistics may find some discrepancies, based on different counting methods, the need to protect intelligence sources, or new methods of breaking down statistical components. That is a question, however, that need not inhibit public discussion. Were this the only service that Mr. Collins had performed, the study would still be a major contribution.

It is important to understand also what the Collins study is not. It makes no recommedations, and contains no options. It does not discuss weapons systems which, at the end of 1976, were still under development or assigned only to training squadrons. There is no discussion here of the MX mobile strategic missile system, the B–1 bomber, or the F–18 and F–15 fighters. Such discussions more appropriately belong to Congress, the administration, and the defense community; there will be better discussions as a result of this factual analysis of the trends of comparable strengths between 1970 and 1976.

That debate could well begin on top of the wreckage of some of the myths which Mr. Collins has demolished in this study. One is the myth that levels of defense spending, taken by themselves, are anything more than rough indicators of military effort. On the Soviet side, as Mr. Collins points out, true levels of spending are disguised by spreading military costs into what we would consider the civilian sector of the budget, and there is no accurate method of translating ruble expenditures into dollar expenditures—particularly when we do not know the physical characteristics of Soviet equipment not in our possession, nor their efficiency in producing it.

Far more important, perhaps, is the use to which spending is put. Military postures are presumably shaped to fit a predetermined strategy. The important symmetries are not in spending or in numbers of equipment in various classes, but rather in meeting the actual threat posed by an opponent. What emerges from a study of the trends between 1970 and 1976 is a growing asymmetry between Soviet strategy and U.S. strategy. Debate on military preparedness should not be about budgets, but about strategies.

Mr. Collins himself draws no conclusions, but a study of the data presented reveals, among others, the following asymmetries between the United States and the Soviets:

I. STRATEGIC NUCLEAR ASYMMETRIES

First. Assured destruction is still the heart of our strategic defense concept, but two legs of the Triad are significantly weaker than they were in 1970.

Second. One leg—our undefended fixed-site ICBM's—is weaker because the Soviets are developing a massive counter-silo capability.

Third. The other leg—our strategic bombers—is significantly weaker because of aging equipment and great Soviet strides in air defense across the world: in SAM's, new kinds of interceptor aircraft, and improved warning.

Fourth. Assured destruction itself is significantly degraded because of Soviet strategic defenses, civil defenses that are far ahead of ours—U.S. civil defense being almost nonexistent—and emphasis on ABM research which far exceeds our own.

II. SOVIET GROUND COMBAT POWER ASYMMETRIES

First. Soviet ground combat power dwarfs that of the United States whose forces are so spare that they are stripped of flexibility.

Second. The psychological effect of Soviet ground forces being two or three times that of the United States creates an impression of invulnerability that may or may not be matched at actual combat performance but which may hamper our leadership role.

III. NAVAL OFFENSIVE COMBAT POWER ASYMMETRIES

First. U.S. fleets are in danger of destruction by surprise attacks from Soviet cruise missiles which could fire almost at point blank range. The U.S. Navy has neither any comparable countercapability nor any defense against such attacks.

Second. U.S. capability for antisubmarine warfare still lacks a major conceptual breakthrough for effectiveness, and, in any case, lacks the sheer numbers which are necessary for successful attrition against the numerically larger Soviet force. These deficiencies constitute a serious threat to U.S. naval and merchant shipping.

IV. NATO DEFENSE CAPABILITY ASYMMETRIES

First. The stark asymmetries in firepower and manpower between NATO and Warsaw Pact forces, including the Soviet forces, is so great that it belies the value of our declared strategy for the protection of Western Europe. Only 5 out of 19 active U.S. divisions—two Army, three Marine—are free to contend with non-NATO contingencies without significantly undercutting U.S. capabilities in Europe.

Second. Soviet IRBM's and MRBM's could destroy NATO's ports, airfields, and supply complexes and control centers at the onset of any war. NATO has no defense against such attack and no comparable countercapability.

Third. Increasing Soviet threats to NATO's tactical air power could cause NATO to lose land battles.

Fourth. A forward defense, up to the

perimeter of West Germany, is both a political and military necessity, especially since the withdrawal of France from active participation; but NATO's defenses are dangerously thin when matched against Soviet military threats.

Most of America's national defense problems are self-inflicted wounds caused by short-sighted policies and stale strategic concepts. Until this country begins relating strategy and force posture more effectively, we can bleed the Treasury dry without improving U.S. national security.

Our emphasis should be upon survivable systems, not merely on more aircraft, submarines, missiles, and warheads; we may need more aircraft, submarines, missiles, and warheads, but on the basis of strategies, not numbers. For example, there are still sound reasons for the deployment of the B–1, but merely to match Soviet deployment of the Backfire is not one of them. Our reasons for needing the B–1, and Soviet reasons for deploying the Backfire, are based on different strategic considerations.

The data which has been presented by Mr. Collins makes more imperative public discussion of our capabilities. The purported defense options offered to the President in the Presidential Review Memorandum 10, PRM 10, for example, are said to range from "rough equivalence" down to considerably less than that. The quotations from PRM 10 published in the press dealing with conceding the loss of Germany in our secret NATO strategy are given substance by a review of the stark facts outlined in the Collins study. The time has come not only to get our house in order, but also to get our strategies to protect that house in order.

Mr. President, because of the utmost importance of the issues raised by this study, I ask unanimous consent that it be printed in the RECORD so that it may be available to all of my colleagues and all readers of the RECORD. At this time, I also wish to express deep appreciation for the kind cooperation of the able and distinguished chairman of the Committee on Armed Services, Mr. STENNIS, and other members of the committee with whom I have discussed this study. I also want to thank Mr. Frank Sullivan, of the committee staff, for his helpful comments and suggestions.

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

AMERICAN AND SOVIET MILITARY STRENGTH, CONTEMPORARY TRENDS COMPARED, 1970–76

(By John M. Collins)

[From the Library of Congress, Congressional Research Service, Washington, D.C.]

Everybody is entitled to his own views, everybody is not entitled to his own facts.—James R. Schlesinger, Pacem in Terris IV, December 2, 1975.

BACKGROUND, PURPOSE, AND SCOPE

The Soviet Union, alone among all countries in the world, can seriously challenge the United States across the conflict spectrum. America's armed services must be able to deter or, if necessary, deal decisively with associated problems, while retaining sufficient strength in reserve to safeguard U.S. regional interests against possible threats by lesser powers.[1]

What military balance would best satisfy U.S. national security needs, however, is subject to constant contention.[2] Polarized positions and partisan stands dominate many discussions. Consequent misinformation makes it difficult for Congress to assess the situation accurately and take appropriate action.

This concise survey, in consonance with the opening quote, therefore seeks to serve a four-fold purpose:

Furnish facts
Outline opinions
Sharpen issues
Stimulate debate

The product complements an earlier study by the Congressional Research Service, so that each stands alone, but addresses the subject from different angles, and in much greater depth.[3]

Care has been taken to silhouette trends, showing which are strong, which are weak, which are shifting, and which are steady. Statistical summaries that originally covered just two years a decade apart (1965, 1975) now span the 1970s. That eight-year spread, combined with system characteristics, indicates qualitative as well as quantitative changes in capabilities on both sides, because it conforms which weapons are phasing in and out on what specific cycles. Extensive sections compare defense budgets, manpower, science/technology, and other topics that the foundation document disregarded or quickly dismissed.

U.S. statistics in the main were drawn from unclassified computer printouts produced by the Department of Defense (DOD) and the four military services. Defense Intelligence Agency (DIA) furnished most Soviet figures. Some differ in detail from those in classified publications, but the patterns portrayed are dependable.[4]

Data are displayed unconventionally, whenever so doing clarifies comparisons. U.S. strategic nuclear manpower figures, for example, commonly are subsumed in Army, Navy, and Air Force totals. They are segregated herein to conform with Soviet Strategic Rocket Forces, which in turn are subdivided to identify manning levels for theater nuclear missiles. Division counts are somewhat different than Congress is used to seeing. And so on.

More than 100 knowledgeable officials reviewed the first draft in DOD (especially the Director of Net Assessment and DIA); the Joint Staff (especially J–5, Plans and Policy); Army, Navy; Air Force; Marine Corps; and Military Sealift Command. Several specialists at the Library of Congress also contributed. The author, who considered all constructive comments but sought no concurrence, reserved the right to accept or reject. Conflicting opinions were often resolved by citing contrasting viewpoints.

The resultant net assessment, designed to influence U.S. defense policy without promoting particular programs, prescribes no courses of action. It simply affords an analytical tool that Congress, if so inclined, could use to assist its continuing review of U.S. force requirements and connected request for funds.

PART I. ANALYTICAL PROBLEMS

STANDARD CAUTIONS

Readers should be aware that *any* appraisal of the U.S./Soviet military balance contains many subjective decisions. Defects in the data base confront analysts with severe constraints at the onset. Simple alterations in assumptions can create radically different conclusions, even if the input is constant.

The following discourse identifies sample problems and pitfalls.

QUANTITATIVE COMPARISONS

Quantitative analyses are the inescapable starting point for comparing competing forces, but difficulties in compiling compatible figures make the mere matching of raw statistics a complex matter.

U.S. intelligence estimates of Soviet strengths, for example, are inexact, because of incomplete collection capabilities and uncertainties introduced by the Kremlin's cover and deception plans. Conclusions in some cases indicate nothing more than an order of magnitude.[1]

Just deciding how and what to count can be confusing.

Calculations may involve total inventories on both sides, or only those items in operational units. Stockpiles, particularly prepositioned equipment, can be included or ignored. Determining what fits in which category can be equally complicated. U.S. and Soviet definitions of "heavy" bombers and ICBMs differ drastically. Dual-purpose systems, such as air superiority aircraft that double as air defense interceptors, produce similar counting problems.

Large missiles, divisions, ships, and so on in any given class count the same as small ones. Old weapons count the same as new.

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[1] Presidential Review Memorandum (PRM) 10, the Carter Administration's first comprehensive survey of U.S. national security requirements, reportedly recognizes five sorts of conflict that conceivably could involve the commitment of U.S. armed forces in support of this country's security interests: strategic nuclear war; combat in Central Europe between NATO and the Warsaw Pact; an "East-West" war elsewhere; altercations in East Asia, typified by a showdown in Korea; and assorted contingencies, such as the conflict in Vietnam. The Soviet Union would be our principal opponent in the first two cases, and a possible opponent in cases three and four.

[2] The U.S./Soviet *military* balance is just one component of the U.S./Soviet *strategic* balance, which is just one aspect of the U.S. *global* balance with other powers that determines our total defense demands. Political, economic, geographic, social, psychological, scientific, and technological assets that are central to any strategic balance are considered here only as they directly affect relative strengths of U.S. and Soviet armed services, along with respective allies.

[3] U.S. Congress. Senate. Committee on Armed Services. United States/Soviet Military balance depend directly or indirectly gress. A study by the Congressional Research Service. 94th Congress, 2d Session. Washington, U.S. Govt. Print. Off., 1976. 86 p.

[4] All assessments of the U.S./Soviet military Balance: A Frame of Reference for Conon DOD and its affiliates for U.S. force statistics. The intelligence community collects almost all information concerning the Soviet side. Some disagreements derive from dissatisfaction with basic data, but most disputes deal with differences in interpretation.

Statistics for 1975 sometimes differ between this document and the study cited in Footnote 3, because better data became available. Those contained herein take precedence.

[1] Soviet secrecy laws and procedures are outlined in U.S. Congress. Senate. Soviet Space Programs, 1971–75. Staff Report prepared for use of the Committee on Aeronautical and Space Sciences. Vol. 2. Washington, U.S. Govt. Print. Off., August 30, 1976, p. 87–89.

Service troops count the same as combatants in basic manpower comparisons.

Since there is no accepted conversion formula, no one knows for sure how many bombers compensate for how many ballistic missiles, or what respective weights should be assigned to armor as opposed to anti-tank forces. Translating simple sums to comparative capabilities that connote quantitative "superiority", "inferiority", or "essential equivalence" (sometimes called "equal aggregates") is increasingly difficult.

Assessing statistics just to ascertain who is numerically "behind" or "ahead" thus is an imprecise art. Schematics, such as Graph 1 which condenses 17 subsequent statistical summaries, are subject to all sorts of odd interpretations, unless tied tightly to analytical texts.

QUALITATIVE COMPARISONS

Quality can compensate for quantity to uncertain extents. It can also confer superior capabilities on forces that are the same size or smaller than those they oppose.

Comparing qualitative characteristics of weapons and equipment, however, is a convoluted process, because key indicators are often concealed. Speeds, service ceilings, combat radii, and payload capacities of most Soviet aircraft, for example, are subjects of speculation in the United States.

Backfire bombers are a case in point. Several U.S. aircraft corporations recently estimated effective ranges, using different sets of data from different sources that created different conclusions. Assessments at the lower end of the scale suggest a range limitation of roughly 3,500 nautical miles. If correct, that would classify Backfires in the "medium" bomber category, along with Badgers, Blinders, and FB–111s. Other analyses, however, credit Backfire with nearly twice that range (6,000+ miles), which clearly would make it a "heavy" bomber, like Bears, Bisons, and B–52s. This study sticks with median findings, which were about 5,000 miles.[2]

Evaluations are sometimes elusive, even when Soviet items are available for inspection, simply because different experts assign different weights to assorted aspects.

It is true, to cite just one sample, that Soviet T–62 tanks are superior to U.S. M–60s in several respects.[3] Their smaller size presents poorer targets. Less width and lighter weights make them better suited for crossing shaky bridges and slipping through crooked streets. Air filters and automatic aperture closings shield crews against radioactive dust and chemical contamination, whereas U.S. crews lack such protection. However, sights and turning spans are strictly second class. Taking reliability, maintainability, materials, craftsmanship, and other considerations into account, each tank obviously may be much better than the other in given sets of circumstances, depending on given tasks.

Intangibles make it even more difficult to compare U.S. and Soviet manpower. Which takes precedence: outstanding initiative or instinctive obedience to orders? Technological training or toughness? Modern wars, of course, are won by teams, not individuals. Analysts therefore must ascertain whether respective wholes equal more or less than the sum of their parts.

Assessing in advance which opposing attributes are most apt to affect the military balance in what ways hence poses perplexing problems. Few U.S. seers before World War II foresaw Japanese soldiers fighting so fiercely, or French forces folding so fast. Qualitative comparisons between U.S. and Soviet men-at-arms might also contain some surprises.

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PART II. BUILDING BLOCKS

PROSPECTUS

Three basic building blocks contribute to military capabilities: money, manpower, and materiel. Those indices, however, are often misapplied in comparing competitors. This short section provides perspective and shatters some prominent myths.

DEFENSE BUDGETS

Myth One deals with the value of comparing defense budgets. That interesting intellectual pursuit is among the most publicized, but least meaningful, means of measuring military power.

*Purpose of comparing budgets*

Budget studies concerning the U.S./Soviet military balance most often emphasize one of two issues, sometimes both: [1]

Economic "burdens" that armed forces impose on respective societies, with special concern for national abilities to sustain particular pressures over specified periods at the expense of domestic priorities.

The magnitude of respective military expenditures, with special attention to trends.

*Methods of calculating Soviet budgets*

The annual Soviet State Budget contains a solitary statistic in a single-line entry entitled "Defense". The figure fluctuates slightly to suit political purposes, but has stayed fairly constant at 17-some-odd billion rubles for several years.[2]

That scrap of unsubstantiated information reportedly reflects most Soviet outlays for personnel, operations, maintenance, and military construction. Additional costs may be concealed elsewhere, along with research, development, and procurement.[3] The Ministry of Education bears expenses for extensive basic training conducted in civilian schools. Most money for moving military units and materiel comes from the Ministry of Transportation. The Welfare Ministry administers military retired pay. And so on.[4]

U.S. calculations of Soviet defense budgets therefore must be devised, either in dollars or rubles. Both methods begin with the same data base, which includes a detailed account of physical accoutrements and activities that constitute Soviet defense efforts for any given year.[5]

Dollar computations speculate how much it would cost to reproduce Moscow's military establishment in the United States, then contrast consequent estimates with confirmed U.S. expenditures. Such comparisons reveal rough budgetary relationships and trends, but no more.[6]

Ruble computations assist U.S. analysts in assessing actual Soviet expenditures and their impact on that country's economy. Appraisals rely on real Soviet prices to the extent possible, but straightforward statistics are scarce for about one-third of all military items. Costs in such cases are first computed in dollars, then converted to rubles, using U.S. intelligence estimates of relative production and efficiency as indices. Determining ruble costs of U.S. forces is such a convoluted process, that no reputable comparisons of defense expenditures exist in that coin.[7]

*Comparative economic burdens*

Official U.S. estimates over the past several years suggested that Soviet outlays for defense equalled a steady 6–8 percent of that country's growing Gross National Product (GNP).[8] Recently revised evaluations by CIA, based on better measurement data, now indicate that the share is twice that amount, or 11–13 percent,[9] compared with a projected 5.1 percent for the United States in FY 1977.[10] Other authorities place the Soviet proportion as high as 20 percent.[11]

Increased U.S. estimates of the Soviet defense burden came as no surprise to experienced students of the subject. As the Congressional Budget Office put it, current conclusions "serve principally to resolve a paradox. . . . How could the Soviets squeeze such a large defense establishment out of such a small fraction [6–8 percent] of their GNP? It now appears they were not particularly efficient; rather, we simply underestimated how much of their budget went to defense." [12]

One conclusion, however, seems inescapable. Both sides could sustain current rates of expenditure indefinitely without serious strains. The United States devoted almost 40 percent of its GNP to national defense during World War II, but the civilian standard of living still was higher than in most countries today.[13] The annual growth in Soviet GNP seems sufficient to allow increased defense spending and slow improvements in living standards to proceed simultaneously.[14]

*Comparable defense spending*

Estimated total dollar costs of Soviet defense programs in 1976 exceeded U.S. budget authorizations by about 32 percent, according to CIA (40 percent, if pensions are excluded). Soviet expenditures have expanded about 3 percent per year since 1970, whereas U.S. outlays expressed in constant dollars have contracted steadily.[15]

*Questionable confidence in estimates*

Conclusions sketched above are subject to question, since dollar and ruble estimates of Soviet defense budgets both are subject to sizable error.

To begin with, it is almost impossible to compile a sound data base. Some counts of Soviet manpower and materiel are incomplete. Others admittedly are incorrect. The costs of Soviet weapons, equipment, and construction depend in large part on their physical and technological characteristics, which in many cases (such as ballistic missiles) are imprecisely known to U.S. analysts.[16]

Assuming U.S. estimates of Soviet force size and structure were entirely accurate, cost estimates would still be ambiguous "because there is no appropriate or universally agreed set of . . . rules, and thus there is no objective standard by which to measure error." Assumptions and arbitrary judgments consequently abound.[17]

Two examples, one related to dollars, the other to rubles, serve as illustrations.

Determining dollar prices for Soviet items not in our possession is a very subjective process. Some weapons, when obtained, prove less sophisticated and cheaper by far than formerly presumed. Others, such as ZSU 23–4 anti-aircraft guns and BMP infantry combat vehicles, turn out to be much "more costly in dollars than their closest US counterparts." [18]

Manipulations by the Kremlin, which make it impossible for U.S. analysts to know what a ruble is worth, complicate computations.[19] Moreover, prices vary to fit the market. Trucks sold to collective farms may cost 40,000 rubles. The charge to some other State enterprise may be one-fourth that amount. Foreign sales customers may receive identical vehicles for fewer than 4,000 rubles. Our intelligence community is uncertain where Soviet armed forces fit on that sliding scale, but surmise that some parts of the Soviet civil economy subsidize defense spending.[20]

U.S. estimates of Soviet operations/maintenance expenditures are even less exact. Calculations concerning research, develop-

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[2] Sources include highly-placed officials in McDonnell-Douglas Aircraft Corporation and the Defense Department. February 22, 1977.

[3] Comparative Characteristics of Main Battle Tanks, Fort Knox, Kentucky, U.S. Army Armor School, June, 1973, p. 11–1 through 11–4, 14–1 through 14–4.

Footnotes at end of article.

ment, test, and evaluation (RDT&E)—which contributes to our opponent's future capabilities—are shakier still.[21] Some Soviet budget categories, such as military assistance and civil defense, escape assessment entirely, because evidence is inadequate.[22] Compound problems prevail when allies are considered (such as NATO and the Warsaw Pact).

In sum, the extent to which counting and costing errors overstate or understate Soviet defense budgets is an open debate.[23]

*Practical applications*

It may indeed be true that "properly conceived and executed analyses of comparative U.S. and Soviet defense expenditures can provide valuable insights into the status and trends of the two defense efforts."[24] Even so, costs do not measure effectiveness. "Budgets are, in an important sense, little more than a summary of other data. We perceive changes in military capabilities *without* the aid of defense costing calculations" (emphasis added).[25]

One fact, however, is foreboding. More than half of every U.S. defense dollar is devoted to pay and allowances. The Soviets, with far lower pay scales and a controlled economy, can afford a larger force and modernize at a more rapid rate, because a much greater share of their money can be spent on machines.

DEFENSE MANPOWER

These, like defense budgets, have some bearing on national economies, but are a marginally meaningful index for comparing rival military establishments in most respects, as this survey shows.

*Quantitative considerations*

The Statistical Base—U.S. armed services try to keep careful statistics concerning respective manpower levels. All sorts of activities and administrative actions depend on such lists: pay and allowances; rations; quarters and other construction; clothing and personal equipment; medical support; training facilities; and miscellaneous services are representative. Reserve components and civilians, as well as uniformed regulars, are taken into account.

Conversely, the U.S. intelligence community accorded low priority to Soviet personnel statistics until the recent past, except for combat forces. Other problems were more pressing.[26]

Analysts traditionally scrutinized functional categories. Strategic attack forces, for example, included long-range aviation, plus all ballistic missiles ashore and afloat. Army, navy, and air force general purpose contingents were segregated into special groups. Command and general support (CGS) forces from all services coalesced into a separate class. Results, which related manpower statistics to missions, instead of organizations, contained significant oversights, double counting, and other inconsistencies.

A comprehensive reassessment, completed in 1975, reduced such shortcomings by combining functional and organizational approaches.[27] For the first time, intelligence specialists from CIA and DIA addressed discrete, clearly defined entities: Strategic Rocket Forces (SRF); strategic defense forces (the PVO); and integrated ground, air, and naval services that included respective support. Navy statistics, for example, combined strategic nuclear submarines, general purpose forces, and naval infantry (herein called marines). The Ministry of Defense and Main Political Directorate were catalogued separately.[28]

Sharp statistical revisions resulted.

The following review reflects current tabulations. Comparisons with U.S. forces are confined to a single year, because the U.S. intelligence community has never published an agreed adjustment of estimated Soviet personnel strengths for the early part of this decade.[29]

Active Armed Forces—

Post-Vietnam cutbacks have physically subtracted almost a million men from active U.S. roles since 1970 (from 3,088,000 to 2,095,000).[30] The U.S. paper recomputation added almost a million to previously estimated Soviet levels near the end of that period, largely in the command/support category.[31]

Official confidence in Soviet statistics is only about plus or minus 15 percent, but current consequences still show in stark relief on Graph 2 and Figure 1 at the end of this subsection. The Soviet Army alone exceeds the aggregate of all active U.S. forces by almost half a million. Total Soviet active military manpower is more than twice ours (4,437,000 to 2,095,000).

Nearly half a million paramilitary border guards and internal security troops supplement the regular establishment. Many are armed with automatic weapons, aircraft, and armored vehicles.[32] KGB divisions, like the Nazi SS, fought well during World War II, and could today if called on for homeland defense.

Perhaps 70,000 political officers, who parallel the military chain of command at almost every level, are soldiers in every sense.[33] Other forces are not. These include 400,000 support troops committed to construction projects, transportation, and part-time farm labor.[34] Their training is spotty and superficial, and units lack arms. Still, most of them contribute to military capabilities that bear on the balance of power. Railroads run by men in uniform, for example, are the key to internal strategic mobility.[35]

Sizable Soviet forces presumably are "pinned down" along the lengthy Chinese frontier, but their presence nevertheless constrains U.S. courses of action in East Asia. A Sino-Soviet thaw, a subject for speculation since Mao's death, could free some of those forces for duty elsewhere.[36]

As it stands, statistically superior active armed forces assist Moscow in at least two important ways:

They strengthen Soviet deterrent capabilities by influencing political and psychological impressions in this country and among our allies.

They foster flexibility not available to U.S. forces.

Civilian Manpower—

Civilians supplement active military manpower in both defense establishments to provide continuity and special skills.

Once again, U.S. statistics are solid.[37] Those for the Soviets are so spongy that confidence in present estimates approximates plus or minus 25 percent at best, a mighty high margin of error.[38]

Still, evidence seems to indicate that U.S. civilian strengths exceed the Soviets' somewhat in absolute terms, and are triple proportionately. We employ one civilian for every two military men. Their ratio is one for six or seven (see Figure 2).

As a result, overall personnel comparisons that merge active military manpower with civilians reduce this country's quantitative deficit from 2:1 to 5:3 for forces in being. Narrowing the numerical gap, however, by no means indicates that civilian and military strengths are interchangeable. Civilians can substitute for uniformed specialists, but they are not combat forces in any sense of the word, nor are they readily redeployable in most instances.

Ready Reserves—

U.S. Ready Reserve strengths[39] have dropped dramatically since 1970, from 2,661,000.[40] Our Marine Corps, which lost 56 percent of assigned personnel, suffered worst, but the Army and Navy were also sliced in half. Decline will continue, because fewer forces annually enter reserve status at a slower rate from a smaller establishment than during days of the draft, when conscripts served two-year terms.

Soviet forces released from active service in the last five years are counterparts of the U.S. Ready Reserve for purposes of this study, although they are not precisely comparable and statistics shown in Figure 3 are questionable.[41] Their regular Air Force, for example, outnumbers the Soviet Navy and has a shorter term of service, yet accumulated 165,000 fewer reserves, according to unclassified intelligence estimates.[42]

Nevertheless, it is certain that Soviet Army reserves alone would dwarf the combined size of all U.S. reserve components if their estimated numbers were reduced by half. That gap will grow, as U.S. reserves contract.

Aggregates Assessed—

Soviet active military regulars, not counting security forces, exceed the entire U.S. establishment, including civilians and reserves (Figure 4). Soviet military regulars and reserves almost triple the U.S. total (4,383,000 to 11,097,000). Even if U.S. experts have overestimated Soviet active military strengths by 15 percent and all other personnel by 25 percent, the Kremlin still would have almost twice as many people in its military machine as we do (9,764,000 to 4,383,000).

Those statistics, however, convey a false impression, except for special cases.

Just as increased costs often fail to increase effectiveness, quantitatively superior personnel strengths frequently fail to create superior capabilities. Threats posed by naval flotillas and fighter squadrons, for example, depend on material, not human, mass. Direct correlations between personnel statistics and power are confined not just to general purpose ground forces, both army and marines, but specifically to "cutting edge" elements that match man against man in mortal combat. (See Part IV).

FIG. 1.—UNITED STATES AND SOVIET: ACTIVE MILITARY/PARAMILITARY MANPOWER STRENGTHS, FISCAL YEAR 1976

[In thousands]

| | United States | Soviet Union | United States standing |
|---|---|---|---|
| MILITARY SERVICES | | | |
| Strategic nuclear: | | | |
| Offensive | 123 | 390 | −267 |
| Defensive | 40 | 610 | −570 |
| Total | 163 | 1,000 | −837 |
| MRBM/IRBM forces | 0 | 125 | −125 |
| General purpose forces: | | | |
| Army | 778 | 2,470 | −1,692 |
| Navy | 505 | 400 | +105 |
| Air Force | 457 | 430 | +27 |
| Marines | 192 | 12 | +180 |
| Total | 1,932 | 3,312 | −1,380 |
| Military total | 2,095 | 4,437 | −2,342 |
| PARAMILITARY FORCES | | | |
| Frontier security (KGB) | 0 | 155 | −155 |
| Internal security (MVD) | 0 | 300 | −300 |
| Total | 0 | 455 | −455 |
| Grand total | 2,095 | 4,892 | −2,797 |

Note: The U.S. Coast Guard, with 37,475 military personnel and 6,850 civilians, is not shown, because only a small number possess combat capabilities in the context of this study.

Footnotes at end of article.

FIG. 2.—UNITED STATES AND SOVIET: CIVILIAN MANPOWER STRENGTHS, FISCAL YEAR 1976

[In thousands]

| | United States | Soviet Union | United States standing |
|---|---|---|---|
| MILITARY SERVICES | | | |
| Strategic nuclear: | | | |
| Offensive | 22 | 50 | −28 |
| Defensive | 15 | 65 | −50 |
| Total | 37 | 115 | −78 |
| MRBM/IRBM forces | 0 | + 15 | −15 |
| General purpose forces: | | | |
| Army | 389 | 305 | +84 |
| Navy | 300 | 135 | +165 |
| Air Force | 235 | 145 | +90 |
| Marines | 19 | 0 | +19 |
| Total | 943 | 585 | +358 |
| Military service total | 980 | 715 | +265 |
| PARAMILITARY FORCES | | | |
| Frontier security | 0 | 8 | −8 |
| Internal security | 0 | 9 | +9 |
| Total | 0 | 17 | −17 |
| Grand total | 980 | 732 | +248 |

FIG. 3.—UNITED STATES AND SOVIET: READY RESERVE STRENGTHS, FISCAL YEAR 1976

[In thousands]

| | United States | Soviet Union | United States standing |
|---|---|---|---|
| MILITARY SERVICES | | | |
| Strategic nuclear: | | | |
| Offensive | 4 | 520 | −516 |
| Defensive | 13 | [1] 0 | [1] +13 |
| Total | 17 | 520 | −503 |
| MRBM/IRBM forces | 0 | 170 | −170 |
| General purpose forces: | | | |
| Army | 798 | 4,140 | −3,342 |
| Navy | 203 | 625 | −422 |
| Air Force | 206 | 480 | −284 |
| Marines | 84 | 0 | +84 |
| Total | 1,291 | 5,255 | −3,964 |
| Military total | 1,308 | 5,945 | −4,637 |
| PARAMILITARY FORCES | | | |
| Number | 0 | [2] 855 | −855 |
| Grand total | 1,308 | 6,800 | −5,492 |

[1] Soviet strategic defensive forces revert to Army Reserve ater discharge.
[2] No breakout between Soviet frontier and internal security forces is available.

FIG. 4.—UNITED STATES AND SOVIET: COMBINED MANPOWER STATISTICS COMPARED, FISCAL YEAR 1976

[In thousands]

| | United States | Sovet Union | United States standing |
|---|---|---|---|
| ACTIVE FORCES | | | |
| Military services: | | | |
| Military | 2,095 | 4,437 | −2,342 |
| Civilian | 980 | 715 | +265 |
| Total | 3,075 | 5,152 | −2,077 |
| Paramilitary forces: | | | |
| Military | 0 | 455 | −455 |
| Civilian | 0 | 17 | −17 |
| Total | 0 | 472 | −472 |
| Active total | 3,075 | 5,624 | −2,549 |
| RESERVE FORCES | | | |
| Military | 1,308 | 5,945 | −4,637 |
| Paramilitary | 0 | 855 | −855 |
| Total | 1,308 | 6,800 | −5,492 |
| Grand total | 4,383 | 12,424 | −8,041 |

*Qualitative considerations*

Whereas quantitative manpower comparisons are meaningful mainly in the ground combat context, qualitative characteristics affect the U.S./Soviet military balance in many important ways.

Each side has distinctive strengths and weaknesses. Some, like Soviet stamina and U.S. zeal, seem more or less constant. Others are constantly changing. Dissidence and drug abuse, which degraded U.S. capabilities in the early 1970s, have largely disappeared.[43] Soviet city dwellers with mechanical skills are supplanting peasants.[44]

This section is confined to a few general considerations. Comments keyed to specific armed services appear elsewhere, when appropriate.

Selected U.S. Problems—

U.S. land, sea, and air forces all feature technical skills that demand high-caliber manpower.

The quality of non-prior-service accessions, as measured by educational levels and mental capacity, reportedly is higher today than in FY 1964, the last year in which we had a peacetime draft.[45] That bright trend, however, may be transitory, because current U.S. unemployment rates create a "buyer's market" for all All-volunteer Force. Economic recovery could quickly reduce the roster of qualified recruits.[46]

Since 80 percent of all first-term U.S. enlisted men revert to reserve status after three or four active duty years,[47] retaining prime personnel is a pressing problem. The consequent turnover, which causes instability within each Service, complicates training and reduces readiness, especially at echelons where combined arms coordination is essential. The present predilection of careerists to retire after 20 years makes room at the top for younger men, but robs our armed forces of many mature and experienced members.

DOD reports that U.S. Ready Reserves are now better than ever in many respects,[48] but qualitative shortcomings are more sharply pronounced than in the active Services. Part-time leaders and part-time training impair proficiency least in Air Force airlift and air defense organizations. Most other elements suffer, despite strong command emphasis for the last several years.[49]

Selected Soviet Problems—

The 1967 Law of Universal Service theoretically obligates all 18-year-old Soviet males to serve the State in active armed forces. About 80 percent are conscripted annually, but those committed to "hot spots" constitute the cream of the crop. Culls go to construction gangs and general labor.[50]

Pre-induction preparation starts in grammar schools. Average results are approximately equal to a month of active basic training. Before they enter service, about a third of all inductees take additional courses from DOSAAF.[51] Specialists spend six months in a "cram course" before being certified for duty with tactical units.[52]

Nevertheless, military manpower management problems are immense in the Soviet Union.

Improved education, which makes it possible for present day recruits to master military skills more quickly than their predecessors, probably prompted the Defense Ministry to cut draft age and conscript service a full year in 1967,[53] but the sacrifice in experience has been considerable. Turnover is terrific. Callups take place twice a year, spring and fall. A quarter of all draftees are discharged at the same times.[54]

Technical competence is afflicted especially by short tours. Civilians ashore, not seamen afloat, consequently serve a high percentage of Soviet shipboard equipment. Aircraft maintenance is equally aggravating. Supervisory requirements in all high skill areas are far greater than for U.S. forces.

Soviet training and operational procedures are effective, but commonly inefficient. Efforts often are excessive in terms of ends achieved, partly because uncompromising dedication sets equal priorities for all objectives. It is all very well to insist on toughness, for example, but human errors increase inevitably when specialists work under abysmal conditions that could be avoided.[55]

Political indoctrination, protracted and pervasive, competes eternally with military training for time and attention, although there is no close linkage between professional competence and the Communist Party line. Conflicts of interest assume special significance in high technology units that can least afford the tradeoff.[56]

Worse yet, powerful political officers often second guess commanders, who must keep a tight rein on subordinates to minimize "mistakes".[57] As a direct result, innovation is a rare commodity. The Soviet socialist system, which stresses collective enterprise and isolates citizens from outside contact, further inhibits initiative. Conscripts serving in East Germany can not speak the language or even read the road signs. Movement plans and maps are matters for officers only.[58]

Discipline is stringent by U.S. standards, but when it cracks, resultant rifts are sensational. Misdoings on U.S. ships in the recent past have been minor, compared with attempted mass defections that mar the Soviet Navy's record.[59]

Concluding Comments—

None of the shortcomings sketched above is critical. Soviet soldiers are not "10 feet tall" when compared with American counterparts, but neither are they 10 inches. Which opposing strengths outweigh which weaknesses may someday make a great difference, but judgments now are subjective. Meanwhile, manpower qualities on *both* sides seem in the main sufficient to support most projected courses of action. Only the test of combat could confirm the true timber of U.S. and Soviet forces.

DEFENSE TECHNOLOGY

Science and technology exert enormous influences on the U.S./Soviet military balance. Competition between the two countries is intense. Each side struggles ceaselessly to stock its arsenal with weapons and equipment that satisfy special needs under changing conditions.

*Technological warfare*

Technological warfare, which connects science with strategy and tactics, is deliberately designed to outflank enemy forces by making them obsolete. Battles are won by budgeteers and men at drawing boards before any blood is shed.[60]

Technological surprise thus poses special perils in critical echelons of the conflict spectrum, where sudden, one-sided supremacy in aerospace defense, antisubmarine systems, supersmart weapons, chemical warfare, lasers, and the like could create spectacular shifts.[61] The Soviet penchant for secrecy prompts "worst case" U.S. estimates in such cases.

Footnotes at end of article.

Classic dangers develop when new systems based on new technology burst on the scene (nuclear weapons, for example), but breakthroughs that combine new systems with old technology or vice versa can also create serious shocks. Still, creativity alone confers no advantage unless tied to procedures that translate inventive ideas into tangible instruments deployed in correct combinations and sufficient strength.[62] Tactical thought outweighs scientific theory as often as not.

"Victory" is achieved when one participant unveils technological superiority so pervasive and pronounced that opponents can neither cope nor catch up. Since indicators of rival success often surface slowly, losers sometimes cherish illusions of winning until too late. Conversely, they may long be aware that they have lost, but lack any way to rally.

Unfortunately, technological forecasting is at best imprecise.[63] Surprise can be intense when enemies are fully aware of their foe's R.&D. schemes, if they fail to sense the significance. Serendipitous offshoots of basic or applied research often alter perceived patterns in unexpected ways. Even so, estimating future states of the enemy's art may be the *easiest* prediction. Analysts must also account for educational, economic, institutional, bureaucratic, and doctrinal constraints.[64] The will to compete can be crucial.

Since surefire predictions perhaps are impossible, given the dearth of hard data, being "ahead" is important in technological areas that really count. Substantial leads lessen chances of surprise, by allowing friendly teams to explore frontiers before they are probed by enemies.[65]

*Soviet challenges*

The Soviet Union, as a closed society, enjoys an R&D edge not available to the United States.

Leadership, starting with Lenin, has stressed science and technology. Command emphasis and a cohesive strategy ensure an increasingly skilled cadre, sustained heavy investments in rubles and other resources, and solid continuity. Focus remains unflinchingly on military research and development, with little fear of repercussions caused by domestic demands.[66]

Extreme secrecy shrouds Soviet efforts, often concealing courses of action and intent until field testing starts in full view. Shortcuts are possible, because published reports of U.S. plans and progress point them out. The Kremlin consequently can concentrate on carefully-chosen goals that simplify the search for superiority in selected sectors.[67]

All, however, is not advantageous.

Surreptitious science carries severe penalties. It inhibits competition and free interchange of ideas (both essential stimulants) and protects poor programs from public opposition. The Socialist system excludes many incentives that generate growth. Civil and military R&D efforts are sometimes so segregated that neither sustains the other.[68] To compensate in part, the Soviets participate in exchange programs, purchase products and processes on the open market, perpetuate espionage, plagiarize ideas, and engage in technological piracy.[69]

In the past, Soviet scientists stuck closely to a policy of conservative incrementalism that featured slow but steady progress.[70] The R&D community designed around difficulties. Current indications, however, suggest a significant change, characterized by expansion in the scope of Soviet basic research, greater emphasis on innovation, and increasing inclination to take technological risks on speculative projects that promise big payoffs if successful.[71]

Soviet forces already feature a smorgasbord of brand-new systems based on technology well known in the West, but slightly exploited. Significant samples include intercontinental ballistic missiles (ICBM's) with "cold launch" capabilities; [72] mobile air defenses; satellite intercept and surveillance craft; armored vehicles and surface ships engineered expressly to operate in chemical/biological warfare environments; rapid-fire rocket launchers; anti-ship cruise missiles; and fire-control systems unmatched either in this country or among other NATO members.[73]

From the small fraction of Soviet exploratory efforts for which U.S. intelligence analysts have sound evidence, several now stressed could bear strongly on the future balance if breakthroughs occur.

Controlled thermonuclear fusion could pave the way for limitless power supplies. Wing-in-ground effect aircraft able to skim the sea's surface apparently offer great promise as part of an antisubmarine system. Techniques subjecting certain substances to pressures exceeding a million megabars could transform matter into new forms of unfathomed importance. Metallic ammonia, for example, could constitute the ideal propellant for space ships in its highly condensed stage, or furnish unstable materials for exotic munitions. High energy lasers have endless applications.[74]

*U.S. Responses*

The United States starts with the world's richest reservoir of scientific resources. Constant feedback between civil and military markets encourages entrepreneurism and technological chain reactions not remotely equalled by our Russian rival. As a result, options still closed to the Soviets are completely open to us.[75]

This country's predominance, however, shows signs of perishability that make many intellectuals lament our lack of momentum.[76]

Causes include uncertain goals that make it troublesome to chart a sound course for defense technology. Insistence on practical products is becoming more pronounced. Fund requests for abstract research are frequently cut or cancelled. Sharp fiscal caution extends to other R&D sectors. Consequent tendencies to tolerate few failures sometimes impede rapid progress.[77]

Beyond that, "one-way street" technological transfers to Soviet competitors create sharp anxiety among some U.S. authorities. A recent RAND report, for example, cautions that uncontrolled exports "of integrated circuit manufacturing plants, machinery, and know-how cannot but improve Soviet military computers" with many potential applications.[78] Similarly, Soviet capabilities may well be enhanced by shipments of U.S. precision grinders that polish miniature bearings for missile guidance systems and MIRVs (multiple independently targetable reentry vehicles).[79] The total impact on U.S. security is difficult to assess, because no focal center studies such trends.

Nevertheless, the United States still holds unsurpassed abilities to compete technologically, and could consistently create superior products, if policies and priorities changed.

*Comparative competence*

Relative standings of U.S. and Soviet defense technologies reflect a dynamic situation. Trends there, as elsewhere, are more revealing than static snapshots at any point in time. Figure 5 therefore should segregate sample comparisons into classes that show convergence, divergence, crossovers, static situations, and uncertainties,[80] but lack of information forces a simpler configuration. Confidence in categories shown is high where evidence is conclusive or Soviet leaders signal serious shortfalls by seeking U.S. assistance. It is low where clues are equivocal.

More importantly, some leads and lags on each side are deliberate, caused at least as much by different missions and developmental styles as by asymmetries in technological competence or failure to foresee demands. The United States could quickly close any current gaps if our leaders chose to do so.

Consequently, technological comparisons can be quite confusing, unless linked with strategic concepts, significant threats, and associated force requirements.

FIGURE 5.—THE TECHNOLOGICAL BALANCE

*United States clearly superior*

General—
"Black box" electronics
Computers
Integrated circuits
Microtechnology
Night vision
Small turbofan engines
Space technology
Submarine noise suppressants
Target acquisition
Terrain-following radar
Specific—
Aircraft
Air-to-air missiles
Artillery ammunition
ECM, ECCM
Look-down shoot-down systems
Precision-guided munitions
Remotely piloted vehicles
Strategic cruise missiles
Survivable submarines

*Soviets closing gap*

General—
Aerodynamics
Composite materials
Inertial instrumentation
Specific—
MIRVs
Missile accuracy
Satellite sensors
Tactical Nuclear Systems

*Soviet Union clearly superior*

General—
Cast components
Commonality of components
Ease of maintenance
High pressure physics
Magneto-hydrodynamic power
Rockets and ramjets
Simple systems for common use
Titanium fabrication
Welding
Specific—
Air defense missiles
Anti-ship missiles
Armored fighting vehicles
Artillery/rocket launchers
Chemical/biological warfare
Cold weather equipment
Gas turbines for ships
ICBM payloads, yields
Mobile ballistic missiles
Ship size vs. firepower
Tactical bridging

*Status uncertain*

General—
Acoustics
Adaptive optics
High explosive chemistry
Inductive storage and switching systems for pulsed power control
Reduced drag for submarines
Specific—
Antiballistic missiles
Antisubmarine warfare
High energy lasers
Satellite-borne radars

FOOTNOTES

[1] Marshall, Andrew W., Comparisons of US and SU Defense Expenditures. A study prepared by Director of Net Assessment, Department of Defense, September 16, 1975. Contained in Allocation of Resources in the Soviet Union and China—1975, p. 155.

[2] Estimated Soviet Defense Spending in Rubles, 1970–1975, Central Intelligence Agency, May, 1976, p. 5; Graham, Daniel O., The Soviet Military Budget Controversy, Air Force Magazine, May, 1976, p. 34.

[3] Lee, W. T., Soviet Defense Expenditures, Chapter 7 in Arms, Men, and Military Budgets: Issues for Fiscal Year 1977, Ed. by William Schneider, Jr., and Francis P. Hoeber, New York, Crane, Russak & Co., 1976, p. 261.

[4] Graham, Daniel O., The Soviet Military Budget Controversy, p. 34.

[5] Estimated Soviet Defense Spending in Rubles, CIA, p. 5.

[6] A Dollar Comparison of Soviet and US Defense Activities, 1965–1975, Central Intelligence Agency, February, 1976, 8 p.

[7] Estimated Soviet Defense Spending in Rubles, CIA, p. 5.

[8] Marshall, Andrew W., Comparisons of US and SU Defense Expenditures, p. 170; Estimated Defense Spending in Rubles, CIA, p. 16.

[9] Estimated Soviet Defense Spending in Rubles, p. 16.

[10] Special Analyses, Budget of the United States Government, Fiscal Year 1977, Washington, U.S. Govt. Print. Off., 1976, p. 12.

[11] The Soviet defense budget equals 10–20 percent of GNP, according to Andrew Marshall in Comparisons of US and SU Defense Expenditures, p. 164. Daniel Graham cites 15–20 percent in The Soviet Military Budget Controversy, pp. 36, 37.

[12] Letter and accompanying staff paper submitted by the Congressional Budget Office to Brock Adams, Chairman of the House Budget Committee, subject: Replies to Chairman Adams' Questions in his letter of April 15, 1976. Dated July 21, 1976. Page 3 of cover letter.

[13] Statistics from Braden, John B., comparison of U.S Government Budget Data. . . . Related to Total Budget Outlays and to Gross National Product (GNP), Fiscal Years 1940–1976, Washington, Congressional Research Service, February 7, 1975, p. 7.

[14] CIA Estimated Soviet Defense Spending in Rubles, p. 17.

[15] CIA Dollar Comparison of Soviet and US Defense Activities, p. 3, as amended by DOD comments on the draft of this study.

[16] Congressional Budget Office Replies to Chairman Adams' Questions, pp. 1–2.

[17] Ibid., pp. 3–4.

[18] Marshall, Andrew W., Comparisons of US and SU Defense Expenditures, p. 169.

[19] The Soviet official rate of exchange for foreign trade purposes is $1.35 per ruble.

[20] Graham, Daniel O., The Soviet Military Budget Controversy, p. 34.

[21] Estimated Soviet Defense Spending in Rubles, CIA, p. 15.

[22] Marshall, Andrew W., Comparisons of US and SU Defense Expenditures, p. 167.

[23] Congressional Budget Office Replies to Chairman Adams' Questions, p. 1, 4, 6, 7, 8.

[24] Marshall, Andrew W., Comparisons of US and SU Defense Expenditures, p. 153.

[25] Cover letter, Congressional Budget Office Replies to Chairman Adams' Questions, p. 2.

[26] This subsection is predicated on personal conversations between the author and Defense Intelligence Agency (DIA) analysts in September and October, 1976, together with written data furnished by DIA.

[27] Classified details are contained in Reassessment, Soviet Armed Forces Personnel Strengths (U), Washington, DIA, July, 1975, 8 p.; and Part II, November, 1975, 61 p.

[28] Organizational and functional approaches complement each other by double checking intelligence collection and processing capabilities. A third method, which deals with demography, relates raw manpower with requirements by indicating how many men of military age are annually available for induction, how many reservists reach the statutory age of obligatory service each year, and so on. For the latter, see especially Feshback, Murray and Rapawy, Stephen, Soviet Population and Manpower Trends and Policies. Contained in U.S. Congress. Joint Committee Print, Soviet Economy in a New Perspective, A Compendium of Papers Submitted to the Joint Economic Committee, Washington, U.S. Govt. Print. Off., October 14, 1976, p. 113–114, 144–152.

[29] Trend tables and graphs in other documents, including those disseminated by DOD, should be treated cautiously, for reasons described above.

[30] U.S. active military strengths were mainly derived from Manpower Statistics by Defense Planning and Programming Category for each military service and DOD agencies, a series of unpublished working papers prepared for OASD (M&RA), Program Division. Figures for 1970–74 were dated March 29, 1976. Figures for 1975 and 1976 were dated October 21, 1975 and August 26, 1976, respectively. OASD (M&RA) furnished supplemental statistics on U.S. strategic offensive and defensive forces in October, 1976.

[31] Soviet active manpower strengths were derived from diverse unclassified official sources.

[32] Border Guards belong to the KGB, internal security troops to the MVD, according to John Erickson, who mentions accoutrements in Soviet-Warsaw Pact Force Levels, USSI Report 76–2, Washington, United States Strategic Institute, 1976, p. 20–21.

[33] DIA identifies about 12,000 personnel in the Main Political Directorate. The remaining 58,000 are diffused in military units.

[34] Congressman Les Aspin, for example, calls 2,755,000 Soviet armed forces "non-threatening" to the United States. He credits each side with about 2,000,000 "comparable opposing forces." Disarmament and International Views, May, 1976, p. 5–7.

[35] DIA comments on the draft of this study, March 2, 1977.

[36] U.S. leaders are compelled to consider the eventual possibility of a new Sino-Soviet entente since, to paraphrase Lord Palmerston, there is no such thing as permanent friends or permanent enemies, only permanent interests.

[37] U.S. civilian statistics include direct and indirect hire. The latter involves paying foreign governments, who in turn provide civilians to assist U.S. forces overseas. Contract services, which contribute a large but unknown number of man hours, supplement U.S. civilians shown on figures and graphs in this study. See Note 30 for sources of U.S. civilian statistics.

[38] Soviet civilian manpower strengths were derived from diverse unclassified official sources.

[39] U.S. Ready Reserves include personnel who enlist directly into Reserve and National Guard units of the top-priority Selected Reserve; prior service personnel who elect to join Selected Reserve units after stints with the active establishment; and prior service personnel released to Individual Ready Reserve, which are affiliated with no organization, but act as fillers.

[40] U.S. Ready Reserve strengths were derived from Selected Manpower Statistics, OASD (Compt), Directorate for Information, Operations, and Control, April 15, 1971, p. 86; April 15, 1972, p. 89; April 15, 1973, p. 91; May 15, 1974, p. 91; May 15, 1975, p. 99; June 76, p. 98. See also Guard and Reserve Manpower: Strengths and Statistics, OASD (RA), flyleaf, June 1976.

[41] Soviet forces released from active service during the period 1972–1976 total about 5,945,000. U.S. servicemen released during that same time frame total 3,111,000.

[42] U.S. intelligence analysts currently are reviewing estimates of Soviet reserve manpower strengths.

[43] The Defense Manpower Commission (DMC) "found no evidence that any unit had been affected negatively by socioeconomic changes, either as to performance or mission capability. Generally, commanders [told DMC members] that these are the concerns of Washington, not of the field." Palmer, Bruce jr. and Tarr, Curtis W., A Careful Look at Defense Manpower, Military Review, September, 1976, p. 7.

[44] Turner, Frederick C., How Tall Are the Russians?, opening remarks in a panel discussion at the annual convention of the Association of the United States Army, Washington, October 12, 1976, p. 4.

[45] Rumsfeld, Donald H., Annual Defense Department Report, FY 1977, Washington, Department of Defense, January 27, 1976, p. 289.

[46] Ibid.; Palmer, Bruce jr. and Tarr, Curtis W., A Careful Look at Defense Manpower, p. 11.

[47] Rumsfeld, Donald H., Annual Defense Department Report, FY 1977, p. 288.

[48] Ibid., p. 293.

[49] Defense Manpower: The Keystone of National Security, Report to the President and the Congress, Washington, Defense Manpower Commission, April, 1972, p. 2.

[50] Goldhamer, Herbert, The Soviet Soldier: Soviet Military Management at the Troop Level, New York, Crane, Russak & Co., Inc., 1975, p. 4, 36–37, 69; Turner, Frederick C., How Tall Are the Russians?, p. 2; Lee, William T., Military Economics in the USSR, Air Force Magazine, March, 1976, p. 50; Feshback, Murray and Rapawy, Stephen, Soviet Economy in a New Perspective, p. 148.

[51] DOSAAF stands for the All-Union Voluntary Society for Assistance to the Army, Air Force, and Navy. Its clubs and schools play an important part in pre-induction training.

[52] Telephonic conversation with Frederick C. Turner, March 7, 1977.

[53] Turner, Frederick C., How Tall Are the Russians?, p. 3. Callup age was cut from 19 to 18 years. Service with the Army, Air Force, naval air elements, and border/security troops was reduced from three to two years. Service on naval ships, with Coast Guard combat units, and with maritime units of border troops was cut from four years to three. For full details, see Current Digest of the Soviet Press 19, No. 45, November 29, 1967, p. 4–10.

[54] Goldhamer, Herbert, The Soviet Soldier, p. 4–5, 39.

Demographic difficulties have also developed to such an extent that Feshback and Rapawy foresee an obligation to change the current system, perhaps by extending the length of service once again. See Soviet Population and Manpower Trends and Policies p. 149.

That trend may already be in motion (see Erickson, John, Soviet-Warsaw Pact Force Levels, p. 17, 20). If so, and rates of induction were substantially reduced, no buildup would occur. Such action would simply confirm that shorter enlistments unduly degrade performance in several ways. However, holding three age groups under arms at current conscription rates, despite strains on the civil economy, *could* indicate plans for early aggression, according to Robert L. Goldich, a manpower analyst with the Congressional Research Service. Active duty strengths would shoot up by more than a third and stay there until reductions in force were effected. Close U.S. scrutiny thus would be commendable.

[55] Some Soviet radar operators reportedly work in cabin temperatures "up to 70 centigrade . . . under conditions that blunt 'all of the senses'." Goldhamer, Herbert, The Soviet Soldier, p. 328.

[56] Ibid., p. 255–309, 324–327.

[57] Present-day political officers lack the clout of World War II commissars. They neither countersign orders nor have an official say in operational command. All the same, their influence is still immence. DIA comments on the draft of this study, March 2, 1977.

[58] Turner, Frederick C., How Tall Are the Russians?, p. 4–5. Regimentation obviously has strong points. Communications doctrine and discipline make it possible for 30 tanks to

share a single radio net in a Soviet tank battalion. Each U.S. Army tank company with 17 tanks operates four internal nets, plus a fifth that connects with battalion headquarters. The Soviet system not only cuts costs, but enhances communications security. There is, however, another side to the coin. It is also quite inflexible.

[59] Russians Stung By Dissent in Armed Forces, Baltimore News-American, February 9, 1976, p. 4; Soviet Mutiny Ended Swiftly, Washington Post, June 7, 1976, p. 18; Mutinied Soviet Destroyer Dispatched on Long Voyage, Christian Science Monitor, June 29, 1976, p. 6.

[60] For discussion, see Possony, Stefan T. and Pournelle, J. E., The Strategy of Technology: Winning the Decisive War, Cambridge, Mass., Dunellen, 1970, p. 1–20, 55.

[61] Dr. George Heilmeir, Director of Defense Advanced Research Projects Agency (ARPA) outlines possibilities in Guarding Against Technological Surprise, Congressional Record, June 22, 1976, p. S10139.

[62] Research, development, test, and evaluation (RDT&E) precedes procurement.

Abstract research improves prospects for a range of practical products by broadening the base of human knowledge. Applied technology supports specific goals. Stage I in the U.S. process identifies options, sets priorities, and defines projects. Stage II establishes program characteristics, including costs and schedules. State III produces prototypes. Civil contractors and military project managers complete technical tests during Stage IV, which culminates in operational assessments that are conducted by authorities who are independent of users as well as developers.

[63] "In 1878, Frederick Engels stated the weapons used in the Franco-Prussian war had reached such a state of perfection that further progress which would have any revolutionary influence was no longer possible. Thirty years later, the following unforeseen systems were used in World War I: Aircraft, tanks, chemical warfare, trucks, submarines, and radio communications. A 1937 study entitled 'Technological Trends and National Policy' failed to foresee the following systems, all of which were operational by 1957: Helicopters, jet engines, radar, inertial navigators, nuclear weapons, nuclear submarines, rocket powered missiles, electronic computers and cruise missiles. The 1945 Von Karmann study entitled 'New Horizons' missed ICBMs, man in space [and so on], all operational within 15 years." Heilmeier, George, Congressional Record, June 22, 1976, p S10139.

[64] Knorr, Klaus and Morgenstern, Oskar, Science and Defense: Some Critical Thoughts on Military Research and Development, Princeton, N.J., Princeton University Press, 1965, p. 19–27.

[65] George Heilmeier sketches a seven-step process that a free society can take to forestall technological surprise. Initiative is the most important. Congressional Record, June 22, 1976, p. S10139.

[66] Background information is contained in The Soviet Military Technological Challenge, Washington, The Center for Strategic Studies, Georgetown University, September, 1967, p. 13–31.

[67] Currie, Malcolm R., Program of Research, Development, Test and Evaluation, FY 1977, Washington, Department of Defense, February 3, 1976, p. I–6, II–2.

[68] Augenstein, Bruno, Military RDT&E, Chapter 6 in Arms, Men, and Military Budgets, p. 220–221; Currie, Malcolm R., Program of Research, Development, Test and Evaluation, FY 1977, p. I–6, II–2.

[69] Possony, Stefan T. and Pournelle, J. E., The Strategy of Technology, p. 22. None of the Techniques noted is unique to the Soviet Union, but strong emphasis is evident.

[70] Incremental improvements are important even when the main focus is on mighty leaps forward. Indeed, they serve a crucial purpose when opposing systems are essentially equal. "In an air battle conducted with air-to-air missiles . . . a two mile difference in radar ranges can result in one side being destroyed even before it detects the other. Small improvements in missile accuracy can [immensely increase] kill probabilities." Possony, Stefan T. and Pournelle, J. E., The Strategy of Technology, p. 30, 38–39.

[71] Currie, Malcolm R., Program of Research, Development, Test and Evaluation, FY 1977, p. I–5, II– 3–4.

[72] A "pop-up" procedure that ejects ballistic missiles from silos or submarines using power plants that are separate from the missile body. Primary ignition is delayed until projectiles are safely clear of carriers/containers, preserving the launcher intact for reuse if required.

[73] Currie, Malcolm R., Program of Research Development, Test and Evaluation, FY 1977, p. I–7, 8, II–10, 17.

[74] Soviet R&D: No New Weapons Expected, But Surprises still Possible, Aerospace Daily, August 13, 1976, p. 241. Supplemented telephonically by staff members of ARPA on December 3, 1976. See also Cooke, Robert, The Lethal Laser is Here—Will it Be Added to US, Soviet Arsenals? and Lasers Turned to Spying on Spies, Boston Globe, May 23, 1976, p. 1 and May 24, 1976, p. 1.

[75] Augenstein, Bruno, in Arms, Men, and Military Budgets, p. 218, 220, 221, 244–247; Possony, Stefan T. and Pournelle, J. E., The Strategy of Technology, p. 51.

[76] Senior members of the President's Committee on Science and Technology and the National Science Board, for example, recently expressed concern. Others share such sympathies. Participants at a symposium sponsored by Massachusetts Institute of Technology (M.I.T.) agreed that serious, speedy steps are needed to prevent further erosion of the U.S. position. Jerome B. Wiesner, M.I.T.'s President, predicted that "if we don't apply our enormous, unused capacity to technology, we face a problem of whether we shall survive 30 years from now." R&D on the Skids, Time, May 3, 1976, p. 56; Loss of Innovation in Technology is Debated, New York Times, November 25, 1976, p. 53.

[77] Currie, Malcolm R., Program of Research, Development, Test and Evaluation, Fy 1977, p. I–6; Possony, Stefan T. and Pournelle, J. E., The Strategy of Technology, p. 23–25; Weapons Research: Ivan's Edge is Our Bureaucracy, Armed Forces Journal, July, 1976, p. 16, 18.

[78] Soviet Computer Technology: Catching Up, Air Force Magazine, November, 1976, p. 67; Additional details are contained in Long-Range U.S.-U.S.S.R. Competition: National Security Implications, proceedings of a conference conducted by the National Defense University, July 12–14, 1976, p. 208–246; and Augenstein, Bruno in Arms, Men, and Military Budgets, p. 242–244.

[79] Heinl, Robert D., jr., U.S. Technological Gifts to Soviets Hit, Detroit News, November 11, 1976, p. 7B.

[80] Augenstein, Bruno, in Arms, Men, and Military Budgets, p. 216–217.

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## Part III. Strategic Nuclear Forces

### Strategic offensive comparisons

U.S. nuclear deterrent strategy presently depends almost entirely on a retaliatory triad of manned bombers, ICBMs, and submarine-launched ballistic missiles (SLBMs) coupled with a sophisticated command/control system.[1] Those components, in combination, are designed to survive a savage first strike by any enemy and still retain infallible Assured Destruction abilities. According to current concepts, the mix also must afford a range of flexible responses within the framework of our second-strike strategy, minimize probabilities that all U.S. systems could be compromised concurrently by technological surprise, and contribute to stability.

This section relates U.S. and Soviet strategic offensive forces to those requirements.[2] (See Graph 3).

*Intercontinental ballistic missiles*

All U.S. and Soviet ICBMs currently are cased in subterranean concrete silos, although both sides are experimenting with land-mobile models, and U.S. Minutemen have been test launched from aircraft. American efforts, however, are still in early stages, whereas Soviet SS–16s reputedly are ready to join using units. (See Figure 6 at the end of this section).

U.S. Trends—

The total number of U.S. ICBMs and the "heavy-light" mix of 54 Titan IIs and 1,000 Minutemen has stayed static since 1967. Converting half the force to MIRVed Minutemen IIIs[3] drastically reduced weapons in the megaton range (only 504 remain), but concurrently doubled our warheads from 1054 to 2154.

Titans have ample explosive power to crack hard structures, such as Soviet silos, but lack the accuracy to "kill" point targets consistently. Minuteman missiles, which mount smaller warheads, still lack sufficient yield, although that condition is being corrected.[4] Consequently, U.S. ICBMs at this stage are essentially designed to fulfill Assured Destruction functions against Soviet population/production centers and other soft targets.[5]

Soviet Trends—

Moscow has stressed land-based ballistic missiles since the early 1960s. Deployments soared during that decade, then slowed when the tally outstripped our own by almost a third. U.S. intelligence confirms just 122 new Soviet silos since 1970, but all are in the "heavy" category, which includes five systems (SS–7, SS–8, SS–9, SS–18, and S–19).[6]

Twenty percent of all Soviet warheads are in the 5–25 megaton range, versus fewer than five percent for our ICBM force (469 to 54). Except for "small" MIRVs on SS–17s and SS–19s, the least lethal tips have three times the yield of those on Minuteman III. That disparity derived from a conscious U.S. decision to emphasize precision when the Soviets stressed raw power. The Kremlin now strives for both. Before long, its land-based missiles therefore could boast the best accuracy/yield combinations.[7]

Systems with MIRV capabilities are now supplanting those with single weapons. The Soviets already have twice as many ICBM warheads as we have missile silos. Our count still outnumbers theirs slightly (2154 to 2109), but larger Soviet missiles with greater MIRV capacities put Moscow in position to pass us quickly, and Soviet craftsmen have the competence to achieve impressive accuracies if ruling councils so choose.

Consequences—

The U.S. second-strike strategy, professed by every President since Truman, imposes constraints on this country that the Soviets do not share.

Bigger ICBMs and warheads, combined with better accuracy, would enhance U.S. abilities to smash rival silos, but not before the missiles therein took flight. At best, such improvements could check the release of some Soviet reserves, including rapid refirings from cold launch facilities (cold comfort in a cataclysmic war and needless in lesser conflicts).

Far more importantly, present trends bode badly for the prelaunch survival of undefended U.S. ICBMs, whose power to perform Assured Destruction tasks is by no means permanent. Former Defense Secretary Schlesinger, for example, once predicted that Soviet SS–18s with MIRV warheads "could pose

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Footnotes at end of article.

a serious threat to our ICBMs." [8] The Federation of American scientists concurred, with the comment that "our fixed land-based missiles in silos will look more and more vulnerable to attack if MIRV and increases in accuracy cannot be prevented." [9]

Corrective courses of action are subject to question.

Installing more U.S. ICBMs would prove impractical, because the Soviets could add hard target warheads much faster than we could build silos and fill them with missiles, at a fraction of the cost.

Prospects for reinforcing U.S. silos face finite limitations (the ultimate compressive strength of cement approximates 3,000 psi, to cite just one criterion). After maximum practical hardness has been achieved, an advanced generation of Soviet warheads with appropriate yields and pinpoint precison could strike each silo in a closely spaced ICBM field with far less fear of "fratricide" than saturation attacks would currently cause.[10]

Launch-on-warnng policies would help preserve U.S. ICBMs against surprise assaults only if adequate information were immediately accessible to our National Command Authorities (NCA), who reserve exclusive rights to sanction retaliatory strikes.[11] As a minimum, rational response would depend on sufficient data to determine the magnitude and impact areas (cities or silos) of a Soviet missile attack. Should the U.S. alert apparatus fail to function for any reason, including early enemy action, chances are slim that any decision to launch could be made, much less implemented, in the few minutes available.

Undefended U.S. ICBMs in concrete silos may serve deterrent purposes for an extended period of time, despite such disadvantages.[12] In the final analysis, however, the question is not whether the Soviets could eventually crush them with a first strike, only when they could achieve that capability. The consequent uncertainty makes that leg of our triad an increasing source of instability.

*Ballistic missile submarine systems*

All U.S. and Soviet sea-launched ballistic missiles (SLBMs) are carried by submarines.[13] They are "sitting ducks" in port, but on station at sea are the most survivable of all strategic nuclear systems. "Hair-trigger" action would not be needed to avoid heavy losses from surprise attacks. Decisions to fire against Assured Destruction type targets could be delayed indefinitely without degrading deterrence or countervalue capabilities. (See Figure 7)

U.S. Trends—

The total number of U.S. nuclear-powered ballistic missile submarines has stayed constant at 41 since 1967. Each, regardless of class, still carries 16 SLBMs. The missile count remains at 656, but the mix is decidedly different than it was early in this decade.

All single-warhead Polaris A-2s have phased out. MRVs on the remaining A-3s have larger yields than most U.S. ICBMs, but poorer CEPs.[14] The preponderance of power now lies with MIRVed Poseidon missiles, which may carry as few as 6 or as many as 14 warheads. Most are tipped with 10, for an average of 160 per boat. Accuracy, however, at a third of a mile, is still less than the best ICBMs, and 40 KT yields are only one-third as much as Minuteman's MIRVs. Their lethality against hand targets is commensurately less.

U.S. submarine missile systems therefore afford an effective Assured Destruction force for use against most surface structures in Soviet cities, but several warheads would be needed to cripple a single silo. Flight times to bomber bases deep in Soviet territory allow enemy aircraft on alert ample opportunity to scramble.

Switching to many small MIRVs had other side effects. The current Poseidon complement concentrates 4,480 weapons on 28 boats, of which about a third are tempting targets immobilized in port for maintenance at any given time.[15] Each submarine at sea, however, poses deterrent threats of immensely greater magnitude than its 1970 predecessors.

Soviet Trends—

Antiquated submarines armed with three short-range SLBMs each accounted for two-thirds of Moscow's sea-launched missile strength as late as 1970. Half were diesel powered.

Since then, 38 new nuclear subs have hoisted the total to almost twice our own. The number of tubes has nearly tripled (from 289 to 842). Only 78 short-range missiles remain. Other types could obliterate U.S. bomber bases (but not alert aircraft) from firing positions on our continental shelf and in the Caribbean, using yields measured in megatons. Short flight times would allow fewer than 10 minutes warning. SS-N-8s, recently introduced, have a 4,800-mile range than this country's missiles will not match for several more years.[16] Immense launch areas, which complicate U.S. search procedures, enhance survivability.

Even so, Soviet submarine systems are inferior to U.S. counterparts in most crucial respects. Diesel-powered types still comprise a third of the count. Late-model nuclear boats, being noisier than Polaris and Poseidon, are more susceptible to compromise. On-station time is substantially less. Total target coverage is only a fifth that afforded by our force 842 to 4,688), since none of their missiles are MIRVed.[17] SS-N-8s must sacrifice security for counterforce capabilities. Should they rely on remote firing points, flight times to U.S. bomber bases would triple, and threats would be much reduced.

Consequences—

The expanding strength of Soviet submarine-launched missile systems in no way endangers U.S. counterparts, except for those in port, nor does it degrade their deterrent capacities. Matching Moscow's buildup with more submarines, SLBMs, and MIRVs would therefore serve little purpose in terms of essential missions.

Reinforcing SLBMs with bigger warheads and better accuracy would improve U.S. hard target kill capabilities from firing positions close to Soviet shores, since flight times would be shorter than those for ICBMs. Each submarine, however, would run serious risks in enemy coastal waters, and chances of catching Soviet missiles in silos would be slight, given our second-strike strategy.[18]

Qualitative changes centered on continued pre-launch survivability therefore seem to proffer the best prospects for preserving the deterrent powers of American SLBMs, despite Soviet ASW (anti-submarine warfare) efforts.

*Strategic bombers*

The United States and Soviet Union both based strategic nuclear strength on manned bombers until ballistic missiles were deployed en masse, beginning early in the 1960s. Thereafter, the U.S. accent on air power stayed comparatively strong, while Soviet stress has been slight. (See Figure 8).[19]

Assured Destruction is the principal capability in each case, because U.S. and Soviet alert forces (aircraft and ICBMs) have adequate time to launch before bombers could arrive. That characteristic, which makes aircraft a poor first-strike system, enchances strategic stability.

U.S. Trends—

B-52s assigned to Strategic Air Command (SAC) as unit equipment have decreased 30 percent since the start of this decade, from 465 to 330. The oldest airframes have been flying for 20 full years, the newest for 15,[20] but they still pack a powerful wallop.

Multimegaton gravity bombs come in various sizes, one of which offers assorted yields. B-52s carry up to four of either as their basic load.[21] They could also be fitted for up to 20 nuclear-tipped Short-Range Attack Missiles (SRAMs), although only 1,500 were produced, an average of four per plane. Those weapons are designed primarily to assist aircraft penetration by suppressing enemy defenses, but can also engage main targets.[22]

Sixty-six FB-111s in the "medium" category supplement U.S. "heavy bombers. Payloads are roughly half that of B-52s, and ranges are less than one-third, but each can carry six slim bombs, six SRAMs, or some combination (an average of two SRAMs per aircraft is in stock).[23]

SAC tanker squadrons furnish aerial refueling support that assures intercontinental range for B-52s and FB-111s under combat conditions.

Flexible force loadings for U.S. bombers are adjusted to suit changing missions and target assignments, as Figure 8 shows. As currently armed, SAC's air wings account for almost a fourth of all allocated U.S. weapons and more than half of all megatonnage.[24] Fewer aircraft life larger loads than in the recent past.

Soviet Trends—

Soviet heavy bomber strength peaked at about 210 turboprop Bears and jet-powered Bisons in 1966, then steadily dropped to 135, the current tally. Something like 80 tankers serve those antiques, whose penetration prospects would be poor against any determined defense. Both types probably average just one large gravity bomb as the basic load, although B-Model Bears may carry a single AS-3 Kangaroo missile, which could be released 400 miles from its target.[25]

Supersonic Backfire, the first new Soviet bomber deployed in the past 15 years, is smaller but much more sophisticated. That modern aircraft probably threatens sea lanes and NATO more than North America, but could strike some U.S. cities without resorting to tanker support, then recover in Cuba or another "neutral" country. Inflight refueling is technically possible, because all Backfires are fitted with receptacles. Stand-off missiles extend their range by as much as 500 miles.[26] (Medium-range Badgers, which could attack undefended targets in the United States on one-way missions, are addressed in sections concerning theater nuclear and land-based naval aircraft.

Consequences—Backfire bombers may have some bearing on U.S. needs for improved air defenses, but are completely unrelated to offensive force requirements. Backfire squadrons, which currently contribute less to

Footnotes at end of article.

Soviet strategic nuclear capabilities than forward-based fighters add to ours, could double in number or disappear without diluting any advantages that accrue from SAC's aircraft. Manned bombers may indeed be a legitimate leg of the U.S. triad, but maintaining superiority, essential equivalence, or any other military balance with Backfire would serve some cosmetic or symbolic purpose, nothing more.

*Triads assessed in tandem*

Separate assessments of triad components supply incisive insights, but only a survey of interactions on competing sides can measure complete implications.

Comparative Patterns—The basic composition of both triads has stayed constant during this decade. Only sizes and shapes have changed. (See Graph 4 and Figure 9).

America maintains a balanced structure of ballistic missiles and bombers. The Soviet Union does not. Most of its might will remain with large, land-based missiles, even if Moscow MIRVs SLBMs, because bigger, more numerous ICBMs can carry many more warheads.[27] The importance of manned bombers is minuscule in comparison.

Soviet delivery systems are somewhat more numerous than in 1970, while our count is slightly smaller, but MIRV programs caused U.S. weapon holdings to rise at a rapid rate until they reached a plateau not yet approached by our rival. America's transcendence, however, may be transitory. The Soviets have established a solid expansion base, and growth could be just beginning.

Cogent Implications—U.S. bombers and ICBMs are more vulnerable than ever before. That condition causes instability, even though no current combination of assaults could smother the two systems simultaneously.[28] Soviet counterparts are comparatively secure, because of our second-strike strategy. SLBMs are still safe at sea.

Both sides consequently display awesome Assured Destruction abilities, but neither could neutralize the other by adding offensive power under current conditions. Defensive measures may endanger U.S. survival to a greater degree, as discussed in the following section.

FIG. 6.—INTERCONTINENTAL BALLISTIC MISSILES—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| **LAUNCHERS** | | | | | | | |
| Heavy ICBM's: | | | | | | | |
| United States: Titan II | 54 | 54 | 54 | 54 | 54 | 54 | 54 |
| Soviet Union: | | | | | | | |
| SS-7 | 190 | 190 | 190 | 190 | 190 | 190 | 140 |
| SS-8 | 19 | 19 | 19 | 19 | 19 | 19 | 19 |
| SS-9 | 228 | 270 | 288 | 288 | 288 | 288 | 264 |
| SS-18 [1] | 0 | 0 | 0 | 0 | 0 | 10 | 36 |
| SS-19 | 0 | 0 | 0 | 0 | 0 | 60 | 100 |
| Total | 437 | 479 | 497 | 497 | 497 | 567 | 559 |
| U.S. standing | −383 | −425 | −443 | −443 | −443 | −513 | −505 |
| Light ICBM's: | | | | | | | |
| United States: | | | | | | | |
| MM I | 490 | 390 | 290 | 140 | 21 | 0 | 0 |
| MM II | 500 | 500 | 500 | 510 | 450 | 450 | 450 |
| MMM III | 10 | 110 | 210 | 350 | 529 | 550 | 550 |
| Total | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 |
| Soviet Union: | | | | | | | |
| SS-11 | 970 | 907 | 970 | 970 | 1,030 | 960 | 910 |
| SS-13 | 20 | 40 | 60 | 60 | 60 | 60 | 60 |
| SS-17 | 0 | 0 | 0 | 0 | 0 | 10 | 20 |
| Total | 990 | 1,010 | 1,030 | 1,030 | 1,090 | 1,030 | 990 |
| U.S. standing | +10 | −10 | −30 | −30 | −90 | −30 | +10 |
| Grand total: | | | | | | | |
| United States | 1,054 | 1,054 | 1,054 | 1,054 | 1,054 | 1,054 | 1,054 |
| Soviet Union | 1,427 | 1,489 | 1,527 | 1,527 | 1,587 | 1,597 | 1,549 |
| U.S. standing | −373 | −435 | −473 | −473 | −533 | −543 | −495 |
| **WARHEADS** | | | | | | | |
| United States: | | | | | | | |
| MIRV | 30 | 330 | 630 | 1,050 | 1,587 | 1,650 | 1,650 |
| Other | 1,044 | 944 | 844 | 704 | 525 | 504 | 504 |
| Total | 1,074 | 1,274 | 1,474 | 1,754 | 2,112 | 2,154 | 2,154 |
| Soviet Union: | | | | | | | |
| MIRV | 0 | 0 | 0 | 0 | 0 | 400 | 680 |
| Other | 1,427 | 1,489 | 1,527 | 1,527 | 1,587 | 1,528 | 1,429 |
| Total | 1,427 | 1,489 | 1,527 | 1,527 | 1,587 | 1,928 | 2,109 |
| U.S. standing | −353 | −215 | −53 | +227 | +525 | +226 | +45 |

| | System characteristics | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | First deployed | Number RV's: Single | MRV | MIRV | Warhead yield | CEP (nautical miles) | Range (miles) | Cold launch |
| United States: | | | | | | | | |
| Titan II | 1963 | 1 | | | 10 MT | 0.8 | 7,250 | No |
| MM I | 1962 | 1 | | | 1 MT | .5 | 7,500 | No |
| MM II | 1965 | 1 | | | 1 MT | .3 | 8,000 | No |
| MM III | 1970 | | | 3 | 170 KT ea | .2 | 8,000 | No |
| Soviet Union: | | | | | | | | |
| SS-7 | 1962 | 1 | | | 5 MT | 1.5 | 6,900 | No |
| SS-8 | 1963 | 1 | | | 5 MT | 1.5 | 6,900 | No |
| SS-9 | 1967 | 1 | | | 18-25 MT | .7 | 7,500 | No |
| Mod 4 | 1971 | | 3 | | 4-5 MT | .5 | 7,500 | No |
| SS-11 | 1966 | 1 | | | 1-2 MT | .7 | 6,500 | No |
| Mod 3 | 1973 | | 3 | | 500 KT ea | .5 | 6,500 | No |
| SS-13 | 1969 | 1 | | | 1 MT | .7 | 5,000 | No |
| SS-17 | 1975 | | | 4 | 200 KT ea | .3 | 6,500 | Yes |
| SS-18 | 1974 | 1 | | | 18-25 MT | .3 | 7,500 | Yes |
| Mod 2 | NA | | | 8-10 | 2 MT ea | .25 | 7,500 | Yes |
| SS-19 | 1974 | | | 6 | 200 KT ea | .25 | 6,500 | No |

[1] Soviet SS-18 Mod 2 ICBM's have been flight tested with 8-10 MIRV's; a few reportedly have been deployed, but the count is classified.

Note: The 3 MRV's on each SS-9 Mod 4 and SS-11 Mod 3 count as single warheads in this summary.

FIG. 7.—BALLISTIC MISSILE SUBMARINE SYSTEMS—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| **SUBMARINES** | | | | | | | |
| Nuclear power: | | | | | | | |
| United States:[1] | | | | | | | |
| Poseidon | 1 | 7 | 12 | 22 | 24 | 28 | 28 |
| Polaris | 40 | 34 | 29 | 19 | 17 | 13 | 13 |
| Total | 41 | 41 | 41 | 41 | 41 | 41 | 41 |
| Soviet Union:[2] | | | | | | | |
| D-II | 0 | 0 | 0 | 0 | 0 | 0 | 4 |
| D-I | 0 | 0 | 0 | 1 | 5 | 11 | 13 |
| Y | 13 | 20 | 26 | 31 | 33 | 34 | 34 |
| H | 7 | 7 | 7 | 7 | 7 | 7 | 7 |
| Total | 20 | 27 | 33 | 39 | 45 | 52 | 58 |
| U.S. standing | +21 | +14 | +8 | +2 | −4 | −11 | −17 |
| Diesel power: | | | | | | | |
| United States | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Soviet Union: | | | | | | | |
| G-II | 11 | 11 | 11 | 11 | 11 | 11 | 11 |
| G-I | 9 | 9 | 9 | 9 | 9 | 9 | 8 |
| Total | 20 | 20 | 20 | 20 | 20 | 20 | 19 |
| U.S. standing | −20 | −20 | −20 | −20 | −20 | −20 | −19 |
| Total: | | | | | | | |
| United States | 41 | 41 | 41 | 41 | 41 | 41 | 41 |
| Soviet Union | 40 | 47 | 53 | 59 | 65 | 72 | 77 |
| U.S. standing | +1 | −6 | −12 | −18 | −24 | −31 | −36 |
| **SLBM'S** | | | | | | | |
| On nuclear subs: | | | | | | | |
| United States: | | | | | | | |
| Polaris A-2 | 128 | 128 | 128 | 128 | 64 | 32 | 0 |
| Polaris A-3 | 512 | 416 | 336 | 176 | 208 | 176 | 208 |
| Poseidon | 16 | 112 | 192 | 352 | 384 | 448 | 448 |
| Total | 656 | 656 | 656 | 656 | 656 | 656 | 656 |
| Soviet Union: | | | | | | | |
| SS-N-5 | 21 | 21 | 21 | 21 | 21 | 21 | 21 |
| SS-N-6 | 208 | 320 | 416 | 496 | 528 | 544 | 544 |
| SS-N-8 | 0 | 0 | 0 | 12 | 60 | 132 | 220 |
| Total | 229 | 341 | 437 | 529 | 609 | 697 | 785 |
| U.S. standing | +427 | +315 | +219 | +127 | +47 | −41 | −129 |
| On diesel subs: | | | | | | | |
| United States | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Soviet Union: | | | | | | | |
| SS-N-4 | 27 | 27 | 27 | 21 | 21 | 21 | 18 |
| SS-N-5 | 33 | 33 | 33 | 39 | 39 | 39 | 39 |
| Total | 60 | 60 | 60 | 60 | 60 | 60 | 57 |
| U.S. standing | | | −60 | −60 | −60 | −60 | −57 |
| Grand total: | | | | | | | |
| United States | 656 | 656 | 656 | 656 | 656 | 656 | 656 |
| Soviet Union | 289 | 401 | 497 | 589 | 669 | 757 | 842 |
| U.S. standing | +367 | +255 | +159 | −67 | −13 | −101 | −186 |
| **WARHEADS** | | | | | | | |
| United States: | | | | | | | |
| MIRV | 160 | 1,120 | 1,920 | 3,520 | 3,840 | 4,480 | 4,480 |
| Other | 640 | 544 | 464 | 304 | 272 | 208 | 208 |
| Total | 700 | 1,664 | 2,384 | 3,824 | 4,112 | 4,688 | 4,688 |
| Soviet Union: | | | | | | | |
| MIRV | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other | 289 | 401 | 497 | 589 | 669 | 757 | 842 |
| Total | 289 | 401 | 497 | 589 | 669 | 757 | 842 |
| U.S. standing | +411 | +1,263 | +1,887 | +3,235 | +3,443 | +3,931 | +3,846 |

| | Missile characteristics | | | | | | |
|---|---|---|---|---|---|---|---|
| | First deployed | Number RV's: Single | MRV | MIRV | Warhead yield | CEP (nautical miles) | Range (miles) |
| United States: | | | | | | | |
| Polaris A-2 | 1962 | 1 | | | 800 KT | 0.5 | 1,750 |
| Polaris A-3 | 1964 | | 3 | | 200 KT ea | .5 | 2,880 |
| Poseidon | 1971 | | | 10 | 40 KT ea | .3 | 2,880 |
| Soviet Union: | | | | | | | |
| SS-N-4 | 1961 | 1 | | | ? MT | 2.0 | 350 |
| SS-N-5 | 1963 | 1 | | | ? MT | 2.0 | 750 |
| SS-N-6 | 1968 | 1 | | | 1 MT | 1.5 | 1,750 |
| Mod 3 | 1974 | | 3 | | ? KT ea | 1.0 | 2,000 |
| SS-N-8 | 1973 | 1 | | | 1 MT | .8 | 4,800 |

[1] U.S. Franklin, Madison, and Lafayette class submarines are armed with Poseidon SLBM's. George Washington and Ethan Allen class carry Polaris missiles. 3 Polaris boats presently are being converted to Poseidon. When that process is complete, the count will be 31 Poseidons and 10 Polaris submarines, total 41.

[2] Soviet D-II submarines are armed with 16 SS-N-8 SLBM's. D-I's have 12. Y-Class submarines have 16 SS-N-6 missiles. H and G-II models carry 3 SS-N-5 missiles. G-I submarines have 3 SS-N-4's.

Note: The 3 MRV's on each Polaris A-3 and SS-N-6 Mod 3 count as single warheads in this summary.

FIG 8.—STRATEGIC NUCLEAR BOMBERS: STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| Aircraft | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| Heavy bombers: | | | | | | | |
| United States, B–52 | 465 | 435 | 397 | 397 | 372 | 330 | 330 |
| Soviet Union: | | | | | | | |
| Bear | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| Bison | 40 | 40 | 40 | 40 | 40 | 35 | 35 |
| Total | 140 | 140 | 140 | 140 | 140 | 135 | 135 |
| United States standing | +325 | +295 | +257 | +257 | +232 | +195 | +195 |
| Modern medium bombers: | | | | | | | |
| United States, FB–111 | 4 | 66 | 66 | 66 | 66 | 66 | 66 |
| Soviet Union, Backfiire | 0 | 0 | 0 | 0 | 0 | 25 | 60 |
| United States standing | +4 | +66 | +66 | +66 | +66 | +41 | +6 |
| Grand total: | | | | | | | |
| United States | 469 | 501 | 463 | 463 | 438 | 398 | 396 |
| Soviet Union | 140 | 140 | 140 | 140 | 140 | 160 | 195 |
| United States standing | +329 | +361 | +323 | +323 | +298 | +236 | +201 |
| Nuclear weapons: | | | | | | | |
| United States | 2,226 | 1,762 | 1,842 | 1,206 | 1,462 | 1,658 | 2,058 |
| Soviet Union | 140 | 140 | 140 | 140 | 140 | 185 | 255 |
| United States standing | +2,086 | +1,622 | +1,702 | +1,066 | +1,286 | +1,473 | +1,803 |

Bomber systems

| | First deployed | Unrefueled combat radius (miles) | Bomb load (pounds) | ASM | Max speed (Mach) | Engines Nr | Engines Type |
|---|---|---|---|---|---|---|---|
| Aircraft: | | | | | | | |
| United States: | | | | | | | |
| B–52G | 1959 | [3] 3,385 | 60–70,000 | SRAM | 0.95 | 8 | Jet. |
| FB–111 | 1969 | 1,550 | 13,500 | SRAM | 2.5 | 2 | Jet. |
| Soviet Union: | | | | | | | |
| Bear | 1956 | 3,900 | 40,000 | AS–3 AS–4 | .78 | 4 | Piston. |
| Bison | 1956 | 3,250 | 20,000 | | .87 | 4 | Jet. |
| Backfire | 1974 | 2,500 | 20,000 | AS–4 | 2.5 | 2 | Jet. |

| Supersonic air-to-surface missiles: | First deployed | Warhead yield | Range (miles) |
|---|---|---|---|
| United States: | | | |
| SRAM (W–69) | 1972 | 200 KT | 100 |
| Soviet Union: | | | |
| AS–3 [1] | 1961 | 1 MT | 400 |
| AS–4 [2] | 1962 | ? KT | 450 |
| AS–6 | 1975 | 200 KT | 155 lo, 500 hi |

[1] AS–3 is commonly called Kangaroo.
[2] AS–4 is commonly called Kitchen.
[3] B–52G combat radius reflects maximum high altitude mission armed with average load of bombs and SRAM's. B–52H radius under those conditions is 4,060 nautical miles. FB–111 radius is with SRAM's only. The 1,550-mile combat radius would be reduced if the load were 13,500 lb of nuclear bombs.

Note: Bomber force loads vary according to assigned missions. U.S. weapons figures above were derived by subtracting ICBM/SLBM warheads from total loads published in DOD posture statements for fiscal year 1971–77. Soviet figures reflect 1 large bomb or ASM per Bear/Bison, and 2 ASM's per Backfire. No reserve weapons are counted on either side.

FIG. 9.—STRATEGIC OFFENSIVE FORCES—STATISTICAL RECAPITULATION

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| SYSTEMS | | | | | | | |
| United States: | | | | | | | |
| ICBM | 1,054 | 1,054 | 1,054 | 1,054 | 1,054 | 1,054 | 1,054 |
| SLBM | 656 | 656 | 656 | 656 | 656 | 656 | 656 |
| B–52 | 465 | 435 | 397 | 397 | 372 | 330 | 330 |
| FB–111 | 4 | 66 | 66 | 66 | 66 | 66 | 66 |
| Total | 2,179 | 2,211 | 2,173 | 2,173 | 2,148 | 2,106 | 2,106 |
| Soviet Union: | | | | | | | |
| ICBM | 1,427 | 1,489 | 1,527 | 1,527 | 1,587 | 1,597 | 1,549 |
| SLBM | 289 | 401 | 497 | 589 | 669 | 757 | 842 |
| Bear/Bison | 140 | 140 | 140 | 140 | 140 | 135 | 135 |
| Backfire | 0 | 0 | 0 | 0 | 0 | 25 | 60 |
| Total | 1,856 | 2,030 | 2,164 | 2,256 | 2,396 | 2,514 | 2,586 |
| U.S. standing | +323 | +181 | +9 | −83 | −248 | −408 | −480 |
| WEAPONS | | | | | | | |
| United States: | | | | | | | |
| ICBM | 1,074 | 1,274 | 1,474 | 1,754 | 2,112 | 2,154 | 2,154 |
| SLBM | 700 | 1,664 | 2,384 | 3,824 | 4,112 | 4,688 | 4,688 |
| Total | 1,774 | 2,938 | 3,858 | 5,578 | 6,224 | 6,842 | 6,842 |
| Soviet Union: | | | | | | | |
| ICBM | 1,427 | 1,489 | 1,527 | 1,527 | 1,587 | 1,928 | 2,109 |
| SLBM | 289 | 401 | 497 | 589 | 669 | 757 | 842 |
| Total | 1,716 | 1,890 | 2,024 | 2,116 | 2,256 | 2,685 | 2,951 |
| U.S. standing | +58 | +1,036 | +1,834 | +3,462 | +3,968 | +4,157 | +3,891 |
| Bombs/ASM's: | | | | | | | |
| United States | 2,226 | 1,762 | 1,842 | 1,206 | 1,426 | 1,658 | 2,058 |
| Soviet | 140 | 140 | 140 | 140 | 140 | 185 | 255 |
| U.S. lead | +2,086 | +1,622 | +1,702 | +1,066 | +1,286 | +1,473 | +1,803 |
| Grand total: | | | | | | | |
| United States | 4,000 | 4,700 | 5,700 | 6,784 | 7,650 | 8,500 | 8,900 |
| Soviet Union | 1,856 | 2,030 | 2,164 | 2,256 | 2,396 | 2,870 | 3,206 |
| U.S. standing | +2,144 | +2,670 | +3,536 | +4,528 | +5,254 | +5,630 | +5,694 |

STRATEGIC DEFENSIVE COMPARISONS

American forces, people, and production base are naked to nuclear attack. A "vulnerability gap" of disputed proportions grows, because Soviet leaders stress defense, while U.S. leaders do not. End results eventually could erode our deterrent.[29]

*Active defense*

Statistical summaries of U.S. and Soviet active defenses are so nearly self-explanatory that a few words suffice. (See Graph 5 and Figures 10–11 at the end of this section).

Anti-Ballistic Missile Defense—

Ballistic missiles on both sides are essentially unopposed, because neither country has ever erected an extensive ABM shield. The Soviet Galosh system, which comprises 64 launchers in four sites around Moscow, could be easily saturated. A single U.S. Safeguard installation opened operations with 100 missiles in an ICBM field near Grand Forks, North Dakota in October 1975, but shut down one month later.[30]

Scientists on both sides still pursue credible ABM capabilities within confines imposed by the SALT I Treaty and subsequent Protocol. Those documents restrict development and deployments, but not basic research.[31] The stakes are high, because a breakthrough by either side could suddenly shift the strategic balance. There is no consensus in the U.S. intelligence community concerning Soviet progress in that regard, but their purpose appears unswerving.[32] Certainly, there is no conviction comparable to that in some influential U.S. circles, which believe defense degrades deterrence by making nuclear conflict seem a sensible choice, and true "victory" seem attainable.[33]

Air Defense—

Cutbacks in U.S. interceptor aircraft, begun in the 1960s, accelerated sharply after ABM was excised, on the supposition that "a major anti-bomber defense of CONUS [the Continental United States] without a comparable anti-missile defense . . . would not be a sound use of resources." [34] Surface-to-air missile (SAM) batteries, which once defended U.S. cities, have all but disappeared.[35] Point defenses are not presently possible.

To compensate, our Air Defense Command (ADCOM) now is compelled to supplement dedicated interceptors with F–4 fighters from the general purpose pool. Even so, the attrition of aging F–106s, still our first line of defense, will make it impossible to maintain even the present minimum number of alert sites in the late 1970s, unless F–4s join the Air National Guard as planned.[36]

Consequently, U.S. air defenders find it difficult to meet requirements of a watered down mission, which merely demands capabilities sufficient for "limited day-to-day control of U.S. airspace in peacetime," warning of possible bomber attacks, and enough surge strength to "deny any intruder a free ride." [37]

The Soviet Union, in stark contrast, has amassed the world's most impressive array of air defenses, which currently includes 2,700 interceptor aircraft and 12,000 SAMs. Numerical strengths are slightly smaller than they were in 1970, but sheer mass serves a useful purpose, even though half the inventory consists of items outmoded according to U.S. standards.

U.S. bombers fighting their way to targets therefore would face serious competition that cuts penetration prospects considerably.

*Passive defense*

Defense for Delivery Systems—

Pre-launch survival of U.S. nuclear delivery systems is predicated completely on passive defense. Fixed-site ICBMs, required to ride out any enemy first strike before retaliating, rely on hard silos to reduce initial attrition. Our bombers and SLBMs depend on mobility and dispersion.

Soviet passive protective measures are comparable, but security for land-based components in that country is enhanced considerably, because active defenses assist and U.S. second-strike concepts create a small threat.

Civil Defense—

Civil defense (CD) has received scant attention in the United States since the Cuban missile crisis.[38] Soviet stress on city evacuation and shelter programs reputedly is quite strong. Comprehensive programs provide incomplete but significant protection for the production base, as well as selected members of the population.[39]

Consequent asymmetries in U.S. and Soviet susceptibilities to nuclear attack cause increasing controversy.

Cassandras at one end of the spectrum contend that emerging Soviet abilities, abetted by detailed plans, psychological conditioning, and physical preparations, already degrade U.S. deterrence and place this country in peril.[40]

Princeton's Nobel Prize-winning nuclear physicist, Dr. Eugene P. Wigner, and Joanne S. Gallar, a Soviet civil defense specialist with Oak Ridge National Laboratory, speculate that crisis relocation procedures would limit Soviet fatalities to four or five percent during a general war, under worst-case conditions.[41] Official estimates indicate that almost half the American people would die under similar circumstances. Another 35 million would demand medical attention.[42] If those casualty ratios are reasonably correct, Wigner would be right in claiming "Assured Destruction has become a myth." [43]

Skeptics, whose ranks reportedly include the present Secretary of Defense,[44] draw less drastic conclusions.

Most concede that the Kremlin stresses city defense, but doubt that U.S. deterrence is in danger. Followers of one faction, for example, see the so-called civil defense gap as a spurious issue, because they believe that nuclear blasts can break through the best protection.[45] Others, whose opinions are widely shared, suspect that Soviet CD capabilities, while significant, are overstated.[46] U.S. over-reaction, they contend, could be just as ruinous as complacency.

Which claims are correct is still not clear.

The U.S. intelligence community accorded such a low priority to Soviet civil defense for so many years that crash efforts to estimate current effectiveness are inconclusive.[47] Classified studies, as well as open assessments, thus lack sufficient hard data and depth to support solid conclusions concerning Soviet strengths and weaknesses.

All the same, Cassandras and skeptics seem to agree that Soviet CD capabilities would considerably exceed our own if the Wigner-Gallar calculations were overstated by several hundred percent and U.S. casualty statistics were off by, say, half.

*The upshot*

Active and passive defenses in combination are beginning to create a survivability imbalance that favors the Soviet Union.

Assertions that the Soviets soon could survive a general war appear premature, but long-term consequences could be severe if the trend proceeds too far, particularly if accompanied by surprise Soviet breakthroughs in ASW or ABM (which presently seem possible, but not soon probable). Any amalgam that allowed the Soviets to evade Assured Destruction while America still could not would discredit this country's deterrent strategy based on mutual dangers.[48]

Strategic defense thus seems to merit close and continuous attention by individuals and agencies responsible for U.S. national security.

FOOTNOTES

[1] A sizable number of Air Force and Navy tactical aircraft, routinely earmarked for strategic nuclear missions, reinforce the U.S. triad. Four new families of nuclear weapons are now under development: air- and sea-launched cruise missiles (ALCMs, SLCMs), air-launched ballistic missiles (ALBMs), and land-mobile ICBMs.

This study uses the term strategic offensive and strategic retaliatory interchangeably, although U.S forces are for retaliatory purposes only, according to pronounced policy.

[2] For basic characteristics and implications of delivery systems by functional class, including those now in R&D stages (such as mobile CBM's), see Collins, John M., Strategic Nuclear Delivery Systems: How Many? What Combinations?, Washington, Congressional Research Service, October 7, 1974, p. 1–84. Future trends are addressed in Tinajero, A.A., Projected Strategic Offensive Weapons Inventories of the U.S. and U.S.S.R.: An Unclassified Estimate, Washington, Congressional Research Service, March 24, 1977. 180 p.

[3] Multiple reentry vehicles (MRVs) on any ballistic missile are similar to the pellets in a shotgun shell. They saturate a single target. Multiple independently targetable reentry vehicles (MIRVs) also are carried by a single missile, but engage several separate targets.

[4] Yields expressed in kilotons or megatons and accuracies expressed in circular errors probable (CEPs) are subject to considerable speculation. Unclassified documents universally agree on estimates for some U.S. and Soviet systems, but disagree on others. Thomas A. Brown cites three sources (Robert A. Leggett, Kosta Tsipis, and Edward Luttwak) in Missile Accuracy and Strategic Lethality, Survival, March/April 1976, p. 52–59. See also Downey, Thomas J., How to Avoid Monad—and Disaster, Foreign Policy, Fall, 1976, pp. 172–201.

[5] Ibid., pp. 54–55. Warhead lethality, derived from accuracy and yield, is expressed as K. More than 30 K reputedly is required to destroy a silo hardened to resist overpressures of 330 pounds per square inch (psi). About 50 K could crack one hardened to 500 psi. A 1,000 psi silo could survive a shock of almost 80 K. Titan II's largest warhead is rated at less than 20 K. Each MIRV on Minuteman III exerts about 8K. Several such weapons would be needed to neutralize the weakest Soviet silo.

[6] A unilateral U.S. statement associated with the 1972 SALT I interim agreement on the limitation of selected strategic offensive systems identified "heavy" ICBMs as those having "a volume significantly greater than that of the largest light ICBM", which then was the SS–11. Since no different definition has been formally adopted, this study considers SS–19s to be "heavies". They exceed SS–11s by about 60 percent in volume and 350 percent in payload capacity, which enables them to handle half a dozen MIRVs rated at roughly 200 KT each.

[7] Lethality (K) is directly proportional to yield and inversely proportional to CEP. Thus, increasing any weapon yield by a factor of eight produces just four times more lethal power. Reducing the same weapon's CEP by a factor of eight multiplies K 64

times. Improving accuracy *and* yield by factors of eight increases K 256 times.

[8] Schlesinger, James R., Report on the FY 1975 Defense Budget, p. 46.

[9] Solution to Counterforce: Land-Based Missile Disarmament, Public Interest Report, Federation of American Scientists, February, 1974, p. 1.

[10] The simulatenous explosion of two or more nuclear weapons over any target is almost impossible to plan. "Fratricide" occurs when blast, heat, or radiation from the first detonation destroys or deflects other warheads in the salvo. If successive shots delay until adverse conditions dissipate, slightly damaged silos can launch missiles through the resultant "window." McGinchley, Joseph J. and Seelig, Jakob W., Why ICBMs Can survive a Nuclear Attack, Air Force Magazine, September, 1974, p. 82–85.

[11] U.S. National Command Authorities are limited to the President, the Secretary of Defense, and their duly deputized alternates or successors.

[12] General David C. Jones, current Air Force Chief of Staff, contends that "it will be a long time before [the Soviets] could disarm the Minuteman force with any great assurance." His Director of Plans amplified that statement. "Any reasonably cautious Soviet planner or policy-maker contemplating a nuclear strike on the Minuteman force (which—if it failed—could result in the destruction of the power base of the Communist Party of the Soviet Union) would entertain the following sorts of doubts. . . . Would the Soviet missiles work with the reliability estimated from limited peacetime tests? Would there be previously undetected bias errors which degrade accuracy? Would the U.S. silos be 'harder' than anticipated? Would the surviving U.S. ICBMs in silos still possess sufficient destructive power to pose a significant threat to the Soviets because of their multiple warheads?" From letters to the author written by Major General Richard L. Lawson on August 17 and 21, 1976.

[13] Soviet ships, not counting coasters, carry more than 350 SS–N–3/SS–N–12 cruise missiles (SLCMs) that can be armed with nuclear warheads. Surface ships carry 56, submarines the remainder. Their effective range of 150–250 nautical miles makes them a potential threat to U.S. targets close to ocean shores, but their main mission seems to antishipping.

[14] The last three Polaris A–3 submarines being converted to Poseidon are still in shipyards. Those boats, with a total of 48 missile tubes aboard, count as Polaris A–3 in this study, no matter what their state of completion on December 31, 1976.

[15] In the past, U.S. ballistic missile submarines averaged 60 days on patrol and 30 days in port. Transit times to launch stations and return still take 2–10 days. depending on base locations. Improved boats, better maintenance procedures, and longer range missiles will enable each Polaris/Poseidon boat to stay on station for longer periods, but a sizable percentage must always be in port for repair and crew rest. The same will be true for Trident.

[16] Brown, George S., United States Military Posture for FY 1976, Washington, The Joint Chiefs of Staff, 1976, p. 23–24.

[17] Soviet SS–N–X18s are being tested in a MIRV mode with about three warheads. Their estimated range is 4,600 miles. The SS–N–X17, with a range of roughly 2,000 miles, has not yet been tested with MIRVs, but may have such a capability. Rumsfeld, Donald H., News Conference at the Pentagon, September 27, 1976, p. 4. See also Russians Test New Submarine Missile, Chicago Tribune, November 24, 1976, p. 2.

[18] Related problems were reviewed earlier in the sub-section on ICBMs, including Notes 5 and 7.

[19] Statistics in this section refer only to unit equipment (UE) aircraft. Those in storage, being cannibalized, or used for training purposes do not count. Significant numbers of U.S. land- and carrier-based tactical aircraft that act as strategic nuclear auxilliaries are also excluded. Soviet forces have no counterparts.

[20] About 75 B–52Ds, delivered to SAC in 1957, still were assigned in December, 1976, according to Air Force staff officers. The last B–52H models entered service in 1962.

[21] Covault, Craig, B–52 Training Stresses Timing, Realism, Aviation Week and Space Technology, May 10, 1976, p. 127.

[22] Annual Air Force Almanac Issue, Air Force Magazine, May, 1976, p. 123.

[23] Ibid., p. 112.

[24] U.S. Congress. House. Hearings by the Research and Development Subcommittee of the Armed Services Committee on FY 1977 Authorization. Part 5. Washington, U.S. Govt. Print. Off., 1976, p. 239.

[25] Second Annual Soviet Aerospace Almanac, Air Force Magazine, March, 1976, p. 94–95, 105.

[26] Ibid., p. 95–96, 105. See also Tinajero, A. A., The Soviet Backfire Bomber, Washington, Congressional Research Service, November 24, 1975. 3 p.

Backfire's capabilities and limitations still cause controversies that will not likely be soon resolved. (See Part I for one example.)

[27] ICBMs presently carry 70 percent of all Soviet warheads. That share could increase to 90 percent or more if SS–19 deployments are large and SS–18s mount maximum MIRVs. By way of contrast, U.S. ICBMs carry fewer than a fourth of our strategic nuclear weapons.

[28] Soviet SLBMs, with flight times of 6 to 10 minutes if fired close to U.S. coasts, might catch some of SAC's aircraft on strip alert, but still lack sufficient accuracy/yield combinations to crush concrete silos. Soviet ICBMs, which take about 30 minutes to reach targets, pose greater threats to American land-based missiles, but would allow authorities ample time to launch bombers. Scheduling problems of that sort are close to insoluble.

[29] Relationships between deterrence and deterrence and defense, in principle and practice, are described in U.S. Congress. Senate Document 94–268, United States and Soviet City Defense: Considerations for Congress, a study prepared by the Congressional Research Service, Washington, U.S. Govt. Print. Off., 1976, p. 3–26.

[30] Rumsfeld, Donald S., Annual Defense Department Report for FY 1977, p. 70, 91.

[31] In accord with the 1972 SALT I ABM Treaty, the United States and Soviet Union renounced rights to erect area defenses of respective homelands, and agreed that point defenses should comprise no more than two complexes of 100 ABM launchers and missiles each, sited to cover an ICBM field and the capital city. A Protocol signed in 1974 reduced that authorization to one complex in each country. For verbatim texts, see United States and Soviet City Defense, p. 66–71.

[32] Personal conversation between the author and DIA officials on April 22, 1976.

[33] Erickson, John, Soviet Military Power, Report No. 73–1, Washington, United States Strategic Institute, 1973, p. 42, 45, 47, 49; Wolfe, Thomas W., Soviet Power and Europe, 1945–1970, Baltimore, The Johns Hopkins Press, 1970, p. 186, 439–440.

[34] Rumsfeld, Donald H., Annual Defense Department Report for FY 1977, p. 88.

[35] Four Nike-Hercules and eight Hawk batteries in Florida currently are under operational command of ADCOM, but are available for overseas deployment. Three additional Nike-Hercules batteries are positioned in Alaska.

[36] Rumsfeld, Donald H., Annual Defense Department Report for FY 1977, p. 70; J–5 comments on the draft of this study, March 4, 1977.

[37] Ibid.

[38] United States and Soviet City Defense, p. 88–91 contains a concise summary.

[39] Ibid., p. 15–17.

Representative Soviet writings on the subject include Yegorov, P.T., Shiyakhov, I.A., and Albin, N.I., Civil Defense: A Soviet View. Translated and Ed. by Oak Ridge National Laboratory. Published under auspices of the U.S. Air Force, Washington, U.S. Govt. Print. Off., no date. 374 p; and Titov, N.M., Legorov, P.T., Gayko, B.A., and others, Civil Defense. Translated and ed. by G.A. Cristy, Oak Ridge National Laboratory, (Document ORNL–TR—2845), July, 1975 118 p.

Unclassified U.S. studies include Gouré, Leon, War Survival in Soviet Strategy, Center for Advanced International University of Miami, 1976, 218 p.; Industrial Survival and Recovery After Nuclear Attack: A Report to the Joint Committee on Defense Production, U.S. Congress. Seattle, The Boeing Aerospace Company, November 18, 1976, 81 p.; and U.S. Congress. House. Civil Defense Review, Hearings by the Civil Defense Panel of the Subcommittee on Investigations of the Committee on Armed Services. 94th Congress, 2d Session. Washington, U.S. Govt. Print. Off., 1976, 428 p.

[40] Conrad V. Chester, Leon Gouré, T.K. Jones, Paul H. Nitze, and Harriet Fast Scott are among authoritative students of Soviet civil defense. All generally concur (as Jones put it before the Joint Committee on Defense Production in November, 1976) that "Soviet preparations substantially undermine the concept of deterrence that forms the cornerstone of U.S. security."

[41] Gallar, Joanne S. and Wigner, Eugene P., Civil Defense in the Soviet Union, Foresight, May–June, 1974, p. 10; see also Wigner's original estimate in The Myth of Assured Destruction, Survive: An American Journal of Civil Defense, July-August, 1970, p. 2–4.

[42] U.S. Congress. Senate. Analyses of Effects of Limited Nuclear Warfare. Committee Print. Prepared for the Subcommittee on Arms Control of the Committee on Foreign Relations, Washington, U.S. Govt. Print. Off., 1975, p. 112, 119; Post Nuclear Attack Study (PONAST) II briefing prepared by Studies Analysis and Gaming Agency, Joint Chiefs of Staff, May 23, 1973.

[43] Wigner, Eugene P., The Myth of Assured Destruction, p. 4.

[44] Gillette, Robert, Incoming Defense Chief Skeptical of Soviet Civil Shelter Reports, Los Angeles Times, December 27, 1976, p. 15.

[45] La Rocque, Gene R., Danse Macabre in a Divided Ballroom, New York Times, Oc-

tober 14, 1976, p. 37; see also The New Nuclear Strategy: Battle of the Dead? Defense Monitor, Washington, Center for Defense Information, July, 1976, 8 p.

[46] Aspin, Les, Soviet Civil Defense: Myth and Reality, Arms Control Today, September, 1976, p. 1–4.

[47] Bradsher, Henry S., Civil Defense Plans Compared, Washington, Star, November 9, 1976, p. 2.

[48] A case could be built for more and bigger U.S. ballistic missile, more MIRVs, and MaRV if the Soviets deployed a credible ABM system and/or secured major elements of the population and production base in hard shelters. Deterrence would be well served, because U.S. weapons that survived a first strike would be numerous enough and possess sufficient lethal power to saturate defenses and ensure Assured Destruction.

FIG. 10.—STRATEGIC DEFENSIVE MISSILE SYSTEMS—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| **ABM LAUNCHERS** | | | | | | | |
| United States | 0 | 0 | 0 | 0 | 0 | 100 | 0 |
| Soviet Union | 64 | 64 | 64 | 64 | 64 | 64 | 64 |
| U.S. standing | −64 | −64 | −64 | −64 | −64 | +36 | −64 |
| **SAM LAUNCHERS[1]** | | | | | | | |
| United States: | | | | | | | |
| Active: | | | | | | | |
| Hawk: | | | | | | | |
| Launchers | (288) | (288) | (288) | (288) | (288) | (288) | (288) |
| 3 arms each | 864 | 864 | 864 | 864 | 864 | 864 | 864 |
| Nike Hercules | 792 | 504 | 504 | 504 | 126 | 126 | 126 |
| Bomarc | 196 | 196 | 84 | 0 | 0 | 0 | 0 |
| Total | 1,852 | 1,564 | 1,452 | 1,368 | 990 | 990 | 990 |
| National Guard: Nike Hercules | 684 | 486 | 486 | 486 | 0 | 0 | 0 |
| Grand total | 2,536 | 2,050 | 1,938 | 1,854 | 990 | 990 | 990 |
| Soviet Union: | | | | | | | |
| SA–1 | 3,200 | 3,200 | 3,200 | 3,200 | 3,200 | 3,200 | 3,200 |
| SA–2 | 4,600 | 4,500 | 4,300 | 4,100 | 3,700 | 3,500 | 3,400 |
| SA–3 | | | | | | | |
| Launchers | (900) | (1,000) | (1,100) | (1,100) | (1,150) | (1,200) | (1,300) |
| Rails | 1,800 | 2,000 | 2,200 | 2,600 | 3,100 | 3,500 | 3,700 |
| SA–5 | 1,100 | 1,200 | 1,300 | 1,400 | 1,500 | 1,600 | 1,800 |
| Total | 10,700 | 10,900 | 11,000 | 11,300 | 11,500 | 11,800 | 12,100 |
| U.S. standing | −8,164 | −8,8580 | −9,062 | −9,446 | −10,510 | −10,810 | −11,110 |

| | System characteristics | | | | | |
|---|---|---|---|---|---|---|
| | First deployed | Number of rails, arms | Type warhead | Slant range (miles) | Combat ceiling (feet) | Launch site |
| United States: | | | | | | |
| Hawk | 1960 | 3 | HE | 25 | Lo–Med | Mobile. |
| Nike Hercules | 1958 | 1 | HE, Nuke | 100 | 100,000 | Fixed. |
| Bomarc | 1958 | 1 | HE, Nuke | 200–400 | 70,000 | Fixed. |
| Soviet Union: | | | | | | |
| ABM: Galosh | 1964 | 1 | Nuke | 200 | | Fixed. |
| SAM: | | | | | | |
| SA–1 | 1956 | 1 | HE | | | Fixed. |
| SA–2 | 1958 | 1 | HE | 25 | Med—80,000 | Fixed. |
| SA–3 | | 2, 4 | HE | 18 | Lo—40,000 | Mobile. |
| SA–5 | 1963 | 1 | HE | 50–150 | 95,000 | Fixed. |

[1] All Hawk launchers have 3 arms. SA–3's originally had 2 rails, but some were deployed with 4 rails, beginning in 1973. Each arm/rail holds 1 missile.

54 Nike-Hercules launchers now are in Alaska. All other U.S. SAM's are in Florida, on call, but out of position to deal with surprise attacks.

Notes: An improved version of SA–3, first displayed in 1967, may have a nuclear warhead. A 4-rail version of SA–3 began replacing the standard 2-rail system beginning in 1973.

SA–4 and SA–6 through SA–9 all are tactical missiles associated with battlefield air defense. So are many Hawk and Nike-Hercules. Those weapons are excluded from this summary, although some Soviet launchers could contribute to strategic defense if properly positioned at appropriate times. So could air defense artillery.

FIG. 11—STRATEGIC DEFENSIVE INTERCEPTORS: STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| United States: | | | | | | | |
| Active: | | | | | | | |
| F–106 | 207 | 199 | 162 | 126 | 120 | 115 | 114 |
| F–102 | 58 | 14 | 16 | 5 | 0 | 0 | 0 |
| F–101 | 56 | 1 | 4 | 3 | 0 | 0 | 0 |
| Total | 321 | 214 | 182 | 134 | 120 | 115 | 114 |
| National Guard: | | | | | | | |
| F–106 | 0 | 0 | 33 | 67 | 68 | 90 | 90 |
| F–102 | 255 | 192 | 157 | 172 | 167 | 44 | 19 |
| F–101 | 45 | 110 | 102 | 107 | 117 | 122 | 134 |
| Total | 300 | 302 | 292 | 346 | 352 | 256 | 243 |
| Grand total | 621 | 516 | 474 | 480 | 472 | 371 | 357 |
| Soviet Union: | | | | | | | |
| MIG–17 | 1,000 | 800 | 650 | 400 | 200 | 150 | 100 |
| MIG–19 | 350 | 350 | 350 | 300 | 200 | 200 | 150 |
| MIG–23 | 0 | 0 | 0 | 0 | 0 | 0 | 100 |
| MIG–25 | 0 | 50 | 100 | 150 | 200 | 200 | 300 |
| SU–9 | 750 | 750 | 750 | 750 | 750 | 700 | 650 |
| SU–15 | 400 | 550 | 550 | 600 | 650 | 850 | 860 |
| TU–28 | 150 | 150 | 150 | 150 | 150 | 150 | 150 |
| YAK–25 | 200 | 100 | 50 | 0 | 0 | 0 | 0 |
| YAK–28 | 350 | 350 | 350 | 350 | 350 | 350 | 350 |
| Total | 3,200 | 3,100 | 2,950 | 2,700 | 2,500 | 2,600 | 2,700 |
| United States standing | −2,579 | −2,584 | −2,476 | −2,220 | −2,028 | −2,229 | −2,343 |

| | Aircraft characteristics | | | | | |
|---|---|---|---|---|---|---|
| | First deployed | Nr jet engines | Combat radius [1] (miles) | Max speed (Mach) | Typical armament | |
| | | | | | Guns | Missiles |
| United States: | | | | | | |
| F–106 | 1959 | 1 | 600 | 2.0 | 0 | 4 AIM–4F/G, 1 AIR–2. |
| F–102 | 1959 | 1 | 450 | 1.5 | 0 | 3 AIM–4C/D, 1 AIM–26. |
| F–101 | 1958 | 2 | 400 | 1.8 | 0 | 2 AIM–4D, 2 AIR–2. |
| Soviet Union: | | | | | | |
| MIG–17 | 1953 | 1 | 360 | Subsonic | 0 | 4 Alkali. |
| MIG–19 | 1955 | 2 | 425 | 1.0 | 3X30mm | 4 Alkali. |
| MIG–23 | 1972 | 1 | 550 | 2.5 | Gatling | or 4 missiles. |
| MIG–25 | 1965 | 2 | 700 | 3.2 | 0 | 4 Acrid. |
| SU–9 | 1959 | 1 | 685 | 2.2 | 0 | 4 Alkali. |
| SU–15 | 1967 | 2 | 450 | 2.5 | 0 | 2 Anab. |
| TU–28 | 1966 | 2 | ---------- | 1.7 | 0 | 4 Ash. |
| YAK–25 | 1953 | 1 | ---------- | Subsonic | 2X37mm | 2 missiles. |
| YAK–28 | 1961 | 2 | 575 | 1.1 | 0 | 2 Anab. |

| | Air-to-air missile/rocket characteristics | | | | | |
|---|---|---|---|---|---|---|
| | First deployed | Guidance | Range (miles) | Speed (Mach) | Warhead | |
| | | | | | Type | Yield |
| United States: | | | | | | |
| Rockets: | | | | | | |
| AIR–2 | 1957 | None | 6 | 3.0 | Nuclear | 1.5 KT. |
| Missiles: | | | | | | |
| AIM–4C, D | 1956 | Infrared | 6 | 2.0 | HE | |
| AIM–4F, G | 1960 | Radar | 7 | 2.5 | HE | 40 lb. |
| AIM–26A | 1960 | Radar | 5 | 2.0 | Nuclear | |
| AIM–26B | 1963 | Radar | 5 | 2.0 | HE | |
| Soviet Union: | | | | | | |
| Acrid | 1975 | Radar, IR | 23 | 2.2 | HE | |
| Alkali | | Radar | 3.7–5 | 1–2 | HE | |
| Anab | 1961 | Radar, IR | 5–6.2 | ---------- | HE | |
| Ash | | Radar, IR | 18 | ---------- | HE | |

[1] Combat radius is with external fuel tanks.

Note: MIG–23 and MIG–25 are the only interceptor aircraft presently being produced for Soviet air defense squadrons. 3 squadrons of Canadian F–101's, which total about 44 aircraft, are assigned to North American Air Defense Command (NORAD). They complement U.S. capabilities by covering northern approaches to the United States, which strengthens defense-in-depth. 36 United States F–4's are dedicated to strategic air defense, but none are in CONUS; 24 are in Alaska 12 in Iceland. Figures above reflect Unit Equipment (UE) aircraft only.

## Part IV. General Purpose Forces

### Important U.S. Missions

The most important single mission of U.S. general purpose forces is to help NATO allies deter, and if need be defeat, Soviet armed aggression in Europe. Our Army and tactical air power are tailored primarily to meet that threat. Marine and Navy needs are more global in nature, but preserving open sea lanes for NATO takes a high priority.

Simultaneously, without undercutting deterrent capabilities in Europe, America's armed forces should be sufficient to discourage Soviet aggression elsewhere, if it endangers U.S. security; deal with such ventures if they do develop; and cope with selected contingencies caused by other countries, when U.S. decision-makers deem armed forces advisable. Robbing Peter to pay Paul, as we did during the Vietnam and Yom Kippur Wars, intensifies risks in Western Europe, where we can ill afford it.

Coverage herein consequently assesses total U.S. and Soviet general purpose forces, service by service, with the focus on flexibility. Regional interactions are reviewed in Part VI, which includes NATO and Warsaw Pact partners.

### Ground Forces

Preponderant ground combat power on both sides is invested in armies. Marines and naval infantry provide supplemental strength, but are considered separately in this section, because their main missions and methods of operation are special.

#### *Armies*

A mammoth conscript army is the traditional source of Soviet general purpose strength. Other services are subsidiary, despite the emergence of a modern air force and navy. The much smaller U.S. Army currently consists of volunteers. Quantitative gaps that favor the Soviet Union are great in nearly every category.

Comparative Manpower.—Armies everywhere are still manpower intensive, even in this mechanized age. Active deployable personnel strength displayed in Figure 12 thus are very significant.[1]

U.S. Army rolls, drastically reduced by retrenchment after the Vietnam War, bottomed out at 420,000 in 1972, then began to recover by swapping overhead for sinew within a constant ceiling.[2] Still, Soviet increases during this decade cause the net U.S. loss to total almost half a million men. Soviet personnel, less command/support, now outnumber our own by more than three-to-one (1,725,000 to 505,000).

Comparative Firepower.—Firepower statistics in Figure 13 speak for themselves. Soviet quantitative superiority stands in stark relief. Qualities are competitive with (sometimes superior to) U.S. counterparts. A new main battle tank, a fine armored fighting vehicle (the BMP), a family of field army air defense weapons, and several artillery pieces, two self-propelled, are being deployed at rather rapid rates. Our Army's much-discussed main battle tank, mechanized infantry combat vehicle (MICV), and Patriot air defense system are still in gestation.

The prognosis, however, is incomplete, despite Soviet progress. U.S. precision-guided munitions and mobile anti-tank missiles are causing disputes in the U.S.S.R., where some writers contend that such technologies threaten certain aspects of Soviet armored doctrine.[3] Talk continues, but tactical changes thus far have been slight.

Major Maneuver Units.—Any army's cutting edge comprises maneuver units, of which divisions most affect the U.S./Soviet military balance. (See Figure 14.)

Ready Divisions.—The U.S. Army never exceeded 16 active divisions since 1970. A maximum of about 19 might be attained if All-Volunteer Force recruiting standards were relaxed or incentives raised.[4]

Four Army divisions lack one regular brigade. Others lack one or more active maneuver battalions. Division readiness is unavoidably reduced, even though reserve components "roundouts" receive priority treatment and train part time with parent units.[5]

A fourth of our active divisions are stationed in western Europe as part of NATO's on-site deterrent. Three in CONUS are earmarked to reinforce that force in emergency.[6] One is in Korea. Perhaps six in the United States should serve as a rotation base for troops returning from overseas.[7] Thus, only two divisions (one in CONUS, one in Hawaii) are free for contingency purposes without spreading the force very thin or federalizing parts of the National Guard.[8]

In contrast, 55 Soviet Category I divisions are kept at 75–100 percent of top personnel strength, with complete equipment. Another 49 in Category II maintain average manning levels of about 60 percent. All officers, noncommissioned officers (NCOs), and key specialists are on tap to train as teams. Material shortages are minor. Experienced fillers thus can bring 104 divisions close to full strength very quickly.[9]

Capabilities in the recent past have been buttressed considerably by beefing up manpower and firepower. Each tank division has 1,000 more men than in 1970, mainly mechanized infantry. Motor rifle divisions each have been bolstered by 2,000 troops and 67 tanks. Both types are buttressed with additional artillery, some of it self-propelled. Personnel strengths stay small compared with U.S. counterparts, but striking power is potent.[10]

Nevertheless, the reservoir of Soviet ready divisions is reduced by restrictions much like our own.

Twenty-five Category I divisions abut the Czech and East German borders. Maybe 46 more, including Cat II, are sited in Hungary, Poland, and European Russia as Warsaw Pact reinforcements. Another mix of 20 or more man the Chinese frontier.[11] Some guards divisions around major cities, like Moscow and Leningrad, never move far from home stations. Perceived requirements, of course,

Footnotes at end of article.

could change, but fewer than 12 out of 104 ready divisions are currently uncommitted.

First-Line Reserves.—Since most U.S. and Soviet ready divisions are tied to continuing tasks, first-line reserves fulfill a crucial function.[12]

Eight Army National Guard (ARNG) divisions comprise the U.S. complement.[13] That number has stayed constant since 1968. Fifteen separate brigades and three armored cavalry regiments not affiliated with active division roundout or augmentation programs complete the list of major maneuver units in the U.S. reserve.

ARNG infantry divisions, as a general rule, would require 10 weeks of intensive preparation *before* being fully ready to fight, although deployment might take place a month earlier in emergency. Post-mobilization training for armored and mechanized divisions would take almost four months, if tank gunners and signal troops in particular were allowed time to attain proficiency. Minimum combat standards could be achieved in nine or ten weeks.[14] Any National Guard division, however, could replace Regular Army forces in CONUS soon after entering federal service.

Nothing in the Soviet inventory is really comparable to our National Guard.

Twenty-some-odd so-called "mobilization divisions", not carried on active order of battle lists, could fill in 30 days, but manning levels now are minimal (200–300 men), stocks are in dead storage; and training would take several months.[15]

Sixty-five Category III divisions come closer to corresponding with U.S. reserve components, although all have substantial active elements. The best are at about one-third strength. The poorest are simply cadres, that total 10 percent. Combat equipment is almost complete, if elderly items count. Severe transport shortages would be solved in crises by taking trucks from the civil economy.[16]

Most such divisions, being stationed in densely populated regions with many reservists, could fill in about three days. Delays would be longer for those that rely on distant replacements. Redeployment to relieve Category I and II divisions in static sectors could commence as soon as units were up to strength, but considerable cramming would be required to create cohesive divisions.[17] Total elapsed times would be directly proportionate to training standards and percentages on active duty.

The Soviet aggregate, eight times larger than our National Guard, allows the Kremlin latitude not available to U.S. leaders. Perhaps 20–25 Cat III divisions stand guard along the Sino-Soviet frontier,[18] a few more in the far south. The remaining 40–45 are first-line reserves.

*Marines and naval infantry*

The main mission of U.S. Marines is to seize and secure hostile coasts by amphibious assault, but the Corps is capable of sustained operations ashore, independently or in concert with our Army, if assisted logistically.[19]

Active ground force components comprise 70,000 men in three divisions that are backed by extensive combined arms combat and service support. (See Figures 12–14).

Three divisions are positioned to cope promptly with assorted global contingencies and, after assembly, could contribute significantly to U.S. deterrent/defense capabilities vis-a-vis the Soviet Union. If those forces were committed, the Marine's reserve division/wing team would provide the sustaining base.[20]

Soviet naval infantry, with a total strength of 12,000, compose five regiments of fewer than 2,000 men each. As currently constituted, with minimum fire support and not much staying power, they are suitable mainly for small-scale raids and conventional operations against second-class opponents.[21]

*Combined flexibility*

U.S. active ground combat power, pooled with that of allies, presently serves deterrent purposes in Northeast Asia and NATO Europe. Five divisions (two Army, three Marine) are free to contend concurrently with contingencies elsewhere, if the situation stays stable in those theaters. Additional "brush fires" adverse to American interests would burn beyond our control, unless we called up reserves. Such action, however, could dilute essential U.S. deterrent powers by reducing abilities to reinforce rapidly at either point of primary decision.

Soviet flexibility superficially seems more favorable. As matters now stand, Moscow has more than 50 divisions in strategic reserve, including 10 that are combat ready.

None, however, have recently been deployed beyond Soviet borders, except in satellite states, and abilities to sustain large-scale forces on far foreign shores are subject to serious question.[22] Proxies, including Cubans, take their place.

The likelihood thus seems low that Soviet divisions will be used for distant initiatives in the short-range future. Immense impediments inhibit employment in hot spots, such as the Middle East.[23] Huge Soviet reserves consequently bolster Warsaw Pact capabilities, as assessed in Part VI, but bear less on the global balance.

Footnotes at end of article.

FIG. 12.—GROUND FORCES, DEPLOYABLE MANPOWER

[In thousands]

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| United States: | | | | | | | |
| Army | 684 | 594 | 420 | 477 | 451 | 485 | 505 |
| Marines | 85 | 66 | 62 | 65 | 65 | 70 | 70 |
| Total | 769 | 660 | 482 | 542 | 516 | 555 | 575 |
| Soviet Union: | | | | | | | |
| Army | 1,450 | 1,510 | 1,570 | 1,650 | 1,700 | 1,720 | 1,725 |
| Naval infantry | 10 | 10 | 10 | 11 | 11 | 12 | 12 |
| Total | 1,460 | 1,520 | 1,580 | 1,661 | 1,711 | 1,732 | 1,737 |
| U.S. standing: | | | | | | | |
| Army | −766 | −916 | −1,150 | −1,173 | −1,249 | −1,235 | −1,220 |
| Marines/Naval infantry | +75 | +56 | +52 | +54 | +54 | +58 | +58 |
| Total | −691 | −860 | −1,098 | −1,119 | −1,195 | −1,177 | −1,162 |

Note: U.S. Army strengths include field commands and mission-oriented base operating support. Marine air wings are excluded. Soviet forces exclude command and general support forces.

FIG. 13.—GROUND FORCE FIREPOWER—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| ARMY | | | | | | | |
| Heavy and medium tanks: | | | | | | | |
| United States | 9,520 | 10,180 | 9,435 | 8,430 | 8,400 | 5,195 | 6,265 |
| Soviet Union | 38,000 | 39,000 | 39,500 | 40,500 | 42,000 | 42,000 | 42,000 |
| U.S. standing | −28,480 | −28,820 | −30,065 | −32,070 | −33,600 | −36,805 | −35,735 |
| Light tanks:[1] | | | | | | | |
| United States | 1,600 | 1,600 | 1,600 | 1,575 | 1,575 | 1,570 | 1,570 |
| Soviet Union | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 | 3,000 |
| U.S. standing | −1,340 | −1,400 | −1,400 | −1,425 | −1,425 | −1,430 | −1,430 |
| APC/AFV:[2] | | | | | | | |
| United States | 11,875 | 13,000 | 11,860 | 11,775 | 10,510 | 10,480 | 11,245 |
| Soviet Union | 30,000 | 30,000 | 30,000 | 35,000 | 35,000 | 38,000 | 38,000 |
| U.S. standing | −18,125 | −17,000 | −18,140 | −23,225 | −24,490 | −27,520 | −26,755 |

FIG. 13.—GROUND FORCE FIREPOWER—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS—Continued

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| Artillery: | | | | | | | |
| United States | 6,885 | 6,635 | 5,840 | 5,540 | 4,710 | 4,625 | 4,885 |
| Soviet Union | 16,000 | 16,500 | 17,000 | 18,500 | 18,500 | 19,000 | 19,000 |
| U.S. standing | −9,115 | −9,365 | −11,160 | −12,960 | −13,790 | −14,375 | −14,115 |
| Antitank guided missiles: | | | | | | | |
| United States | 2,710 | 12,080 | 21,840 | 33,235 | 45,015 | 63,235 | 72,555 |
| Soviet Union | 4,500 | 4,700 | 4,800 | 5,000 | 5,500 | 6,000 | 6,000 |
| U.S. standing | −1,790 | +7,380 | +17,040 | +28,235 | +39,515 | +57,235 | +66,555 |
| U.S. MARINES | | | | | | | |
| Medium tanks | 175 | 175 | 175 | 175 | 175 | 175 | 175 |
| LVTP's | 330 | 330 | 525 | 525 | 525 | 525 | 525 |
| Artillery | 250 | 250 | 250 | 250 | 270 | 270 | 270 |
| Antitank Missiles | 0 | 0 | ---------- | 0 | 0 | 0 | 70 |
| Soviet Naval Infantry: | | | | | | | |
| Light tanks | 140 | 140 | 175 | 175 | 175 | 200 | 200 |
| APC/AFV | 500 | 500 | 500 | 600 | 600 | 750 | 750 |
| Heavy mortars | 120 | 120 | 150 | 150 | 150 | 180 | 180 |
| Antitank missiles | 60 | 60 | 75 | 75 | 75 | 90 | 90 |
| Grand totals: | | | | | | | |
| Medium tanks: | | | | | | | |
| United States | 9,695 | 10,355 | 9,610 | 8,605 | 8,575 | 5,370 | 6,440 |
| U.S.S.R. | 38,000 | 39,000 | 39,500 | 40,500 | 42,000 | 42,000 | 42,000 |
| U.S. status | −28,305 | −28,645 | −29,890 | −31,895 | −33,425 | −36,630 | −35,560 |
| APC/AFV/LVTP's: | | | | | | | |
| United States | 12,205 | 13,300 | 12,330 | 12,245 | 10,890 | 10,950 | 11,715 |
| U.S.S.R. | 30,500 | 30,500 | 30,600 | 35,600 | 35,600 | 38,750 | 38,750 |
| U.S. status | −18,295 | −17,170 | −18,270 | −23,355 | −24,620 | −27,800 | −27,035 |
| Artillery: | | | | | | | |
| United States | 7,135 | 6,885 | 6,090 | 5,790 | 4,980 | 4,895 | 5,155 |
| U.S.S.R. | 16,000 | 16,500 | 17,000 | 18,500 | 18,500 | 19,000 | 19,000 |
| U.S. status | −8,865 | −9,615 | −10,910 | −12,710 | −13,520 | −14,105 | −13,845 |
| Antitank missiles: | | | | | | | |
| United States | 2,710 | 12,080 | 21,840 | 33,235 | 45,015 | 63,235 | 72,625 |
| U.S.S.R. | 4,560 | 4,760 | 4,875 | 5,075 | 5,575 | 6,090 | 6,090 |
| U.S. status | −1,850 | +7,320 | +16,965 | +28,160 | +39,440 | +57,145 | +66,535 |

U.S. system characteristics [3]

| | First deployed | Combat weight (tons) | Road speed (mph) | Range (miles) | Primary arm: Type | Primary arm: Effective range (meters) | Crew/ passengers | CBR protection |
|---|---|---|---|---|---|---|---|---|
| Armor: | | | | | | | | |
| Medium tanks: | | | | | | | | |
| M-48A3 | 1963 | 52 | 30 | 310 | 90 mm | 900 | 4 | No. |
| M-60A2 | 1971 | 57 | 30 | 280 | 152 mm | Classified | 4 | No. |
| M-60A1, A3 | 1961, 1976 | 53 | 30 | 310 | 105 mm | 4,400 | 4 | No. |
| Sheridan | 1966 | 17 | 43 | 375 | 152 mm | Classified | 4 | No. |
| APC/LVTP: | | | | | | | | |
| M-113 | 1962 | 12 | 40 | 300 | 50 cal. MG | 1,000 | 1/8 | No. |
| LVTP-7 | 1972 | 25 | 40 | 300 | 50 cal. MG | 1,000 | 3/25 | No. |

| | Type | Transport | Max effective range (meters) | Nuclear capable |
|---|---|---|---|---|
| Artillery: | | | | |
| 175 mm | Gun | SP | 32,800 | No. |
| 8-in M-110 | How | SP | 16,800 | Yes. |
| 155 mm M-109A1 | How | SP | 18,000 | Yes. |
| 155 mm M-114 | How | Towed | 14,600 | Yes. |
| 105 mm M-101 | How | SP | 11,500 | No. |
| 105 mm M-102 | How | Towed | 11,000 | No. |

| | Type | Caliber (inches) | Max effective range (meters) | Guidance | Weight (pounds) | Crew |
|---|---|---|---|---|---|---|
| Antitank guided missiles: | | | | | | |
| Dragon | Medium | 5.0 | 1,500 | Wire | 30.5 | 1 |
| TOW | Heavy | 5.8 | 3,000 | Wire | 228.0 | 4 |

Soviet system characteristics

| | 1st deployed | Combat weight (tons) | Road speed (mph) | Range aux tanks (miles) | Primary arm: Type | Primary arm: Effective range (meters) | Crew/ passengers | CBR protection |
|---|---|---|---|---|---|---|---|---|
| Armor: | | | | | | | | |
| Medium tanks: | | | | | | | | |
| T-72 | 1975 | 40 | 30 | ---------- | {122mm?, {115 mm? | 2,000+ / 1,500 | 3 | Yes. |
| T-62 | 1962 | 40 | 30 | 310 | 115 mm | 1,500 | 4 | Yes. |
| T-55 | 1961 | 40 | 30 | 375 | 100 mm | 1,000 | 4 | Yes. |
| Light tanks: PT-76 | 1952 | 14 | 28 | 260 | 76 mm | 1,000 | 3 | No. |

FIG. 13.—GROUND FORCE FIREPOWER—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS—Continued

| | Soviet system characteristics | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | Primary arm | | | |
| | 1st deployed | Combat weight (tons) | Road speed (mph) | Range aux tanks (miles) | Type | Effective range (meters) | Crew/ passengers | CB protection |
| APC/AFV: | | | | | | | | |
| BTR-152 | 1959 | 9 | 45 | 390 | None | | 19 | No. |
| BTR-50P | 1957 | 15 | 25 | 170 | None | | 22 | Yes. |
| BTR-60P | 1961 | 10 | 48 | 300 | None | | 16 | Yes. |
| BMP | 1967 | 14 | 40 | 240 | 73 mm | 1,000 | 11 | Yes. |
| | | | | | Sagger AT | 3,000 | | |

| Artillery: | Type | Transport | Max effective range (meters) | Nuclear capable |
|---|---|---|---|---|
| 203.2 mm | Gun/How | Towed | 27,000 | Yes. |
| 180 mm | Gun | Towed | 30,000 | ? |
| 152 mm | Gun/How | Towed | 17,000 | ?. |
| 152 mm | Gun | SP | 16,500 | ?. |
| 130 mm | Gun | Towed | 27,000 | No. |
| 122 mm | How | SP | 15,300 | No. |
| 122 mm | How/AT | Towed | 13–18,000 | No. |
| 100 mm | How/AT | Towed | 8,500 | No. |

| Antitank guided missiles: | Type | Caliber (inches) | Max effective range (meters) | Guidance | Weight (pounds) | Number rails |
|---|---|---|---|---|---|---|
| Sagger | Medium | 5.5 | 3,000 | Wire | 25 | 1 on BMP, 6 on BRMD. |
| Swatter | Heavy | | 2,500 | Radio | 45 | Always 4. |

[1] U.S. light tanks indicate Sheridan armored assault vehicles.
[2] Armored Personnel Carriers (APC) and Armored Fighting Vehicles (AFV) include wheeled and tracked vehicles.
[3] LVTP speed in water is 7.5 knots; endurance at sea 15 hours. Where several models of a system are deployed, this chart lists characteristics only of those versions which are most numerous.
Note: The United States has no counterparts for about 10,000 Soviet heavy mortars.

FIG. 14—GROUND FORCE MANEUVER UNITS: STATISTICAL TRENDS AND DIVISION CHARACTERISTICS

| | 1970 | | 1971 | | 1972 | | 1973 | | 1974 | | 1975 | | 1976 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ACTIVE/ARNG, USMCR | | | | | | | | | | | | | | |
| Divisions: | | | | | | | | | | | | | | |
| United States: | | | | | | | | | | | | | | |
| Armor | 4 | 2 | 3 | 2 | 3 | 2 | 3 | 2 | 3 | 2 | 4 | 2 | 4 | 2 |
| Mechanized | 4 | 1 | 4 | 1 | 4 | 1 | 4 | 1 | 4 | 1 | 4 | 1 | 5 | 1 |
| Infantry | 5 | 5 | 3 | 5 | 3 | 5 | 3 | 5 | 3 | 5 | 4 | 5 | 5 | 5 |
| Airmobile | 2 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 |
| Airborne | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 |
| Tricap | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Total | 16 | 8 | 13 | 8 | 13 | 8 | 13 | 8 | 13 | 8 | 14 | 8 | 16 | 8 |
| Marine | 3 | 1 | 3 | 1 | 3 | 1 | 3 | 1 | 3 | 1 | 3 | 1 | 3 | 1 |
| Grand total | 19 | 9 | 16 | 9 | 16 | 9 | 16 | 9 | 16 | 9 | 17 | 9 | 19 | 9 |
| CATEGORY I–II/CATEGORY III | | | | | | | | | | | | | | |
| Soviet Union: | | | | | | | | | | | | | | |
| Tank | 43 | 3 | 44 | 3 | 44 | 3 | 44 | 3 | 44 | 3 | 44 | 3 | 44 | 3 |
| Motor rifle | 51 | 53 | 53 | 53 | 55 | 55 | 55 | 59 | 53 | 61 | 53 | 61 | 53 | 61 |
| Airborne | 7 | 0 | 7 | 0 | 7 | 0 | 7 | 0 | 7 | 0 | 7 | 1 | 7 | 1 |
| Total | 101 | 56 | 104 | 56 | 106 | 58 | 106 | 62 | 104 | 64 | 104 | 65 | 104 | 65 |
| United States standing | −85 | −48 | −91 | −48 | −93 | −50 | −93 | −54 | −91 | −56 | −90 | −57 | −88 | −57 |
| Grand total: | | | | | | | | | | | | | | |
| United States | 28 | | 25 | | 25 | | 25 | | 25 | | 26 | | 28 | |
| U.S.S.R. | 157 | | 160 | | 164 | | 164 | | 168 | | 169 | | 169 | |
| United States standing | −129 | | −135 | | −139 | | −139 | | −143 | | −143 | | −145 | |
| Brigades: | | | | | | | | | | | | | | |
| United States: | | | | | | | | | | | | | | |
| ACTIVE/RESERVE COMPONENT | | | | | | | | | | | | | | |
| Brigades: | | | | | | | | | | | | | | |
| United States: | | | | | | | | | | | | | | |
| Division roundout | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 2 | 0 | 1 | 0 | 3 | 0 | 4 |
| Division augment | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 0 | 4 | 0 | 4 |
| Separate | 7 | 21 | 7 | 21 | 5 | 20 | 4 | 19 | 3 | 17 | 4 | 15 | 5 | 15 |
| Total | 7 | 21 | 7 | 21 | 5 | 21 | 4 | 21 | 3 | 22 | 4 | 22 | 5 | 23 |
| Grand total | 28 | | 28 | | 26 | | 25 | | 26 | | 25 | | 28 | |
| Soviet Union | 0 | | 0 | | 0 | | 0 | | 0 | | 0 | | 0 | |
| United States standing | +28 | | +28 | | +26 | | +25 | | +25 | | +26 | | +28 | |
| NATIONAL GUARD | | | | | | | | | | | | | | |
| Regiments: | | | | | | | | | | | | | | |
| United States: Armored Calvary | 5 | 4 | 4 | 4 | 3 | 4 | 3 | 4 | 3 | 4 | 3 | 3 | 3 | 3 |
| ACTIVE | | | | | | | | | | | | | | |
| Soviet Union: Naval Infantry | 5 | | 5 | | 5 | | 5 | | 5 | | 5 | | 5 | |

Footnotes at end of table.

| | Division characteristics | | | | | Maneuver battalions | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Personnel strength | Medium tanks | Armored carriers | Artillery pieces | Antitank missiles | I | T | M | Total |
| United States: | | | | | | | | | |
| Army: | | | | | | | | | |
| Armor | 16,500 | 324 | 450 | 66 | 376 | 0 | 6 | 5 | 11 |
| Mechanized | 15,875 | 270 | 490 | 66 | 422 | 0 | 4 | 6 | 10 |
| Infantry | 15,875 | 54 | 120 | 76 | 366 | 8 | 1 | 1 | 10 |
| Airborne | 15,150 | 0 | 0 | 54 | 417 | 9 | 1 | 0 | 10 |
| Airmobile | 17,950 | 0 | 0 | 54 | 372 | 9 | 0 | 0 | 9 |
| Marine | 19,830 | 70 | 187 LVTP's | 102 | 72 | 9 | 1 | 0 | 10 |
| Soviet Union: | | | | | | | | | |
| Tank | 9,500 | 325 | 150 | 80 | 105 | 0 | 10 | 3 | 13 |
| Moto Rifle | 12,000 | 255 | 375 | 110 | 135 | 0 | 6 | 9 | 15 |
| Airborne | 8,000 | 0 | 100 | 54 | 145 | 9 | 0 | 0 | 9 |

Note: U.S. Marine division depicted includes personnel and weapons attached from Force Troops. U.S. light antitank weapons (LAW's) and Soviet rocket-propelled grenades (RPG-7's) are excluded. Soviet antitank missiles include about 100 on BMP armored carriers in each type division. For maneuver battalions, I=infantry; T=tank; M=mechanized.

LAND-ORIENTED TACTICAL AIR POWER

Dissimilar strategies, geographic circumstances, and technologic competence have caused U.S. and Soviet tactical air combat power to develop along different lines that left our rival disadvantaged.

Assorted U.S. assets, positioned in allied countries or on aircraft carriers, possess global capabilities that can be supplemented swiftly with responsive reserves. Assigned missions span a wide spectrum.[24]

The Soviet side, dedicated to home defense in past decades, is still made up mainly of special-purpose aircraft designs merely modified since the 1950s and early 1960s. A modern force is emerging, but transition at current rates will continue into the mid-1980s.

*High-performance combat forces*

The degree to which tactical air forces help deter or defeat opponents ashore depends on abilities to attain air superiority over key contested areas, cut off enemy supplies/reinforcements, and furnish close support for ground forces. U.S. resources are structured to accomplish those tasks under a range of conditions. The Soviets are confined.

Land-Based Fighters and Medium Bombers—Forward-based fighters of the U.S. Air Force provide America's primary land-based air power overseas. Rapid-reaction reinforcements in the United States add credibility to deterrent and combat capabilities.[25] Ready forces, assisted by in-flight refueling, can arrive almost anywhere in one to three days after notification, armed with conventional or nuclear weapons.[26]

Soviet counterparts (except for medium bombers) are found in Frontal Aviation. The largest concentration is focused on Eastern Europe, a lesser one on the Chinese frontier. The remainder are dispersed among military districts.[27]

Statistical strengths have stabilized at a level twice our own, counting Marine Corps tac air (Graph 6 and Figure 15),[28] but the changing complexion is at least as significant.

Intermediate- and medium-range ballistic missiles with no non-nuclear option, were the principal weapons for deep interdiction purposes when this decade opened, because Badger and Blinder bombers (TU-16s, TU-22s) have poor penetration prospects. Short-range, fair-weather Frontal Aviation, lightly-armed and with little lift capacity, was better fitted for local air defense than for offensive strikes over enemy soil or close support for field armies.

Backfire bombers and multimission fighters with standoff firepower and better avionics now augment Moscow's arsenal. All can deliver nuclear weapons as well as conventional ordnance under adverse weather conditions. SU-19 Fencers are the first Soviet airframes created specifically for ground attack. Advanced armaments and penetration aids improve performance of all new types, especially against point targets. Older mainstays, after modification, conform to broader missions. The combat radius and destructive power of some ground attack regiments, for example, has quadrupled since 1970.[29]

Conversion, however, is just commencing. The newest aircraft are not yet numerous, other than MIG-23s. Air intercept training retains its traditional emphasis on strict ground control, with little attention to free air combat for air supremacy purposes. Soviet fighters, which cannot refuel in flight, are difficult to redeploy long distances over land, and depend on ships for movement over seas.[30]

Consequently, U.S. forces are qualitatively superior, and should stay so, given our long lead in tactical aviation technology and F-15/F-16/A-10 programs, which are about to bear fruit.[31]

Amphibious Fighter/Attack Forces—

The Soviets have no air power comparable to U.S. Marine air wings, which include more than 300 fighter/attack aircraft in active squadrons (Figure 15).[32] Crews specialize in air cover and close air support for Marine divisions during amphibious assaults and sustained operations, but are prepared to participate in overall air efforts as directed.[33]

Marine forces exhibit adaptability unequalled by sister Services, being able to function effectively either ashore or afloat.[34] Portable catapults, optical landing aids, arresting gear, lights, and other accountrements associated with expeditionary airfields reduce requirements to seize or construct strips for high performance fighters at an early stage. Marine VSTOL aircraft transferred ashore on amphibious ships can commence operations even before installation is complete.[35]

Naval Aircraft Contributions—

The U.S. Navy, with more than 600 carrier-based fighter/attack aircraft and collateral functions connected with land combat,[36] can supplement or supplant Air Force and Marine forces in many circumstances that call for air power. (See Figure 18 in the next section for statistics).

The Soviet Navy can not yet compete. A few YAK-36 Vertical Takeoff and Landing (VTOL) aircraft aboard the carrier Kiev constitute its sole high performance capability. They reputedly are better than British-built AV-8 Harriers flown by U.S. Marines, but are too few to tip the U.S./Soviet balance.[37]

*Helicopters for fire support*

U.S. Army helicopter gunships, many armed with anti-tank (AT) missiles, afford significant close air support that is immediately responsive to ground commanders. Crews are combat tested.

Soviet counterparts, controlled by Frontal Aviation, not the Army, are neither so numerous nor so well trained, but forces are building up fast. MI-24 (Hind) helicopters, with 57mm rockets and Sagger AT missiles, are formidable fire support systems that can also carry considerable cargo or 14 fully-armed troops.[38]

*Combined flexibility*

America's tactical air combat assets in the aggregate afford flexibility not available to the Soviet Union, whose main strength still lies in mass.[39] Our side enjoys a clear qualitative edge in most respects, regardless of misssion.[40] U.S. leadership is light years ahead of the Soviet system.[41]

Small size, however, creates an Achilles Heel. The several U.S. Services are insufficient to cope with large-scale contingencies unless they assist each other. Even then, difficulties develop. Air Force-Navy-Marine collaboration, for example, was compulsory in Korea and Vietnam, to such a degree that deterrent/defense capabilities suffered in Central Europe. Projected U.S. procurement programs will do little to correct that shortcoming.

Footnotes at end of article.

FIG. 15.—LAND-ORIENTED TACTICAL AIR FORCES: STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| Fighter/bombers: | | | | | | | |
| United States: | | | | | | | |
| Air Force: | | | | | | | |
| A-7 | 4 | 80 | 144 | 144 | 253 | 224 | 210 |
| F-4 | 968 | 971 | 933 | 965 | 1,056 | 1,055 | 1,091 |
| F-100 | 282 | 209 | 9 | 0 | 0 | 0 | 0 |
| F-105 | 145 | 104 | 66 | 31 | 55 | 38 | 37 |
| F-111 | 26 | 158 | 211 | 283 | 311 | 333 | 312 |
| Total | 1,425 | 1,522 | 1,363 | 1,423 | 1,675 | 1,650 | 1,650 |

FIG. 15.—LAND-ORIENTED TACTICAL AIR FORCES: STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS—Continued

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| Marine: | | | | | | | |
| A-4 | 94 | 101 | 67 | 89 | 85 | 65 | 76 |
| A-6 | 76 | 47 | 45 | 49 | 49 | 56 | 57 |
| AV-8 | 0 | 6 | 13 | 32 | 59 | 53 | 53 |
| F-4 | 184 | 154 | 144 | 130 | 128 | 130 | 132 |
| Total | 354 | 308 | 269 | 300 | 321 | 304 | 318 |
| Grand total | 1,779 | 1,830 | 1,632 | 1,723 | 1,996 | 1,899 | 1,968 |
| Soviet Union: | | | | | | | |
| Bombers: | | | | | | | |
| Backfire | 0 | 0 | 0 | 0 | 0 | 25 | 60 |
| TU-16 | 500 | 500 | 500 | 500 | 500 | 475 | 450 |
| TU-22 | 175 | 200 | 200 | 200 | 200 | 170 | 170 |
| Total | 675 | 700 | 700 | 700 | 700 | 670 | 680 |
| Fighters: | | | | | | | |
| MIG-17 | 800 | 800 | 800 | 900 | 900 | 900 | 600 |
| MIG-19 | 100 | 200 | 100 | 50 | 0 | 0 | 0 |
| MIG-21 | 1,400 | 1,500 | 1,600 | 1,700 | 1,500 | 1,600 | 1,700 |
| MIG-23 | 0 | 0 | 100 | 200 | 300 | 300 | 500 |
| SU-7 | 500 | 500 | 500 | 500 | 400 | 400 | 400 |
| SU-17 | 0 | 0 | 50 | 100 | 100 | 100 | 100 |
| SU-19 | 0 | 0 | 0 | 0 | 0 | 0 | 50 |
| YAK-28 | 50 | 50 | 100 | 200 | 50 | 0 | 0 |
| Total | 2,850 | 3,050 | 3,250 | 3,650 | 3,250 | 3,300 | 3,350 |
| Grand total | 3,525 | 3,750 | 3,950 | 4,350 | 3,950 | 3,970 | 4,030 |
| United States standing | −1,746 | −1,920 | −2,318 | −2,627 | −1,954 | −2,016 | −2,062 |
| United States | 635 | 520 | 535 | 730 | 715 | 685 | 690 |
| Soviet Union | 0 | 0 | 0 | 100 | 125 | 200 | 300 |
| United States standing | +635 | +520 | +535 | +630 | +590 | +485 | +390 |

| | Aircraft characteristics | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 1st deployed | Combat radius (miles) | Max speed (Mach) | Payload (pounds) | Typical weapons: Guns | Typical weapons: Missiles | Nuclear capable | All weather |
| United States Air Force: | | | | | | | | |
| A-6 | 1963 | 750 | 0.9 | 10,000 | None | 18 Mk-82 | Yes | Yes. |
| A-7D | 1966 | 550 | .9 | 7,200 | 1—20 mm | 12 Mk-82 | Yes | Yes. |
| AV-8 | 1969 | 200 | .9 | 2,500 | 2—30 mm | AIM-9 | No | Yes. |
| F-4 | 1963 | 550 | 2.2 | 16,000 | 1—20 mm | 4 AIM-7E<br>11 Mk-117 | Yes | Yes. |
| F-100 | 1954 | 450 | 1.3 | 9,000 | 4—20 mm | 2 AIM-9 or AGM-12 | Yes | No. |
| F-105 | 1959 | 625 | 2.1 | 10,200 | 1—20 mm | 4 AGM-45 or 2 AGM-78 | Yes | Yes. |
| F-111 | 1967 | 745 | 2.2 | 14,500 | 1—20 mm | 24 Mk-82 | Yes | Yes. |
| Sovet Union: | | | | | | | | |
| Backfire | 1975 | 2,500 | 2.5 | 20,000 | | AS-4, AS-6 | Yes | Yes. |
| MIG-17 | 1953 | 360 | .9 | 1,100 | 3—23 mm | 4 Alkali | No | No. |
| MIG-19 | 1955 | 425 | 1.0 | 1,100 | 3—30 mm | 4 Alkali | No | No. |
| MIG-21 | 1956 | 550 | 2.1 | 2,000 | 1—23 mm | 4 Atoll | Yes | No. |
| MIG-23 | 1971 | 550 | 2.5 | 2,800 | 1—23 mm | 4 AS-7 | Yes | Yes. |
| SU-7 | 1960 | 200 | 1.6 | 5,500 | 2—30 mm | None | No | No. |
| SU-17 | 1972 | 300 | 1.7 | 5,500 | 2—30 mm | AS-7 | Yes | Yes. |
| SU-19 | 1974 | 300 | 2.0 | 11,000 | 1—23 mm | | Yes | Yes. |
| TU-16 | 1955 | 2,000 | .8 | 20,000 | 7—23 mm | 2 AS-5 | Yes | No. |
| TU-22 | 1962 | 700 | 1.4 | 12,000 | 1—23 mm | 1 AS-4 | Yes | No. |
| YAK-28 | 1961 | 575 | 1.1 | 4,400 | 1—30 mm | 2 Anab | No | Yes. |

| | Missile characteristics | | | | | |
|---|---|---|---|---|---|---|
| | 1st deployed | Guidance | Range (miles) | Speed (Mach) | Warhead: Type | Warhead: Weight, yield |
| United States: | | | | | | |
| Air-to-air: | | | | | | |
| AIM-7E | | Radar | 14 | 3.5+ | HE | |
| AIM-7F | 1976 | Radar | 28 | 3.5+ | HE | |
| AIM-9B | 1958 | Infrared | 2 | 2.5 | HE | 25 lb. |
| Air-to-ground: | | | | | | |
| AGM-12B | 1959 | Radio | 7 | 1.8 | HE | 250 lb. |
| AGM-12C | 1959 | Radio | 10 | 2.0 | HE | 1,000 lb. |
| AGM-45 | 1964 | PH | 10 | 2.0 | HE | 145 lb. |
| AGM-65 | 1969 | TV | Classified | Classified | HE | 27 lb. |
| AGM-78 | 1968 | PH | 15.5 | 2.0 | HE | 1,356 lb. |
| Soviet Union: | | | | | | |
| Air-to-air: | | | | | | |
| Alkali | 1953 | Radar | 3.7–5 | 1–2 | HE | |
| Anab | 1961 | Radar, IR | 5–6.2 | | HE | |
| Atoll | 1956 | Infrared | 3–4 | | HE | |
| Advanced Atoll | | Radar | 3–4 | | HE | |
| Air-to-ground: | | | | | | |
| AS-2 | 1961 | Radar | 130 | 1.2 | HE | |
| AS-4 | 1962 | | 450 | | Nuke | |
| AS-5 | 1967 | | 200 | | HE | |
| AS-6 | | Radio | 135 | | Nuke | 200 KT. |
| AS-7 | | Radio | | | | |

Note: See fig. 18 for U.S. carrier-based aircraft. All aircraft are Unit Equipment (UE), excluding recon and special-purpose versions. Backfire bombers are the same aircraft shown on fig. 8. Combat radii correspond with payloads shown under average conditions. Payloads are merely representative. External fuel tanks are included where applicable. F–15 aircraft were all in training squadrons in 1976. U.S. armed helicopters are AH–1's. Soviet counterparts are MI–24's. IR missile guidance is infrared. PH is passive homing.

GENERAL PURPOSE NAVIES

Sea power is a necessity for the United States, but not for the Soviet Union.[41a]

Commerce, always a U.S. tradition, assumes a salient role as dwindling natural resources increase our dependence on other countries for critical supplies. Petroleum products are most publicized,[42] but mineral shortages are also important.[43] Routes must therefore be secured for friendly merchant ships under adverse conditions.[44] Essential sea lines of communication (LOCs) must also be kept open in wartime to ensure the free flow of military forces and logistic support between America, its allies,[45] and/or contested areas.

The Soviet Union, with far fewer requirements for foreign raw materials and intrinsic interests that center on the Eurasian land mass, has only recently begun to break out of its continental cocoon. Its Navy is still cast as a spoiler that emphasizes negative sea denial (rather than positive sea assertion) capabilities, despite Admiral Gorshkov's grand design.[46]

This section shows how differences in size, composition, concepts, and accoutrements influence abilities of U.S. and Soviet general purpose navies to accomplish assigned tasks.[47]

*Comparative missions*

U.S. deterrent/defense capabilities must be sufficient to satisfy interlocking, overlapping naval missions in peacetime and in war.[48] Some Soviet aims are the same. Others are quite different.

Peacetime Naval Presence—

Peacetime presence to influence perceptions serves political and military purposes. This country consistently stresses one purpose. The Soviets strongly stress both.[49]

Men who fashion America's foreign policy perceive the U.S. Navy as a peripheral and part-time instrument to exploit political, economic, and social opportunities. Its rival is routinely used (with sporadic success) to reap or retain an international reservoir of good will, which Soviet leaders try to translate into political persuasion, basing privileges, and other practical products that can have a significant bearing on the U.S./Soviet balance.[50] Their outposts along the African littoral, for example, overlook our oil LOCs to ports in the Persian Gulf.[51]

Both sides periodically parade flotillas or fleets as deterrent threats in times of tension or crisis to impress each other with intent or resolve. Four such confrontations have taken place in this decade, twice in the Mediterranean during Arab-Israeli disputes, twice in the Indian Ocean.[52]

Sea Control—

Freedom of the seas was a self-satisfying U.S. interest from late 1944, after the battle for Leyte, until increased Soviet capabilities started causing serious concerns in the mid-1960s. Since then, sea control, the prime prerequisite for all positive naval operations, has been an imperative U.S. mission.[53]

Positive U.S. missions demand abilities to deter or defeat enemy aircraft, submarines (including those bearing ballastic missiles), and surface combatants that try to interfere with friendly activities along selected ocean avenues or in associated areas. Local superiority (not necessarily numerical) is essential at specified times and places.

Sea denial, the Soviet specialty, is simpler to satisfy, since the Kremlin can apply power at times, places, and under circumstances of its choosing to prevent the accomplishment of U.S. tasks.

Power Projection—

Naval air and/or amphibious forces can assist in controlling seas by projecting power ashore to seize and secure, damage, destroy, or otherwise exert control over critical terrain features (such as Norway's North Cape or the Dardanelles), enemy installations, and ships in port. Power projection capabilities can also support national purposes not associated with sea control, as occurred during U.S. campaigns in Korea and Vietnam.[54]

American stress on such missions has been evident for many years. Soviet interest cropped up in a rather small way only recently.[55]

*Comparative force structures*

Naval strategists on both sides recognize that diversified forces are required to fulfill the foregoing missions, as shown on Figure 16, but U.S. and Soviet navies are nonetheless structured asymmetrically in almost every respect. (See Graph 8 and Figures 18–21 at the end of this section.) [56]

Aircraft Carriers—

America's air power afloat has been cut in half since 1965, when 25 carriers (not counting helo platforms for amphibious assault were still in active service.[57] Flexibility was first-rate. This country truly had two-ocean offensive capabilities at that time.

Reductions to the current complement of 13 carriers (Figure 18) have caused drastic revisions in forward deployment patterns since the start of this decade. Just four are positioned permanently overseas—two in the Western Pacific, two in the Mediterranean. One of the latter is on call for excursions into the Atlantic. Surge capabilities are slight.[58]

Still, 200 U.S. fighter/attack aircraft are available in key areas at all times. Soviet carrier air power is scant in contrast. The Kiev, with its few fighter aircraft and formidable missile armament, compares more closely with a strike cruiser than, say, with our Midway class carrier (in service since 1945), much less the nuclear-powered *Enterprise* or *Nimitz*.[59] Moskva and Leningrad, called ASW cruisers, apparently are the first and last in their class.[60] The Soviets have no counterparts for seven U.S. helicopter carriers, which support amphibious assault forces and perform other useful functions.

Other Major Surface Combatants—Numbers of U.S. major surface combatants assigned to the Regular Navy have declined dramatically during this decade, while Soviet strength stayed steady (Figure 19). America's cruiser quantities are still roughly the same, but 90 destroyers were decommissioned, while only four were delivered.[61] (Statistical trends are summarized on Figure 19.)

Quality tells an even more telling tale. Soviet ships are somewhat smaller than U.S. counterparts,[62] and none are nuclear-powered (the United States now has seven, including aircraft carriers). They are generally faster,[63] however, and several major combatants mount a total of 85 cruise missiles created expressly to kill surface ships.[64] Perhaps more importantly, something like 164 SS–N–14 ASW missiles may also have anti-surface ship missions. Endurance and sea-worthiness have increased, along with offensive combat capabilities. Several classes, such as Sverdlov, Kilden, and Kotlin, are reaching the end of their theoretical hull life, but many have been remodeled or reconstructed.[65]

Coastal Combatants—The Soviet Union has more coastal combat craft, including minesweepers, than the rest of the world combined.[66] Neither the U.S. Navy nor Coast Guard has anything to equal 14 Nanuchka class coastal combatants or 120-odd Osa patrol boats with cruise missiles for shoreline defense (Figure 19).

Attack Submarines—The excellence of U.S. nuclear-powered attack submarines is widely acknowledged. They are not as fast as some Soviet boats (their Victors are the world's speediest), but are quieter and better equipped. The new Los Angeles class (SSN–688), now entering our inventory with wire-guided acoustic homing torpedoes and improved sonar systems, should strengthen the U.S. position.[67] Harpoon missiles will follow.

Qualitative superiority, however, is insufficient when quantity is also essential.

ASW is the primary mission of U.S. attack submarines.[68] The 74 that remain after recent reductions therefore face distinct disadvantages trying to check three times their number in open oceans, even though most of their prey are diesel-powered and many are well past their prime(Figure 20). The balance would be better with the order of battle reversed.

Sixty-six Soviet submarines, which account for a third of the force, are fitted to fire anti-ship cruise missiles. Total tubes exceed 400. Papa and Charlie classes can fire from submerged positions. All classes carry torpedoes for close combat. The United States will have no cruise missile counterparts until Harpoon enters service.

Land-Based Naval Air Power—U.S. naval air power is mainly afloat. Soviet strength is almost all ashore (Figure 21).

Land-based aircraft on both sides engage in ASW activities, active as well as passive, but only the Soviet Navy specializes in anti-surface ship strike forces. More than 300 aging Badger bombers, the basic component, can reach about 1,600 miles from home stations without refueling.[69] Their ability to pierce U.S. protective fighter shields would be poor if they carried gravity bombs, but cruise missiles can be launched at least 100 nautical miles from targets. Supersonic Backfires, whose naval numbers are increasing, open up new options.

B–52s armed with precision-guided munitions recently joined the competition, in accord with collateral functions of long standing,[70] which heretofore were finessed. Air Force tactical aircraft could augment SAC's short-based strike capabilities, especially if forces receive Harpoon.[71]

*Soviet shortcomings*

The "new" Soviet Navy suffers from several chronic shortcomings that it shares with the "old."

Its chief handicap is the geographic strait jacket that makes timely mutual support almost impossible for four widely-separated fleets based in the Baltic, Barents, and Black Sea of Japan. All four risk being bottled up by bad weather and/or barriers at critical choke points. (Several show on Figure 17: the Greenland-Iceland-Faeroes-U.K. Gap, including the English Channel; the Skagerrak; Suez Canal; Turkish Straits; and Gibraltar.) The scarcity of all-weather ports is only partially overcome by extensive use of ice breakers and covered repair facilities.

Soviet surface craft all must contend with lack of air cover when they sweep far from friendly shores. Land-based bombers for area defense and on-board SAM clusters for short-range and point defense are poor substitutes for defenses-in-depth that include carrier-based fighters.

Soviet naval forces are also short on stamina, except for late-model ships, such as Kiev, Kara, and Krivak. Small surface combatants, lacking large fuel capacities or nuclear power, have limited ranges. Restricted space for rations, ammunition, and other stores prohibit prolonged operations without resupply. Merchant tankers routinely refuel Soviet ships at sea, and trawlers serve some logistic purposes, but underway replenishment procedures, although improving, are still substandard compared with U.S. skills. Lengthy, large-scale operations would be next to impossible in sea areas remote from friendly port facilities.[72]

Finally, most conscripts quit after three years' service. Problems attendant to training 100,000 recruits every year (a fifth of the

Footnotes at end of article.

total force) almost beggar imagination in this age of technical specialization,[73] despite

*Soviet strengths*

Abilities of the Soviet Union to satisfy positive sea control and naval power projection missions against U.S. opposition will generally be restricted to regions along its periphery until limitations just outlined are alleviated. The capacity for coordinated attacks on U.S. men-of-war and merchant shipping, however, menaces American missions.[74]

Threats to the U.S. Surface Navy.—A recent National Security Council study of U.S. strategy and naval missions reportedly revealed three major Soviet threats to the U.S. surface navy. All three concern antiship missiles.[75]

Anti-Ship Missile and Strategy.—The Soviets currently have a stable of assorted over-the-horizon anti-ship cruise missiles. Fifteen different sorts of surface warships, submarines, and aircraft can launch at least one kind.

Most of the long-range missiles (more than 100 miles) are jet propelled. Many short-range models are solid-fuel rocket powered. Speeds vary from 600 knots to several times faster than sound. Some, with small visual and radar cross-sections, confound anti-aircraft gun crews by skimming across the sea's surface. Others, with steep trajectories such as Shaddock (SS–N–3), dive straight onto targets. In-flight corrections and terminal homing are the rule. The weight of some warheads exceeds a ton.[76]

Soviet strategy seems designed to seize and secure initiative with a single killing salvo. Missile-carrying surface ships, submarines, and aircraft, moving without any semblance of tactical formation, could trigger surprise, preemptive strikes on central signal from many directions, and perhaps from point-blank range.[77] U.S. carriers, cruisers, and support ships comprise high-contrast targets for Soviet missile seekers. To infrared sensors, they seem hot against cool sea backgrounds; to radars, they are large reflectors; to radiometric sensors, they are massive metal structures.[78]

Tactics close to shore tend to be somewhat different. Small, missile-bearing boats (nicknamed Wasp, Gnat and Mosquito[79]) are difficult to distinguish in the coastal clutter of shallow-draft civilian craft and other reflectors. Short ranges and awesome weapons power could overwhelm warships caught unaware. Lowflying Soviet aircraft with cruise missiles complicate U.S. defensive problems. The impact on American power projection missions, particularly amphibious assaults, clearly could be profound.[80]

U.S. Countermeasures.—U.S. sea control tactics traditionally try to destroy enemy weapons before they endanger our ships, concentrating force on a few closely-bunched combatant craft and other defendable targets. Surprise assaults by Soviet cruise missiles, launched at close range, could make that approach obsolete.

Active defenses along appear inadequate. America's current ship-launched SAMs would be essentially ineffective against concerted attacks. "The time from detection to target engagement is [still] excessive and coordination among missile batteries on different ships . . . is poor. These difficulties are compounded by [SAM] system vulnerability to electronic counter-measures."[81] Even Phoenix-armed F–14s, which can engage six targets simultaneously, are subject to easy saturation if large-scale attacks box the compass.[82]

Diverting, rather than destroying, enemy missiles in flight therefore assume increased importance. Authorities, however, generally agree than any navy which relies solely on decoys, jammers, chaff, and other electronic countermeasures for defense is doomed to take heavy losses when counter-countermeasures come into play.[83]

Successful defense likely will depend on SAMs and interceptor aircraft systems in combination with ECM, strategy, tactics, and doctine. An appropriate package is not yet available.

Threats to Merchant Shipping.—Soviet submarine threats to friendly merchant shipping are potent and pervasive.

The Soviet Submarine Challenge.—Cruise missiles, with ranges from 25 to 250 miles, supplement new Soviet families of homing, acoustic, and wire-guided torpedoes. Submarines that serve as launch platforms can swim farther, faster, and deeper than predecessors, while suppressing sound more effectively. Special features include inertial navigation, highly-directional passive sonar, and receivers to warn of airborne and seaborne radar.[84]

The resultant menace is manifest. U-boat successes against Allied shipping were spectacular at the beginning of World War II, when the Nazi Navy boasted just 57 primitive boats. (Present Soviet holdings exceed four times that size.) By June 1942, 1602 ships totalling 7,860,000 tons had gone to the bottom.[85]

America's ASW Response.—Successful ASW operations depend on abilities to find, fix, and finish enemy undersea raiders before they can wreak heavy damage.

U.S. hunter-killer task forces are deficient on all three counts. Breakthroughs in the detection field are still in the blueprint stage, but beyond that, the size of America's specialized force is simply insufficient. ASW is mainly a time-consuming matter of attrition, in which numbers matter more and more as friendly losses mount. At most, we might account for 20 percent of all Soviet subs before the real carnage commenced among merchantmen.[86] Consequently, Soviet capacities to interfere with U.S. life lines at sea could prove to be low cost, low risk operations under certain circumstances, at least as long as a "Mexican standoff" persists at strategic nuclear levels.

Protection for petroleum tankers plying routes from the Persian Gulf to U.S. and European ports is a case in point.

Convoys would reduce attrition, but U.S. escorts currently are inadequate even to shepherd ships along the 5000-mile course to Capetown, if the Suez Canal were closed. Combat losses would cut effectiveness further. Land-based aircraft could provide part-time cover for unarmed, unaccompanied tankers following random tracks across the Atlantic, provided appropriate base rights could be obtained in neutral or allied countries, but would be a poor substitute for on-the-scene ASW support.[87]

Similar problems are apparent in the Pacific, where our Navy reputedly could keep sea lanes open to Alaska and Hawaii, but would be hard pressed to control seas farther west against Soviet attack.[88]

Mine Warfare—

The U.S. Navy has long been skilled at mine warfare, which helped strangle Japanese shipping in World War II and sealed off Haiphong harbor 30 years later. Even so, Soviet minelaying capabilities are generally superior, although tactics are different.

The Soviet edge in minesweeping is even more clearly evident.

U.S. ships of that sort on active service have all but disappeared. Sixty have been decommissioned since 1970, leaving only three. Twenty-two in the Naval Reserve would be hard pressed to clear important CONUS harbors expeditiously if extensive mine warfare occurred.[90] U.S. mine clearance capabilities in support of amphibious assault operations are also strained. Rotary-wing aircraft supposedly supplant our former surface force for that purpose, but many Soviet mines are laid at depths beyond their reach. Moreover, Marines and minesweeping helicopters would compete for space on aircraft carriers at times when that could affect operations adversely.

The Soviets, in contrast, maintain more than 360 oceangoing and coastal craft for minesweeping purposes. Their efforts might be easier than we would like if they were called on to break up U.S. barriers, because our clearance of Haiphong harbor and the Suez Canal were conducted in full view of Gorshkov's intelligence agents, who could copy techniques.

*Current U.S. flexibility*

One serious student of naval strategy summed up the U.S. situation most succinctly: as a seagoing power, the United States is entering an era of reduced options and reinforced risks.[91]

FOOTNOTES

[1] Total army strengths are compared in Part II. This section subtracts high command and general support forces, which amount to approximately a quarter of a million men in the U.S. Army, and nearly three-quarters of a million in the Soviet Union.

[2] Brown, George S., United States Military Posture for FY 1976, p. 68.

[3] Karber, Phillip A., The Soviet Anti-Tank Debate, Survival, May-June, 1976, p. 105–111.

[4] U.S. Army Force Design: Alternatives for Fiscal Years 1977–1981, Washington, Congressional Budget Office, July 16, 1976, p. 45–49.

[5] The U.S. Army began its "roundout" program in 1972, when one reserve brigade and four separate battalions were designated to replace components missing from *understrength* active divisions. Four brigades and 11 separate battalions (6 tanks, 4 mechanized, and 1 infantry) now serve that purpose. All such elements must be ready to deploy with parent divisions on demand. Four other independent reserve brigades participate in an "augmentation" program intended to increase the combat power of designated *full strength* divisions. These forces must also be ready to deploy with associated divisions on short notice, but requirements to do so depend on contingency plans. Data derived from Army staff officers in January, 1977.

[6] Four U.S. divisions are currently stationed in Germany. All others likely would be required as reinforcements if a major war occurred, but only three in CONUS (minus one brigade each already in Europe) are earmarked for early deployment. Heavy equipment for two of them is prepositioned. Manpower requirements Report for FY 1976, Washington, Assistant Secretary of Defense (Manpower and Reserve Affairs), February, 1975, p. D–7; and The Military Balance, 1976–1977, London, International Institute for Strategic Studies, 1976, p. 6.

[7] No rotation base would be needed if a general war erupted in Europe. *All* U.S. divisions were committed overseas during World War II. Most men returning to CONUS were separated from the Service, attended schools, or were assigned to staffs.

In peacetime, and during limited conflicts like those in Korea and Vietnam, U.S. divisions stay overseas, while personnel serve specified tours and then return to CONUS. Most men must receive assignments related to their skills, or readiness levels lapse. A satisfactory balance can be maintained if about 60 percent of the force stays in the United States, according to Army staff officers. When fewer than 40 percent serve as a rotation base, combat effectiveness suffers seriously.

Four U.S. divisions, for example, served as a rotation base for 15 others overseas in the late 1960s. Insufficient slots existed, especially for specialists. Training everywhere suffered. The four divisions, which played parts in NATO plans, were combat ineffective for a protracted period, because equipment

was stripped and personnel passed through too rapidly.

[8] Five separate brigades and three armored cavalry regiments (ACRS) afford extra U.S. strength, but are not the equivalent of two or three divisions, because they lack staying power and the capacity for large-scale combined arms action. Three brigades serve special purposes in Alaska, Berlin, and Panama. Two ACRS and equipment for the third (now in CONUS) are positioned in Germany. Only two brigades remain in general reserve.

[9] Data derived from personal conversations with DIA analysis in January, 1977.

[10] Ibid. See also Erickson, John, Soviet-Warsaw Pact Force Levels, p. 31–39.

[11] Ibid.

[12] The generic term "reserves", as used in this study, refers to all reserve components, including the National Guard.

[13] Twelve divisions in the U.S. Army Reserve are regional replacement training centers, rather than maneuver units.

[14] Readiness Condition 1 (REDCON–1 or C1) requires U.S. units to be "fully capable of performing missions for which organized or designed." Such units, with 95 percent of authorized manpower and 90 percent of materiel, "may be deployed to a combat theater immediately" after mobilization. C–3 units, which are marginally ready, have deficiencies that severely constrain capabilities, but could be committed in combat "under conditions of grave emergency." Army Regulation 220–1, Unit Readiness Reporting, March 17, 1975, p. A–1, 2.

Times it would take for ARNG divisions to reach C–1 or C–3 status were furnished by Army staff officers in January, 1977.

[15] Unclassified data, derived from personal conversations with DIA analysts in January, 1977.

[16] Ibid.

[17] Ibid. Some sources contend that Cat III divisions can fill in 24 hours.

[18] About half of all Soviet divisions on the Chinese border are Category III. The Kremlin apparently anticipates no early aggression by either side in that area.

[19] U.S. Marines are organized, trained and equipped as an air-ground team whose divisions are never committed to combat without associated tactical air wings. This section arbitrarily separates the two components to facilitate U.S./Soviet comparisons.

[20] The 4th Marine Division, manned by 19,000 reservists in paid drill status, plans to reach full readiness 60 days after recall. Its units maintain only about 50 percent of their equipment allowance at home armories. Shortages must be made up in emergency from Prepositioned War Reserves at the same time active divisions are expected to tax the supply system. Individual Ready Reserves normally receive at least 30 days notice before call-up. If that requirement were waived, combat proficiency could be achieved more rapidly. U.S. Congress. Senate. Hearings before the Armed Services Committee on FY 1977 authorization. Part 3. Manpower. 94th Congress, 2d Session. Washington, U.S. Govt Print Off., 1976, p. 1846–1850.

[21] DIA analysts identify a marine division structure in the Soviet Far East, but its elements still exercise separately.

[22] Several Soviet divisions were stationed in northern Iran during World War II. They stayed from August 25, 1941 until May 9, 1946, when U.S. and U.N. pressures prompted withdrawal.

[23] Difficulties are described in U.S. Congress. House. Oil Fields as Military Objectives: A Feasibility Study, prepared for the Special Subcommittee on Investigations of the Committee on International Relations by the Congressional Research Service. 94th Congress. 1st Session. Washington, U.S. Govt. Print. Off., 1975, p. 18–21.

[24] For general discussions of US. tactical air power see White, William D., U.S. Tactical Air Power: Missions, Forces, and Costs, Washington, The Brookings Institution, 1974, 121 p.; and Planning U.S. General Purpose Forces: The Tactical Air Forces, Washington, Congressional Budget Office, January, 1977, 51 p.

[25] About a third of all USAF fighter/attack aircraft in operational units are assigned to U.S. Air Forces in Europe (USAFE). A smaller slice is deployed with Pacific Air Forces (PCAF). Slightly more than half are held in CONUS reserve by Tactical Air Command (TAC). U.S. Congress. Senate. Seminars: Service Chiefs on Defense Mission and Priorities. Hearings Before the Task Force on Defense of the Committee on the Budget. Part III, Air Force. Washington, U.S. Govt. Print. Off., 1976, p. 70–72.

[26] F–111s from Mountain Home AFB, Idaho reportedly took just 15 hours to arrive in Korea ready for combat during the 1976 DMZ incident in which two Americans were killed. TAC's Dixon Watches Soviet Threat, Stresses Training Realism, Aerospace Daily, September 28, 1976, p. 128.

Air Force Reserve and National Guard units must be ready to move 72 hours after mobilization. "Virtually all . . . can reach Europe within a month or less," according to the Congressional Budget Office. Planning U.S. General Purpose Forces: The Tactical Air Forces, p. ix, 27.

[27] Some Soviet fighter aircraft defended the Suez Canal a few years ago, but none are now stationed on foreign soil, except in satellite states.

[28] Soviet strategic air defense forces supplement tactical air power for air superiority purposes along that country's borders.

[29] J–5 comments on the draft of this study, March 4, 1977.

[30] Ibid., p. 127, 185.

[31] Ulsamer, Edgar, The Quiet Revolution in USAF's Capabilities, Air Force Magazine, September, 1975, p. 38–44.

[32] Marine aircraft are an integral part of Navy tactical air power, procured with Navy dollars, supplied and serviced by a Navy system. Pilots in large part use Navy training facilities. This section, however, considers the special contribution of Marine air wings to land-oriented air power.

[33] Title 10, United States Code, Chapter 503, Section 5013 and Department of Defense Directive 5100.1, Collateral Functions.

[34] "Bare base" kits would allow Navy fighter/attack aircraft to operate off primitive strips ashore, but supply, maintenance, and other support facilities now aboard carriers would be costly to duplicate. Carrier aircraft could, however, share established installations with other Services.

[35] Marine Corps comments on the draft of this study, March 3, 1977. VSTOL stands for Vertical and/or Short Takeoff and Landing.

[36] Title 10, United States Code, Chapter 503, Section 5012 and Department of Defense Directive 5100.1, Collateral Functions.

[37] Prina, Edgar L., Soviet Jet Called Superior to U.S. Version, San Diego Union, August 20, 1976, p. 21. Quotes Navy Secretary J. William Middendorf, II.

[38] Schemmer, Benjamin F., Soviet Armed Helicopter Force Said to Double By Middle of 1977, Armed Forces Journal, December, 1976, p. 28–29; Hind–D Carries Added Weapons, Aviation Week and Space Technology, February 21, 1977, p. 21.

[39] This section is not a brief in favor of four U.S. air forces, which some critics castigate. (See, for example, Four U.S. Tactical Air Forces, The Defense Monitor, Washington, Center for Defense Information, October, 1975, 8 p.). It simply states superior U.S. flexibility as a fact.

[40] General David C. Jones, Air Force Chief of Staff, as cited by Edgar Ulsamer in The Quiet Revolution in USAF's Capabilities, p. 39.

[41] Binder, David, Soviet Defector Depicts Grim Life at MIG–25 Base, New York Times, January 13, 1977, p. 1, 12.

[41a] Alva M. Bowen, Jr., specialist in naval affairs for the Congressional Research Service, acted as technical advisor and data source during the preparation of this section.

For general coverage, see Polmar, Norman, Soviet Naval Power: Challenge for the 1970's, Rev. Ed., New York, Crane, Russak & Co., Inc., 1974, 129 p., and Understanding Soviet Naval Developments, Washington, Office of the Chief of Naval Operations, April, 1975, 79 p.

[42] Imports currently account for about 45 percent of all petroleum consumed in the United States. International Oil Developments: Statistical Survey, Washington, Central Intelligence Agency, Office of Economic Research, December 30, 1976, p. 10, 16.

[43] Rumsfeld, Donald H., Annual Defense Department Report for FY 1978, p. 17.

[44] For a summary of commodities imported and exported by the United States over 31 sea routes to foreign countries, see Essential United States Foreign Trade Routes, Washington, U.S. Government Printing Office June, 1975, 79 p.

[45] Current U.S. defense treaties, congressional resolutions, executive agreements, policy declarations, and communiques are summarized in Annex C to the United States/Soviet Military Balance, p. 55–56. Two changes should be noted. The Tonkin Gulf Resolution terminated in January, 1971. The Southeast Asia Treaty Organization (SEATO) disbanded in September, 1975.

[46] Fleet Admiral S. G. Gorshkov, principal molder of the modern Soviet Navy, spells out his concepts for naval superiority in Sea Power of the State, Moscow, Military Publishing House, 1976. Translated by U.S. Naval Intelligence Support Center, July 27, 1976, 363 p. As Deputy Minister of Defense and Commander-in-Chief of the Soviet Navy since 1956, he has converted principle to practice with unprecedented continuity of purpose. The U.S. Navy saw nine Service Secretaries and seven Chiefs of Naval Operations during that same 20-year period.

[47] Naval forces for strategic nuclear purposes were surveyed in the section on ballistic missile submarines. For sealift, including amphibious assault forces, see Part V, which concerns mobility.

[48] Naval missions are addressed by Admiral J. L. Holloway, III, Chief of Naval Operations, in the enclosure to a letter to the Chairman of the House Armed Services Committee on January 12, 1977, p. 3–6. See also Admiral Stansfield Turner, Commander-in-Chief Allied Forces Southern Europe, Designing a Modern Navy: A Workshop Discussion, contained in Power at Sea, II, Super-powers and Navies, Adelphi Papers 123, London, International Institute for Strategic Studies, 1976, p. 25–27; and The Naval Balance: Not Just a Numbers Game, Foreign Affairs, January, 1977. p. 342–347.

[49] For basic considerations, see U.S. Congress. House. Means of Measuring Naval Power: With Special Reference to U.S. and Soviet Activities in the Indian Ocean. Prepared for the Sub-committee on the Near East and South Asia of the Committee on Foreign Affairs by the Congressional Research Service, Washington, U.S. Govt. Print. Off., 1974, p. 1–5.

[50] Gorshkov, S. G., Sea Power of the State, p. 1–7, 312–322.

[51] Sophisticated Soviet Base Nearly Completed in Somalia, Baltimore News American, December 16, 1976, p. 12; Foreword to Jane's Fighting Ships, 1976–77 cites Soviet ports/anchorages in Aden, Somalia, the Seychelles, and Guinea, p. 121.

[52] Understanding Soviet Naval Developments, p. 6–7; U.S. Congress. House. Means of Measuring Naval Power, p. 8–9.

[53] Title 10, United States Code, Chapter 503, Section 5012 and Department of Defense Directive 5100.1.

[54] Ibid.

[55] Turner, Stansfield, The Naval Balance: Not Just a Numbers Games, p. 342, 343.

[56] For a summary of ship characteristics, see Understanding Soviet Naval Developments, p. 11–29, 53–71. Aircraft are discussed in Polmar, Norman, Soviet Naval Aviation, Air Force Magazine, March 1976, p. 69–75. Greater detail is contained in Jane's Fighting Ships and All the World's Aircraft, 1976–77.

[57] The complement in 1965 included 15 attack carriers (CVA) and 9 ASW carriers (CVS). Roughly one-third were commonly forward-deployed, three with Sixth Fleet in the Mediterranean and five with Seventh Fleet in the Western Pacific.

[58] Rumsfeld, Donald H., Annual Defense Department Report for FY 1977, p. 160.

[59] For Kiev characteristics, including razor-sharp close-up photos, see Soviet Navy Deploys New V/STOL, Aviation Week and Space Technology, August 2, 1976, p. 14–17.

[60] Moskva and Leningard, which lack fighter aircraft, apparently were designed to destroy ballistic missile submarines when short-range U.S. SLBM's required launch positions near the continental shelf. Land-based aircraft could cover the Soviet search. The situation changed when longer-range Polaris A–3 and Poseidon missiles replaced Polaris A–2s.

[61] U.S. and Soviet ships deliveries from 1965 through 1976 are contained in McGwire, Michael, Western and Soviet Naval Building Programmes 1965–1976, Survival, September/October, 1976, p. 204–209.

[62] Kresta cruisers displace 7,500 tons, slightly less than a U.S. Spruance class destroyer. Krivak destroyers, at 4,000 tons, are a little larger than our latest frigates.

[63] A speed advantage of one or two knots can be important in evading, engaging, or simply keeping station with enemy ships.

[64] The U.S. Chief of Naval Operations considers Krivak class destroyers as "ton for ton the heaviest armed and most effective destoyer afloat." Understanding Soviet Naval Developments, p. 23. For comparisons between Krivak and U.S. Perry class frigates (due to begin deployment in mid–1977), see Heini, Robert D., Jr., Navy Lagging in Surface Sea Power, Detroit News, August 22, 1976, p. 1 and a rebuttal by John B. Shewmaker, U.S. Destroyer Seen Superior: Col. Heini Overrated Soviet Warship?, Detroit News, September 18, 1976, Letter to the Editor.

[65] Foreword to Jane's Fighting Ships, 1976–77. Theoretical hull life is 20-35 years, depending on ship type and circumstances.

[66] Understanding Soviet Naval Developments, p. 25.

[67] Rumsfeld, Donald H., Annual Defense Department Report for FY 1977, p. 174.

[68] Ibid. Submarines share ASW missions with several other fixed and mobile systems, but they play the paramount role.

[69] About 100 TU–16s are configured as tankers for aerial refueling. Soviet Long-Range Aviation units could augment them under some circumstances. (Understanding Soviet Naval Developments, p. 27, 73.) In-flight refueling for aircraft committed to surprise first strikes could take place with impunity, but slow-flying Badgers would be tempting targets during that process thereafter.

[70] Department of Defense Directive 5100.1 assigns the Air Force collateral functions in fields of sea interdiction, ASW, and aerial mine-laying.

[71] Ginsburgh, Robert N., A New Look at Control of the Seas, Strategic Review, Winter, 1976, p. 86–89. See also Silber, Howard, B–52 Testing Its Ship-Sinking Ability, Omaha World-Herald, December 26, 1976, p. 1.

[72] U.S. Congress. House. Means of Measuring Naval Power, p. 9–13; Understanding Soviet Naval Developments, p. 17, 18.

[73] Merry, Robert, Jane's Editor Sings Russ Navy Blues, Chicago Tribune, March 8, 1976, p. 1.

[74] The Soviet Navy has conducted two world-wide exercises, one in 1970, the other in 1975. The most recent, code named "Okean-75", demonstrated dramatic progress during the intervening five years. Eight task forces, totaling more than 200 surface ships and submarines, plus land-based naval aviation, deployed in diverse ocean areas. Satellite surveillance, computerized data flow, and almost instantaneous communications coordinated functions that included convoy tracking and simultaneous cruise missile launches. See, for example, Watson, Bruce W. and Walton, Margurite A. Okean-75, Naval Institute Proceedings, July, 1976, reprinted in Congressional Record, August 24, 1976, p. 514339–41; and Soviet Seen Operating two Types of Ocean Surveillance Satellite, Aerospace, Daily, June 2, 1976, p. 169.

[75] The Three Major Threats to U.S. Fleet, Defense/Space Daily, October 15, 1976, p. 246.

[76] Ruhe, William J., Cruise Missile: The Ship Killer, U.S. Naval Institute Proceedings, June, 1976, p. 46, 47–48; and Navy Faces Grave Cruise Missile Threat, Aviation Week and Space Technology, January 17, 1975, p. 101.

[77] Ruhe, William J., Cruise Missile: The Ship Killer, p. 47

[78] Navy Faces Grave Missile Threat, p. 101.

[79] Osa stands for Wasp; Nanuchka for Gnat; Komar for Mosquito.

[80] Ruhe, William J., Cruise Missile: The Ship Killer, p. 48, 49, 52.

[81] Ibid., quoting the NSC study cited in Note 75. "There is indeed some doubt as to whether the Terrier system could effectively defend against cruise missiles fired from a single 'Charlie'-class submarine," according to a Congressional Budget Office study entitled Planning U.S. General Purpose Forces: The Navy, Washington, U.S. Govt. Print. Off., December, 1976, p. 41. See also Rumsfeld, Donald H., Annual Defense Department Report for FY 1978, p. 111, 112.

[82] Turner, Stansfield, The Naval Balance: Not Just a Numbers Game, p. 350.

[83] Israeli patrol boats stymied Arabs armed with Styx missiles (SS–N–2s) during the Yom Kippur conflict in 1973, using chaff umbrellas and clever tactics. Roughly 50 missiles were fired without one hit, because the Arabs were still unequipped to wage electronic warfare. Surprises could be expected from sophisticated Soviets. Aviation Week and Space Technology, January 27, 1975, p. 121. See also Eustace, Harry F., A U.S. View of Naval EW and Sunderam, G. S., Electronic Warfare at Sea, both in International Defense Review, April, 1976, p. 4f, 217ff.

[84] Lindsay, George R., Tactical Anti-Submarine Warfare: The Past and the Future, contained in Powers at Sea, I. The New Environment, Adelphi Papers 122, London International Institute for Strategic Studies, 1976, p. 33; Merry, Robert, Jane's Editor Sings Russ Navy's Blues, p. 1.

[85] Germany had 330 submarines in service by July, 1942. Lindsay, George R., Tactical Anti-Submarine Warfare, p. 32.

[86] Polmar, Norman, Thinking About Soviet ASW, U.S. Naval Institute Proceedings, May, 1976, p. 110.

[87] U.S. Congress. House. Oil Fields as Military Objectives, p. 19–20, 66–67.

[88] Admiral J. L. Holloway, III, Chief of Naval Operations, as quoted by Stansfield Turner in The Naval Balance: Not Just a Numbers Game, p. 351.

[89] Alva M. Bowen, Jr., specialist in naval affairs for the Congressional Research Service, was principal source for the sub-section on naval mine warfare.

[90] Statistics were drawn from U.S. Navy computer printouts dated June 15, 1976.

[91] Turner, Stansfield, The Naval Balance: Not Just a Numbers Game, p. 339.

FIG. 18.—CARRIER-BASED AIR POWER—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| Attack carriers: [1] | | | | | | | |
| United States: | | | | | | | |
| Nuclear | 1 | 1 | 1 | 1 | 1 | 2 | 2 |
| Oil | 14 | 13 | 13 | 13 | 13 | 13 | 11 |
| Total | 15 | 14 | 14 | 14 | 14 | 15 | 13 |
| Soviet Union | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| U.S. standing | +15 | +14 | +14 | +14 | +14 | +14 | +12 |
| ASW carriers: | | | | | | | |
| United States | 4 | 4 | 3 | 2 | 0 | 0 | 0 |
| Soviet Union | 2 | 2 | 2 | 2 | 2 | 2 | 2 |
| U.S. standing | +2 | +2 | +1 | Par | −2 | −2 | −2 |
| Other carriers: | | | | | | | |
| United States | 7 | 7 | 7 | 7 | 7 | 7 | 8 |
| Soviet Union | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| U.S. standing | +7 | +7 | +7 | +7 | +7 | +7 | +8 |
| Grand total: | | | | | | | |
| United States | 26 | 25 | 24 | 23 | 21 | 22 | 20 |
| Soviet Union | 2 | 2 | 2 | 2 | 2 | 3 | 3 |
| U.S. standing | +24 | +23 | +22 | +21 | +19 | +19 | +17 |

Footnotes at end of table.

FIG. 18.—CARRIER-BASED AIR POWER—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS—Continued

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| Fighter/attack aircraft:[2] | | | | | | | |
| United States: | | | | | | | |
| A-4 | 147 | 38 | 41 | 42 | 30 | 40 | 0 |
| A-6 | 119 | 118 | 105 | 113 | 115 | 97 | 104 |
| A-7 | 254 | 308 | 312 | 312 | 283 | 300 | 274 |
| F-4 | 222 | 246 | 253 | 238 | 209 | 95 | 139 |
| F-8 | 78 | 41 | 45 | 45 | 43 | 38 | 0 |
| F-14 | 0 | 0 | 0 | 0 | 23 | 50 | 93 |
| Total | 827 | 751 | 756 | 750 | 703 | 620 | 610 |
| Soviet Union: Yak-36 | 0 | 0 | 0 | 0 | 0 | 0 | 15 |
| U.S. standing | +827 | +751 | +756 | +750 | +703 | +620 | +595 |
| ASW aircraft: | | | | | | | |
| United States: | | | | | | | |
| S-2 | 91 | 83 | 73 | 68 | 52 | 31 | 5 |
| S-3 | 0 | 0 | 0 | 0 | 0 | 28 | 73 |
| SH-3 (Helo) | 54 | 62 | 60 | 56 | 56 | 56 | 56 |
| LAMPS (Helo) | 0 | 0 | 11 | 17 | 37 | 43 | 56 |
| Total | 145 | 145 | 144 | 141 | 145 | 158 | 190 |
| Soviet Union: KA-25 (Helo) | 80 | 95 | 95 | 145 | 160 | 170 | 180 |
| U.S. standing | +65 | +50 | +49 | −4 | −15 | −12 | +10 |

| | Offensive weapons systems | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Fighter aircraft | Attack aircraft | Recon aircraft | ASW aircraft | Average age (years) | Cruise missiles | Other weapons | Speed (knots) |
| Aircraft carriers: | | | | | | | | |
| United States: | | | | | | | | |
| Attack (CVA) | 24 F-4/F-14 | 24-36 A-7, A-6 | 10 RA-5C | 10 S-2/S-3 | 23 | None | Sea Sparrow/Terrier | 35 |
| Helicopter (LPH) | Carries a mix of about 20 CH-46, CH-53, UH-1, AH-1 helos | | | | 12 | None | Sea Sparrow/4 3-in. 50 cal | 20 |
| Soviet Union: | | | | | | | | |
| ASW (CVS) | Carries up to 30 V/TOL and/or ASW Helicopters | | | | 1 | 8 SS-N-3/12. | Torpedoes, ASW Rockets, SS-N-1. | 30+ |
| Helicopter (CHG) | 0 | 0 | 0 | 20 Helo | 10 | None | Torpedoes, ASW Missiles | 30 |

| | Aircraft characteristics | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | First deployed | Combat radius (miles)[3] | Max speed (mach) | Payload (pounds) | Typical weapons: Guns | Typical weapons: Missiles | Nuclear capable | All weather |
| Fighter/attack aircraft: | | | | | | | | |
| United States: | | | | | | | | |
| A-6 | 1963 | 750 | 0.9 | 10,000 | None | 18 Mk-82 | Yes | Yes. |
| A-7D | 1966 | 550 | .9 | 7,200 | 120 mm | 12 Mk-82 | Yes | Yes. |
| F-4J | 1961 | 475 | 2.2 | 15,500 | None | 8 AIM-7/9 | Yes | Yes. |
| F-14 | 1973 | 580 | 2.3 | 17,600 | 120 mm | 8 AIM-7/9, 6 AIM-54. | No | Yes. |
| Soviet Union: YAK-36 | 1976 | 300 | Subsonic | | | | | |

| | First deployed | Combat radius (miles) | Patrol speed (mph) | ASW weapons | Detection devices |
|---|---|---|---|---|---|
| ASW aircraft: | | | | | |
| United States: | | | | | |
| S-2 | 1954 | 675 | 150 | 2 torpedoes or depth charges | MAD, radar, sonobuoys. |
| S-3 | 1974 | 1,200+ | 200 | 4 torpedoes or other mix | MAD, radar, sonobuoys. |
| SH-3 (Helo) | 1611 | 100 | 135 | 2 torpedoes or other mix | MAD, radar, dipping sonar. |
| LAMPS (Helo) | 1973 | 60 | 150 | 1 torpedo | MAD, radar, sonobuoys. |
| Soviet Union: KA-25 (Helo) | 1962 | 200 | 120 | 2 torpedoes or depth charges | |

[1] The Kiev is not strictly an attack carrier. The Moskva and Leningrad are not strictly ASW carriers. However, they correspond most closely with those categories.

[2] UE aircraft only, excluding reconnaissance, training, and special-purpose versions. Kiev class carriers can carry a mix of up to 30 fixed- and rotary-wing aircraft. All 30 could be Yak-36, but 10-15 have been counted thus far.

[3] Combat radii correspond with payloads shown under average conditions. Payloads are merely representative. External fuel tanks are included wherever applicable.

FIGURE 19.—NAVAL SURFACE COMBATANTS (LESS AIRCRAFT CARRIERS) STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| CRUISERS | | | | | | | |
| United States: | | | | | | | |
| SSM | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other: | | | | | | | |
| Nuclear | 3 | 3 | 3 | 3 | 4 | 5 | 5 |
| Oil | 24 | 24 | 25 | 26 | 24 | 22 | 21 |
| Total | 27 | 27 | 28 | 29 | 28 | 27 | 26 |
| Soviet Union: | | | | | | | |
| SSM | 9 | 10 | 12 | 15 | 17 | 19 | 21 |
| Other | 15 | 15 | 15 | 13 | 12 | 11 | 10 |
| Total | 24 | 25 | 27 | 28 | 29 | 30 | 31 |
| U.S. standing | +3 | +2 | +1 | +1 | −1 | −3 | −5 |

FIGURE 19.—NAVAL SURFACE COMBATANTS (LESS AIRCRAFT CARRIERS) STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS—Continued

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| **DESTROYERS** | | | | | | | |
| United States: | | | | | | | |
| Active: | | | | | | | |
| SSM | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other | 159 | 141 | 131 | 108 | 69 | 70 | 69 |
| Total | 159 | 141 | 131 | 108 | 69 | 70 | 69 |
| Reserve [1] | 28 | 28 | 31 | 31 | 37 | 32 | 30 |
| Grand total | 187 | 169 | 162 | 139 | 106 | 102 | 99 |
| Soviet Union: | | | | | | | |
| SSM [2] | 6 | 7 | 7 | 10 | 13 | 16 | 20 |
| Other | 71 | 70 | 70 | 67 | 67 | 65 | 64 |
| Total | 77 | 77 | 77 | 77 | 80 | 81 | 84 |
| U.S. standing | +110 | +92 | +85 | +62 | +26 | +21 | +15 |
| **FRIGATES [3]** | | | | | | | |
| United States: | | | | | | | |
| Active | 47 | 57 | 66 | 67 | 64 | 64 | 64 |
| Reserve | 6 | 4 | 4 | 4 | 0 | 0 | 0 |
| Total | 53 | 61 | 70 | 71 | 64 | 64 | 64 |
| Soviet Union | 111 | 111 | 110 | 109 | 108 | 105 | 106 |
| U.S. standing | −58 | −50 | −40 | −38 | −44 | −41 | −42 |
| **SMALL COMBATANTS** | | | | | | | |
| United States | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Soviet Union: | | | | | | | |
| SSM [4] | 0 | 0 | 6 | 6 | 8 | 10 | 14 |
| Other [5] | 70 | 75 | 77 | 80 | 85 | 88 | 88 |
| Total | 70 | 75 | 83 | 86 | 93 | 98 | 102 |
| U.S. standing | −70 | −75 | −83 | −86 | −93 | −98 | −102 |
| **SHORE PATROL [6]** | | | | | | | |
| United States: | | | | | | | |
| SSM | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other | 16 | 17 | 16 | 14 | 14 | 14 | 8 |
| Total | 16 | 17 | 16 | 14 | 14 | 14 | 8 |
| Soviet Union: | | | | | | | |
| SSM | 140 | 145 | 136 | 129 | 127 | 123 | 121 |
| Other | 665 | 555 | 480 | 460 | 430 | 394 | 391 |
| Total | 805 | 700 | 616 | 589 | 557 | 517 | 512 |
| U.S. standing | −789 | −683 | −600 | −575 | −543 | −503 | −504 |

[1] U.S. Naval Reserve ships shown are immediately available to augment active forces in emergency.
[2] Soviet SSM figures include surface-to-underwater missiles that probably have SSM capability.
[3] Includes ships formerly called destroyer escorts and comparable to craft over 1,200 tons.
[4] SSM's are Nanuchka.
[5] Others are Grisha and Poti.
[6] SSM's are Komar and Osa. Others are fast torpedo boats, subchasers, hydrofoils, and the like.

SHIP CHARACTERISTICS—UNITED STATES

| | Current number | First deployed | Average displacement (tons) | AAA Sams | ASW weapons | Guns | Power plant |
|---|---|---|---|---|---|---|---|
| Cruisers: | | | | | | | |
| Bainbridge (CGN) | 1 | 1962 | 8,580 | 2 Terrier (twin) 4, 3 in | ASROC 2 torpedo (tripler) | None | Nuclear. |
| Belknap (CG) | 9 | 1964 | 7,930 | 2, 3 in | ASROC (twin) 2 torpedo (triplet). | 1, 5 in | Steam. |
| California (CGN) | 2 | 1974 | 10,150 | 2 Tartar | ASROC (twin) 4 torpedo | 2, 5 in | Nuclear. |
| Leahy (CG) | 9 | 1962 | 7,800 | 2 Terrier (twin) 4, 3 in | ASROC 2 torpedo (triplet) | None | Steam. |
| Truxton (CGN) | 1 | 1967 | 9,200 | 2, 3 in | ASROC (twin) 4 torpedo | 1, 5 in | Nuclear. |
| Virginia (CGN) | 3 | 1976 | 11,000 | 2, Tartar (twin) | 2 torpedo (triplet) | 2, 5 in | Do. |
| Destroyers: | | | | | | | |
| Charles F. Adams (DDG) | 23 | 1960 | 4,500 | 1 Tartar (single or twin) | do | 2, 5 in | Steam. |
| Coontz (DDG) | 10 | 1960 | 5,800 | 1 Terrier (twin) | do | 1, 5 in | Do. |
| Forrest Sherman: | | | | | | | |
| DDG | 14 | 1955 | 4,050 | None | do | 3, 5 in | Do. |
| DDG | 4 | 1967 | 4,150 | 1 Tartar | do | 1, 5 in | Do. |
| Gearing (DD) (modernized) | 42 | 1945 | 3,500 | None | do | 4, 5 in | Do. |
| Spruance (DD) | 8 | 1975 | 7,800 | do | ASROC 2 torpedo (triplet) 1 ASW Helo. | 2, 5 in | Gas turbine. |

Note.—Speed average slightly over 30 kn. Torpedoes are launch tubes only, not numbers of weapons. Col. 1 totals do not equal entire inventory, because several classes are not shown.

SHIP CHARACTERISTICS—SOVIET UNION

| | No. | First deployed | Speed (knots) | Average displacement (tons) | AAA Sam's | ASW weapons | Antisurface ship weapons | Powerplant |
|---|---|---|---|---|---|---|---|---|
| Cruisers: | | | | | | | | |
| Kara (CLGM) | 4 | 1973 | 32 | 10,000 | 2 SA–N–3; 2 SA–N–4; 4 76 mm; 4 gatling. | ASW rockets; depth charges | 8 SS–N–14; 10 torpedo | Gas turbine. |
| Kresta I (CG) | 4 | 1967 | 32 | 7,500 | 2 SA–N–1; 4 57 mm | MBU 2500A depth charges | 4 SS–N–3; 10 torpedo | Steam. |
| Kresta II (CG) | 9 | 1970 | 32 | 7,500 | 2 SA–N–3; 4, 57 mm | ASW rockets | 8 SS–N–14; 10 torpedo | Do. |
| Kynda (CG) | 4 | 1962 | 34 | 5,500 | 1 SA–N–1; 4, 76 mm | 2 MBU 3500A; 6 torpedo | 8 SS–N–3 (reloads) | Do. |
| Sverdlov (CL) | 10 | 1952 | 32 | 17,500 | 32, 37 mm; some SA–N–4; some gatling. | 10 torpedo | 12, 6 in; 12, 3.9 in mines | Do. |

Footnotes at end of table.

SHIP CHARACTERISTICS—SOVIET UNION—Continued

| | No. | First deployed | Speed (knots) | Average displacement (tons) | AAA Sam's | ASW weapons | Antisurface ship weapons | Powerplant |
|---|---|---|---|---|---|---|---|---|
| Destroyers: | | | | | | | | |
| Kanin (DDG) | 7 | 1968 | 34 | 4,500 | 1 SA–N–1; 8, 57 mm | 3 MBU 2500A | 10 torpedo | Do. |
| Kashin (DDG) (converted) | 5 | 1963 | +36 | 4,500 | 2, SA–N–1; 4, 76 mm | 2 MBU 2500A; depth charges | 4 SS–N–2/11; 5 torpedo mines | Gas turbine. |
| Kotlin (DD) | 18 | 1954 | 35 | 3,885 | 16, 45 mm | MBU 2500A or depth charges | 4, 5.1-in; 10 torpedo mines | Steam. |
| Kotlin (DDG) | 8 | 1962 | 35 | 3,885 | 1 SA–N–1; 4, 57 mm; 8, 30 mm. | 2 MBU 2500A | 2, 5.1 in; 5 torpedo | Do. |
| Krivak (DD) | 15 | 1971 | 32 | 4,000 | 2, SA–N–4; 4, 76 mm | do | 4 SS–N–14; 8 torpedo | Gas turbine |

Note.—14 additional Kashin class destroyers lack any antiship missiles. All Soviet SAM's have twin launchers. Torpedoes are launch tubes only, not numbers of weapons. Col. 1 totals do not equal entire inventory, because several classes are not shown.

PATROL CRAFT CHARACTERISTICS—SOVIET UNION

| | No. | 1st deployed | Speed (knots) | Average displacement (tons) | SAM's, AAA | Cruise missiles | Torpedo tubes, guns, and other weapons | Powerplant |
|---|---|---|---|---|---|---|---|---|
| Patrol craft: | | | | | | | | |
| Komar (PTG) | (1) | 1960 | 50 | 80 | 2 25mm | 2 SS–N–2 | None | Diesel. |
| Osa (PTG) | 120 | 1960 | 35 | 220 | 4 30mm | 4 SS–N–2/11 | do | Do. |
| Nanuchka (PGG) | 14 | 1969 | 30+ | 800 | 1 SA–N–4; 2, 57mm | 6 SS–N–9 | do | Do. |

[1] Few.

ANTISHIP MISSILE/ROCKET CHARACTERISTICS

| | 1st deployed | Range (miles) | Warhead | Yield |
|---|---|---|---|---|
| United States: ASROC (ASW) | 1961 | 6 | HE, Nuke | All in kiloton range. |
| Soviet Union: | | | | |
| SS–N–14 | 1974 | 30 | HE, Nuke | Do. |
| SS–N–12 | (1) | (1) | (1) | Do. |
| SS–N–11 | (1) | (1) | (1) | |
| SS–N–9 | | 150 | HE, Nuke | Do. |
| SS–N–3 | 1960 | 150–250 | HE, Nuke | Do. |
| SS–N–2 | 1960 | 23 | HE | Do. |
| SS–N–1 | 1958 | 130 | HE | Do. |

[1] Characteristics classified.

Key: CL=Light Cruiser; CG=Guided Missile Cruiser; DD=Destroyer; DDG=Guided-Missile Destroyer; PTG=Guided-Missile Patrol Boat; PPG=Patrol Combatant.

Note.—ASROC carries a small torpedo or depth charge for use against submarines. SS–N–14 a missile-borne ASW torpedo, probably has antisurface ship capabilities. SS–N–12 is replacing SS–N–3; SS–N–11 is replacing SS–N–2. All Soviet SAM's probably have significant SSM capabilities

FIGURE 20

ATTACK SUBMARINES—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| United States: | | | | | | | |
| SSM | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other | | | | | | | |
| Nuclear | 46 | 51 | 56 | 60 | 61 | 64 | 64 |
| Diesel | 59 | 50 | 38 | 24 | 12 | 11 | 10 |
| Total | 105 | 101 | 94 | 84 | 73 | 75 | 74 |
| Soviet Union: | | | | | | | |
| SSM: | | | | | | | |
| Nuclear | 35 | 38 | 40 | 41 | 42 | 42 | 43 |
| Diesel | 28 | 27 | 26 | 25 | 24 | 24 | 23 |
| Total | 63 | 65 | 66 | 66 | 66 | 66 | 66 |
| Other: | | | | | | | |
| Nuclear | 24 | 26 | 28 | 31 | 34 | 37 | 38 |
| Diesel | 210 | 190 | 180 | 175 | 160 | 156 | 150 |
| Total | 234 | 216 | 208 | 206 | 194 | 193 | 188 |
| Grand total | 297 | 281 | 274 | 272 | 260 | 259 | 254 |
| U.S. standing | −192 | −180 | −180 | −188 | −187 | −184 | −180 |

ATTACK SUBMARINE CHARACTERISTICS

[SS, diesel submarine; SSN, nuclear submarine; SSG, diesel cruise missile submarine; SSGN, nuclear cruise missile submarine]

| | Current number [1] | 1st deployed | SUBROC, cruise missiles | Subsurface launch | Torpedo tubes | Powerplant |
|---|---|---|---|---|---|---|
| United States: | | | | | | |
| 688 Class (SSN) | 1 | 1975 | SUBROC | Yes | 4 | Nuclear. |
| 637 Class (SSN) | 37 | 1966 | SUBROC | Yes | 4 | Do. |
| 594 Class (SSN) | 13 | 1962 | SUBROC | Yes | 4 | Do. |
| Skate Class (SSN) | 5 | 1957 | None | | 8 | Do. |
| Skipjack Class (SSN) | 5 | 1959 | do | | 6 | Do. |
| Soviet Union: | | | | | | |
| Cruise missile: | | | | | | |
| Charlie (SSGN) | 14 | 1968 | 8 SS–N–7 | Yes | 8 | Do. |
| Echo II (SSGN) | 29 | 1963 | 8 SS–N–3–/12 | No | 10 | Do. |
| Juliett (SSG) | 16 | 1962 | 4 SS–N–3/12 | No | 6 | Diesel. |
| Papa (SSGN) | 1 | 1973 | 8 SS–N–7 | Yes | 8 | Nuclear. |

FIG. 20.—ATTACK SUBMARINE CHARACTERISTICS—Continued

| | Current number [1] | 1st deployed | SUBROC, cruise missiles | Subsurface launch | Torpedo tubes | Powerplant |
|---|---|---|---|---|---|---|
| Attack: | | | | | | |
| Echo I (SSN) | 5 | 1960 | None | | 10 | Do. |
| Foxtrot (SS) | 60 | 1958 | do | | 10 | Diesel. |
| November SSN) | 13 | 1958 | do | | 8 | Nuclear |
| Romeo (SS) | 10 | 1961 | do | | 8 | Diesel. |
| Tango | 3 | 1973 | do | | 6 | Do. |
| Victor (SSN) | 19 | 1968 | do | | 8 | Nuclear. |
| Whiskey (SS) | 40 | 1951 | do | | 6 | Diesel. |
| Zulu (SS) | 15 | 1952 | do | | 10 | Do. |

[1] Col. 1 numbers do not equal entire inventory, because some classes are not shown.

Note: The few U.S. diesel-powered submarines, all commissioned in the 1940's and 1950's are omitted. So are "one-of-a-kind" classes, like nuclear Lipscomb and Narwhal.

ANTISHIP MISSILE/ROCKET CHARACTERISTICS

| | 1st deployed | Range (miles) | Warhead | Yield |
|---|---|---|---|---|
| United States: SUBROC (ASW) | 1965 | 45 | Nuke | In kiloton range. |
| Soviet Union: | | | | |
| SS-N-12 | (1) | (1) | (1) | Do. |
| SS-N-7 | 1968 | 30 | HE, Nuke | Do. |
| SS-N-3 | 1962 | 150-250 | HE, Nuke | Do. |

[1] Characteristics classified.

Note: SS-N-12 is replacing SS-N-3.

FIGURE 21

SHORE-BASED NAVAL AIRCRAFT—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| ANTISURFACE SHIP BOMBERS | | | | | | | |
| United States | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Soviet Union: | | | | | | | |
| Backfire | 0 | 0 | 0 | 0 | 0 | 0 | 30 |
| IL-28 | 60 | 50 | 50 | 30 | 30 | 30 | 20 |
| SU-17 | 0 | 0 | 0 | 0 | 0 | 0 | Few |
| TU-16 | 320 | 320 | 320 | 320 | 320 | 320 | 320 |
| TU-22 | 60 | 60 | 60 | 60 | 60 | 60 | 60 |
| Total | 440 | 430 | 430 | 410 | 410 | 410 | 430+ |
| U.S. standing | −440 | −430 | −430 | −410 | −410 | −410 | −430+ |
| ASW AIRCRAFT | | | | | | | |
| United States: P—3 | 210 | 210 | 213 | 314 | 202 | 199 | 203 |
| Soviet Union: | | | | | | | |
| Bear-F | 0 | 0 | 0 | 0 | 0 | 15 | 20 |
| BE-6 | 30 | 10 | 0 | 0 | 0 | 0 | 0 |
| BE-12 | 60 | 75 | 75 | 100 | 100 | 100 | 100 |
| IL-38 | 20 | 20 | 40 | 40 | 55 | 55 | 55 |
| MI-4 (Helo) | 130 | 130 | 130 | 130 | 115 | 105 | 70 |
| Total | 240 | 235 | 245 | 270 | 270 | 275 | 245 |
| U.S. standing | −30 | −25 | −32 | −56 | −68 | −76 | −42 |
| Grand total: | | | | | | | |
| United States | 210 | 210 | 213 | 214 | 202 | 199 | 203 |
| Soviet Union | 680 | 665 | 675 | 680 | 680 | 685 | 675 |
| U.S. standing | −470 | −455 | −462 | −466 | −478 | −486 | −472 |

| | Aircraft characteristics | | | | | |
|---|---|---|---|---|---|---|
| | 1st deployed | Crew | Nr engines | Patrol radius (miles) | Detection devices | Antiship weapons |
| ANTISURFACE SHIP BOMBERS | | | | | | |
| Soviet Union: | | | | | | |
| Bear-F | 1975 | 5 | 4 | 3,900 | | |
| Backfire | 1975 | 2-4 | 2 | 2,500 | | ASM's. |
| IL-28 | 1950 | 3 | 2 | 685 | | Bombs or torpedoes. |
| SU-17 | 1972 | 1 | 1 | 375 | | Bombs, rockets, ASM. |
| TU-16 | 1955 | 7 | 2 | 1,600 | | Bombs or ASM. |
| TU-22 | 1962 | 3-4 | 2 | 700 | | Bombs. |
| ASW AIRCRAFT | | | | | | |
| United States: P-3 | 1962 | 10-12 | 4 | 1,200 | MAD, [1] radar, sonobuoy | Torpedoes or mines. |
| Soviet Union: | | | | | | |
| BE-12 [2] | 1961 | 4 | 2 | 1,250 | MAD, radar, sonobuoys. | Bombs, mines, depth charges, torpedoes (various mixes). |
| IL-38 | 1968 | 12 | 4 | 2,250 | do | Do. |
| MI-4 (Helo) | 1953 | | 1 | 75+ | MAD, radar, sonar | None. |

[1] MAD stands for magnetic anomaly detector.
[2] BE-12 (and its predecessor BE-6) is a flying boat.

Note: UE aircraft only, excluding reconnaissance, training, and special-purpose versions.

### Part V. Mobility Forces

#### Mobility modes and missions

The proper mix and amount of airlift, sealift, and land transportation depends on how much must be moved how far how fast under specific conditions to serve particular purposes. Prepositioning selected stocks (such as armor, artillery, and ammunition) in or near prospective employment areas can reduce demands, but only up to some changeable point, beyond which such steps can be counterproductive.[1]

Intercontinental lift over open oceans is a U.S. essential. Russian requirements thus far have been more regional. Dissimilar demands

consequently foster mobility force structures that are quite different in size as well as composition.[2] (See Graph 9 at the end of this section).

MILITARY AIRLIFT

There is no clean dividing line between strategic and tactical airlift, both of which specialize in rapid redeployment to serve deterrent/defensive purposes, but primary missions are distinct.

*Strategic airlift*

Soviet Posture—

AN-22 Cocks, with a cargo capacity second only to U.S. C-5s, can lift outsize items like T-62 tanks, Frog-3 rockets, and SA-4 SAMS on tracked launchers. Flashy turbofan Candids (IL-76) have some features similar to C-141s. Taken together, however, they total just 80 aircraft, a small fleet compared with the titanic armed force they are tasked to support. (See Figure 22). Neither is fitted for in-flight refueling.[3]

Aeroflot, the Soviet counterpart of U.S. civil airlines, could increase cargo capacities about 25 percent, and triple spaces for passengers,[4] but its crews, along with those in military service, lack much experience in long-range operations over strange territory.

Those factors in combination rule out large-scale airlift operations in southern Africa, Latin America, and other remote locales, unless "stepping stones" are available.

U.S. Posture—

America's strategic airlift assets, despite significant shortfalls, are without peer in the world.

*Capabilities.*—Major emphasis on modernization has paid off. Our present all-jet force, less than half the size of its propeller-powered predecessor in the late 1960s, can lift loads more than three times larger.[5] Seventy C-5s can accommodate outsize, oddly-shaped cargo, such as heavy helicopters, tanks, and 20-ton cranes.[6] Aircraft and crews are qualified for in-flight refueling, which makes nonstop performance possible at unrestricted range.[7] C-141s, proved over a seven-year period on the trans-Pacific "pipeline" to Southeast Asia, are still reliable mainstays that make up 75 percent of our strategic airlift stable. Utilization rates could be increased in emergency by mobilizing associate reserves that lost their last aircraft in 1975, but are collocated with active squadrons, and participate in operations.[8] C-130 E/H models, available for augmentation under certain circumstances, could increase strategic capabilities by about 8,500 tons in fifteen days.[9]

The U.S. Civil Reserve Air Fleet (CRAF), with roughly 135 long-range cargo and 94 passenger aircraft,[10] all modern jets, can be committed during crises in accord with contracts that connect commercial carriers with Military Airlift Command (MAC).[11]

Combined military/CRAF 30-day capabilities reportedly total 180,000 tons, 50,000 of which (28 percent) comprise C-5 sorties with outsize equipment.[12]

Constraints.—Absolute airlift abilities, however impressive in abstract terms, must be related to the real world and real requirements if they are to be meaningful.

The time required to deploy Army divisions with unit integrity intact depends entirely on C-5s, the only aircraft (including those in CRAF) that can carry outsize cargo.[13] The current complement of 70 clearly is too few to implement NATO plans in prescribed time frames. Nearly five trips, for example, would be needed to move the medium tanks of one armored division, at the rate of two per load. One official study concludes that eight days would elapse before all outsize equipment could reach NATO airports after C-141s and CRAF delivered an inter-service package composed of 300,000 troops and 169,000 tons of cargo.[14]

C-141s, which "cube out" quickly,[15] fly many sorties with substantial lift capacity unused. Their inability to refuel in flight causes operational costs to soar and constrains mobility options.[16] Huge numbers are needed even to lift the combat elements of a light airborne division over long distances with a basic load of ammunition and five-day supplies of rations and fuel. A move from Fort Bragg, North Carolina to the Middle East would consume more than 700 sorties,[17] not counting comparable airlift required for associated Army support and forces from other services.[18]

CRAF equipment compensates less effectively than first glance suggests. Only 12 are wide-bodied freighters.[19] None of those are configured to carry outsize cargo.[20]

Finally, SAC's fleet of 615 KC-135 tankers[21] is sufficient to serve concurrently the peacetime U.S. B-52 alert force, transoceanic fighter redeployments, and strategic airlift operations only during small-scale, medium-range contingencies. Competition could delay receipt of supplies and reinforcements under more stringent circumstances.[22]

*Tactical airlift*

Tactical airlift is used primarily for intra (rather than inter) theater transportation. Various types of aircraft can quickly shift troops, supplies, and equipment by airlandings and/or aerial delivery.

Soviet Posture.—AN-12 Cubs, which account for almost 85 percent of all Soviet airlift aircraft, are inferior to U.S. C-130s in every respect. Still, they find space for most equipment assigned or attached to airborne divisions (see Figure 22 for statistics and characteristics). So do IL-76s, which are just beginning to see service.[23]

Tactical transports are sufficient to airlift one Soviet airborne division about 1,000 miles with all combat equipment and three days worth of accompanying supplies. Military aircraft could move assault elements of two divisions the same distance, provided heavy items were prepositioned. Augmentation from Aeroflot could triple the number of personnel.[24] Shorter hops increase capabilities, because turnaround times are reduced. Major elements thus could move rapidly to, say, the Middle East from departure airfields in the Caucasus, especially if committed in waves over several days.[25]

Reliable fighter support, however, could be a critical limiting factor in any objective area far from Soviet frontiers or satellite states. Forward basing conceivably could be found in friendly countries, such as Syria, but complexities would increase. The likelihood that large-scale Soviet airborne operations would occur under any conditions that exclude local air superiority thus seems slight.[26]

U.S. Posture—America's tactical airlift, long the world's best, is still unexcelled, but in the absence of modernization measures shows clear signs of age.

Capabilities.—Tried, true, and time-tested C-130s, which make up most of the U.S. tactical airlift force, are ideally suited for multiple missions over medium ranges under combat conditions. They adapt equally well for airlandings and airborne assaults that involve minimal campaigns or mass movements.

Constraints.—MAC's active force is much smaller than in 1970 (534 aircraft then, 234 now).[27] Reserve components, equipped mainly with older model C-130s, are much larger (100 then, 374 now). Composite strengths have therefore stayed constant statistically, but combined capabilities have decreased. Reliance on reserves, once modest, is now marked.

Beyond that, C-130 cargo compartments are too tight for loads like self-propelled artillery and MICV,[28] which C-141s can lift only by slighting strategic airlift missions. We also are losing any capacity to conduct operations off crude strips less than 2,000 feet long. A few C-7 and C-123 aircraft, approaching the end of their service life, are still assigned to squadrons in reserve, but capabilities are absent in the active inventory.

*Battlefield mobility*

Dual-purpose Soviet MI-24 Hind helicopters, which serve as weapons platforms as well as cargo/troop carriers, possess great possibilities.[29] Their numbers, however, now are few. Other makes are less impressive. Doctrine is still in development.

The combined U.S. Army and Marine fleet of 3,200 cargo/utility helicopters, cut by 60 percent since 1970, still possesses battlefield mobility much superior to that of the Soviets. That trend, however, could turn around, if present stocks are not replaced with more capable models.

MILITARY SEALIFT

Military sealift essentially serves two purposes: administrative movements and amphibious assault. Once again, asymmetries between U.S. and Soviet structures are clearly apparent (Figure 23).

*Administrative sealift*

Airlift affords rapid response, but only sealift can carry mass tonnages over transoceanic distances to sustain forward deployed forces or move strategic materials in amounts essential for national security.

Soviet Strategic Sealift—

The Soviet merchant marine, controlled by the Navy, currently includes 1,650 modern, highly-automated ships whose characteristics have been shaped more by sea power concepts than purely commercial considerations. Most, being self-sustaining[30] and smaller than U.S. counterparts, are better able to operate in ports plagued by shallow harbors and skimpy facilities. Abilities were displayed to advantage during the Vietnam War, when Soviet merchantmen moved millions of tons 14,000 nautical miles around the Cape of Good Hope to Haiphong.[31]

Present trends tend toward Roll-on Roll-off (Ro/Ro) vessels, with ramps that allow wheeled and tracked vehicles to board and debark at will from open piers, with or without containers. Something like 20 now are in service. Finland is building two "Seabee" ships, based on U.S. technology. Barges, stowed topside and between decks, can be loaded and unloaded easily, and once in the water integrate easily with feeder systems that navigate inland waterways. The applicability to operations in out-of-the-way areas is apparent.[32]

U.S. Merchant Fleets—

U.S. merchant shipping has definitely been on a down slide since World War II. The implications for national defense are inimical.

Military Sealift Command.—Six government-owned and 21 chartered dry cargo ships currently constitute the core assets immediately available to Military Sealift Command (MSC) for security purposes—166 less than those assigned at the start of this decade.[33] Thirty tankers make up the remainder.

Active Merchant Marine.—Capabilities so slight can be quickly exhausted. Consequently MSC leans ever more heavily on our active merchant marine, which is also shrinking.

Footnotes at end of article.

Ships now in the inventory are tailored expressly for foreign trade, not military emergencies. The U.S. break-bulk tramp fleet has broken up.[34] Specialized container ships, which now predominate, capitalize on speed at sea and at pierside.[35] Loading and offloading can take less than 24 hours, vice several days for conventional freighters.

Unfortunately such vessels are ill-configured to carry vehicles, and the absence of onboard gantry cranes, which increase container capacity and decrease cost/maintenance problems, makes discharge difficult in undeveloped ports. Heavy-lift helicopters, balloon-supported aerial tramways (like those used by lumber companies), and equipment on self-sustaining ships currently serve as expedients to unload container ships in such circumstances, but efforts of that sort are expensive and inefficient.[36]

Even if the U.S. Merchant Marine were structured perfectly, potential problems would still exist, given existing legal limitations. Emergency callups are politically sensitive matters, and in prolonged conflict could weaken this country's already poor competitive commercial position by diverting ships for defense.[37] Sharp distinctions consequently are made between major wars and minor contingencies. No emergency requisitioning, for example, ever occurred in the Vietnam War, although the President had such powers. As a direct result, civilian ships offered for charter were often second class in terms of requirements.[38]

National Defense Reserve Fleet.—Marginal abilities of the active Merchant Marine to satisfy national needs (with or without compulsory callups) reinforce reliance on the National Defense Reserve Fleet (NDRF), which moved 40 percent of all military cargo to Vietnam during peak periods.[39]

Capabilities, however, are miniscule, compared with those in the past. The "mothballed" fleet of World War II cargo ships, which once numbered thousands, is now reduced to 139 that are worth reactivating. Law permits owners to trade in aging but effective Mariner class ships for equal value in clunkers they could sell for scrap, but few so far have taken advantage, so the NDRF rusts and rots.[40]

Those still seaworthy are small and slow,[41] but their self-sustaining characteristics and ability to accept outsize items like tanks, trucks, locomotives, rolling stock, and harbor craft makes them easily adaptable for military missions. Perhaps even more importantly, requirements for break-bulk ships will remain critical until commercial containers are approved for ammunition carriage sometime in the early 1980s.[42]

Current DOD plans call for supplementary sealift from NDRF storage sites to report ready for duty within 10–15 days after American servicemen and/or materiel are committed to contingency operations, but refurbishment in fact would take 30 days or more in many instances. Drydock schedules are cramped. Labor skills are short in some shipyards. The passage of time will only aggravate the availability of repair parts, which already are scarce. Union assurances that sufficient qualified crews could assemble in short order may prove optimistic. About eight months reputedly would transpire before all NDRF Victory ships could pass muster, if reactivation proceeded on a regular schedule. Time could be cut to something like three months if crash programs were implemented.[43]

A program now is afoot to refit 30 NDRF ships fast enough to satisfy 5- to 10-day force generation requirements.[44] Five ships from this Ready Reserve Force (RRF) would join the MSC Nuclear Fleet. The remainder would be chartered. That program, however, will not reach fruition until 1981.[45]

Effective U.S. Controlled Fleet.—The Effective U.S. Controlled Fleet (EUSC) of 314 ships, owned by Americans but flying flags from Liberia, Panama, and Honduras, offers a fallback position of sorts. Written agreements list which ships might reasonably be available in emergency. How responsive they would actually be is argumentive, but their military value is minimal in any case, since all but 10 are tankers or bulk cargo carriers best suited for hauling petroleum products and natural resources.[46]

Other Foreign Flags.—Other foreign-flag ships completely beyond U.S. control are more than ample to meet America's major contingency requirements. Dependability, however, could be poor if perceived interests of the countries concerned (including NATO allies) fail to coincide during crises with those of the United States. Even if owners show good will, there is no certainty that alien crews will agree to traffic in war zones, with or without a big bonus.[47]

Salient U.S. Shortcomings.—U.S. strategic sealift suffers from insufficient ships that can assemble in acceptable times and carry military type cargo to points where facilities are undeveloped or destroyed.

Army armored and mechanized divisions, with many more vehicles than ever before, would impose immense strains on merchant shipping, not just for initial deployment but to withstand combat losses, which could be heavy if history is any indicator. The trend toward fewer ships, constructed essentially to carry containers, thus is inversely proportionate to military demand. Even modest attrition from Soviet attacks could cripple our missions.

*Amphibious sealift*

Soviet amphibious sealift is extremely limited (Figure 24). Active U.S. assets are still comparatively strong, although they dropped from 162 ships to 62, after reaching their apogee in 1967.

The residue is satisfactory for battalion- and regimental-size landings, but lift requirements of a single Marine division/wing team would absorb all but four operational ships scattered from Manila to the Mediterranean. Lead times for assembly would be long, and combat losses irreplaceable.[48]

*Road and rail*

Except for one gravel road that links CONUS with Alaska, the United States has no overland routes to any prospective areas of possible confrontation with the Soviet Union, which relies heavily on road and rail lines that lead to NATO territory, the Indian-subcontinent, China, and the Middle East.

Soviet networks generally compare poorly with those in this country. Not many highways are paved. Trucks are plentiful, but maintenance is poor. Railways are still restricted, even though traffic has doubled in the last decade. Trains enroute to and from central Europe (or China, for that matter), must change wheels at the border, because Russian broad gauge tracks are incompatible with those of satellite states.[49] The process takes about two hours for a 20-car train.

Nevertheless, Soviet land lines of communication constitute impressive mobility means that are more important than airlift and sealift for many missions.

*Combined flexibility*

Composite Soviet mobility forces are sufficient to influence a range of low-key contingencies in widely-separated areas, such as Angola and the Arab States, but airlift/sealift shortages are still strong limiting factors for major military operations almost anywhere outside the home country or contiguous satellites.

Quick and efficient logistic support for allies is a U.S. airlift specialty. MAC's squadrons also afford means of reinforcing forward deployed forces rapidly or shifting sizable combat power anywhere in the world. Apparent flexibility, however, is conditioned by the dearth of sealift, which makes it almost impossible to sustain major efforts without allied assistance. That dangerous combination calls for caution under most conceivable circumstances, since aid is by no means assured.

FOOTNOTES

[1] Prepositioned stocks require protected facilities. Duplicate sets of equipment (one in use, one in storage) not only double costs, but some items are difficult to maintain, much less modernize at rates equal to those of items in active units. Land-based depots in particular are susceptible to preemptive destruction in some deployment areas. Relocating caches in emergency can *add* to, rather than *reduce*, demands on airlift and sealift. Rainville, R.C., Strategic Mobility and the Nixon Doctrine, Washington, The National War College, 1971, p. 60–61.

[2] U.S. plans, programs, and alternatives are addressed in Rumsfeld, Donald H., Defense Department Report for FY 1978, p. 228–237; Brown, George S., United States Military Posture for FY 1978, p. 93–98; and Mobility Forces: An Interim Report, prepared by the Congressional Budget Office for the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee, Washington, October 26, 1976, 13 p. plus tables.

[3] Schott, Terry L. Soviet Air Transportation: Projection of Power, U.S. Army Aviation Digest, July, 1976, p. 14.

[4] Brown, George S., United States Military Posture for FY 1978, p. 94.

[5] U.S. Congress. House. The Posture of Military Airlift. A report by the Research and Development Subcommittee of the Committee on Armed Services. 94th Congress, 2d Session. Washington, U.S. Govt. Print. Off., April 9, 1976. p. 28.

[6] Mobility Forces, Congressional Budget Office, p. 3.

[7] C–5 aircraft have always been equipped with refueling receptacles. but crews were not qualified during the emergency airlift to Israel in 1973. Consequently, they not only were compelled to take on fuel at politically sensitive Lajes Field in the Azores enroute, but consumed 1.3 pounds of POL at Lod Airport in Israel for every pound of equipment delivered. Ibid., p. 15.

President U.S. aircraft could carry 38 percent more outsize cargo if refueled in flight, according to a recent MAC study.

[8] Brown, George S., United States Military Posture for FY 1978, p. 94.

[9] Mobility Forces, Congressional Budget Office, p. 7, amended by Air Force comments on the draft of this study, March 7, 1977.

[10] Brown, George S., United States Military Posture for FY 1978, p. 95.

[11] CRAF callups, by model and series, can be in three stages. The first two afford extensive voluntary civil augmentation airlift in times of limited crisis. Commander, MAC is authorized to activate Stage I. Stage II requires Defense Secretary approval. Stage III provisions, connected with grave national emergencies declared by Congress, the President, or (under specified conditions) the Office of Preparedness, permit requisitioning of the entire CRAF. To date, none of those plans have been implemented. Commitments during the Vietnam conflict comprised voluntary expansion of peacetime contracts. U.S. Congress. House. The Posture of Military Airlift, p. 31–32.

[12] Air Force comments on the draft of this study, March 4, 1977. To put 30-day lift capacities in perspective, a single armored division with accompanying supplies (computed at 422 pounds per man day) weighs 55,900 tons. A mechanized division weighs 49,710. Infantry divisions, which make up most of our National Guard, weigh 29,370 each. Figures were furnished by Army DCSLOG planners on February 4, 1977.

[13] U.S. Congress. House. The Posture of Military Airlift, p. 18.

[14] Rainville, R.C., Strategic Mobility and the

Nixon Doctrine, p. 51–52, 73. The study cited is out of date, but C–5 holdings have stayed constant at 70 and similar delivery delays could be expected today.

[15] Large, irregular items such as vehicles often fill the cigar-shaped C–141 cargo compartment long before allowable cargo load (ACL) limits are reached in terms of pounds. That phenomenon, called "cubing out," has produced a prototype program for a "stretch" version of the C–141, which (if procured) would increase lift capacity about 30 percent.

[16] C–141s would have proved useless during the 1973 airlift to Israel if Portugal had refused landing rights at Lajes field. The same tonage could have been delivered with 57 fewer sorties while saving 5 million gallons of gas if in-flight refueling had been feasible. U.S. Congress. House. The Posture of Military Airlift, p. 15.

[17] A sortie is one round trip by one aircraft.

[18] Statistics were received telephonically from staff officers of the 82d Airborne Division in April, 1975.

[19] Another 13 wide-bodied aircraft can be converted from passenger to cargo configuration. MAC Monthly Reserve Air Fleet Summary.

[20] Rainville, R. C. Strategic Mobility and the Nixon Doctrine, p. 49.

[21] Brown, George S., United States Military Posture for FY 1978, p. 96.

[22] Rumsfeld, Donald H., Annual Defense Department Report for FY 1978, p. 230.

[23] Turbiville, Graham H., Soviet Airborne Forces: Increasingly Powerful Factor in the Equation, Army Magazine, April 20, 1976, p. 22; Schott, Terry L., Soviet Air Transportation, p. 14–16.

[24] DIA comments on the draft of this study, March 3, 1977.

[25] Erickson, John, Soviet-Warsaw Pact Force Levels, p. 51; Turbiville, Graham, H., Soviet Airborne Forces, p. 22, 27.

[26] Turbiville, Graham H., Soviet Airborne Forces, p. 27.

[27] U.S. tactical airlift assets were assigned to Tactical Air Command and theater commanders until March 31, 1975, when Military Airlift Command was made single manager.

[28] U.S. Congress. House. The Posture of Military Airlift, p. 7.

[29] Erickson, John, Soviet-Warsaw Pact Force Levels, p. 51; Bramlett, David A., Soviet Airmobility: An Overview, Military Review, January, 1977, p. 16–18, 24–25.

[30] "Self-sustaining" in merchant marine terms connotes ships that can load and unload themselves, using the ship's booms, cranes, and other cargo-handling apparatus.

[31] Briefing by Larry Luckworth, U.S. Naval Intelligence Support Center, Washington, May, 1976, p. 1–2 of text; Understanding Soviet Naval Developments, p. 39; Brown, George S., United States Military Posture for FY 1978, p. 97. Sources refer to ship characteristics, not Soviet use.

[32] Chase, John D., U.S. Merchant Marine—for Commerce and Defense, U.S. Naval Institute Proceedings, May 1976, p. 134–135, 141; Rumsfeld, Donald H., Annual Defense Department Report for FY 1978, p. 237; Izvestia, December 27, 1976.

[33] MSC is the operating agency through which the Secretary of the Navy exercises his single manager responsibilities for all U.S. strategic sealift.

[34] Break-bulk ships, as opposed to those constructed to carry containers, transport undifferentiated dry cargo of various sizes and shapes. They suit military needs very well. "Tramps" are owned by independent operators, who haul cargoes of opportunity without regard for schedules or routes.

[35] Containers are rectangular steel boxes, eight feet square in cross-section. Standard lengths are 20, 24, 35, and 40 feet. Each can be carried on a trailer, railroad flat car, or in a barge. They stack vertically in container cells and on top of strong hatch covers, side-by-side, so that loading is simple and no space is wasted.

[36] Approximately 400 dry cargo ships were needed to sustain operations in Vietnam, because unloading and clearance facilities were inadequate. Consequently, scores of merchantmen constantly anchored offshore or queued in Thai harbors waiting their turn, extending turnaround times. New container ships transferred cargo to old self-sustainers or LSTs at Cam Ranh Bay. Many of those useful craft, that saw yeoman service, have since been retired. Chase, John D., U.S. Merchant Marine—For Commerce and Defense, p. 133–134; Brown, George S., United States Military Posture for FY 1978, p. 98.

[37] The Merchant Marine Act of 1936, as amended in 1970, prescribes a fleet "capable of serving as a naval and military auxillary in time of war or national emergency" declared by Presidential proclamation. In such case, "it shall be lawful for the Secretary of Commerce to requisition or purchase any vessel or other watercraft owned by citizens of the United States, or under construction in the United States, or for any period during such emergency to requisition or charter the use of any such property." Title 46, Sections 1101 and 1242, United States Code.

[38] Kendall, Lane C., "Capable of Serving as a Naval and Military Auxillary. . . .," U.S. Institute Proceedings, May, 1971, p 213–214, 214–215.

[39] The National Defense Reserve Fleet—Can it Respond to Future Contingencies? Report to the Congress by the Comptroller General of the United States, Washington Accounting Office, October 6, 1976, p. 2.

[40] Mariner class ships are newer, larger, and faster than Victory ships, but are similarly configured. Chase, John D., U.S. Merchant Marine—For Commerce and Defense, p. 140; Kendall, Lane C., "Capable of Serving as a Naval and Military Auxilliary. . . .," p. 226.

[41] Cargo ship speed is an important factor for fast turn-around times. Steaming at a steady 15 knots, a Victory ship would take four days plus four hours longer than a 20-knot C–4 Challenger to travel 6,000 miles.

[42] The National Defense Reserve Fleet—Can it Respond to Future Contingencies?; p. 3–4; telephonic conversation with MSC planners on February 9, 1977.

[43] The National Defense Reserve Fleet—Can it Respond to Future Contingencies?, p. 4–13, 32.

[44] The present list of 30 ships will change in size, composition and capability if MSC receives approval to swap a few Victory ships for more modern models.

[45] Brown, George S., United States Military Posture for FY 1978, p. 97.

[46] Chase, John D., U.S. Merchant Marine—For Commerce and Defense, p. 140–143.

[47] Ibid., p. 140; Kendall, Lane C., "Capable of Serving as a Naval and Military Auxiliary. . . ," p. 216, 209.

[48] One Marine division with its associated air wing normally embarks on a minimum of 49 amphibious ships, whose composition is as follows:

| | |
|---|---|
| Command/control ship (LCC) | 1 |
| Amphibious assault ship (LPH) | 5 |
| Amphibious transport (LPA) | 3 |
| Amphibious transport dock (LPD) | 10 |
| Landing ship dock (LSD) | 9 |
| Amphibious cargo ship (LKA) | 5 |
| Landing ship tank (LST) | 16 |
| Total | 49 |

Current assets are limited to 62 ships (see Figure 18 for LPH), of which 15 percent are normally in overhaul at any given time. Marine Corps comments on the draft of this study, March 3, 1977.

[49] Russian broad gauge tracks are 5 feet wide. Standard gauge tracks in satellite states are 4 feet 8½ inches.

FIGURE 22

MILITARY AIRLIFT—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| STRATEGIC AIRLIFT | | | | | | | |
| United States: | | | | | | | |
| Active: | | | | | | | |
| C–5 | 2 | 28 | 49 | 70 | 70 | 70 | 70 |
| C–133 | 38 | 14 | 0 | 0 | 0 | 0 | 0 |
| C–141 | 234 | 234 | 234 | 234 | 234 | 234 | 234 |
| Total | 274 | 276 | 283 | 304 | 304 | 304 | 304 |
| Reserve: | | | | | | | |
| C–97 | 32 | 8 | 8 | 0 | 0 | 0 | 0 |
| C–124 | 208 | 168 | 72 | 24 | 24 | 0 | 0 |
| Total | 240 | 176 | 80 | 24 | 24 | 0 | 0 |
| Grand total | 514 | 452 | 363 | 328 | 328 | 304 | 304 |
| Soviet Union: | | | | | | | |
| AN–22 | 10 | 20 | 20 | 20 | 50 | 50 | 50 |
| IL–76 | 0 | 0 | 0 | 0 | 0 | 10 | 30 |
| Total | 10 | 10 | 20 | 20 | 50 | 60 | 80 |
| U.S. standing | +504 | +442 | +343 | +308 | +278 | +244 | +224 |

FIG. 22.—MILITARY AIRCRAFT—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS—Continued

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| **TACTICAL AIRLIFT** | | | | | | | |
| United States: | | | | | | | |
| Active: | | | | | | | |
| C-7 | 80 | 80 | 4 | 0 | 0 | 0 | 0 |
| C-123 | 60 | 38 | 0 | 0 | 0 | 0 | 0 |
| C-130 | 394 | 332 | 288 | 272 | 272 | 272 | 234 |
| Total | 534 | 450 | 292 | 272 | 272 | 272 | 234 |
| Reserve: | | | | | | | |
| C-7 | 0 | 0 | 32 | 48 | 48 | 48 | 48 |
| C-119 | 48 | 0 | 0 | 0 | 0 | 0 | 0 |
| C-123 | 8 | 8 | 40 | 72 | 72 | 72 | 64 |
| C-130 | 44 | 114 | 188 | 188 | 198 | 222 | 262 |
| Total | 100 | 122 | 260 | 308 | 318 | 342 | 374 |
| Grand total | 634 | 572 | 552 | 580 | 590 | 614 | 608 |
| Soviet Union: AN-12 | 730 | 730 | 730 | 730 | 680 | 670 | 630 |
| U.S. standing | −96 | −158 | −178 | −150 | −90 | −56 | −22 |
| Grand total: | | | | | | | |
| United States | 1,148 | 1,024 | 915 | 908 | 918 | 918 | 912 |
| Soviet Union | 740 | 740 | 750 | 750 | 730 | 730 | 710 |
| U.S. standing | +408 | +284 | +165 | +158 | +188 | +188 | +202 |
| **UTILITY/CARGO HELICOPTERS** | | | | | | | |
| United States | | | | | | | |
| Army: | | | | | | | |
| CH-34 | 185 | 40 | 0 | 0 | 0 | 0 | 0 |
| CH-37 | 25 | 0 | 0 | 0 | 0 | 0 | 0 |
| CH-47 | 480 | 460 | 345 | 380 | 365 | 330 | 325 |
| CH-54 | 70 | 55 | 50 | 50 | 50 | 50 | 50 |
| UH-1 | 4,030 | 3,750 | 2,810 | 2,680 | 2,945 | 2,440 | 2,565 |
| Total | 4,790 | 4,305 | 3,205 | 3,110 | 3,360 | 2,820 | 2,940 |
| Marine: | | | | | | | |
| CH-46 | 224 | 164 | 133 | 140 | 91 | 118 | 141 |
| CH-53 | 113 | 95 | 101 | 107 | 101 | 97 | 101 |
| Total | 337 | 259 | 234 | 247 | 192 | 215 | 242 |
| Grand total | 5,127 | 4,564 | 3,439 | 3,357 | 3,552 | 3,035 | 3,182 |
| Soviet Union | 800 | 900 | 950 | 1,100 | −1,325 | 1,350 | 1,475 |
| U.S. standing | +4,327 | +3,664 | +2,489 | +2,257 | +2,227 | +1,685 | +1,707 |

| | Transport aircraft characteristics | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Powerplant | | Cruising speed (knots) | Maximum cargo load (pounds) | Range with maximum load (nautical miles) | Minimum runway length (feet) | | Troops |
| | NR | Type | | | | Takeoff | Land | Passengers / Paratroops |
| United States: | | | | | | | | |
| Active: | | | | | | | | |
| C-5 | 4 | Jet | 450 | 209,000 | 2,565 | 7,700 | 4,610 | 343 / 0 |
| C-130E | 4 | Turboprop | 280 | 42,000 | 2,000 | 2,600 | 2,700 | 91 / 64 |
| C-141 | 4 | Jet | 425 | 63,600 | 2,835 | 6,300 | 3,840 | 131 / 123 |
| Reserve: | | | | | | | | |
| C-7 | 2 | Turboprop | 140 | 6,000 | 100 | 1,000 | 1,000 | 31 / 25 |
| C-123K | 4 | 2 jets, 2 turboprops | 145 | 17,600 | 100 | 1,325 | 1,150 | 58 / 58 |
| C-130A | 4 | Turboprop | 290 | 25,000 | 1,075 | 1,850 | 1,850 | 89 / 64 |
| C-130B | 4 | do | 290 | 35,000 | 1,575 | 2,400 | 2,400 | 91 / 64 |
| Soviet Union: | | | | | | | | |
| AN-12 | 4 | do | 320 | 44,000 | 750 | 2,300 | 1,640 | 28 / 80 |
| AN-22 | 4 | do | 350 | 176,200 | 2,200 | 4,260 | 2,620 | 29 / 0 |
| IL-76 | 4 | Jet | 430 | 88,000 | 2,700 | (1) | (1) | 122 / 0 |

[1] Unknown.

Notes: Coke (AN-24) and Curl (AN-26), both similar to Fokker F-27's, are scarcely suitable for most airlift purposes. Coot (IL-28), a medium transport, is assigned almost exclusively to Aeroflot, rather than Soviet Air Force units. All 3 are therefore excluded. Ranges correspond with loads shown. Performance data predicated on wartime maximum gross takeoff weights, no wind, and maximum fuel reserves. Lighter loads allow longer ranges. Minimum runway lengths shown above apply to average, not maximum, gross takeoff weights. C-5 range is unrefueled. C-130's, AN-12's AN-22's are turboprop powered.

FIG. 23.[1]—MERCHANT MARINE—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| **UNITED STATES** | | | | | | | |
| MSC: | | | | | | | |
| Nucleus: | | | | | | | |
| Cargo | 69 | 66 | 63 | 30 | 12 | 9 | 6 |
| Tanker | 25 | 24 | 17 | 16 | 20 | 19 | 21 |
| Total | 94 | 90 | 80 | 46 | 32 | 28 | 27 |
| Charter: | | | | | | | |
| Cargo | 123 | 76 | 91 | 43 | 34 | 22 | 21 |
| Tanker | 36 | 31 | 34 | 23 | 22 | 13 | 9 |
| Total | 159 | 107 | 125 | 66 | 56 | 35 | 30 |
| Grand total | 253 | 197 | 205 | 112 | 88 | 63 | 57 |

Footnotes at end of table.

FIG. 23.[1]—MERCHANT MARINE—STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS—Continued

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| Remainder, active merchant marine: | | | | | | | |
| Cargo | 351 | 300 | 205 | 249 | 257 | 272 | 268 |
| Tanker | 187 | 183 | 176 | 176 | 169 | 181 | 180 |
| Total | 538 | 483 | 381 | 425 | 426 | 453 | 448 |
| Effective U.S. controlled fleet: | | | | | | | |
| Cargo | 34 | 22 | 20 | 18 | 14 | 11 | 10 |
| Tanker | 265 | 269 | 276 | 301 | 319 | 299 | 304 |
| Total | 299 | 291 | 296 | 319 | 333 | 310 | 314 |
| Total active: | | | | | | | |
| Cargo | 577 | 464 | 379 | 340 | 317 | 314 | 305 |
| Tanker | 513 | 507 | 503 | 516 | 530 | 512 | 514 |
| Total | 1,090 | 971 | 882 | 856 | 847 | 826 | 819 |
| NDRF: | | | | | | | |
| Cargo | 170 | 175 | 168 | 149 | 138 | 139 | 139 |
| Tanker | 20 | 27 | 28 | 26 | 24 | 28 | 19 |
| Total | 190 | 202 | 196 | 175 | 162 | 167 | 158 |
| Recap: | | | | | | | |
| Cargo: | | | | | | | |
| Active | 577 | 464 | 379 | 340 | 317 | 314 | 305 |
| NDRF | 170 | 175 | 168 | 149 | 138 | 139 | 139 |
| Total | 747 | 639 | 547 | 489 | 455 | 453 | 444 |
| Tanker: | | | | | | | |
| Active | 513 | 507 | 503 | 516 | 530 | 512 | 514 |
| NDRF | 20 | 27 | 28 | 26 | 24 | 28 | 19 |
| Total | 533 | 534 | 531 | 542 | 554 | 540 | 533 |
| All active | 1,090 | 971 | 882 | 856 | 847 | 826 | 819 |
| An NDRF | 190 | 202 | 196 | 175 | 162 | 167 | 158 |
| Total | 1,280 | 1,173 | 1,078 | 1,031 | 1,009 | 993 | 977 |
| SOVIET UNION | | | | | | | |
| Cargo | 1,075 | 1,150 | 1,150 | 1,200 | 1,200 | 1,250 | 1,325 |
| Tanker | 325 | 300 | 300 | 300 | 300 | 300 | 325 |
| Total | 1,400 | 1,450 | 1,450 | 1,500 | 1,500 | 1,550 | 1,650 |
| U.S. standing: | | | | | | | |
| Cargo | −328 | −511 | −603 | −711 | −745 | −797 | −881 |
| Tanker | +208 | +234 | +231 | +242 | +254 | +240 | +208 |
| Total | −120 | −277 | −372 | −469 | −491 | −557 | −673 |

CARGO SHIP CHARACTERISTICS

| United States | MARAD[2] design | Ship class | Capacity (measurement tons[3]) | Deadweight tons at design draft | Design speed | Boom/capacity | Container capacity | Lighters/barges |
|---|---|---|---|---|---|---|---|---|
| Break bulk | VC2-S-AP2 | Adelphi Victory | 11,325 | 7,400 | 15 | 1-50T | None | None. |
| | C3-S-37c | Sheldon Lykes | 14,300 | 9,610 | 18 | 1-60T | do | Do. |
| | C4-S-57A | Challenger | 16,072 | 10,290 | 20 | 4-10T, 2-15T, 1-70T | do | Do. |
| Partial containership | C4-S-64A | Austral Pilot | 17,176 | 9,800 | 20 | 4-15T, 2-10T | 203-20' | Do. |
| Self-sustaining containership | C6-S-1Qc | President Polk | 26,700 | 17,300 | 20 | 2-10T, 4-22T, 1-60T | 380-20', 198-40' | Do. |
| Containership non-self-sustaining. | C5-S-73b | C. V. Lightning | 23,800 | 11,700 | 20 | None | 928-20' | Do. |
| | C6-S-1N | American Ace | 26,100 | 17,100 | 22 | do | 463-20', 234-40' | Do. |
| | ---------- | Sea-Land Galloway (SL-7). | 59,300 | 20,060 | 30 | do | 896-35', 200-40' | Do. |
| Lash | C8-S-81b | Lash Italia | 32,655 | 17,990 | 21 | 1-30T, 1-500T (crane) | 248-20' | 49 with containers, 62 without containers. |
| SeaBee | C8-S-82A | Doctor Lykes | 37,187 | 25,550 | 20 | 2,000T elevator | None | 38 barges.[5] |
| RO/RO | ---------- | Ponce | 49,200 | 11,192 | 25 | None | do | None. |
| | C7-S-95 | Maine | 43,390 | 11,980 | 23 | 2-15T | do | Do. |

[1] Fig. 23 excludes bulk cargo ships.
[2] MARAD stands for Maritime Administration.
[3] Measurement ton equal to 40 cubic feet.
[4] Lash lighter capacity 475 measurement tons.
[5] Sea Bee barge capacity 1,000 measurement tons.

Note: Foreign flags are 1,000 tons or more.

FIGURE 24.—AMPHIBIOUS SEALIFT STATISTICAL TRENDS AND SYSTEM CHARACTERISTICS

| | 1970 | 1971 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|
| United States: | | | | | | | |
| LCC | 2 | 4 | 3 | 2 | 2 | 2 | 2 |
| LKA | 12 | 7 | 6 | 6 | 6 | 6 | 5 |
| LPA | 4 | 3 | 3 | 2 | 2 | 2 | 0 |
| LPD | 12 | 14 | 15 | 14 | 14 | 14 | 14 |
| LPSS | 1 | 1 | 1 | 1 | 1 | 0 | 0 |
| LSD | 13 | 12 | 12 | 13 | 13 | 13 | 13 |
| LST | 46 | 30 | 30 | 21 | 20 | 20 | 20 |
| Total | 90 | 71 | 70 | 59 | 58 | 57 | 54 |
| Soviet Union: LST | 10 | 10 | 12 | 12 | 12 | 15 | 20 |
| U.S. standing | +80 | +61 | +58 | +47 | +46 | +42 | +34 |

AMPHIBIOUS SHIP CHARACTERISTICS

| | Speed (knots) | Troops | General cargo (cubic feet) | Vehicles (square feet) | Ammunition (cubic feet) | Fuel drums | Bulk fuel (gallons) | Booms, cranes, (tons) | Boats | Helos |
|---|---|---|---|---|---|---|---|---|---|---|
| United States: | | | | | | | | | | |
| LKA—Rank in class | 16 | 138 | 42,518 | 21,798 | 39,988 | 600 | none | 4, 35 ton; 2, 10 ton; 6, 5 ton. | 6 LCM–6; 6 LCVP; 2 LCPL; 1 LCM–8. | None. |
| LPA—Paul Revere class | 20+ | 1,657 | 135,457 | 10,132 | 11,471 | 905 | 5,900 AVGAS | 2,60 ton; 1, 30 ton; 3, 10 ton, 2, 8 ton; 2, 5 ton. | 7 LCM–6; 10 LCVP; 5 LCPL. | 1 CH–53. |
| LPD—Austin class | 20+ | 925 | 2,176 | 11,127 | 16,660 | MOGAS: 22,335; AVGAS: 97,328; AV–LUB: 4,500; JP–5: 224,572. | | 1, 30 ton; 6, 4 ton; 2, 1.5 ton. | 2 LCPL; 2 LCVP | 2 CH–53. |
| LSD—Thomaston class | 20+ | 341 | NA | 8,754 | 3,000 | AVGAS or MOGAS, 12,000; diesel. 39,000. | | 2, 50 ton | Ship's boats; 2 LCVP; 2 LCPL. Sample Loads: 3 LCU; or 19 LCM–6; or 9 LCM–8; or 48 LVTP. | 1 CH–53. |

Note.—Each class is different. Ships above are currently in widest use. LPD can cargo ammunition or general cargo, but not both.

LST CHARACTERISTICS

| | Speed (knots) | Troops | General cargo (tons) | Vehicles (sample loads) | Ammunition (cubic feet) | Bulk fuel (gallons) | Boats | Helos |
|---|---|---|---|---|---|---|---|---|
| United States: LST—1179 class | +20 | 431 | 500 (beach) 2,000 (over LST installed causeway). | 25 LVT, 172½ ton trucks or 21 M–60 tanks. 17 2½ ton trucks. | 2,552 | 254,000 diesel; 7,197 MOGAS; 134,438 AVGAS. | 3 LCVP; 1 LCPL | 1 CH–53. |
| Soviet Union: LST—Alligator | 15 | 375 | | 26 tanks | | | | |

LANDING CRAFT CHARACTERISTICS

| | | | | |
|---|---|---|---|---|
| United States: | | | | |
| LCM 6 | 9 | 80 | 34 | 3 ¼-ton trucks or 1 2½-ton truck/trailer. |
| LCM 8 | 12 | 150 | 60 | 1 M–60 tank |
| LCU 1610 series | 8 | 400 | 180 | 3 M–60 tanks |
| LCVP | 8 | 36 | 8,100 | 1 ¼-ton truck/trailer |
| LVTP | 7 | 28 | None | None |
| Soviet Union: | | | | |
| LSM: | | | | |
| Polnocny A | 18 | 200 | | 6 tanks |
| Polnocny C | 18 | 30 | | 5 tanks |

Key:—LCC=Amphibious command ship. LKA=Amphibious cargo ship. LPA=Amphibious transport. LPD=Amphibious transport dock. LPSS=Amphibious transport submarine. LSD=Landing ship dock. LST=Landing ship tank. LCM=Landing craft, mechanized. LCPL=Landing craft, personnel. LCU=Landing craft, utility. LCVP=Landing craft, vehicle, personnel. LVTP=Landing vehicle, tracked, personnel. Soviet LSM's (landing ships, mechanized) correspond more closely with U.S. landing craft than with amphibious ships, and are so listed. They currently have 65.

## PART VI. NATO AND WARSAW PACT

### FUNDAMENTAL FOCUS

Previous sections portray U.S. and Soviet armed forces as separate entities. Complete assessment of comparative strengths, however, must take allies into account, especially in the European area, where NATO and the Warsaw Pact are in contiguous confrontation.

Estimating who would win or lose if war broke out is beyond the scope of this study, which simply surveys current trends, then assesses consequent problems, paying particular attention to the crucial center sector, which is the strategic center of gravity and point of decision.[1] If defense fails there, NATO can forget the rest of Europe.

Footnotes at end of article.

### NATO'S CENTER SECTOR

West Central Europe, with which we have strong political, economic, military, technological, and cultural ties, rates second only to North America in strategic importance among regions of the Free World. U.S. interests there may indeed be vital,[2] for if the Soviets were able to add that prodigious source of strength to their present holdings, the power balance might shift so far in their favor that this country could not compete.

*Comparative force postures*

NATO is quantitatively outclassed by the Warsaw Pact in almost every category, and is losing its qualitative edge in several respects that count.

Quantitative Comparisons—

NATO is outnumbered, not just on prospective battlefields, but in backup. (See Figure 25).

U.S. and German troops along the Iron Curtain are the only NATO contingents strengthened since 1970. Contributions from most other countries have been cut.[3] France plans to prune its forward-based forces by almost 15 percent in the immediate future.[4] Financial straits could soon cause further reductions in Britain's Army of the Rhine.[5]

As it stands, Soviet forces alone substantially outnumber NATO in most instances. Twenty-five Category I divisions along the Iron Curtain in East Germany and Czechoslovakia compare favorably with 24 NATO counterparts.[6] Soviet tanks, artillery, and aircraft of all types (except ground attack) in those two countries exceed NATO's total. (See Figure 25).

FIGURE 25

NATO'S CENTER SECTOR, STATISTICAL SUMMARY

| | 1970 | | | 1976 | | |
|---|---|---|---|---|---|---|
| | United States | Soviet Union | U.S. standing | United States | Soviet Union | U.S. standing |
| Personnel | 240,000 | 750,000 | −510,000 | 271,000 | 840,000 | −569,000 |
| Divisions committed: | | | | | | |
| Armor | 2 | 14 | −12 | 2 | 14 | −12 |
| Other | 3 | 13 | −10 | 3 | 13 | −10 |
| Total | 5 | 27 | −22 | 5 | 27 | −22 |
| Ready reinforcements: | | | | | | |
| Armor | 2 | 14 | −12 | 2 | 14 | −12 |
| Other | 9 | 7 | +2 | 9 | 7 | +2 |
| Total | 11 | 21 | −10 | 11 | 21 | −10 |
| Subtotal | 16 | 48 | −32 | 16 | 48 | −32 |

Footnote at end of table.

FIGURE 25—Continued

NATO'S CENTER SECTOR, STATISTICAL SUMMARY—Continued

| | 1970 | | | 1976 | | |
|---|---|---|---|---|---|---|
| | United States | Soviet Union | U.S. standing | United States | Soviet Union | U.S. standing |
| 1st line reserves: | | | | | | |
| Armor | 2 | 0 | +2 | 2 | 0 | +2 |
| Other | 10 | 9 | +1 | 10 | 11 | −1 |
| Total | 12 | 9 | +3 | 12 | 11 | +1 |
| Total divisions | 28 | 57 | −29 | 28 | 59 | −31 |
| Medium tanks | 2,065 | 7,900 | −5,835 | 2,120 | 9,100 | −6,980 |
| Tactical aircraft: | | | | | | |
| Light bombers | 0 | 200 | −200 | 0 | 100 | −100 |
| Fighter/attack | 180 | 700 | −520 | 250 | 800 | −550 |
| Interceptors | 0 | 800 | −800 | 0 | 950 | −950 |
| Total | 180 | 1,700 | −1,520 | 250 | 1,850 | −1,600 |
| MRBM/IBBM | 0 | 650 | −650 | 0 | 550 | −550 |

| | 1970 | | | 1976 | | |
|---|---|---|---|---|---|---|
| | NATO | Warsaw Pact | NATO standing | NATO | Warsaw Pact | NATO standing |
| Personnel | 1,099,300 | 1,190,000 | −90,700 | 1,045,200 | 1,216,000 | −170,800 |
| Divisions committed: | | | | | | |
| Armor | 8 | 24 | −16 | 8 | 24 | −16 |
| Other | 15 | 28 | −13 | 16 | 27 | −11 |
| Total | 23 | 52 | −29 | 24 | 51 | −27 |
| Ready reinforcements: | | | | | | |
| Armor | 2 | 14 | −12 | 2 | 14 | −12 |
| Other | 10 | 7 | +3 | 10 | 7 | +3 |
| Total | 12 | 21 | −9 | 12 | 21 | −9 |
| Subtotal | 35 | 73 | −38 | 36 | 72 | −36 |
| 1st-line reserves: | | | | | | |
| Armor | 2 | 2 | (1) | 2 | 2 | (1) |
| Other | 11 | 13 | −2 | 11 | 16 | −5 |
| Total | 13 | 15 | −2 | 13 | 18 | −5 |
| Total divisions | 48 | 88 | −40 | 49 | 90 | −41 |
| Medium tanks | 6,535 | 14,500 | −7,965 | 6,615 | 16,000 | −9,385 |
| Tactical aircraft: | | | | | | |
| Light bombers | 15 | 300 | −285 | 185 | 100 | +85 |
| Fighter/attack | 1,400 | 1,000 | +400 | 1,250 | 1,200 | +50 |
| Interceptors | 350 | 1,100 | −750 | 375 | 1,200 | −825 |
| Total | 1,765 | 2,400 | −635 | 1,810 | 2,500 | −690 |
| MRBM/IRBM | 0 | 650 | −650 | 0 | 550 | −550 |

[1] Par.

NOTES.—U.S./NATO committed divisions include all active divisions in NATO's center sector. Soviet/Warsaw Pact counterparts are limited to divisions in East Germany, Czechoslovakia, and Poland. All are Category I.

U.S./NATO ready reinforcements include all other active U.S. Army divisions, less one in Korea; one U.S. Marine division; and one British division in the U.K. Soviet counterparts are restricted to Category I and II divisions in the Baltic, Belorussian, and Carpathian Military Districts. There are no satellite state divisions in this class.

U.S./NATO first-line reserves include one active U.S. Army division; three U.S. Marine divisions; and one Dutch division. Warsaw Pact forces are Category III divisions, including those in the Baltic, Belorussian, and Carpathian Military Districts of European Russia.

U.S., West German, and Soviet divisions have increased in size since 1970. Three German divisions, for example, had only two brigades each at that time. All 12 now have three brigades. The British Army has the same total number of brigades as in 1970, but has added a division headquarters.

Most of NATO's increased strength is in separate brigades and regiments, which do not show on these charts. Some studies include them as "division equivalents". The British Military Balance, 1976–1977, for example, counts 29 NATO divisions, including 11 armored division equivalents.

U.S./NATO medium tank statistics include 535 U.S. prepositioned stocks (POMCUS), plus 130 in divisions that serve as maintenance float. Only tanks now in place are shown.

Aircraft statistics exclude U.S. dual-based forces in CONUS.

Personnel strengths are active forces only for U.S./NATO, but include Soviet Category III divisions.

NATO and Warsaw Pact comparisons include the United States and Soviet Union.

France is excluded from all calculations. Its divisions and tactical aircraft, which are not now under NATO's control, would be difficult to reintegrate into the current command structure in emergency.

Special mention: Every U.S. Army and Marine division, active and reserve component, is shown on these charts. The Soviet has 109 others, some Categories I and II. Many of those would be available for service in Central Europe if a crisis arose.

Soviet reinforcements could reach the current line of contact more rapidly and in much greater numbers than forces from the United States, which contains nearly all of NATO's uncommitted strength.[7] Reserves in European Russia could relieve two Category I divisions in Poland and four more in Hungary. Forward-deployed forces could be further strengthened on short notice from eight armies composed of 32 divisions and 6,800 main battle tanks that now are maintained in the Baltic, Belorussian, and Carpathian Military Districts.[8]

Friendly forces consequently are poorly prepared to absorb attrition, which could be awesome during early stages of an all-out war.

Qualitative Comparisons—

The statistical tale is just the tip of the iceberg. Improvements on the Soviet side are undermining NATO's long-standing qualitative superiority, which was compensatory strength.

Soviet ground combat firepower, mobility, and staying power have been beefed up. The best weapons face NATO forces, not the Chinese frontier. T–72 tanks are starting to arrive in considerable numbers. BMP–76 armored carriers, despite drawbacks, permit Soviet infantry to fight while mounted, while NATO must fight on foot.[9] New antitank missiles, mainly mobile, merge with armor formations and thus add to combat power. A shift is underway from towed to self-propelled artillery, which eventually will enable many battalions to support advancing armor more adroitly. Soviet guns in general not only outnumber, but out-range NATO's, and have higher rates of fire. Engineer bridging capabilities, unequalled in the world, suggest that Western Europe's wide streams could be crossed quickly.[10] Logistical shortcomings, once the weakest link in the Soviet chain, are being reduced systematically.[11]

Mobile air defense systems, being amended and extended in light of Middle East war experience, free many fighter-interceptors for air superiority missions. Some frontal aviation regiments have 25 percent more aircraft than they did in the recent past. Concrete shelters and increased dispersal assure their security better than in past years. New types of tactical aircraft afford a four-fold improvement in payload and range that would

Footnotes at end of article.

allow them to strike critical targets deep in NATO territory without first redeploying from peacetime bases well behind present frontiers. Armed helicopters are helping to bolster close air support abilities, which got short shrift in the 1960s.[12]

NATO never has matched Moscow's medium- and intermediate-range ballistic missiles (MRBMs, IRBMs), which are being supplemented or supplanted by a mobile model (SS-20) with MIRVs.[13] Increased stocks of tactical nuclear weapons, such as Scaleboards, Frogs, and Scuds, cover targets as close as 10 and as far as 500 miles from firing points.[14] Chemical warfare capacities of all kinds are considerable. NATO has no defense against such threats.

No change by itself is crucial, but emerging Soviet capabilities, with great stress on offensive shock power, create a new strategic environment when considered in combination. NATO obviously has made some significant progress during the seven-year period surveyed by this study. However, it failed to keep pace, because member states continually compromised on requirements.[15] Consequently, the overall balance has not been so lopsided since the early 1950s, before NATO's bulwark was complete.

*Integrating structures*

Several shortcomings are common to both coalitions, but unity of command coupled with central position affords strengths to the communist side that NATO has never been able to equal.

Shared Shortcomings.—Political infidelity, poor motivation, or both are commonly cited as Warsaw Pact weaknesses, but in fact afflict NATO as well. France, for example, has not been a full partner for 10 years, during which time the alliance has suffered all sorts of ills, many associated with lack of space for dispersion. Relations reportedly are improving, but the two French divisions in Germany still have no operational sectors.[16]

Some forces on each side are poorly trained and equipped. Not even East and West Germany, the best of the lot, are armed as adequately as their senior partners (German armor is a salient exception).

Soviet logistic shortcomings, corrected to some extent, are still evident. How well existing systems could sustain deep armored attacks, which consume huge quantities of ammunition and POL, is widely questioned. NATO's inflexible setup, predicated on separate supply and maintenance arrangements for each member country, is equally suspect. Stock levels show little consistency. Cross-servicing capacities for a hodge-podge of materiel are exceedingly limited. Shortages between authorized and actual inventories of critical items are common, even for U.S. units.[17]

Neither side has an operational peacetime chain of command. The Warsaw Pact is mainly an administrative organization. How (indeed whether) it would perform under combat conditions is subject to speculation.[18] The conversion of NATO's complicated command structure to wartime footing would be time-consuming and exasperating, especially in emergency. Indeed, the whole problem of command, control, and communications ($C^3$) seems to impinge on NATO's survival prospects at least as much as the physical balance of forces.[19]

Warsaw Pact Strengths—Soviet forces furnish a far greater share of Warsaw Pact strength than U.S. counterparts contribute to NATO.[20] Close integration is enhanced, because strategy, tactics, and command decisions derive directly from the Kremlin. Advantages are apparent, compared with the Atlantic Alliance, which relies on committee decisions in times of crisis before acting on compromise plans.[21]

The Soviets provide Warsaw Pact cohorts with standard arms and equipment that reduce costly duplication of R&D efforts, simplify logistic support, and foster flexibility. NATO, in sharp contrast, is afflicted with incompatible accoutrements and supplies. Neither ammunition nor repair parts are readily interchangeable between combat forces of different countries that share common causes and boundaries. Parochial national interests preclude early resolution of resultant problems.[22]

In compilation, the Soviet side, with interior lines and strategic initiative, displays military advantages denied NATO's loose coalition of 15 nations.

*Current threats*

Soviet power alone would pose serious potential threats to NATO's center sector, even if most satellite forces were pinned down for local security and air defense purposes.[23]

Warsaw Pact Capabilities—The Soviets, in concert with selected allies, could exercise all or part of the following combat capabilities,[24] if they chose to run serious risks:

Inflict catastrophic damage on the Continental United States with strategic nuclear weapons as a prelude to war in Europe.

Invade Western Europe with little or no warning,[25] using air and ground forces now in East Germany and Czechoslovakia.

Support conventional operations with tactical nuclear weapons targeted against NATO forces, airfields, ports, command/control centers, and supply installations.

Challenge NATO for air superiority over Western Europe.

Reinforce initial efforts rapidly with ready reserves in European Russia and Poland.

Seriously inhibit reinforcement and resupply from the United States by interdicting trans-Atlantic air and sea lanes.

Mobilize additional combat power.

Soviet Intentions—Capabilities just enumerated are tempered by Soviet intentions, which separate possibilities from probable courses of action.[26]

History indicates that the Kremlin's hierarchy is essentially conservative, despite its revolutionary tradition. National character, communist doctrine, and unshakable convictions that time is generally on their side tend to repress impulses and reduce unwarranted risks. Political, economic, social, psychological, and technological competition have superseded naked force as policy tools since the Cuban missile crisis, although military power looms increasingly large as a possible option.

Bearing that backdrop in mind, premeditated Soviet attacks across the Iron Curtain, even for limited objectives, seem likely to occur only if Moscow entertains serious doubts concerning NATO's defense abilities and/or resolve. Even then, issues would have to be immediate and immense, unless Kremlin leaders believed actual risks were low in relation to anticipated gains. Whether those conditions will soon be satisfied is a matter of serious concern in the U.S. intelligence community and among net assessment specialists.

Soviet Military Doctrine.—Soviet military doctrine suggests that the Warsaw Pact would have three main objectives if a major war should ensue: early destruction of NATO's defense forces; early occupation of NATO territory; and early isolation of Western Europe from its U.S. ally.[27]

Unclassified analyses conclude that Soviet concepts for such operations stress surprise, shock, and quick exploitation.[28] Conventional and nuclear capabilities would be used in combinations suited to the occasion, without any scruples concerning collateral damage and casualties.[29] Employing nuclear arms is not considered escalatory, since Soviet strategists contend that political aims, not weapons systems, establish the scope of war.[30]

*NATO's counter strategy*

NATO's common sense of purpose and associated policies form the framework within which strategic concepts must be shaped to counter Soviet threats.[31]

Common Interests.—Most U.S. interests in Europe coincide with those of our NATO allies, but emphases differ. Europe's survival and independence, for example, would be directly endangered by Soviet aggression. America's would not. Some choices that are seemingly open to us are not open to the rest of NATO. That condition has complicated the formulation of an agreed NATO strategy since the mid-1960s, when burgeoning Soviet nuclear strike forces caused West Europeans to question whether the United States would risk general nuclear war to satisfy interests that are not immediately vital. If Moscow ever seriously entertained serious doubts concerning U.S. conventional commitments, NATO's credibility could be shattered.

Deterrent/Defense Objectives.—To satisfy its security interests despite potential threats, NATO seeks to deter all forms of Warsaw Pact aggression, from encroachment to general war, and to defend NATO territory without serious loss or damage should dissuasion fail (Figure 26).[32]

FIGURE 26.—*NATO's deterrence and defense objectives*

Deterrent objectives—
Prevent General Nuclear War
Prevent Local Nuclear War
Prevent Conventional War
Prevent Encroachment
Defense objectives—
Stabilize the Situation Expeditiously
Repel Invaders
Limit Damage to NATO

Strategists in Western Europe understandably stress deterrence even more than their U.S. counterparts. Extensive hostilities on NATO soil would be "limited" from the U.S. standpoint, but could be lethal to our partners. Should war occur, our overriding objective would be to obviate damage to the United States. Theirs would be to safeguard Free Europe.

Those schisms in defense priorities shape opposing schools of thought, whose views differ regarding what stance would best ensure deterrence, and where the war should be fought if battle were unavoidable.

Supporting Policies—

Fundamental policies that shape NATO's military planning are summarized in Figure 27.

FIGURE 27.—*NATO's deterrent and defense policies*

Deterrence/defense—
Limited War
Second Strike
Containment (not Rollback)
Flexible Response
Forward Defense
High Nuclear Threshold
Minimum Civilian Casualties
Minimum Collateral Damage
Central Control
Non-provocative Posture
Comprehensive Capabilities
Lowest Credible Force Levels
Heavy Reliance on: CONUS Reserves, Mobilization
Burden-sharing—
Fundamental Philosophy: An attack against one member is an attack against all, whether it occurs on the flanks or in the center sector.
U.S. Provides: Primary Nuclear Capability, Most Sea Power, Substantial Air Power, Substantial Land Power.
Europe Provides: Most Land Power, Limited Nuclear Capability, Limited Sea Power, Substantial Air Power, Installations and Facilities.*

Obvious contradictions between policies and objectives, between various policies, be-

Footnotes at end of article.

*United States pays construction costs in many cases.

tween official policies and member state proclivities, and between NATO policies and Soviet military doctrine all cause compromises and increasing controversy.

Strategic Concepts.—Policies constitute separate guidelines. Strategy is the concept of operations that ties them together.

The Switch to Flexible Response.—NATO's deterrent and defense posture originally was predicated on threats of massive retaliation against the U.S.S.R. in event the Warsaw Pact provoked a war in Western Europe. That simple, relatively low-cost strategy sufficed as long as U.S. nuclear capabilities were markedly superior to Moscow's. As the Soviets strengthened their position, massive retaliation gradually lost credibility as a deterrent. Worse yet, if deterrence foundered, massive retaliation guaranteed a general nuclear war which NATO could not "win" in any sense of achieving a favorable outcome.

A sweeping strategic reappraisal therefore culminated in the mid-1960s. Predominantly conventional defenses soon were deemed too expensive. Predominantly tactical nuclear defenses were deemed too unpredictable. Neither of those tacks could cope with a wide range of contingencies. After prolonged debate, a consensus eventually prevailed in NATO councils that the low-option, low-credibility, high-risk strategy of massive retaliation was imprudent. In December 1967, the Alliance therefore embraced a complex, costly strategy called flexible response, which could contribute credibly to deterrence and would afford multiple warfighting options if a conflict erupted.[33] (See Figure 28 for a comparison of NATO's past and present strategies).

FIGURE 28
PAST AND PRESENT NATO STRATEGIES COMPARED

| | Massive retaliation | Flexible response |
|---|---|---|
| Type war: | | |
| Global; general | X | X |
| Regional; limited | | X |
| Main theater of operations: | | |
| United States—U.S.S.R. | X | |
| Western Europe | | X |
| Main objectives: | | |
| Deterrence | X | X |
| Defense | | X |
| Options if deterrence fails: | | |
| Sustained defense | | X |
| Available forces only | | X |
| Reinforcement | | X |
| Conventional only | | X |
| Tactical nuclear assistance | | X |
| "Tripwire" defense | X | |
| Strategic bombardment | X | X |
| Special requirements: | | |
| U.S. nuclear superiority | X | |
| U.S. nuclear sufficiency | | X |
| Local air supremacy | | X |
| Sea control | | X |
| Strategic mobility | | X |
| Mobilization | | X |
| Force requirements: | | |
| Specialized | X | |
| Comprehensive | | X |

Note: General war is the last resort option of flexible response. "Tripwire" forces are largely symbolic. Defensive capabilities may be considerable, but the intent is to trigger a massive response if the contingent is attacked.

Current Strategic Summary—

America's strategic retaliatory forces, with their Assured Destruction capability, provide the primary detrrent to general nuclear war between NATO and the Soviet Union (but do not similarly discourage Soviet use of tactical nuclear weapons, whose utility will shortly be shown).

NATO's strategy for limited war within its center sector contemplates a strong forward defense, to repel invaders immediately or contain them as near the Iron Curtain as possible. That concept demands sufficient versatility to cope with aggression at the most appropriate level on the conflict scale, and to escalate under full control, if necessary. Nuclear weapons are held in reserve, ready for use whenever and wherever decision-makers decree. To execute its strategy successfully, the Alliance must gain and maintain air supremacy over Western Europe and control selected seas. Should NATO's standing forces prove insufficient, stiffening would come from ready reinforcements and strategic reserves.

In essence, NATO strives to deny the Soviets any hope of success unless they attack in such strength that compelling U.S. interests would be compromised and the risk of rapid escalation would be excessive.

*NATO's pressing problems*

Problems related to prompt and effective implementation of NATO's strategy are becoming so severe that some authorities are calling for a complete reappraisal of force requirements. The following coverage stresses NATO's weak spots.

Conventional Defense—

The way in which NATO deploys its military power in peacetime is critical. Forces concentrated for conventional combat could expect unprecedented casualties if the enemy launched a nuclear war. Forces dispersed to escape the effects of nuclear weapons would be poorly prepared for classic defense. Compromise solutions are ill-suited for either environment.[34]

NATO presently is disposed for conventional combat, presuming that the Soviets would withhold nuclear weapons during the opening stage. Any surprise attack would be met, and repulsed if possible, by forces presently in place. If those elements were unable to stem the tide alone, they would strive to buy time for NATO to reinforce, make decisions concerning escalation, or negotiate a solution.

Geographic Considerations.—Three strategically significant avenues of approach are available to the Warsaw Pact. The northernmost dead-ends at Hamburg, a shallow but lucrative goal. The most dangerous invasion routes traverse the broad North German Plain, part of a 1,000-mile corridor that cuts through NATO's center sector in transit from Russia to France. The third thoroughfare, in the south, follows the Fulda Gap through rugged uplands from Thuringia to the Rhine. (See map at Figure 29).

NATO's Present Dispositions.—NATO's much-criticized dispositions athwart those three avenues result from historical accidents rather than strategic design. In large part, they parallel British, French, and American occupation zones at the end of World War II. The Bundeswehr shares responsibility with forces from Britain and the Low Countries for the critical North German Plain, but the United States, on the southern flank, still guards the most easily defended terrain. Amending maldeployments, by shifting U.S. ranks north or holding them in mobile reserve, might make military sense, but the cost of moving would be immense, and the diplomatic difficulties could prove discouraging.[35]

The Concept of Forward Defense.—The prescription for forward defense originally was a political expedient to ensure wholehearted participation by West Germany, which has persistently rejected any proposition that arbitrarily cedes German ground.[36] The objective, therefore, has always been to block major attacks and stabilize the situation quickly.

That task is imposing. The present line of contact would be difficult to defend, particularly along the flat northern plain, but forward defense has been a military necessity since 1967, when de Gaulle evicted NATO from France. The first sharp Soviet surge would sever friendly supply lines, which presently radiate from Bremerhaven, Rotterdam, and Antwerp, then run closely behind and parallel to the prospective front. Airfields also would be overrun.

NATO can no longer defend in depth, even if forward positions proved pregnable. Its forces formerly could fence with the foe all the way to the Pyrenees if necessary, along established lines of supply and communication. At West Germany's waist, the theater now is barely 130 miles wide, about the same distance that separates Washington from Philadephia. Maneuver room for armies is at a premium. NATO forces and facilities are fearfully congested. Every lucrative military target, including command and control centers, airbases, ports, and supply depots, is within reach of Soviet IRBMs and MRBMs. An enemy breakthrough would compel NATO to retreat across Belgium toward Dunkerque or south toward the apline wall. Even if France invited NATO back in emergency, many handicaps would remain, since facilities there have deteriorated or been dismantled.[37]

NATO's freedom of choice obviously would be constricted under present circumstances, and decision times compressed. How long the Atlantic Alliance could hold along the Iron Curtain would depend on a host of variables, including—but not restricted to—the nature of the conflict (nuclear or non-nuclear); the scale of Soviet attack (comprehensive or limited objectives); the amount of warning (hours, days, or weeks); the capabilities of opposing forces; NATO's will; and the weather. If strong enemy elements cracked through the crust, our main line of resistance could be enveloped, unless friendly forces quickly regrouped behind the unfordable Rhine, the first major defensible terrain feature to the rear.

Tactical Nuclear Defense.—If conventional defenses crumble, NATO plans to use tactical nuclear weapons, after consultation among its members. The time, place, and circumstances under which the Alliance would "go nuclear" have deliberately been left vague to complicate enemy planning.

Rationale For a High Nuclear Threshold.—Early resort to nuclear weapons theoretically could improve NATO's ability to sustain a strong forward defense, but a high threshold (crossed only after pressures became unbearable) would be salutary for several reasons.

Severe civilian casualties and collateral damage would be unavoidable if tactical nuclear weapons were exploded in large numbers. Limited target acquisition capabilities make it technically impossible to deliver ordnance infallibly onto stationary targets, let alone military forces on the move. Moreover, in a war for survival, the temptation to engage "suspected" targets would be high. Numerous deaths from accidental fallout probably would follow, even if both sides agreed to abstain from surface and subsurface detonations. Neutron weapons available to NATO, but not the Warsaw Pact, would alleviate such problems very little.

Controls would be tenuous at best. Nuclear weapons could be administered very selectively—for defensive purposes only; on NATO territory only; against military targets only; using air bursts only or atomic land mines only; and low yields only—but none of those restrictions would be as readily distinguishable by the enemy as the "firebreak" between nuclear and conventional combat.

Since the first side to disregard arbitrary restraints might accrue a decisive advantage, the pressures to escalate would be enormous. Surprise Soviet ballistic missile strikes on key installations at the onset of a war could in fact confront NATO with the shocking choice between surrender and suicide, by blasting essential installations and blocking the arrival of reinforcements and resupply. The absence of missile defenses therefore constitutes a potentially fatal flaw for NATO, but not for the Soviet Union, which faces no similar threat.

Manpower Requirements.—Manpower re-

Footnotes at end of article.

quirements for tactical nuclear warfare might exceed those for conventional combat. NATO's forward defense forces have to be strong enough to make the enemy mass. Otherwise, Soviet assault troops would present few profitable targets. However, friendly formations would also suffer from nuclear attack, and attrition rates would be high. Eventual ascendance thus might be attained by the side with the greatest reserves of materiel and trained manpower.[38]

NATO unfortunately has few readily accessible reserves. All major ground combat forces are "on line." On-the-spot fighter squadrons are insufficient to perform assigned tasks. In exigency, the early augmentation of elements now in place therefore would be imperative. Their arrival, however, would depend on adequate warning, which might indeed be available, but is surely not assured.

Special Requirements.—NATO's strategy of flexible response depends on several capabilities that were of reduced moment when massive retaliation was in vogue: air superiority; sea control; and strategic mobility.

Air Superiority.—Freedom of action on the ground demands dominance in the air. NATO's aerospace defenses nevertheless are dangerously thin, when taken in context with Soviet threats. Revetments reduce dangers somewhat at air bases, but U.S. Hawk and Hercules batteries are short of missiles, and surprise attacks by nuclear-tipped IRBMs/MRBMs could neutralize friendly air power in parking areas, except for those on alert.[39]

Once aloft, NATO's tactical air forces confront masses of Soviet interceptors, SAMs, and air defense artillery, which shield static point targets and move the troops. Coverage is close to comprehensive. NATO's countermeasures help, but the period is past when close support and interdiction missions can count on easy success.

Corrective actions consequently seem imperative, because failure to achieve local air superiority "in the clutch" could cause NATO to lose land battles.[40]

Sea Control.—Reinforcement and resupply, now high priority projects, call for secure lines of comunication from Western Europe to North America and the Middle East.

In the absence of armed escorts, allied shipping would be plagued by very heavy losses from submarine attacks. Essential avenues would have to be kept open indefinitely. Failure to do so could result in the collapse of NATO's defense, due to POL and other logistical starvation, even if the land battle stabilized. Protracted antisubmarine warfare operations would be essential before NATO could reduce losses to "manageable proportions."

Controlling the entire Atlantic Basin would be a practical impossibility. Therefore, NATO practices defense in depth. During time of war, its fleets would take advantage of geographic "choke points" to help confine enemy naval forces, but Soviet submarines could circumvent that screen initially by infiltrating to patrol stations during peacetime.

Strategic Mobility.—To function effectively, NATO must be able to move immense amounts of men and material from the United States to Europe on a continuing basis.

The throughput capacity of ports and airfields at both ends is adequate, provided installations in Western Europe escape early destruction. Peacetime aerial ports would be supplemented in emergency by other military airfields suitable for transport aircraft and, if necessary, by civilian facilities (subject to political approval and the tactical situation). Benelux seaports that presently serve NATO would continue to do so in war. Either Rotterdam or Antwerp alone has sufficient capability to handle U.S. needs, but the threat of ballistic missile attacks and naval mine blockades casts a cloud over every base.

*Future U.S. Force requirements*

Difficulties described above were severe when NATO planners presumed that any massive Soviet conventional assault would be preceded by lengthy preparations. Warning times appeared ample to mobilize and move CONUS-based reserves well before a shooting war erupted.

Concepts which suited that situation, however, would ill-serve U.S. interests if the Soviets, as some claim, could launch a large-scale attack on moment's notice against NATO's center sector. Future U.S. force requirements therefore depend on early resolution of conflicting threat estimations and the doctrinal disputes that are now developing in Congress and the Executive Branch, including the influence of precision-guided munitions (PGM) on NATO's capabilities.[41]

NATO'S NORTHERN FLANK

NATO's far northern flank controls exits from and access to the ice-free Kola coast (see map at Figure 30), which houses immense Soviet submarine packs, plus more than half of all Soviet cruisers, destroyers, and ocean going escorts.[42] If adjacent Norway fell into hostile hands, forward-based fighters and bombers could extend sea-denial capabilities far over the North Atlantic, to the wartime detriment of NATO fleets and merchant shipping. The strategic significance of upper Scandinavia to both sides thus is critical.

NATO, however, secures that sensitive area with a single Norwegian brigade, whose in-place opposition comprises two Soviet motorized rifle divisions and a naval infantry regiment backed by six more divisions (one being airborne) located near Leningrad. Soviet tactical air strength is substantial.[43] The implications are contrary to NATO interests.

NATO'S SOUTHERN FLANK

A great alpine abatis separates NATO's center and southern sectors into two distinct theaters that lack mutual support and are only marginally related.[44] (See map at Figure 31).

North of that barrier, NATO comprises a contiguous coalition for security purposes. Threats against one state are threats against all. Deterrent and defensive schemes stress land power. Other forces are complementary.

Collective security measures of Mediterranean states are somewhat less cohesive. Members are not only cut off from NATO's nucleus, they are isolated from each other. Common threats are uncommon. Common fronts are infeasible. Three sub-theaters thus exist: Italy; Greece, plus Turkish Thrace; and Asia Minor. Deterrence and defense depend strongly on sea power, screened from the air.

*The balance ashore*

The United States furnishes few ground combat or tactical air forces for use on NATO's south flank, but even so, the Warsaw Pact is badly outnumbered in most categories, as figure 32 shows. Tanks comprise the salient exception. Interceptor aircraft influence air supremacy indirectly, but are expressly designed for defense.

NATO's land-based forces, being geographically separate, can not concentrate, but neither can prospective foes. Enemy breakthroughs in any locale would be isolated. Mass assaults from the Balkans, for example, might menace Greece and Turkey (the most exposed countries), but other states would stay secure from Italy through Iberia.

FIG. 32.—NATO'S SOUTH FLANK: STATISTICAL SUMMARY (COMMITTED FORCES ONLY)

| Forces ashore | NATO | Warsaw Pact | Soviet only |
|---|---|---|---|
| Combat troops, plus direct support | 540,000 | 395,000 | 155,000 |
| Divisions: | | | |
| Armored | 2 | 5 | 2 |
| Other | 32 | 23 | 2 |
| Total | 34 | 28 | 4 |
| Tanks | 4,000 | 7,500 | 2,750 |
| Light bombers | 0 | 50 | 50 |
| Fighter/attack aircraft | 450 | 225 | 75 |
| Interceptors | 275 | 350 | 225 |

| Forces afloat | Mediterranean Members of NATO | U.S. 6th Fleet | Soviet Union |
|---|---|---|---|
| Selected surface combatants: | | | |
| Attack carriers | 0 | 2 | 1 |
| ASW carriers | 0 | 0 | 2 |
| Helicopter carriers | 0 | 1 | 0 |
| Cruisers | 1 | 1 | 2–3 |
| Destroyers/frigates/corvettes | 66 | 15 | 6–7 |
| Submarines: Attack | 32 | Classified | 11–12 |
| Total | 99 | Classified | 22–25 |
| Naval aircraft | 0 | 200 | 15 |
| Fighter squadrons | 0 | 4 | 0 |
| Attack squadrons | 0 | 6 | 1 |

Note: NATO ground forces nclude United States and British units. Air strengths exclude U.S. dual-based squadrons. Normal naval deployments are shown. French forces are omitted. So are NATO aircraft in inventory, but not in tactical units.

*The balance afloat*

NATO also outnumbers its rivals at sea, but raw figures are misleading. Allied forces in the western Mediterranean (most notably, Italy's modern contingent) normally are not free for use in the eastern basin, where the Soviets have significant surge capabilities, if the Turkish Straits stay open.[45]

Maneuver room is minimal in the Mediterranean, but Soviet submarines still are difficult to detect in those shallow waters, where thermal layers and many merchantmen confuse ASW devices by distorting sounds. Anti-ship cruise missiles also inject serious uncertainties into strategic equations. Peacetime contacts with Sixth Fleet are so close that U.S. reactions to sneak attacks might be measured in seconds.

Soviet logistic lines from the Black Sea are short but, being controlled by NATO at present, are constrained. Moscow maintains no formal base rights in the Mediterranean, merely a presence. However, underway replenishment procedures are improving. Selected anchorages not only simplify resupply, but overlook every choke point from Suez to Gibraltar.

Overall Soviet opportunities to compete with Sixth Fleet in the eastern Mediterranean are consequently impressive, especially if conflict were short.

The western Mediterranean is a much different matter. Soviet abilities to conduct combat operations in that area against numerically superior NATO are strictly limited, for short wars as well as long ones.[46]

*Connections with center sector*

Soviet breakthroughs along NATO's south flank would cause psychological shock waves to buffet the Atlantic Alliance, but the center sector could still stand.

Greek and Turkish armed forces defend a discrete region, nothing more. Reducing freedom of action for Soviet reserves in south Russia is their only direct connection with plans and operations in Western Europe. Airfields, NADGE installations,[47] and most communications sites are only significant locally. Aegean ports improve Sixth Fleet's

Footnotes at end of article.

posture in the eastern Mediterranean, but are not crucial beyond that basin.

If war ensued with the Warsaw Pact, far distant France would be free from fear of waterborne invasion if NATO held the Sicilian narrows. Italy would still be intact, subject to incursions only by airborne/amphibious assaults across the Adriatic (specialized Soviet sealift being in short supply), or along difficult axes in northern Yugoslavia. Assuming the Italian outlier fell, aggressors still would have to breach the alpine obstacle before they could overrun NATO's heartland.

All told, therefore, the Mediterranean seems an unlikely avenue for turning NATO's south flank, as so often alleged.[48]

FOOTNOTES

[1] NATO's center sector is herein construed to include Denmark, the Federal Republic of Germany, France, the Low Countries, Luxembourg, and the United Kingdom.

[2] The only vital national interests, by definition, is survival. States cease to exist if they fail to safeguard that essential. Serious threats to survival therefore compel stringent countermeasures.

[3] U.S. and German forces account for two-thirds of NATO's divisions (17 out of 24).

The United States has added two brigades to Seventh Army since 1970. A second wing of F-111 aircraft will soon be stationed in England. A fighter wing in Germany will convert to F-15s. Its present complement of F-4s will relocate in that country. European Basing Public Announcement, News Release by Office of the Assistant Secretary of Defense (Public Affairs), October 27, 1976.

For other changes, see The Military Balance, 1970–71, London, International Institute for Strategic Studies, 1970, p. 22–30 and The Military Balance, 1976–1977, p. 18–25.

[4] U.S. Congress. Senate. NATO and the New Soviet Threat, Report of Senator Sam Nunn and Senator Dewey F. Bartlett to the Committee on Armed Services. 95th Congress, 1st Session. Washington, U.S. Govt. Print. Off., 1977, p. 10–11. France remains a member of NATO, but its armed forces are not under NATO control.

[5] Keatley, Robert, NATO Retrenchment Threat May Hint New Round of European Woes, Wall Street Journal, October 28, 1976, p. 8.

[6] Category III divisions airlifted into Czechoslovakia could quickly replace five Category I divisions deployed in that restless satellite since the abortive 1968 uprising.

[7] See chart on page 99 of The Military Balance, 1976–1977. Most European reserves are scheduled simply to bring existing formations up to full strength. (same source, p. 100).

[8] Erickson, John, Soviet-Warsaw Pact Force Levels, p. 69–71. Soviet divisions in Hungary are shown on Figure 32, which concerns NATO's south flank.

[9] Magnesium armor on BMPs proved disadvantageous during the Yom Kippur conflict. Gas tanks on the rear door are also undesirable. Even so, these armored fighting vehicles, with a 76mm gun and Sagger antitank missiles, are superior to NATO's current armored personnel carriers, which have no firing ports in the troop compartment and are armed with a single machinegun. (German forces are the sole exception).

[10] Egyptian troops using Soviet engineer bridging in October, 1973 crossed the Suez Canal in great strength and in far faster time than Israeli intelligence previously indicated was possible.

[11] Coverage was compiled from Erickson, John, Soviet-Warsaw Pact Force Levels, p. 74–75; Schemmer, Benjamin F., Soviet Build-up on Central Front Poses New Threat to NATO, Armed Forces Journal, December, 1976, p. 30–33; U.S. Congress. Senate. NATO and the New Soviet Threat, p. 4–5; The Military Balance, 1976–1977, p. 101–102.

[12] Erickson, John, Soviet-Warsaw Pact Force Levels, p. 74, 75–76; Schemmer, Benjamin F., Soviet Build-up on Central Front Poses New Threat to NATO, p. 31–32; U.S. Congress. Senate. NATO and the New Soviet Threat, p. 5–6.

[13] SS–4 and SS–5 MRBMs/IRBMs, installed around 1960, have ranges of roughly 1,200 and 2,300 miles respectively. Each, armed with a single one-megaton warhead, is sufficiently accurate to hit within a mile or less of its target half the time. SS–20s, which carry three MIRVs each, reportedly have CEPs that approximate 440 yards over 2,500 miles. Beecher, William, Portable Red Missiles Housed in "Garages," Washington Star, January 9, 1977, p. 9; The Military Balance, 1976–1977, p. 73.

[14] Erickson, John, Soviet-Warsaw Pact Force Levels, p. 69.

[15] The Military Balance, 1976–1977, p. 97.

[16] Ibid., p. 98, 102. This study excludes French forces from all calculations.

[17] Ibid., p. 102; U.S. Congress. Senate. NATO and the New Soviet Threat, p. 13–16, 18, 20; Aspin, Les, A Surprise Attack on NATO: Refocusing the Debate. Remarks in the House. Congressional Record, February 7, 1977, pp. 3813–3816.

[18] Erickson, John, Soviet-Warsaw Pact Force Levels, p. 67.

[19] NATO presently has just one operational (as opposed to planning) headquarters, which is the nerve center for Allied Forces in Central Europe (AFCENT), at Boerfink, West Germany.

The DOD Director for Net Assessment expressed special concern for NATO's C[3] problems in comments on the draft of this study, March 1, 1977.

[20] The United States consistently contributes about 10 percent of NATO's ground forces, 20 percent of its naval forces, and a quarter of its tactical air forces. An additional 50,000 American specialists (such as subordinate elements of Defense Communications Agency), are stationed in Europe, but are not controlled by U.S. European Command (EUCOM).

[21] U.S. Congress. Senate. NATO and the New Soviet Threat, p. 10.

[22] U.S. Congress. House. NATO Standardization: Political, Economic, and Military Issues for Congress. Report to the Committee on International Relations by the Congressional Research Service. Washington, March 29, 1977. 58 p.

A view which suggests that standardization has several drawbacks is described in Daniels, John K., NATO Standardization—The Other Side of the Coin, National Defense, January–February, 1977, p. 301–304.

[23] John Erickson indicates that satellite ground forces "earmarked" to supplement Soviet troops are substantially less than those on full order of battle lists. All 6 East German divisions apparently play parts in Soviet plans, but only 9 out of 15 Polish divisions and 6 out of 10 in Czechoslovakia seem to have combat missions. The political reliability of these select forces may be less shaky than popularly presumed, according to Erickson, who points out that *military* elites in Eastern Europe have been most consistently (sometimes irrationally) loyal to Moscow. Soviet-Warsaw Pact Force Levels, p. 67, 79.

[24] Capabilities constitute the ability of countries or coalitions to execute specific courses of action at specific times and places. Fundamental components can be quantified and compared—so many tanks, ships and planes with particular characteristics. Time, space, climate, terrain, organizational structures, and so on can also be calculated with reasonable reliability. Capabilities rarely are subject to rapid changes. Technological breakthroughs, typified by the advent of atomic weapons, sometimes cause exceptions.

[25] One critic advances two uncommon arguments against a surprise Soviet attack (Congressional Record, February 7, 1977, p. 3815). Neither is *necessarily* valid.

First, he contends, "It is hard to believe the U.S.S.R. would start a ground war without simultaneous attack at sea. . . . A sudden surge in [Soviet naval] deployment would tip us off." Exercises such as Okean-75, however, could camouflage intent, and sea control would be of reduced importance in any case if the Soviets decided to destroy NATO's ports.

In addition, he asks "Would the Soviets not set in motion extensive and time-consuming [civil defense and other] preparatory measures before beginning a conflict that could rapidly escalate?" The Kremlin, however, could conclude that Assured Destruction threats are sufficient to deter the United States from defending NATO with strategic nuclear weapons, and therefore abstain from executing city evacuation plans.

[26] Intentions deal with the determination of countries or coalitions to use their capabilities in specific ways at specific times and places. Interests, objectives, policies, principles, and commitments all play important parts. National will is the integrating factor. Intentions are tricky to deal with, since they are subjective and changeable states of of mind, but estimates of capabilities and intentions in combination are essential for decisionmakers who hope to design sound strategies.

[27] Wolfe, Thomas W., Soviet Power and Europe, 1945–1970, p. 456.

[28] Rumsfeld, Donald H., Annual Defense Department Report for FY 1977, p. 101–102; Betit, Eugene D., Soviet Tactical Doctrine and Capabilities and NATO's Strategic Defense, Strategic Review, Fall, 1976, p. 95–107; Erickson, John, Trends in the Soviet Combined Arms Concept, Strategic Review, Winter, 1977, p. 38–53.

[29] The nature of many Soviet nuclear delivery systems, which stress missiles with large yields and low accuracy, raises grave doubts that the U.S.S.R. could contain collateral damage and casualties, even if it tried.

[30] Erickson, John Soviet-Warsaw Pact Force Levels, p. 69.

[31] Sections on NATO strategy depend primarily on Collins, John M., Grand Strategy: Principles and Practices, Annapolis, Maryland, U.S. Naval Institute Press, 1973, p. 129–140.

[32] The three defense objectives in Figure 26 would apply equally if general war or encroachment occurred.

[33] Pfaltzgraff, Robert L., Jr. The Atlantic Community: A Complex Imbalance, New York, Van Nostrand Reinhold Co., 1969, p. 37–69.

[34] Amme, Carl H., Jr., NATO Without France, Stanford, Calif., The Hoover Institution on War, Revolution and Peace, 1967, p. 117–121.

[35] U.S. Congress. Senate. NATO and the New Soviet Threat, p. 12.

[36] Amme, Carl H., Jr., "National Strategies Within the Alliance: West Germany," NATO's Fifteen Nations, August-September 1972, p. 82.

[37] France has not undertaken any agreement to realign herself militarily with NATO. The use of French forces and territory in time of crisis would be subject to political decision. NATO planners therefore treat that possibility as one of many contingencies.

[38] Enthoven, Alain C. and Smith, K. Wayne, How Much is Enough? New York, Harper and Row, 1971, p. 125.

[39] U.S. Congress. Senate. NATO and the New Soviet Threat, p. 15–16.

[40] Ibid.; Schneider, Willian, jr. and Hoeber, Francis P., Arms, Men, and Military Budgets, p. 174–175; Erickson, John, Soviet-Warsaw Pact Force Levels, p. 38; planning U.S. General Purpose Forces: The Tactical Air Forces,

Washington, U.S. Govt. Print. Off.; January, 1977, p. 24–27.

[41] Possible options are analyzed in Braddock, J. V. and Wikner, N. F., An Assessment of Soviet Forces Facing NATO—the Central Region—and Suggested NATO Initiatives, Washington, the BDM Corporation and the University of Miami, 1976, 85 p.

[42] Erickson, John, Soviet-Warsaw Pact Force Levels, p. 72.

[43] Ibid., p. 73. See also Erickson, John, The Northern Theater: Soviet Capabilities and Concepts, Strategic Review, Summer 1976, p. 67–82, and Dewey, Arthur E., The Nordic Balance, Strategic Review, Fall 1976, p. 49–

NATO's poor peacetime posture is directly attributable to Norwegian policy, which permits no allied forces in the country, except in response to emergencies.

[44] NATO's south flank includes Italy, Greece (which has withdrawn from the Alliance militarily, at least for the moment), and Turkey. Opponents are primarily Bulgaria, Rumania, Hungary, and forces from southwestern U.S.S.R.

[45] Moscow massed 95 ships south of Turkey during the Arab-Israeli outburst of 1973 (Sixth Fleet totalled 60, including three attack carriers), plus 30 in the Indian Ocean, a spectacular feat for a force devoted to coastal defense in the recent past.

[46] For further background, see U.S. Congress. Senate. U.S. Naval Forces in Europe. Report of Senator Gary Hart to the Committee on Armed Services, 95th Congress, 1st Session. Washington, U.S. Govt. Print. Off., 1977, 9 p.

[47] A full discussion of U.S. bases is contained in U.S. Congress. House. United States Military Installations and Objectives in the Mediterranean. Report prepared for the Subcommittee on Europe and the Middle East of the Committee on International Relations by the Congressional Research Service, Washington, March 27, 1977, 95 p.

NADGE stands for NATO Air Defense Ground Environment, designed to provide early warning to air attack and direct interceptor actions.

[48] For further background, see Milton, T. R., NATO's Troubled Southern Flank, Strategic Review, Fall 1975, p. 31.

## PART VII. WRAPUP

### THE PRESENT BALANCE IN PERSPECTIVE

Quantitative changes in U.S. and Soviet armed forces since 1970 favor the Soviet Union, with scattered exceptions. U.S. qualitative leads, less pronounced than in the past, can not completely compensate.

The full significance of such trends is beyond the scope of this unclassified study, but a few findings stand out.

First and foremost, essential equivalence with the Soviets across the conflict spectrum is neither necessary nor desirable. Opposing capabilities would be quite different in many cases if forces were identical in size and structure, because circumstances and strategies are dissimilar. Possible Soviet preemptive employment of ICMs and/or antiship cruise missiles, for example, would pose counterforce perils far out of proportion to reciprocal U.S. actions constrained by second-strike concepts.

Procuring unnecessary or unusable assets simply for the sake of achieving apparent parity (a strong argument supporting some U.S. systems) seems a poor way to influence perceptions among enemies, allies, or uncommitted countries. Practical power would pay greater dividends.

It is clear, however, that current trends curtail U.S. freedom of action. The upshot impinges increasingly on American abilities to deter attacks against the United States, defend this country if deterrence fails, and safeguard associates whose security is closely linked with our own.

In the strategic nuclear field, Mutual Assured Destruction seems less mutual than it was in 1970. U.S. conventional capabilities have also faded, in comparison with those of the Soviet Union. U.S. land, sea, and air forces alike consequently would be hard pressed to support NATO plans at existing levels and cope concurrently with large-scale contingencies, including those caused or sustained by the Kremlin.

### THE PROBLEM OF U.S. PRIORITIES

A second set of asymmetries, between complementary U.S. systems, bears directly on abilities to maintain a satifactory military balance with the Soviet Union. Airlift, for example, is adequate to commit forces quickly, but sealift is insufficient to sustain them in crucial contingencies. Marines are ample, but lack amphibious lift.

Congress and the Executive Branch, with focus on Forces and funds, clash annually over expensive programs, each considered essentially in isolation, and each with a life of its own. Interrelationships with enemy systems and each other commonly get short shrift, except for matching counts with Moscow. Political expediency and technological excellence, rather than real requirements, too often are the tests. Misplaced priorities consequently stress inessentials in many important cases, while slighting critical sectors.

Problems will prevail as long as U.S. decision-makers bank on bigger budgets to cure defense ills, without reference to better strategy. More money will ensure substantial improvements only if connected with force sufficiency factors that match meaningful U.S. ends with measured means in ways that minimize risks and reinforce weak spots.[1]

### ANNEX A: NICKNAMES FOR SELECTED WEAPONS SYSTEMS

*United States*

U.S. Armed Service designation, and nickname:

Missiles—

Strategic:

ICBM LGM–30F/G, Minuteman II/III; LGM–25C, Titan II.

SLBM; UGM–27C, Polaris A–3; UGM–73A, Poseidon C–3; UGM–93A, Trident C–4.

Air-to-Surface: AGM–12, Bullpup; AGM–45, Shrike; AGM–65, Maverick; AGM–69A, SRAM; AGM–78, Standard; AGM–84, Harpoon; AGM–86A, ALCM.

Surface-to-Air; CIM–10B, BOMARC; MIM–14B, Nike-Hercules; MIM–23A, Hawk; XMIM–104, SAM–D.

Shipborne: AIM–54L, Phoenix; RIM–8G, Talos; RIM–24B, Tartar; RIM–2F, Terrier.

Air-to-Air: AIR–2, Genie; AIM–4, Falcon; AIM–7, Sparrow; AIM–9, Sidewinder.

Aircraft—

Bombers: B–52, Stratofortress; FB–111, (None).

Fighter/Attack: F–4, Phantom; F–14, Tomcat; F–15, Eagle; F–16, (None); F–100, Super Sabre; F–101, Voodoo; F–102, Delta Dagger; F–105, Thunderchief; F–106, Delta Dart; F–111, (None).

Naval Aircraft: F–8, Crusader; A–4, Skyhawk; A–6, Intruder; A–7, Corsair; AV–8, Harrier; P–3, Orion; S–2, Tracker; S–3, Viking.

Helicopters: UH–1, Iroquois; CH–34, Choctaw; CH–47, Chinook; CH–54, Flying Crane; SH–3, Sea King; CH–46, Sea Knight; CH–53, Sea Stallion.

Airlift: C–5, Galaxy; C–7, Caribou; C–97, Stratofreighter; C–119, Flying Boxcar; C–123, Provider; C–124, Globemaster; C–130, Hercules; C–141, Starlifter; KC–135, Stratotanker.

[1] For force sufficiency factors, see U.S. Congress. Senate. The United States/Soviet Military Balance, p. 41, 47–54.

Artillery: M–101, 105mm Howtizer; M–102, 105mm Howtizer; M–107, 175mm Gun; M–109, 155mm Howitzer; M–110, 8–inch, Howitzer; M–114, 155 mm Howitzer.

Anti-Tank: M–47, Dragon; BGM–71A, TOW.

Armor: M–48, (None); M–60, (None); M–555, Sheridan; M–113, (None); LVTP–7, (None).

*Soviet Union*

Numerical designation and nickname:

Missiles—

Strategic:

ICBM: SS–7, Saddler; SS–8, Sasin; SS–9, Scarp; SS–11, Sego; SS–13, Savage; SS–17, (None); SS–18, (None); SS–19, (None).

IRBM: SS–5, Skean; SS–20, (None).

MRBM: SS–4, Sandal.

SLBM: SS–N–4, Sark; SS–N–5, Serb; SS–N–6, Sawfly; SS–N–8, Sasin; SS–N–X17, (None); SS–N–X18, (None).

Air-to-Surface: AS–2, Kipper; AS–3, Kangaroo; AS–4, Kitchen; AS–5, Kelt; AS–6, (None); AS–7, Kerry.

Suface-to-Air: SA–1, Guild; SA–2, Guideline; SA–3, Goa; SA–4, Ganef; SA–5, Gammon; ABM, Galosh.

Shipborne: SA–N–1, Goa; SA–N–3, (None); SA–N–4, (None).

Air-to-Air: AA–1, Alkali; AA–2, Atoll; AA–3. Anab; AA–5, Ash; AA–6, Acrid.

Tactical Shipborne: SS–N–2, Styx; SS–N–3, Shaddock; SS–N–9, (None); SS–N–10, (None); SS–14 (None); SS–N–13, (None); SS–N–14, (None).

Aircraft Bombers: TU–16, Badger; TU–22, Blinder; TU–95, Bear; TU–??, Backfire; M–4, Bison; IL–28, Beagle.

Fighter/Attack: MIG–17, Fresco; MIG–19, Farmer; MIG–21, Fishbed; MIG–23, Flogger; MIG–25, Foxbat; SU–7, Fitter–A; SU–17, Fitter–C; SU–9, Fishpot.

Recon/Intercept: SU–15, Flagon; TU–28, Fiddler; YAK–25, Mangrove; YAK–28, Firebar (Brewer).

Naval Aircraft: BE–6, Madge; BE–12, Mail; IL–38, May; YAK–36, Forger (VTOL).

Helicopter (Naval): KA–25, Hormone; MI–4, Hound; MI–24, Hind–A.

Airlift: AN–12, Cub; AN–22, Cock; IL–76, Candid.

Artillery: M–55, 203.2mm; S–23, 180mm; M–43, 152mm; M–46, 130mm; M–1938, 122mm; M–1955, 100mm; M–1975, 152mm (SP); ZSU–23–4, 23mm (AA).

Anti-Tank: AT–2, Swatter; AT–3, Sagger.

Armor Tanks: T–55, (None); T–62, (None); T–72, (None).

APC/AFV: BTR–50P, (None); BTR–60P, (None); BTR–152, (None); BMP–76PB, (None).

NOTE: Naval ships are identified by class throughout the study.

### ANNEX B.—ABBREVIATIONS

AAA—Anti-aircraft armament.
ABM—Anti-ballistic missile.
ACR—Armored cavalry regiment.
ADCOM—Air Defense Command.
AFCENT—Allied Forces Central Europe.
AFV—Armored fighting vehicle.
ALBM—Air-launched ballistic missile.
ALCM—Air-launched cruise missile.
APC—Armored personnel carrier.
ARNG—Army National Guard.
ARPA—Advanced Research Projects Agency.
ASM—Air-to-surface missile.
ASW—Anti-submarine warfare.
AT—Anti-tank.
CBR—Chemical, biological and radiological.
CD—Civil Defense.
CEP—Circular errors probable; Circle of equal probability.
CGS—Command and general support.
CIA—Central Intelligence Agency.
CONUS—Continental United States.
CRAF—Civil Reserve Air Fleet.

DCSLOG—Deputy Chief of Staff for Logistics.
DIA—Defense Intelligence Agency.
DMC—Defense Manpower Commission.
DOD—Department of Defense.
ECCM—Electronic counter-counter-measures.
ECM—Electronic counter-measures.
EUCOM—U.S. European Command.
EUSC—Effective U.S. controlled (fleet).
GNP—Gross National Product.
HE—High Explosive.
ICBM—Intercontinental ballistic missile.
IR—Infrared.
IRBM—Intermediate-range ballistic missile.
K—Warhead lethality factor.
KT—Kiloton.
LAMPS—Light airborne multi-purpose system.
LAW—Light anti-tank weapon.
LOC—Line of communication.
MAC—Military Airlift Command.
MAD—Magnetic anomoly detector.
MARAD—Maritime Administration.
MaRV—Maneuverable reentry vehicle.
MICV—Mechanized infantry combat vehicle.
MIRV—Multiple independently-targetable reentry vehicle.
mm—Millimeter.
MRBM—Medium-range ballistic missile.
MRV—Multiple reentry vehicle.
MSC—Military Sealift Command.
MT—Megaton.
NADGE—NATO air defense ground environment.
NATO—North Atlantic Treaty Organization.
NCA—National command authorities.
NCO—Non-commissioned officer.
NDRF—National Defense Reserve Fleet.
Nuke—Nuclear.
OASD—(Compt) Office of the Assistant Secretary of Defense, Comptroller.
OASD (M & RA)—Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs.
PACAF—Pacific Armed Forces.
PGM—Precision-guided munitions.
PH—Passive homing.
POMCUS—U.S. pre-positioned stocks.
PONAST—Post-nuclear attack study.
psi—Pounds per square inch.
RDT&E—Research, Development, Test and Evaluation.
R&D—Research and development.
REDCON—Readiness condition.
RRF—Ready Reserve Force.
SAC—Strategic Air Command.
SALT—Strategic Arms Limitations Talks.
SAM—Surface-to-air missile.
SEATO—Southeast Asia Treaty Organization.
SLBM—Submarine-launched ballistic missile.
SLCM—Sea-launched cruise missile.
SRAM—Short-range attack missile.
SRF—Strategic rocket forces.
TAC—Tactical Air Command.
UE—Unit equipment.
USAF—United States Air Force.
USAFE—United States Armed Forces Europe.
USMC—United States Marine Corps.
V/STOL—Vertical/short take-off and landing.
VTOL—Vertical take-off and landing.

## CURRENT NEGOTIATIONS BETWEEN A.T. & T. AND THE COMMUNICATIONS WORKERS OF AMERICA.

Mr. MATHIAS. Mr. President, on May 19, 1977 representatives of American Telephone and Telegraph and the Communications Workers of America began negotiations on a new nationwide contract.

More than one-half million workers are involved in the outcome of these important negotiations. Beyond them, however, the entire country could be affected by a break in service. The first offer was made by A.T. & T. during the week of July 25 and their second offer came today. Both have been rejected.

The current contract expires at midnight August 6, 1977. The members of the union have voted by a margin of 6 to 1 to go on strike if no settlement is reached by that time. Because of the structure of the union, ratification of any agreement would take 3 weeks. The economic impact of such a lengthy strike or shutdown is difficult to assess. But certainly it would not be healthy for our economy.

I simply want to take this opportunity to urge both parties in this matter to make every effort to avert a strike and any subsequent break in service. The valuable services provided by the corporation and its employees are needed to help this country during this period of recovery. I hope and I know that good-faith bargaining will continue in order to reach a reasonable and just settlement.

## PRM–10 AND THE INCOMPETENCE OF THE HIGH STRATEGISTS

Mr. HATCH. Mr. President, the Evans and Novak column in yesterday's Washington Post starkly portrays the tragic result of elitist foreign policy conducted without the participation of the American people. The academics who design American foreign and defense policies, having convinced themselves that the American public will not support military forces that are adequate to deter Soviet aggression, have allowed a document to be prepared—Presidential review memorandum 10—which may prove to be the most tragically destructive document in the Nation's history. This document, in effect, writes off Western Europe on the grounds that it is too expensive to defend. But no one has taken the case to the American people. The people have not been presented with a choice. Not even the Congress has been presented with a choice. The elitist academics have certainly not consulted our allies. Rather, they have determined among themselves in private rooms that the politicians in Washington would rather build their welfare dependencies—their political spending constituencies—than pay the price of freedom for ourselves and our allies. Mr. President, the American people, our few remaining allies, and the remnant of the spirit that Western Civilization once had have all been betrayed by the abstract academic mind that dwells in untested and untried theories neglecting the accumulated wisdom of mankind.

American foreign policy has now built a tradition of neglect of the values, strength and commonsense of the American people. Instead its direction comes from academic minds, victimized by abstraction, that structure hypothetical world orders according to the principles of the theory of the moment.

The commitment of the academic mind to the latest fad interpretation of world politics is as tenuous as the commitment of western intellectuals to their own civilization. In short, Mr. President, it is a flighty commitment. And that explains why the only coherence to American foreign policy is a pattern of surrender.

Many of us have been worried about the sellout of our Asian allies. On June 6, I warned in the Senate that "to sell out another ally is a serious business. Those who remain are no doubt wondering who is next." They now know, Mr. President, and the answer is all of Europe. Whoever wrote PRM–10 is an idiot. And I say that not just in anger, but also to emphasize that here we have the case of the emperor without any clothes. The high strategists are not clothed in sophistication; they are stark naked. If we were to replace them with the proverbial first 600 names in the New York City telephone directory, we could only do better.

Mr. President, what PRM–10 tells our NATO allies, the Soviet Union—indeed, the entire world—is that if it is too expensive now with existing Soviet force levels for us to defend all of Germany, so that we have to give up one-third of the territory of our ally, then if the Soviets add a few more divisions, we will give up two-thirds of Germany. A few more tanks and we will write off the rest of Germany, and France as well. And Italy. And England.

Mr. President, the Western European nations are too sophisticated to allow us to sell them out in the way we sold out South Vietnam. They will strike their own deals with the Russians first. I would be surprised, in the light of PRM–10, if they are not already scrambling to sell us out first. This is certainly not to say that the Europeans are not honorable people. On the contrary, who can criticize them for putting their own survival ahead of a futile commitment to the dishonorable ally who would fashion and follow a PRM–10? What confidence can they have in an ally so stupid as to write down on paper that we rely on a psychological deterrence for the defense of Europe and would not counterattack Soviet aggression?

Most ominously of all, the doctrine expressed in PRM–10 eliminates Europe as a theater of war and, thereby, makes the homeland of the United States the focus of Soviet military capability. In fashioning PRM–10, we have fashioned a lightning rod that invites Soviet attack; we have signaled to them that they no longer have to worry about Europe. They now know that they can shift their focus away from the Rhine to the Atlantic. They now know that there is nothing between them and us. No allies, nothing but the maginot line of "overkill," a psychological deterrence that exists only in our minds. The Soviets now know that the only thing they have to do is hit us hard and the whole free world collapses. The focus of the next war is now on U.S. soil, and we are not prepared for that.

Mr. President, if PRM–10 is not totally and harshly and rapidly disavowed, it will achieve the "Finlandization of Europe," and with it the "Finlandization of the United States."

Mr. President, I have noticed that the administration's denial of the Evans and Novak report was weak and unconvincing, and I ask unanimous consent that the Washington Post's report of the administration's response be included in the RECORD along with the Evans and Novak article at the end of my speech.

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

(See exhibit 1.)

Mr. HATCH. Mr. President, the incompetence of the high strategists and the damage inflicted on our security by PRM–10 are so extraordinary that only strong action can remedy the situation and restore the military credibility of the United States. Strong action is absolutely necessary. I think the public ought to demand that the White House disclose the PRM–10 document and if the document shows that Evans and Novak are correct in their assertions, the public ought to and I will call for the removal of the President's National Security Adviser, and I must then question the judgment of the Secretary of Defense and the Secretary of State for allowing the preparation of Presidential memorandum 10.

EXHIBIT 1

[From the Washington Post, Aug. 4, 1977]

CONCEDING DEFEAT IN EUROPE

By Rowland Evans and Robert Novak

President Carter late this week will be presented by his national security advisers with a new defense strategy that secretly concedes one-third of West Germany to a Soviet invasion rather than seek increased defense spending, which these advisers say would provoke Moscow and divide Washington.

PRM–10, the Carter administration's top-secret strategic study, suggested that this policy could be made palatable to Western Europe by simply not admitting its implications. This course was wholly adopted in high-level meetings July 28 and 29 by Zbigniew Brzezinski, the President's national security adviser. There was dissent from the senior officials assembled.

The strategic policy paper to be given the President (about three pages of single-spaced typing) makes no mention of surrender or duplicity in central Europe but talks of a commitment to a "minimum loss of territory" in NATO. To achieve a broader perspective Carter ought to look at the minutes of the July 28–29 meetings of his Senior Coordinating Council (SCC) on national security.

The SCC agreed on a 3 percent annual increase in defense spending, fulfilling Carter's promise to his NATO allies earlier this year. But, according to verbatim notes taken by one of the participants, Brzezinski declared: "It is not possible in the current political environment to gain support in the United States for procurement of the conventional forces required to assure that NATO could maintain territorial integrity if deterrence fails. Therefore, we should adopt a 'stalemate' strategy. That is, a strategy of falling back and leaving the Soviets to face the political consequences of their aggression."

Brzezinski went on to declare that these "political consequences"—world opinion, U.N. disapproval, U.S. mobilization—would help deter a Soviet invasion. There was no dissent from those present, including Vice President Mondale, CIA Director Stansfield Turner, Chief Disarmament Negotiator Paul Warnke, Deputy Defense Secretary Charles Duncan and Joint Chiefs of Staff Chairman Gen. George Brown.

Brzezinski continued: "We agree there must be a gap between our declared strategy and actual capability. We cannot for political reasons announce our strategy." Again, there was no dissent, though some officials voiced the opinion there would be hell to pay if the Germans learned what was happening.

All of this follows the script of the June 20 draft of PRM–10, which lists four options for lower-range defense spending. Each would stop a Soviet offensive at a line formed by the Weser and Lech Rivers, surrendering about one-third of West Germany (including Saxony and most of Bavaria).

These four options, according to PRM–10, do not "plan" to stop "a determined Warsaw Pact conventional attack. . . . If the Soviets persist in their attack, a U.S.-NATO conventional defeat in Central Europe is likely." Yet these options are certainly not rejected out of hand.

"Many of the adverse political implications" of the reduced defense options (such as independent German rearmament or, conversely, European accommodation to Moscow) "probably could be avoided if the U.S. continued to publicly support" present strategy. Adverse reaction by Western Europe "could be significantly softened . . . if the U.S. were to avoid any statements to the effect that a loss of NATO territory would be acceptable."

PRM–10 also proposes these political steps, accompanying defense reduction, that could help forestall a Russian attack: "The U.S. might pursue arms-control initiatives more vigorously to obtain reductions in threats and opposing force levels, thereby minimizing the risks of unilateral U.S. reductions. With respect to the Soviet Union, the U.S. might undertake a broad program of economic assistance to the U.S.S.R. on trade, credits, food, and technology, thereby lowering political tensions and reducing the risks of war."

The four options calling for increases in defense spending, says PRM–10, would be intended to roll back a Soviet invasion but "may provoke adverse Soviet *and* allied reactions." This "might provoke a similar Soviet counter-buildup or even a preemptive attack," and therefore "might actually undermine deterrence."

Arms-control negotiations would be disturbed by "strategies requiring a visible and rapid increase in the size of U.S. and allied forces, particularly in Europe. . . . Soviet suspicions of U.S. motives would make it more difficult to conclude meaningful arms-control agreements, either SALT [Strategic Arms Limitation Talks] or MBFR [Mutual Balanced Force Reductions]."

PRM–10 predicts any increase in defense spending would generate "divisive debate" and warns an across-the-board hike in defense capability "is likely to find little domestic support." In general, the options calling for decreased strength are seen as causing less trouble; in particular, the option calling for approximately the present military level but with less sustained power in Europe is described as "probably the most anodyne [option] in terms of its domestic impact, unless it were only described as a lowering of our sights."

These views were implicitly accepted last week by Brzezinski and the other senior officials. So the President is about to adopt a policy boiling down to this: Instead of seeking greater defense spending to defend central Europe, rely on political pressures to deter Moscow while secretly conceding a military defeat. Whether this reflects a "political environment" as claimed by Brzezinski, it certainly reveals the environment within the Carter administration.

[From the Washington Post, Aug. 4, 1977]

"PULLBACK" POLICY IN EUROPE IS DENIED

(By Edward Walsh)

Senior administration officials yesterday denied a report that the United States is considering a defense policy that would concede the loss of one-third of West Germany in the case of a Soviet invasion of Western Europe.

The denials, in response to a report by syndicated columnists Rowland Evans and Robert Novak published yesterday in The Washington Post, came from the State Department, Defense Secretary Harold Brown, White House press secretary Jody Powell and President Carter's national security adviser, Zbigniew Brzezinski.

Brown, testifying before a Senate Armed Services subcommittee, said U.S. policy still is to contain any Soviet attack near the German border.

"I do not advocate and will not support a policy which called for the United States to accept a loss or defeat in Europe," Brown said.

Powell, answering questions at the White House, said that Presidential Review Memorandum 10—the subject of the column—proposes no change in policy that would accept the loss of territory in Europe. U.S. policy, he said, remains unchanged and includes the possible use of tactical and strategic nuclear weapons as well as conventional forces in defense of Europe.

PRM-10 is the administration's overall review of U.S. global strategy, including military strengths and force levels. It has not yet been presented to the President.

Evans and Novak reported what they described as a meeting of high-level administration officials July 28 and 29 to discuss aspects of PRM-10. The thrust of the column was that the officials agreed with Brzezinski's contention that given the "current political environment" the administration could not expect to gain support to procure enough conventional forces to assure turning back a Soviet invasion.

In these circumstances, the columnists said Brzezinski argued, the United States should adopt a "stalemate strategy," in effect "falling back and leaving the Soviets to face the political consequences (such as adverse world opinion) of their aggression." But under no circumstances, Brzezinski was reported to have said, should the United States publicly acknowledge any such change in its strategy, since this would cause an uproar in Western Europe, according to the columnists.

The syndicated column contained lengthy quotations attributed to Brzezinski which Evans and Novak said came from the verbatim notes of one of the participants in the meeting.

The White House did not directly deny that Brzezinski made the statements attributed to him. However, Jerrold Schecter, Brzezinski's press spokesman, said the statements in the column were "partial, inaccurate and deal only with one aspect of the over-all defense strategy that might be applied in the event of an attack on Western Europe."

Schecter declined to elaborate on where the statements attributed to Brzezinski were inaccurate.

Powell described the Evans and Novak report as another "in a series of the 'Oh, my God, they're caving into the Commies' columns" by the two writers, who are known for their hardline stance on defense issues.

Powell conceded that discussions of PRM-10 have included reviews of "political options" open to the United States in the event of Soviet aggression in Europe, but he said the discussions were "not limited" to political options. The response to a Soviet invasion, he said, "would be other than words."

Asked whether the administration believes the United States and its NATO allies currently have the strength to regain any territory initially lost to an invasion. Powell, after hesitating replied:

"Yes we do . . . It is our policy to regain any territory and it is our belief at this time that we can do that. However, it is important for NATO to take certain steps to maintain that ability."

Last May at a meeting of the NATO ministers in London, Carter reaffirmed U.S. support of the alliance and simultaneously warned that unless there is an early agreement for mutual and balanced force reductions NATO must be beefed up.

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U.S. GENEROSITY TOUCHES TASS

Moscow, August 3.—The United States is prepared to give up someone else's territory—West Germany's—to a country that has no intention of taking it, the Soviet Union, the official Soviet news agency, Tass, declared today.

"What generosity!" Tass said, commenting on an article in which columnists Rowland Evans and Robert Novak said the United States is ready to surrender a third of West Germany in a conventional land war with Warsaw Pact forces rather than increase defense spending enough to meet an attack head-on.

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## THE MARSHALL PLAN

Mr. HARRY F. BYRD, JR. Mr. President, on April 21 ceremonies were held in Washington, D.C. commemorating the 30th anniversary of Gen. George C. Marshall's speech at Harvard University when he outlined the European recovery program.

This ambitious postwar program became known as the Marshall plan. Under the auspices of the George C. Marshall Research Foundation, headquartered in Lexington, Va., a prominent group of individuals associated with the Marshall plan, gathered to pay tribute to General Marshall.

The Honorable William McChesney Martin chaired this event. Other participants included Gen. Maxwell D. Taylor; His Excellency Jacques Kosciusko-Morizet, Ambassador of France; His Excellency Sir Peter Ramsbotham, Ambassador of Great Britain; the Honorable John Gilligan, Administrator, Agency for International Development; and the Honorable W. Averell Harriman.

The remarks delivered by these distinguished gentlemen provide a valuable insight into the scope of the Marshall plan.

Mr. President, I ask unanimous consent that the proceedings of this ceremony be printed in the RECORD.

TRIBUTES TO GEN. GEORGE C. MARSHALL ON THE OCCASION OF THE 30TH ANNIVERSARY YEAR OF THE INCEPTION OF THE MARSHALL PLAN

Chairman WILLIAM MCCHESNEY MARTIN, Jr. This evening it's my privilege to welcome all of you who are trustees of the Marshall Foundation and your ladies and associates of the Marshall Foundation and friends of the Marshall Foundation, friends that are connected with foundations that have contributed to the Marshall Foundation. It's a great privilege for me to welcome all of you to this Second Annual Dinner of the Marshall Associates.

Now just a word about the background, about the Marshall Foundation. It was founded in 1953 with the enthusiastic support and help of President Truman. On one occasion I heard him say that he thought that General Marshall was one of the greatest men that he'd ever known and he was very enthusiastic about having an organization of this sort founded.

It has facilities in Lexington, Virginia. I think it is really developing in the way it should because the idea was that there would be a place where you could have research in military and diplomatic history and memorialize, perpetuate the work of one of our great statesmen and great soldiers and I believe that the Marshall Foundation has been performing that.

It was called the George C. Marshall Research Foundation and they took as their motto: "That tomorrow may know our times better." I think that's an interesting motto and it certainly is a very valuable one. I am one of those people who think perhaps we're changing too fast these days and perhaps too much of tomorrow is occurring today but, nevertheless, it's a very good thing to have a center where these things can be evaluated and analyzed and considered and in the light of the character of a man that we know is worthy of all the youth of our land following. So it's a very nice thing to be able to participate in this dinner and to pay tribute to the Marshall Associates.

It's the Thirtieth Anniversary of the Marshall Plan. And this afternoon about four o'clock I received a very nice message from our President which I would like to read to you at this time.

From the White House, April 21st:

"I am deeply honored to join in this tribute to the memory of the brilliant General and Statesman who offered to the war-torn nations of Europe a program by which both victor and vanquished could work together in a common effort to assist their economic recovery following World War II.

"On George C. Marshall's creative and determined enterprise now rest the entire structure of trans-Atlantic cooperation and goodwill. His leadership then should be our guide now as we work to strengthen the Atlantic Alliance. Together we face new challenges, less dramatic but no less important to our collective security and economic well-being. Together we can overcome these challenges, if we address them with the same invincible and daring spirit that marked the public service of this remarkable man.

"For many of you who knew General Marshall and who were part of the gallant and valorous undertakings of that era, the Thirtieth Anniversary of the Marshall Plan is a milestone of the deepest personal satisfaction. For all of us, it is an occasion to rejoice in the success of the selfless cooperation that gave western nations renewed hope and confidence in the future."

JIMMY CARTER.

Now it's my privilege to introduce one of America's most distinguished military men, one who has served our country in a great many different capacities. He was Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, not long ago Ambassador in Viet Nam. He led two combat divisions during World War II and, above all, from our standpoint, he's been an effective trustee of the Marshall Foundation.

Gen. MAXWELL D. TAYLOR. Distinguished guests, ladies and gentlemen:

My mission here on the platform is very simple, to explain and to announce the formal adoption of the General Marshall ROTC Award. This was a concept developed within the trustees last fall. As you're well aware, they are constantly seeking for ways of properly memorializing this great man and, obviously, with his enormous contribution, his versatility, his many contributions to the country, that's not hard. The question is one of choice.

This time recognizing his great concern as a military man for the quality of the officer corps and, more precisely, the problem of creating officers in time of emergency, as in World War II, he was always expressing his view of the essentiality of the Reserve officer Training Corps Program, and, hence, for that purpose, this award is being chosen.

If we needed any citation, chapter and verse, of his interest, I am indebted to Cabot Lodge for calling attention to the fact a statement made before a Senate Committee in the course of World War II to the following effect:

The most valuable asset we have in this emergency, namely, World War II, has been the product of the ROTC. If we lost these officers at a critical juncture such as now, the result in mind would be disaster.

The concept is simple, simply that the Foundation support and propose to the Department of the Army a program whereby the Foundation can give an award to the senior cadet of the graduating class in the ROTC units and the 285 colleges and universities where we have representation today the choice of the young man who has shown the greatest characteristics of leadership and has the best record in military studies in that particular unit.

This decision will be made by the commanding officer in the unit and will be nominated to the Foundation. The Foundation's role will be threefold.

First—To give a certificate of excellence in the terms of the intent of the Foundation, namely, outstanding ability, outstanding potential in leadership and in military studies.

Next—There will be the gift of the Marshall biographies of Dr. Pogue.

Third—There will be a conference held each year in Lexington by the Foundation in which there will be a discussion of national security issues and there will be not only the representatives of the ROTC, the winners of the awards, but also distinguished citizens, men of background to add to the discussions which will take place.

It seems to all of us that this is indeed a very valuable program from many points of view. First, it gives us, I would say, a very apt way of recognizing General Marshall. It also allows us to impress his image on these young men at a formative time in their lives, the qualities of this great man. It utilizes the facilities of the Foundation, which, under Dr. Hadsel, has become more and more a center of vitality, I would say, in inviting thoughtful people to come to Lexington and under the aegis of General Marshall to consider these worldwide affairs.

This was taken then—this was our proposition. We took it to the Chief of Staff of the Army, General Rogers. He saw the merits of it, he accepted it. He designated Major General Charles D. Rogers, Deputy Chief of Staff for ROTC Training, to monitor this and to work out the arrangements with us.

We think we have, as I mentioned, a great potential in this. We should all watch it closely. The real payoff, of course, will be the quality of the young men who are brought to Lexington but I would say that with the concept we have and with the image of General Marshall behind it I'd be surprised if we don't bring there young men who will receive something and in turn will give something to us in the vitality of youth and, most of all, I think we will bring young men of whom George Marshall would have approved.

Chairman MARTIN. I think that is a very encouraging development and we're most appreciative to General Rogers and to General Taylor for this initiative.

Now the response to the Marshall Plan after the talk on June 5th of 1947, was dramatic and inspiring and any number of countries rallied round but we are fortunate that two of them, France and Britain, that were in the forefront, we're fortunate to have representatives of both of them here tonight

and we're going to ask them to make a few remarks.

In the case of France, we've had an ambassador here, a very distinguished ambassador for sometime whom I first heard when he was teaching at Columbia University in New York. He then went back to Paris and was in the French civil government for a number of years and has been His Excellency, the Ambassador of France to the United States here in the United States since 1972.

I would like very much to ask him to say a few words, if you would, Mr. Ambassador, on behalf of your government.

His Excellency JACQUES KOSCIUSKO-MORIZET. Mr. Chairman, Governor Harriman, Senator Byrd, Mr. Zablocki, my dear colleagues, ladies and gentlemen: Thirty years in the history of nations is very little. In fact, it seems only yesterday that the United States in a generous and intelligent gesture put the resources of its power at the disposal of a battered, devastated Europe so that it could reorganize and rehabilitate itself through self-help.

I also remember, as if it were only yesterday, the time when Secretary of State Marshall visited President Auriol, for whom I was head of staff and foreign policy advisor at the time. I showed the visitor into the Presidents office. He was tall, typically American, squarely built, rugged features, and his hair was already white. I remember his kind, intelligent look, his forthright and still rather military speech.

Mr. President, he said, I am not a diplomat, I go straight my road. I often thought about these words. First of all, I viewed them as my own guidelines because I've always found that the best diplomacy was to follow a straight path and, secondly, this was a reminder that in matters of foreign policy the great innovators are rarely the professionals, the experts, as we are wont to call them, who are hidebound by routine and by their very professionalism. The innovators are usually those who have a broad, simple vision of the political necessities and intuitively know what the future holds.

President Truman's vision was clear when he said on March 12th, 1947, that it was essential and good to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressure. Incidentally, it is a clear lesson for the western countries considering what happens today in Africa, frightened by the same totalitarian domination.

On June 5th, at Harvard, General Marshall took up the same theme. It is our duty to help free peoples. That was the good news, the important political decision and the concept itself was well suited to the purpose. My country, France, was in need. It had been shattered by the war, bled dry, vast areas had been laid waste, houses and cities destroyed, roads and bridges cut, railroads paralyzed and people were undernourished. What France needed more than immediate help, necessary though this was, was to set its war-torn economy in motion again.

The Marshall Plan was to give an indispensable boost to the recovery and modernization of our economy. On the American side there was legitimate concern that the funds might be poorly used and swallowed up by the chasm of budgetary operating expenditures but France prepared, thanks to Jean Monet, a gifted Frenchman who was able to transcend preconceived ideas and take the longer view.

After consultation among government, management and labor, a settlement was established, thus the structure existed for the aid so generously offered by General Marshall. As Jean Monet wrote in his recently published memoirs. For the first time the responsibility for the effort had been shared, Americans were helping Europeans to help themselves.

I cannot emphasize strongly enough the importance of the historic joint effort between the French team and the American team. I would have to mention many names but it would take some restraint. The French team inspired by our beloved Governor Harriman, aided by Ambassador David Bruce, and under the leadership of a man who is, alas, no longer with us, a man whom I later had the honor to work with at the United Nations, a great American, an outstanding man of action, Paul Hoffman.

I would also like to pay special tribute to his memory today.

The scope of this methodical assistance is well known, $30 million to 16 nations, 97ths of which was reimbursed by the 6 founding members of the European community. And in all cases, the entire debt was repaid.

The results were spectacular. There was the German miracle. There were many miracles in Europe. There was also the French miracle. With a current G N P of about $400 billion France is now the world's third ranking exporters of goods and services. The results could not have been achieved without U.S. aid and without this aid the Western World would not be what it is today.

I can see two lessons in this superb demonstration of solidarity.

First—The Marshall Plan illustrated the interdependence of western nations and cemented the 200-year-old friendship between our countries.

And secondly—It showed what we were capable of achieving when we work together in freedom.

As early as in 1949 Jean Monet wrote in an official government report, France has risen above the threatening economic decline. This statement alone is enough to show you the extent of our gratitude.

Chairman MARTIN. Thank you, Mr. Ambassador.

Now, in introducing the British Ambassador, I am presenting to you one of Britain's most accomplished diplomats. He entered his service in 1948 and was immediately involved in German affairs. After arriving at the United Nations in Paris and, of course, in his own Foreign Office, he was High Commissioner to Cyprus and Ambassador to Iran. He has been Her Majesty's Ambassador to the United States since 1974.

Sir Peter Ramsbotham, Knight, Commander of the Order of St. Michael and St. George and the Ambassador of the United Kingdom to the United States.

Ambassador PETER RAMSBOTHAM. Mr. Chairman, Governor Harriman, Senator Byrd, Mr. Zablocki, Mr. Gilligan, dear colleagues, ladies and gentlemen: It's a great pleasure and privilege to join with you this evening in this commemoration. It's an evening when I can look back to the beginning of my own career as a diplomat, for I entered the British Foreign Service at the age of 28, just six months after the signing of the European Recovery Act by President Truman.

In the late forties things were difficult and life was cold, they were hard years in Europe and Britain's spirit then was less capable of coping with the slow task of reconstruction than it had been with the quick, harsh dangers of war and, with so many of our overseas assets sold off to pay for the war, we were desperate for help. And then the hand of friendship was offered in the concrete form of the Marshall Plan at a time when it was not the thought only that counted but the quality of the gift. Ernest Bevin, our beloved, rather eccentric but immensely practical Foreign Secretary at the time, seized upon the opening in a vigorously positive response. It was a lifeline and the name of General Marshall will always be revered in my country, the symbol of integrity, of loyalty, of selfless public service, the Mr. Standfast of his day, and his memory will never fade.

There's no need for me to recall to you what the Marshall Plan meant for Britain then. Many think, as my French colleague has said, many think that it saved Western Europe, saved it perhaps from Soviet domination. Certainly beyond that it was itself a remarkable reaffirmation in peacetime of a comradeship which had been bred in war and whose spirit might well have evaporated once that war was over. I believe that, if the Marshall Plan had been no more than an arrangement between governments, then that might have been the case. But it was a gesture, it was a gesture that went far deeper than that. It came from the American people as a whole.

Indeed, to me it was an illustration of how ideas which were put together in hammering out the Constitution of the United States still influenced and influence and control the effectiveness of American foreign policy. Seen through the eyes of the head of the British delegation at the Committee of European Cooperation in 1947, Oliver Franks, who was soon to become an Ambassador in Washington, one of our greatest, seen through his eyes the negotiations for the Marshall Plan were themselves a remarkable affair.

For 8 weeks in Paris in that hot summer 16 European nations, under his chairmanship, worked at drafting the European Recovery Program, their response to the American encouragement for the first move to come from Europe. When Oliver Franks came into the bar of his hotel, he records, he'd come across American congressmen, American journalists. They would cross-question him for hours on what his committee was doing, what figures they were using, when they would finish their report. When the report was completed and transmitted to Washington Oliver Franks was asked by the British Government to come here to explain it and to justify it. As soon as he arrived, he was subjected to intensive questioning in the State Department and in the Treasury. He appeared before the Senate Foreign Relations Committee where one of the first questions asked him was whether the European Recovery Program was not just an operational rathole.

From Washington he traveled all over the country speaking at meetings with businessmen, women's luncheon clubs, groups of teachers, Rotarians, local radio and newspaper reporters and he became involved in a nationwide debate on the Marshall Plan. It seemed to him, as he moved from one place to another, that it was all one continuous discussion and debate with the American people. Meanwhile, all around him major processes in the American government were taking place of which he was hardly aware at the time.

You remember Senator Vandenberg's proposal which led to the creation of the Harriman Committee. After the publication of the report a bipartisan group was established to consider it in detail.

President Truman made a radio address to the nation and then spoke to a special session of Congress.

And, finally, the President sent a message to Congress explaining the part to be played by the United States in a comprehensive plan for the recovery of Europe. Congress passed the European Recovery Act and it was signed into law on the third of April 1948.

Now this account of the experiences of a predecessor of mine, the one who played a central role, an account of Oliver Franks's experiences, illustrates to me something of great importance in America's political way of life. Your Administration formulates a piece of major policy and publicly announces its proposal. The people are informed by the preparation and publication of reports on the implications of this policy. Congressional leaders are approached on a bipartisan basis and agreement and support is sought. The

President makes an address and a nationwide debate ensues. The people feed their reactions back to Congress and Congress votes on the bill.

The European Recovery Act was effectively and successfully enacted because all the parts of the United States Government were then in harmony and enjoyed the broad support of the people. Those were the Marshall days. "We, the people," perhaps your greatest constitutional contribution, were being fully consulted, and this is reassuring to see. With this Administration, as I view it, it is reassuring to see the same conscientiousness in bringing the people into the process of evolving a foreign policy. If there was value to the United States in a restored and independent Europe there was also value to Europe in seeing that the American people as a whole wanted it that way. A policy became the demonstration of a state of mind, of partnership, or generosity and after 30 years we still feel the warmth from that glowing moment. Indeed, the Atlantic Alliance owes a great deal to the habits of cooperation and mutual respect which were developed during the Marshall Years. Its example will, I know, illuminate our future actions also.

And, before I sit down, Mr. Chairman, I shall pay a tribute from the people of Britain to one of the great architects and technicians of American foreign policy in this century, Averell Harriman. Not only did his wisdom and his tireless energy see the Marshall Plan executed for the benefit of Europe, he has labored for and guided and loved and sometimes chastised the American people itself over a long career of public service. British and Americans alike and our European friends with us owe him a special debt of gratitude for he has strengthened the bonds that join us. To the spirit of trans-Atlantic partnership which he and General Marshall have so nobly symbolized I reaffirm the British commitment tonight.

Chairman MARTIN. Thank you, Sir Peter. You and the French Ambassador have helped pull us together into a spirit of nostalgia that will be adequate, I think, for some time to come as we look back over our history.

We're very happy to have here tonight the current Administrator of International Aid John Gilligan. I won't introduce him again because I went down the line and forgot that he was going to speak and I said that he was Governor of Ohio and has been a congressman.

The Honorable JOHN GILLIGAN. Thank you, Mr. Chairman. I'm honored indeed to be here this evening among so many who contributed so much to the realization and the implementation of the vision of General Marshall.

To Governor Harriman, to their Excellencies, the Ambassadors from our allied and friendly countries throughout Western Europe, to Chairman Zablocki and his colleagues in the Congress and to all here present, many of whom played important and significant roles in filling out the dream that George Marshall and his colleagues once had.

I am doubly honored to be here representing the 6,000 people who today work in the fields of economic development all over the globe on behalf of the Agency for International Development and, indeed, for the thousands of people, American, Europeans and others who have worked in the Marshall Plan and the Point IV Program and the Mutual Assistance Operation and the Peace Corps, which numbers at least 50,000 alumni who have carried through their own individual efforts and talents and dedication this typically American message of help to others who are in need.

I think that one of the important things to remember tonight on the Thirtieth Anniversary of the inception of the Marshall Plan is that, if George Marshall's dream, the dream of a military man who understood quite clearly that the resources of the nation could be used for construction, as well as destruction, if that dream had been his alone, he would have been dismissed as an eccentric visionary. But the fact was that the dream and the vision that he had was shared by those in government, by President Truman and the Presidents who succeeded him, by those in Congress who accepted and debated the practical aspects of the program that he presented to them and adopted it in the name of the American people, and by those in other countries who understood what the program meant, responded to it, cooperated with it and today, I think it is significant to note, the very recipients of the benefits of the Marshall Plan of 30 years ago are contributing from their own resources to the development of less-developed countries all over the world, very generously and very deeply from their own resources, and most of those countries who are so contributing are represented here tonight through their distinguished Ambassadors.

And that spirit embodied in the message of George Marshall at his Harvard address 30 years ago, implemented by President Truman and by the Congress of that time and endorsed and supported by the American people in the years since then are expressed again in the words of President Carter in his inaugural address this year when he said the world itself is now dominated by a new spirit. Peoples more numerous and more politically aware are craving and now demanding their place in the sun, not just for the benefit of their own physical condition but for basic human rights.

The passion for freedom is on the rise, said President Carter. Tapping this new spirit there can be no nobler nor more ambitious task for America to undertake in these days of a new beginning than to help shape a just and peaceful world that is truly humane.

I think in those words we have truly a continuation of the spirit and the vision of George Marshall and those who worked with him and I think all of us here this evening and the nations we represent are privileged indeed to carry this tradition on into a new generation.

Chairman MARTIN. Thank you, Governor.

We have now covered in a general way from the start of the Marshall Plan to the present Administration of the aid program and we come to the climax of our evening.

You've all heard of carrying coals to Newcastle. Well, when you look at the biography of our guest of honor this evening you can see that there is a limit to the things that could be said. He has been our Ambassador to the Soviet Union, our Ambassador to the Court of St. James, Secretary of Commerce. He has been Governor of the State of New York. He has been on any number of commissions and there's no way that you could probably summarize his activities but in respect to the Marshall Plan, and the tribute that has already been paid to him, I can only say that on one occasion I heard him referred to as Mr. Marshall Plan.

So, without any further introduction, Averell, I'm going to ask you to take the podium.

The Honorable W. AVERELL HARRIMAN (Extemporaneous Remarks). Thank you Bill Martin.

Your Excellencies, warm admirers of General Marshall, and my friends: This is, as we know, the Thirtieth Anniversary of the great speech that General Marshall made at Harvard in which he outlined in the most brilliant manner the most complex subject in the briefest and simplest words. He was a past master at making complex things seem simple and clear and certainly he did it in this speech. Covering just two pages in your program, that speech started perhaps more activity than any statement. Those few words started more activity in more nations which affected more masses of people and which in fact changed the course of history in a manner which had not been known before.

I was much interested in the British Ambassador's statement. I am grateful for your kind words. But it is the description of Ernie Bevin moving and moving rapidly and, of course, his words about Oliver Franks were well deserved but along with Oliver Franks I want to say that Jean Monet played a very important role in those deliberations which lasted two months in Paris. It was a joint effort under good leadership.

But I want to tell you a story about Ernie Bevin which I like very much and it affects other people as well. Dean Acheson, who in no small measure was involved in the thinking that developed General Marshall's final statement, was concerned that it would not be taken seriously in Europe and so he called in two British correspondents and told them that this was was a most serious statement and the British Government should take it seriously.

So dispatches went to London and Ernie Bevin was shaving in the morning when he heard on the early radio the statement of what General Marshall had said and he immediately understood its importance. So he rapidly finished shaving and breakfast and arrived at his office 15 minutes before he usually did.

Anyway, he was getting there early, no one was there and so he rang every bell that he could and asked for every officer that he could and finally the first to arrive was the Economic Advisor, Hall Patch, Sir Edmond Hall Patch, and Ernie said, Why don't you do something about this? This is in your field. Immediate steps must be taken. So he put Hall Patch on a plane and sent him to Paris to see the Foreign Minister who was then M. Bidault and together they arranged there should be a meeting in Paris very quickly. Of course, General Marshall's plan was for all European countries including the Soviet Union. So they thought it was well to ask Mr. Molotov to join them and they had a big three meeting.

Mr. Bevin and Mr. Bidault stood absolutely firm on the position that General Marshall had taken that this must be a joint venture, the European countries must work together and develop a program which was a mutual program, that was called later Self Help and Mutual Aid, and Molotov said, of course, in his normal manner, it's simple for us. All you do is to ask the Americans how much money they'll give and we'll divide it on the basis of those who suffered the most will get the most.

But both men stood definitely firm and, God bless them for it, and Molotov was recalled by Stalin. He had arrived, I should have said, with a team of 40 individuals among which were their most distinguished economists, and it was very fortunate that he did leave.

We've often wondered just why General Marshall made that offer. Some have said it was a considered risk. Others have said that he maybe wanted to give Stalin a last chance to join. I'm among those that are convinced that it is the latter, he wanted to give Stalin the last chance. I know that because—and I think this is one of the reasons why we can discount the present group of people that are revisionist historians who try to pretend that if we had taken certain other steps we could have gotten along with dear old Uncle Joe Stalin and it wasn't Stalin but it was the United States that caused all the difficulties of the cold war.

The fact is that General Marshall was the very last, and also General Eisenhower was very late to give up hope of being able to

deal with Stalin. They couldn't believe that after the devastation of the war that anyone would be so utterly ruthless as not to cooperate.

There was a statement that came from the Kremlin. Stalin declared war on the Marshall Plan. Perhaps many of you have forgotten that. And did so in so many words and called it an American ploy to enslave Europe. At the same time they started the Cominform, which you remember was an institution which was a device and an effective device to dominate the nations of Eastern Europe.

Of course, during the Marshall Plan days they did everything they could to undermine the Marshall Plan and it was in spite of that that it was a success. Of course, there are many who played a role in getting it through Congress. General Marshall himself played perhaps the leading role due to his prestige with the Congress in his testimony and in his speeches throughout the country. Then, of course, Senator Vandenberg, the Republican Senator from Michigan, took a lead and he insisted on certain matters being done which were not entirely as President Truman wished it to be. President Truman wished to appoint Acheson the Administrator because he had had more to do with the early thinking and the early work which led General Marshall to make his proposal but Vandenberg said, We have to have a Republican, and, of course, Paul Hoffman was the obvious choice. But he said, No, Paul is too liberal, many Republicans think he's too liberal. We ought to get a hard-boiled Republican.

So we went over a list; and name after name, I pointed out to Senator Vandenberg, are men that are opposed to the Marshall Plan! You can't put a man in who's opposed to it. So finally he agreed to Paul Hoffman and never a wiser decision was made. But President Truman thought it was an invasion on his constitutional responsibility and he was very much annoyed that the Senate should interfere with his right to nominate and then to consult the Senate.

But in any event Vandenberg knew what he was talking about. It had to be a Republican and I want to say that never was there a more fortunate choice. President Truman in fact gladly accepted him and called him in to see him. This is one of the stories of Truman that I like the most among them. Paul explained why it was utterly impossible for him to take this position and, with that, he left. Truman kept saying that he had to do it, but Paul left and he got into his car and he happened to turn on the radio. I don't know whether this is exactly right but this is the net of it. He listened to the radio and he heard an announcement from the White House that the President had appointed Paul Hoffman to head the Marshall Plan.

[Laughter.]

So, Paul, being a very practical man, realized that there was nothing else he could do, so he took the job.

[Laughter.]

And again, thank God that he did, because no one could have handled the situation in this country as he did or give the inspiration of the fantastic conception that General Marshall had. He gave us in Europe the greatest amount of support and help and advice. We in Europe understood what General Marshall was after and out of it came a great many new conceptions.

The first thing we did was to insist that the Europeans should divide the aid. The OEC director said that it was utterly impossible, it would divide them. We felt that it was essential for them to divide the aid because otherwise there would be 16 countries coming to the United States and we would satisfy none of them and we'd make 16 enemies. In addition to which it was General Marshall's idea that it should be a European program and, if it was to be a European program, they were the ones to decide which countries needed the aid—and the amounts involved.

They said it would destroy the OEEC but it made the OEEC and then, of course, every country had to come before the OEEC and submit their programs and it became a concerted program in a manner in which nations have never worked so closely together.

We, for our part, did something which the Congress was quite upset with. We tried, through our publicity, to minimize the American assistance. I remember that the total gross national product for 16 nations was only $100 billion at that time and we were giving in that year something over $5 billion, so we publicized the fact that we were only doing 5 percent, the European nations were doing 95 percent of the job. I was called before Congress and I was asked, Were the Europeans grateful for what we were doing? And I said, Gratitude is the—I really spoiled almost all of Paul's relations with Congress. He used to say that I caused him a great deal of difficulty because I was very blunt—I said gratitude was the emotion that we were not trying to evoke. Gratitude was the shortest-lived of any emotion and it carried with it also some aftermaths which weren't so desirable.

I said, I know what you men would like to have me do. You'd like to have me bring to you pictures of French children waving the American flag, dancing in the provincial capitals and singing God Bless America and, I said, As long as you keep me in Paris that's exactly what we're not going to try to do.

That took them aback so much that they didn't demand my resignation. But it was the respect and confidence of the Europeans that we were trying to achieve. I think we did that because we called upon American businessmen, American labor, American farmers to come over and help, and we found that productivity was not one of the virtues which Europe understood.

During the inter-war period they had come to regard productivity as perhaps very dangerous, causing overproduction and unemployment and yet our teams that came over by industry did a great job in education and our labor representatives worked with the noncommunist unions to strengthen them. And, incidentally, we had the help of the CIA. It isn't very popular to say that today but I want to tell you that the CIA played a very important role and a very honorable role in assisting the Marshall Plan, helping the noncommunist unions to maintain a stronger position in Europe against the communist unions which were well financed, and we were well informed of it, by moneys that came from Moscow.

The press did not have in the beginning pulp enough, newsprint enough and the communist press was getting it from the East in some of the countries. We saw to it that the press got enough paper to print what they wanted to. We never interfered with what any noncommunist or anybody said but we helped those that were carrying the banner.

We have a little post-Vietnam and post-Watergate inhibitions just now, particularly in Congress and they seem to think that the work of the CIA is not important. I say to you, my friends, the CIA is the first line of defense because, with all of the good will that comes from Mr. Brezhnev and it is sincere, in detente and in wanting to come to agreements on the nuclear arms race, he makes it perfectly plain that he is going to continue to support everywhere in the world liberation movements and, as I say, that is our first line of defense.

Nuclear bombs do not destroy communism but the way we act based on real information and the way we behave is the vital force in this competition that we have, still have with the Soviet Union.

We went through many periods and many things were done during the Marshall Plan days, new conceptions, but above all, for instance, Schuman made the historic rapprochement with Adenauer which united the objectives of Germany, France and Germany. That was one of the outcomes. The coal and steel community, which has led to what we wanted to have Europe do, unite with the common market. It hasn't gone as far as we'd want but it has gone a long ways even in these 30 years and let's hope it goes further. We had the European Payments Union which broke down barriers and which helped break down the quantity restrictions and the tariffs and the trade went up remarkably well and laid the basis for the present common market.

There were difficulties. The OEEC was not very strong because it was established as not to be too strong. There were some that didn't want to give up any of their sovereignty but we finally got them to agree, the ministers to agree to appoint a permanent ministerial chairman. It turned out to be Mr. Stikka. I wanted Mr. Spaak because he was known to be a European but oddly enough the British labor government was not so keen about that.

But I want to say for both Ernie Bevin and Stafford Cripps, they gave us some difficulties, but when they made an agreement the British always do more than they say they will do and that is among the many reasons why I respect them.

As we look at the world today, as we look at Europe today, we see that instead of the communists being under control we see them developing. We see the Euro-communists gaining strength, particularly in Italy and in France, of course Spain now, we don't know where it will go, and Portugal, but our eyes particularly are on the Euro-communists in Italy and in France and people wonder what to do.

Number one—I want to say we never want to turn our backs on any communist group because I have found that there are very few who live west of Moscow that want to be dominated by Moscow. In the early days Stalin could control everything. Stalin controlled all the nations and all the communist parties throughout the world. In fact, Tito was concerned that he would unleash the satellites to attack him. Moscow has no such power today and that is a change for the good and yet we see these Euro-communist parties gaining power and in all probability they will be in governments and what should our policy be?

I'm not going to try to answer that question fully but I'm going to say a few things.

One—We should never turn our backs on them in a way which would force them to go back to Moscow. On the other hand we want to make it plain just what we think of communism and I think it's most fortunate that at this time we have a President that makes the human rights an international issue because that is an issue which the communists cannot stand up to and, if they do, they will be repudiating their own faith. Then, too, we have perhaps the most important problem or work to do and that is to make our own country stronger, more prosperous, with more social justice.

And above all, in facing the communist issue, it was Mr. Stimson that said we should—something of this character. I'm paraphrasing it. By our actions we should make it doubly clear that freedom and prosperity march hand in hand and then he went on to say, This is the answer to communism but it's the right thing to do anyway. That is the way I think it's clear today that we can do more for Italy and more for other European countries by getting our economy in shape and also follow-

ing what President Carter wants to do and that is to understand that trade is a two-way street and, although it may be necessary to restrict over-imports, temporary imports, the conception which he has of freer trade is of vital importance.

Then too he has the conception that we must work with our European allies and members of the OECD, which include Japan, and then go to the developing nations with an outstretched hand and help them and it is through those actions that we can look forward to stability and to peace.

It is, as you can imagine, unhappy for me, having thought-through the Marshall Plan and through the brilliant proposals—that we had the communists under control. It's a new situation. They are not under control but through the concept of human dignity and human freedoms that President Carter is announcing so loudly today from the White House and through the strength and determination of our own nation to have a sounder economic life with greater social justice we will be able to deal with the problems that we face ahead.

It's nothing like the difficulties that existed in '46 and '47 that General Marshall faced. There's a sound basis on which to build but the nation must stand together and I won't go into our problems but I must say to you that I doubt in history whether any President has had as much courage as—or any more courage than President Carter did in the speech that he made to the Congress yesterday. We must face those issues and find the solutions of them here at home and when we do we can again regain the leadership which we had at a time when we were so enormously the only strong nation economically in the world.

We have sound partners and we must work with them but our great responsibility is our problems here at home.

Chairman MARTIN. I know all of us are very grateful for Ambassador Harriman sharing his experiences with us.

And if you'll indulge me in just one personal thing, the thing that impressed me about General Marshall was the authority of command that he had. He had a striking ability to say something and you knew that he meant it and it was the command authora and I happen to think that in the times we're living in we hear a great deal of gloom and doom talked about by various people. The stock market's going to pot or all of our savings are about to be blown up and we can look back on the career of a man like General Marshall and, if you'll forgive me for quoting one of my favorite poems—You know last year I closed with my poem from Browning that I like so much as applying to General Marshall. I still am very much intrigued with the lines of Arthur Hugh Clough:

"Say not, the struggle naught availeth,
The labor and the wounds are vain,
The enemy faints not, nor faileth,
And as things have been they remain.
If hopes were dupes, fears may be liars;
It may be in yon smoke concealed,
Your comrades chase e'en now the fliers,
And, but for you, possess the field.
For while the tired waves, vainly breaking,
Seem here no painful inch to gain,
Far back, through creeks and inlets making,
Comes silent, flooding in, the main."

Thank you all for being here and the meeting is adjourned.

## ARCHBISHOP MAKARIOS III

Mr. BROOKE. Mr. President, the world has lost a great leader and the United States has lost a friend. Archbishop Makarios, President of Cyprus for 17 years, died on August 3. His sudden death came as a great shock to the people he led, to world leaders who admired his statesmanship and political ability, and to me personally for it was only 7 months ago that I sat with the archbishop in Nicosia discussing the tragic conditions on Cyprus.

His Beatitude was an extraordinary man; a religious giant and a pragmatic, skillful statesman. He was loved by his people because he epitomized the deep spiritual qualities that abide in the Greek soul. He was respected by political friends and foes alike because of his deep understanding of the political forces that determine the course of events in the eastern Mediterranean. He knew how to work within those forces in pursuit of his main goal—an independent, unified Cyprus.

To the people of the Commonwealth of Massachusetts, the death of the archbishop is especially sorrowful. As a young man he attended Boston University. And in the years since that time, the people of the Commonwealth have pointed with pride to him as one of their own. In my recent discussion with him I was pleased that he spoke so fondly of his experience in the Commonwealth and his warm affection for the people of Massachusetts.

The archbishop was at his best when confronted with difficult situations. Dealing with the problems and dangers inherent in leading a country constantly threatened by internal ethnic hostilities, he was able to defuse many explosive situations because of the personal respect he commanded from the Cypriot people. Living as he did in such a potentially perilous position, His Beatitude learned the art of survival, and he learned it well.

Lellos Demetriades, mayor of Nicosia, characterized the archbishop well when he said: "The Cypriots are not fatalists, they know how to bend so they will not break." This physically impressive leader of Cyprus indeed knew when to bend, but also when to stand firm. It was his ability to adapt and flourish in the face of adversity which made him uniquely qualified to lead Cyprus into nationhood.

The Archbishop was much more than a successful politician. He was, as the Washington Post noted, the "incarnation of Cypriot nationalism." Every one of his official actions was designed to further his vision of the future of Cyprus. Originally, that vision meant unity with Greece. "Enosis" was his goal when, as a young monk, he scrawled it in the wet cement of the monastery at Kikkud. It drove him to lead the movement against British colonial rule during the 1950's. He was later forced into exile for his beliefs, but enjoyed a triumphant return to power in 1959. Since 1960, he has, through his political actions, attempted to steer a careful course designed to avoid the political ties which could easily compromise the delicate domestic balance on Cyprus. His political wisdom and experience led him to the realization that "Enosis" was not the answer for Cyprus and her people. He came to understand that the future of Cyprus would not be served by unification with Greece, and his old vision of "Enosis" was replaced by a new one—a slow, careful building of a true Cypriot national culture. Archbishop Makarios died believing that internal unification of the Cypriot people was the key to the future survival and well-being of Cyprus, not merger with either Greece or Turkey. His hopeful view of Cyprus' future led him to work untiringly for a strong central government uniting the Greek and Turkish enclaves on Cyprus.

Today, it appears to many observers of the Cyprus situation that Archbishop Makarios dreamed the impossible dream. Despite an economic boom in the Greek community for which the Archbishop was largely responsible, his hopes for Cypriot nationalism seem quite far away. Cyprus is a partitioned island with each side developing its own institutions. This is the tragedy of Cyprus.

Some observers saw the archibishop only as the leader of the Greek Cypriot community. Yet it seems apparent that in the thicket of Cypriot politics, the archbishop was much more than a partisan. In a region known for its political instability, the leadership of His Beatitude was the one factor which lent continuity to the system. George Ball once called him "the stubbornest man I ever met." It was this very stubbornness when necessary, this strength of character and purpose, that gave Archbishop Makarios a decisive role to play in the turbulent eastern Mediterranean. Few men have the ability to truly lead a people as he did, and his death robs Cyprus and her people of their major unifying force.

I do not believe that Archbishop Makarios dreamed the impossible dream. I cannot subscribe to the pessimistic view put forth by some that the situation on Cyprus can only continue to worsen. On the contrary, being the optimist that I am at heart, I can only hope that the legacy left by Archbishop Makarios to the Cypriot people will inspire them to work harder than ever before at finding just and lasting solutions to their differences. And I pray that God will guide them in this endeavor. Choosing a new leader will not be easy. However, my faith in the wisdom and prudence of the Cypriot people leads me to believe that they will be equal to the herculean task before them.

Mr. President, those of us who had the privilege of personally knowing His Beatitude will never be able to think of Cyprus without thinking of this imposing man. We mourn with the Cypriot people his passing and can well understand and share the emotional grief they feel. But we can also be grateful that he, in some way, touched our lives. And, paraphrasing the Apostle Paul, we can truly say of the archibishop that he ran the course well.

## SHAHEEN EXCELLENT CHOICE FOR NEW HAMPSHIRE U.S. ATTORNEY

Mr. McINTYRE. Mr. President, I was pleased and gratified when the Senate this morning confirmed the new U.S. attorney for New Hampshire, because this able young man is a superb appointment and my State will be the beneficiary of

the President's good judgment in naming him to this post.

I have watched Bill Shaheen come of age in the legal profession, realizing from the first time that I met him that he held great promise and satisfied now that my initial reading was on target.

Bill is a native of New Hampshire, born in Dover in 1943, and a product of that community's public school system. From Dover High School, Bill went on to take his bachelor of arts degree from the University of New Hampshire, majoring in history. After teaching high school for a year in Milton, N.H., Bill entered the U.S. Army in October of 1965. He served in Germany and rose to the rank of captain before his release from service.

He entered the University of Mississippi School of Law in September of 1970 and ranked second in his class when he took his law degree in May of 1973.

His other academic honors and activities included: president of the law school student body for two terms; president of the Lamar Society of International Law; member of the National Moot Court Competition team; cited in Who's Who Among Students in American Universities and Colleges; member of the editorial board of the Mississippi Law Journal; winner of the award for highest scholastic average in his senior year; recipient of the Am Jur award for legal bibliography, civil procedure and criminal law; and winner of the Phi Delta Phi award as the senior selected by the faculty as the student who best exemplifies what it requires to become a successful lawyer.

After graduation, Bill first served as a research assistant for a sea grant coastal law project. Admitted to the Mississippi State and Federal Bar and the New Hampshire State and Federal Bar, he became city attorney for Somersworth, N.H., in July 1974 and served in that capacity to the present time. He has also been a member of the law firm of Keefe, Dunningham and Shaheen of Dover, N.H., since August, 1976.

New Hampshire's new U.S. Attorney is married to Jeanne Bowers, a native of Huntington, W. Va., and holder of a master's degree in international relations from the University of Mississippi.

The Shaheens have one child, Stefany Amber Shaheen, who is now 2 years old.

Mr. President, I would like to take this occasion to congratulate Mr. Shaheen upon his appointment, to wish him well, and to commend the President for making this appointment.

## THE "SOVIET DAY OF SHAME"

Mr. HEINZ. Mr. President, August 21, 1977, will mark the ninth anniversary of the Soviet invasion of Czechoslovakia. The Czechs are observing this date as the "Soviet Day of Shame." We in the Senate should reflect upon this sobering occasion.

The Russian invasion of Czechoslovakia was in direct contradiction to article 2, section 4 of the United Nations Charter, which prohibits the use of military force in the relations between individual members of the U.N. The invasion also violated the principle of self-determination of peoples, and denied Czechoslovakian citizens their autonomy. Indeed, the Soviet occupation was a clear act of aggression and repression.

Since the time of that brutal attack, freedoms have been severly restricted in Czechoslovakia. Human rights guaranteed by the Helsinki accord are disregarded and individual actions come under the scrutiny of government. Freedom of speech is suppressed by central management of all mass media, including publishing and cultural institutions. There is no political, scientific, philosophical, or artistic work in Czechoslovakia that differs from the firmly established Soviet ideology.

Those men and women who deviate from this authoritarian system often suffer harsh repercussions. Their mail is opened, their apartments are searched, and their phone conversations are monitored. As a result of systematic suppression of civil rights, open discussion of intellectual and cultural matters is almost eliminated. Those who speak out have no redress in the courts if they are arrested and even false accusations cannot be refused.

I urge my colleagues in the Senate to observe August 21 as a day for remembrance of human rights. We have a responsibility to millions of Czech citizens who have lost most of their liberties. The Soviet regime will not allow a citizen to leave his country—this discrimination under the pretext of "protecting the State security." Soviet oppression cannot be tolerated, and our Government must recognize and denounce its tactics.

## CUTTING PENTAGON WASTE

Mr. METZENBAUM. Mr. President, when President Carter recently announced his courageous decision to halt production of the B–1 bomber, he stated that it was based, in part, on the high cost of the bomber program. As the President explained at his press conference, American taxpayers must not be required to pay billions of dollars for a weapons system that another system—in this case the cruise missile—could perform equally well at a lesser cost.

I strongly support the President's concern for spending defense dollars in a more cost-effective manner. I hope the Carter administration will now turn its attention to the billions of defense dollars which are being wasted because of bad management. I believe these dollars can be saved simply by applying good business methods to our defense purchases.

Since I have been in the Senate, I have had an extended dialog with Secretary of Defense Harold Brown on the way the Pentagon manages the taxpayers' dollars. At Dr. Brown's public and executive confirmation hearings, I questioned him closely about his commitment to savings through the use of better business practices. His answers were vague, which is understandable since he had not yet assumed his office. But Dr. Brown was generally supportive.

After Secretary Brown had been in office 4 months, I wrote to him with some detailed suggestions for cutting Pentagon waste. I did not expect him to agree with everything I had suggested, or to provide complete solutions to the problems I had raised. I did, however, hope that—given the Carter administration's commitment to efficiency and cost cutting—he would acknowledge that Pentagon inefficiency was a major problem which had to be given a high priority.

Mr. President, Secretary Brown's answer to me is a very revealing one. I ask unanimous consent that my original letter, and Dr. Brown's reply, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. METZENBAUM. Mr. President, I have enormous respect for Dr. Brown's intelligence and abilities. However, his letter is disappointing because it seems to indicate that Dr. Brown does not consider Pentagon inefficiency to be a major problem. He does not see the need for new, tough-minded business methods. Apparently he believes that business as usual will suffice.

The two key sections of the Secretary's response to me are particularly disturbing—his comments on overruns, and on competition.

In asking questions on cost overruns, I did not expect that Dr. Brown would develop an immediate solution to this complicated problem, nor that he would endorse my proposed solutions. But I did hope that he would acknowledge that overruns are a major problem which requires new solutions. Instead, Dr. Brown and his staff have used a very superficial analysis of Pentagon data to make it appear that almost all overruns are caused by inflation.

Dr. Brown says that 78 percent of the $60 billion cost overrun in the Pentagon's September 1976 selected acquisition report was due to "cost growth stemming from inflation in the national economy." To be sure, this is how it appears if one looks only at the brief SAR summary distributed to the press and public by the Pentagon's public relations personnel.

However, the Pentagon also prepares more detailed unclassified SAR summaries, which it supplies to the Armed Services Committees, and anyone else who requests them. If Dr. Brown's staff had looked closely at these figures, they would have realized that inflation is not the main cause of overruns.

The September 30, 1977 detailed SAR summary shows that less than half of the $60 billion cost over-run was due to economic escalation. More than $30 billion of the overrun could be traced to Pentagon and contractor mismanagement.

Moreover, Pentagon figures show that, since September 1976, the effect of inflation has decreased, while overruns due to mismanagement have grown dramatically. As of December 1976, this overrun was $49.7 billion. By March 31 of

this year, the mismanagement-caused overrun had risen to $52 billion. It is very unfortunate that Dr. Brown ignored the steady growth of this staggering sum.

Secretary Brown's comments on competition were also very disappointing, and I am afraid he may have misunderstood me. I do not believe that price competition will prevent all Pentagon overruns. But, I do believe that—in the long run—increased price competition slows cost growth and gives the taxpayers more for their money.

In answering my questions about the Pentagon's use of price competition, Secretary Brown says that "During fiscal year 1976, almost 57 percent of the Department of Defense procurement was subject to either price or technical competition and to follow-on contracts after price or technical competition. This was a noticeable improvement over the prior year."

I am frankly puzzled by this figure. I addressed my remarks to price competition. Dr. Brown has responded by providing data on design competition and follow-on contracts, which do not involve price competition.

Dr. Brown should have focused his analysis on the Pentagon's data on price competition. If he had done so, he would have found that in fiscal year 1976, only 7.9 percent of Department of Defense procurement dollars were awarded through sealed bid price competition. This figure is a decrease from 1975, not an improvement. Only 22.2 percent of Department of Defense dollars were awarded through competitive negotiated contracts, which are obtained from two or three contractors. Thus, 69.9 percent of Department of Defense procurement dollars were awarded without price competition of any kind. This is only a 0.1-percent increase in price competition over the previous year, hardly a major improvement. Moreover, there is still less price competition in Department of Defense buying than there was in 1970.

This lack of price competition is especially dismaying, since congressional studies, to which I referred in my letter, have shown that such competition can lead to major cost decreases, especially in follow-on contracts. Moreover, the Pentagon's current indifference to competition leads to cases, such as the one GAO discovered, where common items like oil filters, spark plugs, recording tape, window screens, and water faucet handles were purchased at inflated prices without price competition.

Mr. President, Dr. Brown is a brilliant man, and he is in many ways proving to be an outstanding Secretary of Defense. He helped President Carter make a tough decision against the B–1 and in favor of cost-effectiveness. However, to date he has not done nearly enough to improve the way the Pentagon is managed. I hope that now that the B–1 decision is behind him, Secretary Brown will begin to turn his attention to the Pentagon's continuing problems. I look forward to working with him in the future and I hope our dialogue will continue.

The articles follow:

EXHIBIT 1

The Honorable HAROLD BROWN,
*Secretary of Defense*
*The Pentagon*
*Washington, D.C.*

DEAR DR. BROWN: During your confirmation hearings I expressed to you my concern about certain wasteful practices in Pentagon procurement policies. I have been a reasonably successful businessman who feels that the taxpayers should get a dollar's worth of product for every dollar spent. I am convinced that billions of dollars can be cut from the Defense budget through the use of tough-minded business methods. Overruns can be drastically reduced. More competition can cut costs. Conflicts of interest can cease. Your early actions in office indicate your own concern about cutting back expenditures in the Defense Department and I commend you for these actions.

Now I have some specific suggestions about what you, as Secretary of Defense, can do in other ways to demonstrate your commitment to better management of the Department. I would like to have your specific response to my suggestions, and your thoughts on alternative solutions.

Though the public furor about cost overruns has, unfortunately, died down since the late 1960's, Defense Department figures show that too many major systems continue to have astronomical cost increases. One recent report showed that 46 major weapon systems had over-runs of more than $61 billion. Now I realize that some over-runs may be justified but, with good management, most could be avoided. I hope that one of the first things you do is put the Services and defense contractors on notice that the DOD will no longer routinely approve over-runs. To do this, more is needed than a pledge by you to look closely at the problem. Every President, every Secretary of Defense, and every Assistant Secretary of Defense dealing with procurement has pledged that he will do all he can to end over-runs. But costs continue to skyrocket. Specific steps must be taken to curb mounting over-runs.

One step that I would recommend is to insert the following phrase into Part VII of the Armed Services Procurement Regulations:

"No Department of Defense official shall agree to, or otherwise authorize, modifications of a procurement contract which provide for a total percentage cost increase greater than the rate of inflation since the date the contract was originally entered into, without the specific approval of the Secretary of Defense."

Clearly, you cannot personally review every contract change, though I hope you would review the larger ones. Perhaps you could take a leaf from former Defense Secretary Robert McNamara's book. McNamara brought a new team of bright young men, of whom you were one, to the Pentagon in 1960 to centralize decisions on force structure through systems analysis. I would like to see you centralize the audit function at DOD by assembling a team of bright young cost accountants. These could expand and improve the Defense Audit Service and the Defense Contract Audit Agency. This new staff would give you the tools to monitor cost increases and decide which are justified and which are not.

In addition, I would like to see the current Selected Acquisition Report system drastically improved. At Congress' requests, the GAO has made periodic special audits of the way the SAR system has been functioning. The results of the audits were disturbing. The GAO found that in 1972 and 1974 the DOD failed to report a total of $7 billion in over-runs on programs which Congress was reviewing. Just last year, another special GAO audit found that DOD had failed to report a $260 million cost increase in the F–16 fighter.

In each of these reports the GAO made recommendations for improving the DOD's performance on the SAR's. Will you review these recommendations and make a general evaluation of the DOD's reporting under the SAR requirements within the next year? Will you make public the results of this review?

No reform will have any beneficial effects as long as the DOD continues to bail-out wasteful contractors. The Defense Department has been unwilling to take the final step of cutting off contractors who do not perform well. Admiral Rickover has described the result very well:

Large defense contractors can let costs come where they will and count on getting relief from the DOD through changes and claims, relaxation of procurement regulations and laws . . . or other escape mechanisms . . . they will make their money whether their product is good or bad; whether their price is fair or higher than it should be; whether delivery is on time or late.

Will you commit yourself to diverting Defense Department procurement funds away from contractors with a record of waste, over-runs, and poor management?

I am also very concerned about a closely related problem—the lack of competition in defense procurement. I find it shocking that in 1975 only 8.6 percent of military procurement dollars was awarded through sealed bid price competition. Only 21.4 percent of DOD dollars was awarded through competitive negotiated contracts, in which two or three contractors were invited to bid on a project. Thus, 70 percent of DOD dollars was awarded with no price competition at all. Moreover, the trends have been in the wrong direction. There was less price competition in 1975 than in 1970.

The Services have always been extremely reluctant to encourage competition. I suspect that even though the Services claim most contracts are for sophisticated systems which cannot be procured through price competition, that oftentimes provides a shield behind which to hide rather than a reality applicable to most of our procurement purchases. I suggest you have all the Service Under-secretaries read "The General Advantages of Competitive Procurement Over Sole Source Negotiation in the Department of Defense," a November 1973 study prepared for the Joint Economic Committee. The study examined 20 complex weapon systems, including sophisticated electronics and missile systems. These contracts originally were awarded through sole source procurement, but for various reasons their costs were later readjusted through price competitive bids. The results were dramatic—price decreases averaging 51 percent.

There are a number of specific steps I think you should take to increase competition, the easiest being for you to make it clear to the procurement officials you appoint that the general policy of the Department is to encourage price competition. Price competition should be the rule and sole-source procurement the exception.

To implement this, as I suggested at your confirmation hearings, you could require that all exemptions from price competitive bidding be approved by the Office of the Secretary of Defense; additionally, I urge you to institute a system of regular quarterly reports to the Congress containing the reasons why sealed bidding was not feasible in relation to each contract where it was not used.

If you do not approve of both of the procedures herein suggested with respect to competitive bidding, what alternative procedure will you adopt to require more competitive bidding, and how will you keep Congress advised of your progress?

Furthermore, I suggest that you require that all procurement contracts which are for follow-on buys be awarded on the basis of sealed bidding. This could have an immediate effect in reducing DOD spending since between 15 and 20 percent of DOD procurement dollars is spent on follow-on contracts. The follow-on buy should logically be far less costly than the original purchase, and once the technology is completed, many companies may be interested in submitting competitive proposals. What steps do you propose to take to implement savings with respect to follow-on buys?

On another point in your testimony, you addressed yourself very briefly to the protection of DOD procurement officials who speak up about waste. I am concerned about dedicated government officials being encouraged in this regard. What channels do you plan to establish to insure that those who report on waste can be effective in making their complaint, and that they are accorded a fair hearing? I would appreciate a detailed answer on this key point.

Finally, in the open hearing I suggested that you require the military and civilian personnel which you appoint to procurement positions to sign a pledge not to go to work for at least two years for defense contractors they monitor. You responded that I had identified a problem but you doubted that I had identified a solution. I would appreciate hearing your solution, since I feel that the American people—by and large—do not approve of the present practices.

Dr. Brown, I look forward to a good working relationship with you. To date, I have been very impressed by much of your performance in office. But as a Senator who is committed to reducing wasteful expenditures of our tax dollars, I hope to help you focus in on areas wherein I believe billions of dollars can be saved.

I look forward to hearing from you soon.

Sincerely,

HOWARD M. METZENBAUM,
*U.S. Senator.*

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THE SECRETARY OF DEFENSE,
*Washington, D.C. July 7 1977.*

*Honorable* HOWARD M. METZENBAUM,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR METZENBAUM: This is in response to your letter of April 18, 1977 which conveys both your concerns and your suggestions as to the conduct of the procurement operations of the Department of Defense. I certainly share your desire for increased efficiency in these operations. There are a number of observations which I would like to make concerning these suggestions.

You can be sure that I share your concerns about the contractor cost overruns. Although I am uncertain of the source of your data regarding the $61 billion, the 30 September 1976 Selected Acquisition Report (SAR) did identify a total cost growth of $60 billion ($117 billion to $177 billion) for major systems. Of this amount, $47 billion (78%) was due to cost growth stemming from inflation in the national economy. The remaining 22% ($13 billion) was caused by a wide variety of reasons which are mostly Government required changes; cost overrun generated by contractor action was relatively minor. While the specific individual approval procedure you suggest presents problems, I can assure you that I am involved in decisions concerning significant changes to major programs.

I would like to note that the SAR system was revised extensively in September 1975. This review was due in part to the recommendations of the GAO to which you refer. We continuously review the system for possible improvement and will continue the reviews during this calendar year. In addition, we have substantially centralized the audit function within the Department with the establishment of the Defense Audit Service which has responsibilities that were dispersed among five audit organizations.

Aside from the methods available for monitoring or controlling cost growth, however, I can reassure you that we will, as relevant, examine the past performance of a contractor's cost control and reporting system in conjunction with the award of new contracts.

There is no necessary relationship between cost growth and the existence of competition in contract awards. While price is a statutorily specified element in the conduct of competitive procurement, there is a significant number of situations where meaningful competition can be maintained only on a basis other than price. During FY 1976, almost 57% of the DOD procurement was subject to either price or technical competition and to follow-on contracts after price or technical competition. This was a noticeable improvement over the prior year.

Price competition generally results in lower prices, particularly for off-the-shelf items. At the same time, I want to reiterate the view, expressed during my confirmation testimony, that the achievement of this result depends very much on the character of the supplies or services to be procured. In the case of major production procurements which will involve substantial learning curves and significant capital investment, price reductions through competitive procurement are not usually attainable.

Finally, as to the conduct of procurement officials within the Department, people should be afforded the means to communicate findings on wasteful practices to their superiors. Any action I might take as a result of somebody stepping out of departmental channels to discuss wasteful practices within the procurement system will depend on the facts of each case. As to the employment of former Department of Defense personnel by contractors, the President has announced that he desires to reexamine the existing restrictions and make appropriate changes. I intend to work with him in this effort.

Your comments and suggestions are appreciated. They will be taken into consideration as we review our current processes pertaining to defense expenditures.

Sincerely,

HAROLD BROWN.

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## SUPPORT FOR CIVIL RIGHTS LITIGATION

Mr. JAVITS. Mr. President, the Ford Foundation recently commissioned an important study of the litigation program of the Foundation in the civil rights field in order to judge its effectiveness and responsiveness to the needs of the community. This report was prepared by Robert B. McKay, the former distinguished dean of New York University Law School and now director, program on justice, society and the individual, Aspen Institute for Humanistic Studies.

Throughout the long struggle for equality of opportunity in this country many organizations in the private sector have contributed significantly as Federal and State law, as well as private action has sought to promote equal opportunity in housing, education, health and jobs and to remove barriers to minority electoral participation.

One of the important areas of interest for those seeking to strengthen the implementation and enforcement of constitutional, statutory and public policy guarantees is civil rights litigation. Since 1967 the Ford Foundation has made grants for this purpose approximating $18 million. Many groups have participated in this program including the National Association for the Advancement of Colored People, the Southern Regional Council, the National Council of La Raza, and the voter education project.

Mr. President, Dean McKay's report "Nine For Equality Under Law: Civil Rights Litigation" is a timely and informative statement about the status and progress of the civil rights movement. I ask unanimous consent that the first and last segments of the report entitled "Discrimination and Equality" and "Summary" be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JAVITS. Mr. President, I wish to take this opportunity to commend both the Ford Foundation and Dean McKay for their continuing leadership in this important effort to implement national public policy. Strong commitment to the support of litigation activities is indispensable to the continued health and success of the civil rights movement:

EXHIBIT 1

DISCRIMINATION AND EQUALITY

Discrimination has been constant in United States history. It has affected and hurt many minority groups. Sometimes it has been unthinking, almost casual. Today, even in an age of sharply increased awareness, it persists with particularly harmful effects—against blacks, who were largely invisible during long periods of American history; against American Indians in continuance of of a dark chapter in this history; against Mexican Americans, who were suspect because they (or their forebears) were "foreigners"; against Puerto Ricans, who spoke a language and followed traditions alien to the mainland; against women, who were respected as conservators of hearth and home but not accorded equality elsewhere; against others who only offense was age or poverty, and against ex-addicts and ex-offenders as if to ensure recidivism.

Other groups that have suffered the lash of prejudice and exclusion over the course of American history are Catholics, Jews, and certain Protestant immigrant groups. They have sometimes been excluded from equal access to education, employment, and positions of political and social influence. But the weight of that discrimination, based mainly on religion, has been lightened a good deal as these groups have succeeded in making their way up the ladder of economic and social mobility in American society. The problem is more complicated for people of a different color, or when it comes to discrimination on the basis of sex or cultural differences.

On the other side of the ledger of American history, there is a deep commitment to equality. It appeared originally in the literature and declarations leading to the war for independence and, at the insistence of the victorious citizens, in the Bill of Rights. The emphasis was on freedom as the guarantee of individual rights, and as an atmosphere

in which everyone had an opportunity to find his place in society.

The Civil War Amendments to the Constitution—the Thirteenth, Fourteenth, and Fifteenth—broadened the national commitment to equality. Those amendments became the basis of decisions that provided increased opportunity for the exercise of individual rights in political, as well as economic and social terms. But in the last quarter of the nineteenth century the promise of equal opportunity faded into rationalizations of "separate but equal," and often worse without even a pretense of equality. From that time until the second half of the twentieth century there was little progress toward the realization of the ideals and opportunities expressed in the Bill of Rights and subsequent amendments. The legacy of discrimination and disregard for equal rights made it difficult, if not impossible, for those who continued to be the victims of prejudice to rise above their dismal economic and social plight on the basis of individual merit. As Judge Leon Higginbotham has observed: One of the tragedies of today's racial polarization is that blacks, who have been the major victims of historic racial deprivations, are now in some strange way being held accountable for those very conditions which they did not create, which they did not want, but were forced to take.

Mexican Americans, Puerto Ricans, and Native Americans, with problems more recently exposed to public view, have often shared a similar outcast status. But it is the blacks, having felt the string of oppression most massively, who have led the fight to give substance and reality to the principle of equality. Their long and continuing struggle was and still is required because the right to equal treatment is not self-enforcing. The vindication of the principle involves a complex legal, legislative, and administrative process:

1. The Supreme Court of the United States must interpret the constitutional text, through decision in specific cases, to assure that the words are clearly understood. In the case of the equal protection of the law clause, as applied to blacks, that full assurance did not emerge until 1954, with the decision in *Brown* v. *Board of Education*.

2. Since the Supreme Court often speaks negatively—it says "thou shalt not," as it were—the majesty of the constitutional imperatives requires translation into the affirmative specifics of legislation by Congress and state legislatures.

3. Even when the courts have spoken definitively, and the legislatures have followed the command, there remains the need for public acceptance. Here, the importance of leadership by the executive branch of government, and especially by the President, is crucial. Equally important is the support provided by local leaders; again, success or failure depends largely on community acceptance. The law plays an important but limited educational role.

4. No matter what the leadership provided by the Supreme Court, by Congress, the President, and by local leaders, problems are bound to arise in the translation of principles into patterns of everyday living. Economic or social conflicts of interest, often exacerbated by deeply held prejudice, tend to slow or halt the process, necessitating yet another round to reassert the principle in the courts and in the legislatures.

Examples come readily to mind. The promise of equality in the Fourteenth Amendment was a long time in being fulfilled. Only in the voting rights cases was the language of the Fourteenth Amendment used to guarantee an element of equal rights. But these legal victories were late in coming and sporadic at best until Congress acted, haltingly in 1957 and 1960, and more effectively with the Voting Rights Act of 1965, and its renewal in 1975. Not until 1954 was there a significant Supreme Court affirmation of the anti-discrimination aspect of the equal protection clause of the Fourteenth Amendment. The ruling in that case, *Brown* v. *Board of Education*, was eloquent and straightforward: We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

Before long it was demonstrated once more that even the clearest constitutional mandate is not self-enforcing against determined resistance. Every step along the way, from the express ruling through various steps of legislative and administrative action, can and often does serve as a basis for challenge by opponents. If the guard is let down, the constitutional principle is again at risk. To protect against this hazard requires commitment, competent personnel, and considerable financial resources.

Until at least the mid-1960s the NAACP Legal Defense and Educational Fund stood almost alone in this effort. Although the Legal Defense Fund, as it is popularly known, had as its principal mission the protection of blacks against all forms of racial discrimination, it recognized that success in this work might well be jeopardized if it were not accompanied by efforts to secure protection for other groups against whom discrimination was being practiced on grounds of race, religion, ethnic background, or sex. The equal protection clause, in its proscription of acts of bias against individuals, is all-embracing. Accordingly, the Legal Defense Fund has all along been a champion of all who suffer from discrimination.

In the late 1960s the Ford Foundation recognized the heavy obligation that the Legal Defense Fund had until then assumed largely by itself. Relief from what might otherwise become an intolerable burden could be provided in two ways:

Direct financial aid to provide the necessary resources for litigation of high quality.

Establishment of other organizations to assume primary responsibility for litigation on behalf of different constituencies (e.g., women, Mexican Americans, Native Americans, Puerto Ricans), or to specialize in litigating cases in specific areas (e.g., housing, narcotics addiction, prisoners' rights), or to exercise oversight of the implementation of legislation and policy in the civil rights field.

With some planning and much improvisation the Foundation moved in both directions. It made grants totaling approximately $18 million during the seven-year span of 1967–1975. The purpose of this report is to examine the manner in which this major commitment has been carried out and to describe what has been accomplished.

BACKGROUND AND OBJECTIVES

The civil rights movement has long received support from varied private sources, including foundations, corporations, and individuals. But litigation work has received a relatively small share of that total, with the bulk of support going to the more traditional areas of research, scholarship grants, and the strengthening of institutions weakened by discrimination. The reluctance for many years of philanthropic institutions to make major allocations to litigation as a means to promote progress in civil rights may have its roots in a traditional view of the judicial function, which holds that where an injustice exists that is within the power of the courts to correct, litigants will come forward to set in motion the necessary machinery to right the wrong. Yet in reality, wrongs are not self-righting, even when courts are at hand to take the necessary corrective steps, needing only the trigger of litigation. The natural plaintiffs often are reluctant to initiate action, and more often lack the resources to commission the studies, conduct the investigations, and engage the legal talent essential to an effective challenge.

Furthermore, many people, including elements of the organized bar, have long felt that to provide financial assistance for the conduct of litigation, regardless of the merits of the case, might be an inappropriate intrusion into the judicial process. In fact, litigation was necessary to establish the very proposition that group advocacy of individual rights is permissible. But even when court decisions had established the appropriateness of civil rights litigation, there was no large outpouring of philanthropic support. Perhaps the commitment to other kinds of civil rights efforts was too solid to permit easy diversion of the effort in new directions; perhaps there remained a lingering mistrust of judicial intervention into individual cases as a means of achieving broad reform and fear of controversial consequences. Whatever the reasons, litigation as an instrument of civil rights reform has not attracted financial support in anything like the amounts that have gone to other civil rights activities.

The Foundation made its major commitment to civil rights and disadvantaged minorities in 1967. Parity for minorities and efforts to find new approaches to the often related problems of urban areas became the main goals of the newly created National Affairs Division. The change in Foundation priorities was reflected in a rapid increase in grant funds related to minority rights: from only 2.5 per cent in 1960 to 38.5 per cent in 1968, and 40 per cent in 1970.

But only a part of this money was for litigation. Ranked in the order of dollar support originally allocated to the minorities and the poor, the Foundation listed four areas for action:

1. Community development, particularly in inner-city ghettos.[1]

2. Civil rights advocacy, such as the activities of the Urban League and the NAACP (as a separate entity, distinct, from the NAACP Legal Defense Fund).

3. Civil rights litigation.

4. Public interest law.[2]

This allocation of resources by the Foundation was also affected by the decisions and actions of other institutions. Community development, the Foundation's first priority, was supported substantially by other private and public sources. Civil rights groups also received considerable assistance from private groups and individuals, but no public money. Not so with civil rights litigation, however. (Public interest law was a new field when the Foundation entered it in 1970 and it has only gradually built up some diversity of assistance.)

Foundation grants for civil rights litigation, totaling some $16 million, reflect the following objectives: to help remove barriers to equality caused by discrimination on the basis of race, ethnic background, or sex; to help provide equal access for minorities and the poor to housing, education, jobs, and other avenues to opportunity, and to help insure fair treatment by government.

The growing importance attached to litigation is indicated by the fact that, when a reduction in Foundation giving was announced in 1975, the level of support for civil rights litigation remained essentially constant.

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[1] See *Community Development Corporations, A Strategy for Depressed Urban and Rural Areas.* Available on request from the Ford Foundation, Office of Reports, 320 East 43 St., New York, N.Y. 10017.

[2] See *The Public Interest Law Firm, New Voices for New Constituencies, and Public Interest Law, Five Years Later.* Available on request from the Ford Foundation, Office of Reports.

The Foundation's first grants in the field, in 1967, were to the NAACP Legal Defense and Educational Fund, which had a solid reputation for competence, and to the Lawyers' Committee for Civil Rights Under Law, which grew out of a 1963 White House meeting between President Kennedy and a group of prominent lawyers who were concerned about the nation's persistent problems of political, economic, and social inequity. The bulk of the grants to the Lawyers' Committee has gone to support of its office in Mississippi, where it was considered important for the committee to have a presence because of the extent of civil rights litigation in the South at the height of the civil rights movement.

Subsequently, the Foundation broadened its support of civil rights litigation to include seven other organizations, four of which the Foundation helped establish to concentrate on special problems of particular groups—the Native American Rights Fund (NARF); the Mexican American Legal Defense and Educational Fund (MALDEF), the Puerto Rican Legal Defense and Education Fund, and the Women's Law Fund. The other three, which work on various substantive issues are: the National Committee Against Discrimination in Housing; the Legal Action Center, concerned mainly with litigation on behalf of former addicts and ex-offenders, and the Center for National Policy Review, which monitors civil rights and equal-opportunity legislation and policy by federal government agencies.

During the period of Foundation assistance these organizations have brought to court and won some of the most significant civil rights cases in judicial history. The cases include reversal of attempts in the South to delay or circumvent desegregation through so-called "freedom of choice" in education; major progress toward equalizing municipal services in black and white neighborhoods; a series of equal-employment decisions on behalf of Spanish-speaking Americans, blacks, women, and exoffenders; the restoration of important rights and resources to several Indian tribes; mandated bilingual instruction for Spanish-speaking students; and protection of rights in access to housing and in law enforcement.

Although the Foundation can take credit for strengthening and increasing the effectiveness of all these groups, its support did not spell the difference between life and death for the more established ones like the NAACP Legal Defense Fund. For the newer groups like MALDEF and NARF, Foundation support was crucial.

No one asserts that litigation assures instant solutions to the problems of discrimination. But skillful use of litigation can yield results that have impact far beyond particular court proceedings. With the equal protection clause of the Constitution as their principal guidepost, organizations assisted by the Foundation have achieved such results with a relatively modest level of resources.

SUMMARY

The objectives of plaintiffs in civil rights litigation often challenge prevailing patterns accepted by the general public. Typically, relief is sought by one or more members of a disadvantaged group who can succeed only by upsetting an established practice. The uphill nature of the task is both the problem and the reward of the civil rights movement.

It is in the best tradition of American democracy to protect minority interests, whether political, religious, racial, ethnic, or sexual. When the majority is thus confronted, conflict is likely. Against this background, the champions of minority interest find it difficult to obtain financial support.

To the extent that money has been given, it was until recent years not for litigation, but mostly for projects using education or other non-litigative approaches. One reason there has been relatively little interest in providing support for litigation may be that it was considered too risky or controversial in the eyes of many funding sources. If this is so, it may be an unconscious or oblique recognition of the fact that litigation dollars have the potential for greater systemic change than money spent in more conventional ways.

When the Foundation made its major commitment to civil rights litigation in the late 1960s, it was a major effort by a private organization to look at civil rights as a whole. The decision was made not to limit support to a single group or area of minority rights; civil rights was identified as a unifying concept beyond particular categories of race, national origin, or sex. By linking these traditional criteria with substantive problems of housing, treatment of narcotics addicts and ex-offenders, and discrimination by government regulation or practice, it became possible to view civil rights as a matter of concern to all and an area where common solutions might be found to transcend the former lines of conceptual distinction.

The results have been significant. Each of the nine organizations that has received Foundation assistance has made a distinctive contribution to the total civil rights effort, and the activity of each has reinforced that of other organizations, even when their respective agendas were not directly related to each other. In short, the reach of each organization has been extended with the creation of each new organization. The weaving together of formerly separate strands has greatly strengthened the pursuit of civil rights goals in the United States.

When the Foundation led the way in making awards to civil rights litigation grantees, other philanthropic institutions found it easier to move along the same path. Thus, the Rockefeller Brothers Fund has developed a similarly broad program, and several other foundations have felt encouraged to make individual grants to particular organizations.

Private support for civil rights litigation is still not massive, but it is of sufficient size to have made a discernible impact. It is important that the level of resources now reached be sustained and that the work retain the broad scope and the conceptual focus that it has developed.

## SUPPORT OF U.S. PRISONERS IN NON-FEDERAL INSTITUTIONS

Mr. HOLLINGS. Mr. President, last year the Director of the Bureau of Federal Prisons, Norman A. Carlson directed that public and private community residential programs—halfway houses—throughout the Nation be utilized to a much greater extent by the Bureau. This greater utilization served three very important purposes:

First, it relieves the overcrowed conditions in the Federal prison units.

Second, the cost of maintaining a person in community residential programs is less that at a prison, while at the same time the prisoners are working, supporting their families, paying taxes and in fact paying for part of the cost of the program in most instances.

Third, and probably the most important value of the community residential program—the men and women in the CRP's benefit from involvement with good community contracts; are provided counseling and guidance and personal vocations and financial matters; are afforded job placement and job training opportunities and, in a word, are better for reentry into our society than they would have been if released directly from prison.

There are now 400 programs, mostly privately operated that have contracted with the Bureau of Prisons to provide these services. In my own State the Alston Wilkes Society operates four programs and the Volunteers of America operates halfway houses in many States. Over the last few weeks I have heard from 19 halfway houses located in Colorado, Kansas, Louisiana, Massachusetts, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, South Carolina, Texas, and Wisconsin of the important role of this program in penal reform.

On June 29, the Bureau of Prisons announced that due to a lack of funds no new commitments would be made to the halfway houses until September 30. Mr. Parker Evatt, the executive director of the Alston Wilkes Society in Columbia, S.C., says that the impact of this policy "Can be equated to a right cross to the jaw followed by a body blow to the solar plexis."

Earlier this year I obtained approval of a $10 million supplemental appropriation to avert a similar financial crisis in this account. This seems to be an annual situation and mainly arises from the unpredictable and largely uncontrollable inmate population. Currently the jurisdiction is split between the Bureau of Prisons and the U.S. Marshal Service over the expenditures for persons in non-Federal institutions. In the 1978 Appropriation Act we hopefully cured this situation by fixing the responsibilities for these functions and dividing the money between prisons and the marshals.

However, this year we have experienced a much larger prison population than expected and currently there are 7,300 more persons in Federal prisons than they were designed to hold. As the ranking minority member of our subcommittee, the distinguished Senator from Connecticut, Mr. WEICKER, can attest, Danbury recently had an arson-set fire which consumed five lives. The result of this curtailment is that 900 inmates—who would normally have been released to the halfway houses during this quarter and partially relieve the overcrowded prisons—still remain in the prisons.

In fact, the reason the funds for the contract agencies are exhausted is that the Bureau accelerated the commitments to the halfway houses earlier this year in order to relieve the overcrowded situation in the prisons. This is illustrated by the increase in the average population which steadily rose from 1,261 last October to a high of 2,030 in April or about double the average population budgeted for a typical month for 1977. Sooner or later something had to give and unfortunately it is the halfway houses who in good faith staffed up to meet the needs of the Bureau of Prisons and who are now left to fend for themselves until October 1.

Mr. President, this is, of course, more than an institutional problem of relieving the overcrowding and maintaining

the halfway houses. There is the human dimension of the inmates who served their prison time and found the doors shut in their faces on July 1. The shutting off of the hope of parole to the halfway houses breaks faith with those who have contritely accepted their imprisonment and have readied themselves to return to society.

I have been following this situation closely. The Bureau of Prisons advised us that an audit of their current expenditures with the District of Columbia had freed sufficient funds to resume a normal flow of commitments to the halfway houses about August 15. However, on Monday of this week I was informed that the audit results had to be reviewed and a final decision will not be made until the end of this week at the earliest. Accordingly, I prepared a stopgap amendment to allow the Bureau to use funds in the salaries and expenses appropriation, ordinarily used at this time to replenish their stocks, for the support of prisoners in non-Federal institutions. Today I was advised that sufficient funds are available from the District of Columbia audit to resume the normal flow of commitments to the halfway houses so the amendment will not have to be offered.

I want to thank the distinguished manager of the bill for his cooperation on this somewhat extraordinary amendment and am happy that things have worked out so that it is no longer necessary.

## THE SELLING OF THE "SEQUOIA"

Mr. SCHMITT. Mr. President, I call attention of my colleagues to a letter I received in mid-July, from Don Blair of Santa Fe relative to a comment made by Rodger Beimer of station KOAT-TV in Albuquerque, N. Mex. His comment is in reference to the President selling the Presidential yacht *Sequoia*. It is Mr. Beimer's feeling that the President should maintain the dignity of the Oval Office and that as President he should have a few things that the common folks do not have, such as yachts and White Houses.

The letter follows:

COMMENT OF RODGER BEIMER

We try to talk about items of primary interest in New Mexico. Well, tonight I am going to jump those bounds. Something happened this past week, that I don't like, and there are a number of others who have expressed similar feelings. President Carter, who is trying to bring the presidency to the common folks, sold the Presidential yacht Sequoia. It wasn't very much, so the President decided it was time to dump it. Well, there are certain things I expect of a President. I expect him in a big black limousine, I expect him to live in the White House, and I expect him to maintain the dignity of the Office, and I expect him to have a few things us common folks don't have. And the Sequoia is one of those things. The President, trying to be one of us, can go a little too far. By auctioning off the yacht, the government has released an historic landmark, to the claws of private business and the gullible tourist. In my opinion, the President made a mistake getting rid of the Sequoia. I hope he doesn't decide to sell the White House, and move into a motel because it would be cheaper.

## WE NEED MORE AGRICULTURAL ENERGY RESEARCH

Mr. BAYH. Mr. President, a few days ago, on August 1, I wrote to the Secretary of Agriculture, Robert Bergland, asking for an evaluation of the research effort being made by the USDA into areas which promise to reduce the petrochemical dependence of the American farmer. These areas include improved biological nitrogen fixation, increased use of green and animal manures, use of predator insects and bacteria to control pests, sludges as soil conditioners and fertilizers, and genetic research to develop more stress-resistant plants. I ask unanimous consent that the text of this letter be printed in the RECORD.

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

AUGUST 1, 1977.

Hon. ROBERT BERGLAND,
*Secretary, Department of Agriculture, Washington, D.C.*

DEAR MR. SECRETARY: I have been pleased to note the recent change in philosophy that the Department of Agriculture seems to have undergone particularly in the search for less energy intensive methods of agricultural production. The National Academy of Sciences recently published its *World Food and Nutrition Study* which emphasized the need for a shifting away from our present dependence on fossil fuels in agriculture toward renewable resources for farm energy and soil productivity. I am interested to learn what research is being done by the Department in seeking to find substitutes for petrochemical fertilizers and pesticides that will be energy efficient and provide quality crop production. Methods such as biological nitrogen fixation, increased use of green and animal manures, use of predator insects and bacteria to control pests, sludges as possible fertilizers and soil conditioners, and genetic research to develop more stress resistant plants are some of the areas where potential energy savings exist. In view of the intense pressures placed on the American farmer as he tries to pay an ever increasing fertilizer and pesticide bill I know you agree that the USDA must continue in its efforts to develop new areas of agricultural resources. I would like to know what funds are now available for research in these areas and what level of funding the Department intends to seek in the future.

I understand that recent research has indicated that increased biological nitrogen fixation can be expected for soybeans in the near future, with a longer range capability for nitrogen fixation in crops such as corn, wheat and rice; particularly if breakthroughs in photosynthesis research are developed.

As you are aware, there are tremendous amounts of feedlot manures that are wasted because of the costs of transporting them to cropland. Because of the fertilizer and soil conditioning value of this material there could be considerable energy savings if it were used more efficiently. The increased use of green manures and sludges could contribute toward less energy dependence by U.S. agriculture. As energy prices continue to rise these sources will become more and more cost effective and deserve serious consideration.

The *World Food and Nutrition Study* pointed out the need to develop more stress resistant crops in order to reduce dependence on chemical pesticides. The study states: "We suspect we are nowhere near the limits nature has put on plant productivity. New techniques of genetic manipulation will permit us to achieve much greater productivity." With the U.S. facing energy shortages in the near future and the growing demands placed on our farmers by a hungry world, research that seeks to maintain our high productivity with greater energy efficiency should be adequately funded and explored.

I am looking forward to receiving your analysis of the level of our present and anticipated research efforts in these directions.

Sincerely,

BIRCH BAYH,
*U.S. Senator.*

Mr. BAYH. Mr. President, I also wrote to EPA Administrator, Douglas M. Costle, earlier this week urging continued funding for the biological waste management program being carried out at the Beltsville Agricultural Research Center in Beltsville, Md. This project is concentrating very important research work on safe and economically valuable uses of municipal sludges. If sludges could be used safely in agriculture they could help reduce dependence on petrochemical fertilizers made from natural gas which we all know is becoming increasingly scarce.

Recently a number of studies and reports have called upon the Department of Agriculture to begin intensive research efforts in order to reduce the energy dependence of the American farmer. The ever-rising cost of petrochemical fertilizers and pesticides is a threat to world food production that should be recognized while we have the time to seek suitable alternatives. Fertilizer and pesticide costs, for example, now constitute one-half of the variable costs of growing corn. Inorganic nitrogen fertilizer is commonly applied on corn land at rates in excess of 100 pounds per acre. Between April 1973 and April 1975 the average cost of 100 pounds of anhydrous ammonia fertilizer—the most common nitrogen fertilizer used—rose from $4.30 to $14.25 in some areas. These already outrageously high prices can be expected to continue rising as petroleum and natural gas become more expensive. Rising fertilizer and pesticide costs not only raise the price of food that the consumer must pay; they have placed the farmer in a serious cost-price squeeze that is especially hard on the small farmer. Purdue University estimated that in 1976 Indiana alone used 2,342,821 tons of fertilizer in agricultural production. It is easy to see that fertilizer costs constitute a very large part of the farmer's budget.

I would like to bring to the attention of the Senate some of the recent findings concerning the dangers of petrochemical dependence by modern agriculture. The Senate and House Agriculture Committees in reporting the 1977 Agriculture Act addressed the problem of high energy use by American agriculture. The House Agriculture Committee cited the example of Nebraska where between 1970 and 1974 energy costs for corn production rose 56 percent, for wheat 60 percent, for alfalfa 62 percent, and for sorghum 100 percent. With the United States facing an acute natural gas short-

age in the immediate future, the House report noted that natural gas used for nitrogen fertilizer production consumed almost as much energy as all of the U.S. farm tractors. Technologies that are based on petroleum and natural gas will be less and less viable in the future according to the Senate Agriculture Committee which also stated:

Over these problems hangs an even more ominous cloud—the potential doubling of the world's population by the year 2000, and subsequently increased food needs.

Mr. President, Purdue University has recently published a study entitled "Energy Input-Output Relations in Midwest Crop Production," which examines present energy usage and suggests possible alternatives. The study points out that 50 percent of the energy costs for corn production come from nitrogen fertilizers. Rotations of corn and legumes, which are hosts to nitrogen producing bacteria, and the use of winter cover crops have the potential of reducing the need for such heavy chemical nitrogen input. Alfalfa, for example, has been increasing in value and could become a more major cash crop in the Midwest which would encourage its use in crop rotation. Coincidentally the Office of Technology Assessment also recently published a study which supported greater research efforts in the area of biological nitrogen fixation. Researchers are trying to improve photosynthesis efficiency in cover crops and legumes which would increase their nitrogen fixing properties.

Present methods of drying shelled corn, the Purdue study says, are also large users of natural gas and are only 40 to 50 percent efficient. The study points out:

Thus, a method of drying the corn with lower energy input is needed for improving energy efficiency in corn production. One of these future practices that needs more research and looks very promising is the possible use of part of the corn residue for drying fuel.

Solar methods for later stages of the drying process also are being studied at Purdue and promise to reduce the amount of precious gas used in corn production. I would like to see such alternatives thoroughly researched and implemented as quickly as possible.

The National Academy of Sciences has recently published its "World Food and Nutrition Study: The Potential Contributions of Research," which arose from the 1974 Rome World Food Conference. This study suggests areas where the United States should do more research to reduce agricultural energy dependence and still meet the demands of a hungry world. I think that this report should be brought to the attention of every Member of Congress and I ask unanimous consent to have printed in the RECORD at the end of my statement two articles from the Christian Science Monitor which summarize the findings of the National Academy of Sciences' study. I look forward to working with the administration and my colleagues in both Houses of Congress as we strengthen our research efforts in these critical areas of agricultural energy needs.

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

[From the Christian Science Monitor, June 23, 1977]

FEEDING THE HUNGRY—DRAMATIC NEW SURVEY—U.S. STUDY SAYS FAILURE WILL HARM "HAVES," TOO

(By Robert C. Cowen)

BOSTON—The National Academy of Sciences has given the United States a stark warning: Join with the "hungry" nations to develop an agriculture that can feed all the world's people, or face serious food problems at home within the next few decades.

The academy study appears at a time when the U.S. is looking for more meaningful ways to combat hunger than just giving away food or trying to export techniques of energy-intensive farming, says James T. Grant, a member of the steering committee for the study.

After two decades of letting its agricultural research languish, the United States needs to revitalize it along lines that will produce new crops, sharing this work with developing lands and profiting from research done abroad. The academy study, Mr. Grant adds, contains a wealth of detailed suggestions on the kinds of research worth pursuing.

In short, the study warns that the challenge of world hunger translates into a domestic challenge for the U.S. that is as serious and as fundamental as the energy shortage.

This is the context in which to view the report, says Mr. Grant, also president of the Overseas Development Council. Commissioned by former President Ford as a follow-up to the 1974 World Food Conference, the study should also be seen against the background of President Carter's foreign policy, Mr. Grant notes.

In his unprecedented, special inaugural address to foreign countries, broadcast overseas last January, Mr. Carter not only pledged to work with other nations to tackle such basic problems as poverty and hunger, but was the first U.S. president to call freedom from hunger a basic human right. Since the address, American diplomats have been reinforcing this message.

The academy study, which reflects the analyses of some 1,500 experts, smashes several stereotypes that have clouded American perceptions of the world food situation. Among the findings of the study:

The vaunted productivity of U.S. agriculture is faltering. Yields per acre of major crops are no longer increasing. Indeed, they are below levels of three years ago.

The energy-intensive farming of Western nations, with its emphasis on chemical fertilizers, pesticides, and heavy irrigation, not only is unsuitable for developing nations but is no longer appropriate for industrial countries either. In the United States, it not only shows diminishing returns, but is feeding inflation as strongly as is the high price of oil.

The new breadbaskets of the world over the next 25 years are in the developing countries. They are the ones with the greatest capacity to increase food production at current prices, if they can lick the organizational problems that stand in their way.

The kind of research needed to boost food production in developing countries is the same as that which the U.S. needs to meet its own increasing food needs. This is research that emphasizes biological productivity—boosting food yields by developing crops that do not depend heavily on fertilizers, pesticides, or intensive irrigation.

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SUCCESS IN 20 YEARS SEEN IN WORLD "WILL"

(By Clayton Jones)

WASHINGTON.—The worst aspects of world starvation could be ended in 20 years with the help of untapped "political will" of both rich and poor nations.

So concludes a two-year, government-sponsored study of world hunger by a panel from the U.S. academic and scientific community.

Poor nations, which will need to double food production by the year 2000, show increasing ability to use available remedies to do so, the study from the National Academy of Sciences concludes.

And developed nations, which require more and more grain to meet demands for better diets, are learning that there are return benefits in helping the hungry help themselves, while not pushing inappropriate solutions on the world's small farmers, the study adds.

The study, ordered by President Ford, is the collected response and recommendations of more than 1,500 scientists and others to the challenge posted at the 1974 World Food Conference in Rome, at which former U.S. Secretary of State Henry Kissinger pledged that "within a decade no child will go to bed hungry."

"We believe that a latent political will now exist in numerous countries which could be mobilized in a mutually supporting fashion . . .," the report states.

But for now, "the world food system is not working adequately for either poor or rich countries," says the report from a 14-member steering committee headed by Harrison S. Brown, professor of geochemistry and of sciences and government at California Institute of Technology.

"Increasing numbers of people are hungry and malnourished. Possibly as many as 450 million to 1 billion [out of 4 billion] persons in the world do not receive enough food."

"Malnutrition causes more damage than outright starvation. The loss of vitality undermines a person's capacity to savor life . . .," concludes the study.

Among the report's other conclusions:

Emergency world grain reserves should be built up, but such short-term steps should not distort goals for higher productivity on present lands, especially in some 90 less-developed nations where the hungry are concentrated.

The United States should give a high priority to 22 research topics, starting with how diet affects human performance, which foods meet certain needs, which government actions indirectly affect nutrition, how to improve nutritional awareness, and a series of ongoing scientific studies, and ending with a study of international food policies.

No action is more important for improving the world food situation than reduction of birthrates. But the study also suggests that only new social and economic changes that will increase food production are conducive to reducing fertility rates, even though they may cause a nation to experience a short-term population increase.

American technology cannot solve the hunger problems in other countries, where local research needs to be supported to come up with appropriate local solutions. "We have much to learn from their [farmers'] experience," the report says.

Addressing U.S. "decisionmakers," the report calls for several government changes such as more coordination of food policies between the White House and Agriculture Department. It asks for increased funding, now totaling about $700 million, for domestic and international research into nutrition and the social impacts of hunger and its solutions.

The $1.2 million study comes as the following actions are being taken:

Congress is in the midst of revising America's food aid program, called PL 480, and also deciding funds for international development programs for the next two years.

An April analysis from the U.S. General Accounting Office suggests the national focus

is changing from an agricultural policy reflecting an age of surplus and narrow farming interests to a food policy encompassing U.S. consumers and world nutrition.

Bob Bergland, President Carter's Agriculture Secretary, who is just finishing a world tour, wants the International Wheat Council, which begins meetings June 27 in London, to start building nationally held food reserves in case of a world shortfall and to lessen America's job of being the "world's grain elevator." Secretary of State Cyrus Vance's worldwide negotiations on human rights include a "right to be free from hunger."

## HUNGARIAN MINORITY OPPRESSED IN ROMANIA

Mr. DOLE. Mr. President, although most members of the United Nations have ratified the U.N. Covenant on Civil and Political Rights which provides for the right of ethnic, religious, and linguistic minorities, not all live up to those commitments. The Romanian Government, although a signatory to the U.S. covenant as well as the Helsinki Final Act, is practicing a policy of subtitle discrimination and repression against its Hungarian minority.

As a consequence of the rearrangement of East-Central Europe's borders following World War I, 2.5 million Hungarians and 1 million other minorities now live in Romania. These nationalities are mainly concentrated in the Transylvania region, of whose population they form 40 percent.

Although its national minorities are subjected to the same general suppression of freedom as all the other inhabitants of Romania, additional systematic and increasingly aggressive policies are being implemented against the Hungarian minority.

### HUNGARIAN SCHOOLS ELIMINATED

In the area of education, the elimination of independent Hungarian schools began in 1959. They have been attached to Romanian schools as sections, as a first step, and then gradually phased out altogether. In order to maintain or establish a class in a minority language, the presence of 25 students in grade school and 36 students at high school level are required. Since most villages in Transylvania often fall short of this quota, the Hungarian class must be terminated and the Hungarian language is forbidden to be spoken even during recess. Of course, these provisions do not apply to the Romanian classes where a Romanian section must be maintained, regardless of class size be it only one pupil. At the university level, similar tactics are used. The most offensive was the merging of the 378-year-old Hungarian university at Kolozsvar as a section of the Romanian Babes University.

A similar destruction of Hungarian culture is taking place in the arts. The Romanian Government is curtailing or eliminating Hungarian theaters, museums, libraries, and other cultural institutions. Today, only two independent Hungarian theaters exist, the rest having been incorporated and wholly absorbed by the Romanian theaters. In addition, historic archives of minority churches and institutions have been confiscated and removed to state warehouses.

### CHURCHES CENSORED

The churches are also under severe censorship. No decision can be implemented unless thoroughly reviewed and approved by the Ministry of Cults. Any social or religious gathering, except Sunday worship, must be approved by the state. Protestant congregations are denied the right to elect their own ministers and presbyters. And while the state does approve religion classes to be held during certain prescribed hours, school authorities are instructed to organize compulsory school activities at exactly the same time. Nonattendance of them results in official reprimands of the "delinquent" child and the parents.

Hungarian-language newspapers have also been reduced in size and frequency. Six daily Hungarian newspapers were forced to curtail their distribution to a weekly newspaper. This was all done under the pretext of a "paper shortage," but only for the Hungarian-language papers.

### CULTURAL GENOCIDE PRACTICED AGAINST HUNGARIANS

In effect, the Romanian Government is engaging in cultural genocide against its 2.5 million Hungarian minority, as well as the other 1 million people of German, Jewish, Ukrainian, Armenian, and other nationality backgrounds.

I am much concerned about this situation. We cannot stand by and see the heritage and freedom of these people be trampled. Romania receives commercial credits from us. But it should not expect to get them automatically while continuing to ignore the human rights of those they have sworn to upkeep and protect at Helsinki.

## MAMMOTH SITE DIGGINGS IN HOT SPRINGS, S. DAK.

Mr. McGOVERN. Mr. President, in the western part of South Dakota in 1974, during preparation of land for homesites, workers unearthed a mammoth tusk. To the credit of Mr. Phil Anderson, owner/developer of the homesites, he recognized the potential importance of the discovery and ordered that further work be stopped until such time as confirmation by archeological experts could be made.

Since that time, the people of Hot Springs have engaged in a community-wide effort, on their own, to insure the protection of this important discovery. Most recently, what may be one of the most exciting finds in the two summers of digging was made. For the information of my colleagues, I ask unanimous consent that an article on the mammoth site in Hot Springs, S. Dak., which appeared in the Rapid City Journal on July 30, be printed in the RECORD.

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

### MAMMOTH SITE DIGGING CONCLUDING THIS WEEKEND

(By Jan Griesenbrock)

HOT SPRINGS.—Digging at the Hot Springs mammoth site will conclude this weekend for the summer season after recording more significant finds.

Dr. Larry Agenbroad, director of the mammoth site for Chadron State College, said Thursday four mammoth skulls, 11 tusks, camel teeth and the possibility of a small human-produced hand tool.

The most recent mammoth skull was unearthed Sunday when a backhoe being used to construct a small road into nearby private property brushed the outer end of a tusk.

Digging later in the week exposed the rest of the skull with the hand tool located several inches below the tusk in a gravel layer.

"At this point without further investigations, we're treating it very conservatively. It could be a secondary introduction, which means it may have worked its way down through a crevice in the soil and gravel or dropped through an old rodent passageway," Agenbroad said.

"If man is associated here, it would have been in later phases."

The mammoth bones at Hot Springs were found in a shale-lined sinkhole that apparently trapped the large beasts that weighed 7,000–8,000 pounds. Through this year, 22 mammoths have been located at the site.

Other predators probably came to feed on the mammoth bodies, bogged down in the wet sand and silt, and also died.

Phil Anderson, who owns the land on which the mammoth remains were found, contacted Dr. Agenbroad, professor of earth science at Chadron State College, after the initial find in 1974.

The digging project has been funded through grants from National Geographic and Earthwatch.

## LAW OF THE SEA

Mr. BROOKE. Mr. President, at the Law of the Sea Conference on July 11, 1977, I, along with several other members of the delegation, attended a breakfast given by Ambassador Beesley from Canada. The breakfast proved to be most useful in briefing the guests on the current Law of the Sea issues. Ambassador Beesley told me about the speech he previously gave on June 29, 1977, concerning the Law of the Sea. Now that I have read his excellent speech, I wish to enter Ambassador Beesley's remarks in the RECORD. I feel that my colleagues will find them useful in informing them of the Canadian position in regard to the Law of the Sea Conference and legislation, which are of such concern to us all.

Mr. President, I ask unanimous consent that Ambassor Beesley's speech be printed in the RECORD.

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

REMARKS BY J. ALAN BEESLEY, Q.C. (CANADA)

Mr. Chairman, Distinguished Members of Congress, Ladies and Gentlemen:

### INTRODUCTION

I am deeply honoured by your kind invitation to meet with you today together with my colleague Paul Engo, Chairman of the First Committee of the Law of the Sea Conference.

I am aware that I am here in my capacity as Chairman of the Dratfing Committee of the Conference. However, since I have the dubious distinction of being the only Chairman of a Committee which has never met, I propose to express to you today my purely personal views on the importance of the Conference and the consequences of its success or failure.

### IMPORTANCE OF THE LAW OF THE SEA CONFERENCE

It is often said that the Law of the Sea Conference is the most important interna-

tional conference since that held in San Francisco when the United Nations was founded. Be that as it may, there is no doubt that the Conference is grappling with fundamental issues of tremendous importance to every nation state. It has a mandate so broad that it embraces new questions ranging from the rights of landlocked states with respect to ocean resources to traditional concepts relating to rights of passage through international straits. Thus, there is no state which would remain unaffected by the results of the Conference, whether it succeeds or fails, a basic point to which I shall return.

THE PRE-EXISTING LAW

It is essential to bear in mind the state of the law as it was when we began the Conference in order to attempt an appraisal of the progress made, the prospects of success and the consequences of failure. In simple terms, the pre-existing Law of the Sea was based on two fundamental principles of international law, namely, state sovereignty and freedom of the high seas—the principles established by Grotius nearly 350 years ago. Translated into specific terms, this has meant that for over three centuries the nation states of the world have accepted the concept of a narrow marginal part of the territorial sea over which states assert total sovereignty, subject only to the principles of innocent passage, and that the area beyond has been open to the use of states on the basis of freedom of the high seas. These principles proved adequate for their time, although it has been alleged that the principle of the freedom of the high seas gradually became translated and distorted into the right to overfish, a license to pollute and the "roving sovereignty" of the flag state. One change in the traditional law of particular relevance to our discussion today was the acceptance in 1958 of the "exploitability test" as the outer limit for coastal state jurisdiction over the continental shelf as reflected in the Geneva Convention on the Continental Shelf, another point to which I shall return.

PRESSURES FOR CHANGES IN THE LAW

Since the 1958 and 1960 Law of the Sea Conferences there have been increasing pressures for changes in the Law of the Sea to better reflect the spectrum of interests represented by all those countries which have received independence since 1958. Coincident with these demands have been an increasingly widespread recognition of the need for new rules to conserve the living resources of the sea, to preserve the marine environment and to regulate the exploitation of both the living and non-living resources of the oceans.

BACKGROUND TO THE CONFERENCE

In 1967, two important developments occurred which led directly to the creation of the Law of the Sea Conference as a means for effecting these changes in the law. It is well known that in that year Ambassador Pardo of Malta introduced into the United Nations his progressive and imaginative concept of the common heritage of mankind. It is not so widely known that in that same year the USSR canvassed a large number of countries to solicit support for an agreement upon a 12 mile territorial sea coupled with a high seas corridor through international straits. The significance of these two separate but eventually interrelated developments is as important today as it was in 1967 as indications of the basic preoccupations of the developing countries on the one hand and the major maritime powers on the other.

THE PREAMBLE OF THE CONFERENCE

The "Seabed Committee" created in 1968 as a result of the Malta initiative became transformed in 1970 into a preparatory committee for the Law of the Sea Conference. I had the honour of introducing the resolution which laid down the terms of reference of the Conference, and I can speak from personal experience in attesting to the fact that there was a widespread determination to tackle all of the interrelated issues of any Law of the Sea and a total rejection of any attempt at a "manageable package" approach, limited to a few issues. Criticisms are often made of the decision to embark upon such an ambitious undertaking. A point of fundamental significance to bear in mind in this connection is that it was argued by the major maritime powers that the operation was feasible since the basic trade-off between them and the developing countries would be recognition of resource claims in return for recognition of freedom of navigation. Presumably, no one anticipated at that time that the major developed nations of the world would later be in the forefront in the rush for resources, and, in the process, undercut the whole foundation of their bargaining position. This has already occurred with respect to the 200 mile fishing zones established by the USA, Canada, the USSR and the EEC; an example, we are told, soon to be followed by Japan. It is also proposed, as you know, that some of these same countries should take the lead in asserting unilateral jurisdiction over the resources of the deep ocean seabed in the face of strong opposition from the developing countries. The implications for any state attaching importance to freedom of navigation are obvious, but I should like to elaborate upon this question a little later.

PROGRESS MADE

How does one answer the question: How much progress has the Conference made? The answer is that it has made tremendous progress on a wide range of issues. We are light-years away from where we began. A preoccupation with remaining difficulties should not obscure this fact. Had we been embarked on a mere codification exercise, which is essentially what was entailed in the 1958 and 1960 U.N. Conferences on the Law of the Sea, when we were unable, in spite of great success on a wide variety of questions, to reach agreement on a 6 mile territorial sea and a 6 mile contiguous fishing zone, we should have long since finished our work. What we have been involved in, however, is a basic rethinking and restructuring of the law, a process which must inevitably take much longer, taking into account the number, range and complexity of the issues and the fact that over 150 nation states are involved in the exercise. You are all aware of the radically new concepts which have emerged from the Conference. Of these, amongst the most important are the economic zone; the common heritage of mankind; freedom of transit through straits; and the archipelagic state. Interestingly, the regime of the territorial sea is also being altered in an important respect.

THE ECONOMIC ZONE

The economic zone embraces, in brief, coastal state sovereign rights over fisheries and the seabed resources in an area extending out to 200 miles from shore, coupled with limited and defined coastal state jurisdiction for the purpose of preserving the marine environment and regulating marine scientific research. The origin of this concept was an attempt to find an accommodation between those countries, mainly the major maritime powers, committed to a narrow territorial sea, and those claiming a territorial sea or patrimonial sea extending to 200 miles.

THE COMMON HERITAGE

The common heritage concept, as developed in the Conference, embodies the creation of an International Authority to regulate and control the exploitation of the deep ocean seabed resources, (including in particular manganese nodules), and the establishment of an "International Enterprise" which would have the right to exploit these resources for the benefit of the "common heritage of mankind". Obviously, the proposed international area begins where national jurisdiction ends, namely, at the outer limit of 200 miles of the economic zone (or the outer limit of the continental shelf, in those cases where the land territory of the coastal state, i.e. the continental shelf, extends beyond). As Paul Engo has pointed out, we have finally achieved what I would not hesitate to call a "breakthrough" on the common heritage principle at this Session of the Conference. I refer to the widespread acceptance of "guaranteed access" permitting states and private enterprise as well as the proposed international institution to exploit the resources of the seabed.

FREEDOM OF TRANSIT

The freedom of transit concept has been developed as a direct consequence of the impact of the widespread acceptance of a 12 mile territorial sea upon those international straits which would be enfolded by the territorial sea of one or more "strait states". It means exactly what it says, namely, the right of free transit through such straits, a substantive and even radical change of the pre-existing law, based as it was, on the principle of "non-suspendable innocent passage". In brief, the new rule would provide for little or no coastal state control over vessels passing through international straits, thus maximizing freedom of navigation in such areas.

ARCHIPELAGIC STATES

The archipelagic state concept, in essence, comprises recognition by the international community that the waters within straight baselines joining the outermost islands of archipelagic states constitute territorial sea, but subject to provisions relating to freedom of navigation in "sea-lanes" through straits used for international navigation. The point of importance is that the length of the baselines has become a secondary issue and the precise rules relating to passage through sea-lanes have become the important question.

TERRITORIAL SEA

I referred to the fact that the régime of the territorial sea is, in my view, being altered in a most important respect. At the present time, the USA, the USSR and Canada all have legislation (the USA Port and Waterways Authority Act, in the case of the USA) which permits coastal states to legislate concerning the design, construction, manning and equipment of foreign vessels passing through the territorial sea of the coastal state. No state has ever alleged that this legislation is contrary to existing international law. Yet the provisions of the Revised Single Negotiating Text eliminate this right completely, and do not even permit the coastal state to pass such legislation to implement internationally agreed rules. It seems clear that unless some radical alterations are made in the RSNT, the USA Port and Waterways Authority Act will have to be amended.

If I may speak for a moment as a Canadian, I regret that the USA and Canada appear to have lost this battle to preserve the environment and that we must continue to accept the threats to our respective coastlines posed by sub-standard unseaworthy tankers loaded with oil. Even the "compromise" likely to emerge from any further negotiations is most unlikely to be of the kind which would eliminate the need to amend the legislation of our two countries. All I can tell you on that issue is that I don't intend to give up the fight.

PROSPECTS FOR THE CONFERENCE

I have attempted to give a capsule summary of the background to the Conference and of the nature of some of the changes being proposed in the pre-existing law. I would now like to turn to the question of prospects for success of the Conference and the consequences of failure. The first point

I should like to make is that there is an increasing danger in many parts of the world of a loss of interest in the Conference on the part of governments, legislative bodies and the public as a consequence of the widespread establishment of a 200 mile fishing zone, which represented a major objective for many states. The second point I should like to make is that it is no longer accurate to judge the success of the Conference by the stalemate, approaching paralysis, which had pertained for a period in Committee I on the deep ocean seabed régime. Indeed, it might now be said with some accuracy that Committee I has caught up to the work of Committee II, concerned with all the basic jurisdictional issues, and Committee III, concerned with the preservation of the marine environment, the conduct of marine scientific research and the transfer of technology. Yet, nevertheless, pressures are mounting in various countries for unilateral legislation to license deep ocean seabed mining.

What then, against this background, are the prospects for the Conference, the consequences of the success or failure and the relationship to these questions of unilateral legislation on the deep ocean seabed? I had occasion to address these questions recently in a speech I delivered in San Francisco at the Annual Meeting of the American Society of International Law, in which Ambassador Elliot Richardson also participated. The points I made were as follows:

It is impossible to make any firm predictions concerning the fate of the Conference. It seems likely that the Conference will require at least another two years to conclude its work.

No one can say with certainty whether the Conference will succeed or fail. What is certain is that there remains a good chance that the Conference can succeed, provided governments do not refuse to continue with the exercise because of the time it is taking and the costs involved, in terms not only of human and financial resources, but the self-restraint required of states on claims they wish to advance while the Conference continues. It is generally accepted that this (Sixth) Session of the Conference is likely to prove the "make or break" Session. If the basis for agreement is worked out on the seabed regime, then there will be great pressure to conclude the negotiations on the other unresolved issues. Even so, at least one further full substantive session may be required, in addition to considerable work by the Drafting Committee. It seems likely, however, that if visible progress is made at this Session, governments will be willing to continue to commit themselves to pursue the Conference to a successful conclusion.

CONSEQUENCES OF SUCCESS OR FAILURE

I have pointed out in a series of recent speeches that a successful Conference could mean agreement on over 500 treaty articles, including annexes, which would together comprise a comprehensive constitution of the oceans—an area, we are often reminded, consisting of over 70 percent of the earth's surface. These rules of law would not exist in a vacuum. They would bind states to act in new ways. They would elaborate a wholly new regime for the rights of passage through international straits. They would lay down totally new principles concerning the management of ocean space. They would, for example, oblige all states to undertake the fundamental commitment to preserve the marine environment, to conserve its living resources, and to cooperate in the carrying out of scientific research. They would establish a single twelve-mile limit for the territorial sea throughout the world. They would result in a major re-allocation of resources as between distant water fishing states and coastal states, and more importantly perhaps, from developed to developing states. They would give recognition to the concept of the archipelagic state, consisting of sovereignty over the waters of the archipelago, wth clearly defined rights of passage and over-flight through sea-lanes. They would bind states to peaceful settlement procedures on most—unfortunately not all—issues. They would, moreover, establish something new in the history of man—an international management system for a major resource of the planet earth—the seabed beyond national jurisdiction. They would reserve this area for purely peaceful purposes. They would subject it to a legal regime governed by an international institution unlike anything known either in the UN system or outside it. The international community would actually become engaged in economic development activities whose benefits would be shared by mankind as a whole. Interestingly, the UN, in the process, could engage in economic competition with states and, perhaps, private enterprise.

These new rules, if accepted by the international community and coupled with binding peaceful settlement procedures, would undoubtedly make a major contribution to a peaceful world. Of equal importance perhaps, they would lay down an essential part of the foundation for a new international economic order, since it would effect a transfer, by consent, of powers and jurisdiction on many issues from the richer and more powerful states to the poorer and less powerful.

What are the consequences of the other alternative—a failure of the Conference? As I have suggested in a series of interventions in a variety of fora, a failed Conference would mean that while the 200 mile limit has come into existence as a fact of international life, none of the safeguards embodied in the draft treaty would necessarily apply. The 200 mile concept, if left to state practice following a failed Conference, is far more likely to become a 200 mile territorial sea than a 200 mile economic zone confined, as in the RSNT, to specific jurisdiction and coupled, as it is in the RSNT, with stringent safeguards. The 12 mile territorial sea is a fact of international life, and is beyond challenge in the International Court, but its application to international straits would not be coupled, as it is in the draft treaty articles, with specific rules concerning rights of passage. That can occur only through acceptance of the treaty as a whole. New proposals concerning the delimitation of marine boundaries could have sufficient legal weight to erode the pre-existing equidistant-median line rules, but they would not be linked to binding third party settlement procedures, without which the new "equitable" approach would have little meaning. The nine years of work on the international regime and institutions to govern the seabed beyond national jurisdiction would be lost. Some developed states would almost certainly take unilateral action authorizing their own nationals and other legal entities to explore and exploit the deep seabed beyond the limits presently claimed by any state.

Certain developing states might well respond by new kinds of unilateral action asserting national jurisdiction over these same areas, basing their action on the "exploitability test" of the 1958 Geneva Continental Shelf Convention—while the developed states prove that the area is exploitable, and thus subject to such claims. Indeed, they have said they would do so. Disputes over fishing rights, environmental jurisdiction, under-sea resource rights, conflicting delimitation claims, rights of passage in straits and claims to the deep ocean seabed could "surface" all over the globe.

The conclusion which follows from the foregoing is obvious. The Law of the Sea Conference has gone too far in developing new concepts and eroding the "old international law" for it to be permitted to fall at this stage. The particular interests of individual states, be they powerful or weak, maritime or coastal, landlocked or geographically disadvantaged, merge and coalesce with the general interest of the international community as a whole in the overriding need for a successful conclusion to the Law of the Sea Conference. This is no longer merely a desirable objective. It is an international imperative.

CONCLUSIONS

As I have been pointing out, in the series of recent speeches to which I have referred, it seems clear that the international community is facing the choice, on the one hand, of a very real danger to peace and security—quite apart from the damage to the UN—should the Conference fail, or, on the other hand, of an opportunity to lay the foundations for a world order of the heights to which mankind can rise when we are prepared to look beyond our narrow immediate interests to the broader long-term interests of all. In legal terms, the Law of the Sea Conference presents the opportunity to leave behind us both the narrow 19th century concept of sovereignty, and its faithful companion, the laissez faire principle of freedom of the high seas, and to create new laws in place of each, embodying a totally new concept, an approach reflecting the need to manage ocean space in the interests of mankind as a whole. For far too long, the Law of the Sea has been based on the notion of competing rights, with little or no recognition of the need reflected in even the most primitive systems of law, whereby duties go hand in hand with rights.

Areas of the sea have been treated as subject to the assertion of sovereignty of one state or another, with no corresponding duties concerning the conservation of fisheries in such areas or the preservation of the environment itself. The oceans beyond the territorial sea have been subjected to the principle of first come first served, a régime which tended to benefit the powerful at the expense of the weak, while defended under the name of freedom of the high seas. When coupled, as it has been, with the doctrine of flag states jurisdiction, and further adopted by the device of flags of convenience, it has become a kind of "roving sovereignty" of the flag state, subject to little or no restrictions, except in the cases of piracy, slavery and narcotics control. Freedom of the high seas has meant, increasingly, the freedom to over-fish and the license to pollute. These are the freedoms which must be circumscribed, while the essential freedom of navigation for purposes of commerce and "other internationally lawful uses" (including legitimate self-defence) must be protected.

The difficulties in the way of harmonizing the conflicting uses of the oceans and the divergent interests of states in a comprehensive constitution of the oceans are immense. The dangers of failure are increasingly acute. The benefits of success, however, are tremendous. Whatever the imperfections of the proposed treaty, it offers the possibility of an orderly régime, in place of the chaotic situation which would otherwise pertain.

There is, in my view, a duty upon influential opinion-making groups such as this body to support the efforts of governments to go forward with perseverance and determination toward the resolution of those problems still besetting the Conference. The greatest danger, at this stage, may well be the possibility of unilateral action on the seabed, stemming, admittedly, from years of frustration and mounting impatience. As I see it, it is the duty of every one of us to use our best efforts to encourage our governments and our legislatures not to give up on the Law of the Sea Conference, but to go that

last nautical mile, and to make one further effort to reach the objective of a global constitution of the oceans.

In conclusion, I would like to make the following observations. Firstly, if the basis for the trade-off of freedom of navigation in return for resources has been weakened due to the fisheries resource claims already made by many major maritime states, the basis for such a compromise would be completely undermined by new resources claims to the deep ocean seabed by these same countries.

Secondly, it would be a fundamental error to draw conclusions about the consequences of such action based upon the legislation establishing the 200 mile fishing limit. That legislation, while in advance of the Conference, was based on one of the fundamental new concepts emerging from the Conference, namely the 200 mile economic zone. Unilateral legislation on deep seabed mining would be interpreted as being diametrically opposed to the other important new concept emerging from the Conference, namely the common heritage of mankind. Reactions would be quite different. In these circumstances, the legislators in countries with global strategic interest in freedom of navigation should think very seriously about passing legislation advancing additional resource claims which could have the effect of destroying the Law of the Sea Conference.

Thirdly, the situation is well past the point of no return in terms of state practice or, if you prefer, unilateral action. It is no longer possible to go back to the status quo if the Conference fails. The clock cannot be turned back. The 3 mile territorial sea cannot be resurrected. It is worth noting that the 3 mile territorial sea and, indeed, the very concept of the territorial sea—and of the freedom of the high seas—was established by state practice, that is to say, unilateral action in which other states acquiesced. Eighty-six states have now established a territorial sea of 12 miles or more. It is totally unrealistic at this stage to imagine that such states would be willing to repudiate such legislation except—in the case of claims beyond 12 miles—in the event of a Conference solution.

Fourthly, if the Conference fails, many states can protect their major interests by unilateral action. However, freedom of navigation through straits enclosed by new territorial sea claims and through the 200 mile economic zone or territorial seas established unilaterally by other states cannot be protected by the same kind of unilateral action. Perhaps it can be protected by the use of force or the threat of force or by diplomatic pressure but it cannot be protected by legislation on the part of those states attempting to assert freedom of navigation. It is essential to bear in mind that the objectives seemingly achieved by the results of the Conference to date concerning freedom of navigation cannot be taken for granted should the Conference fail. Obviously the Conference solution is not only the best answer to this problem but may be the only one.

Fifth, the situation is not one in which a state can protect its interests by refusing to ratify the Convention. Thus, even great powers have been overtaken by events—events in which they have themselves participated. I refer primarily to the development of new customary principles of international law through state practice—that is to say unilateral claims—based on the results of the Conference to date. Non-ratification would merely signify non-acquisescence in claims by other states, but it would not eliminate the legislation passed by the vast majority of the existing international community. All it would do is keep open the right to refuse to recognize such claims and dispute them (by such means, for example, as occurred between the United Kingdom and Iceland).

The sixth, and final point, I wish to make is that it is unnecessary and, indeed, counterproductive, at this stage, either to consider contingency plans should the Conference fail, or to consider non-ratification should the Conference agree upon a treaty containing provisions which are not acceptable. The Conference is still underway. The USA has a tremendous influence in that Conference. No state has a greater influence. No state had made a greater contribution to that Conference. No state is more deeply committed to a successful Conference. Surely, the conclusion is obvious.

We all need a successful outcome from the Conference on the Law of the Sea. It is unrealistic that the treaty will be wholly satisfactory to any state. Every state must accept compromises on some issues. We are too far down the pipe, however, to attempt to reverse the flow, to stop the Conference because we want to get off. We have a responsibility to see it through and the responsibility is a shared one: shared by all of the states involved in the Conference and shared by governments and legislators as well as by the public and the press. I know that the U.S. Government is playing an extremely active and constructive role in the Conference and has worked very hard for many years to achieve a successful outcome. I hope I have given you reasons to support this objective.

*Territorial Sea Claims as of June 14, 1977*

| Breadth: | *Number of States* |
|---|---|
| 12 | 60 |
| 15 | 1 |
| 20 | 1 |
| 30 | 4 |
| 50 | 4 |
| 100 | 2 |
| 130 | 1 |
| 150 | 2 |
| 200 | 11 |
| Total | 86 |

Total number of independent coastal states—128.

## MOST-FAVORED NATION

Mr. HAYAKAWA. Mr. President, I was deeply disappointed with President Carter's recent recommendation to extend most-favored-nation status to Romania for another year, which was submitted to Congress on June 3, 1977. There have been some questions raised concerning the continuation of this status, especially in regard to Romania's emigration policies and the human rights situation inside that country.

Congressional hearings in the summer of 1975 and in the fall of 1976 produced evidence that the Romanian record on emigration has been less than satisfactory. In a recent letter to President Carter, 55 of our colleagues in the House of Representatives documented a precipitous drop in the number of visas issued by Romania for emigration to both the United States and Israel between July 1976 and March 1977.

Furthermore, some serious charges have been levelled against the Romanian Government's treatment of minorities, including approximately 2.5 million Hungarians. A policy of this sort undeniably violates the Helsinki agreement as well as other international covenants ratified by Romania.

It seems to me that allegations such as these were not adequately investigated by the administration before the President made his recommendation. In light of the special trading relationship which we maintain with this member of the Communist bloc, it is imperative that he do so.

## LOCAL RADIO IN EMERGENCIES

Mr. SCHMITT. Mr. President, I would like to call the attention of my colleagues to two letters I recently received from constituents, Darrel K. Burns of the Los Alamos radio station KRSN and Barry S. Newberger of the Los Alamos Amateur Radio Club W5DO, relative to a tragic fire located in the northern part of my homestate of New Mexico. This fire burned for 8 days and in the process destroyed approximately 15,270 acres. In their letters, Mr. Burns and Mr. Newberger express a great concern regarding the importance of communication provided to the public in times of great need. Often small radio station and individual radio operators are thought of as nonessential modes of communication when in reality they provide the public with a valuable resource of information. The La Mesa fire is a fine example of the excellent coverage of the fire provided by a local radio station and the tremendous assistance contributed from the Los Alamos radio club to those many agencies dealing with this emergency. Unfortunately amateur radio operators are finding themselves continuously restricted by regulations and legislation. If this trend is not reversed amateur radio operators may not be in a position to provide such assistance.

I ask unanimous consent that the letters be printed in the Record.

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

COMMUNITY BROADCASTING CO.,
*Los Alamos, N. Mex.,*
JULY 12, 1977.

Hon. HARRISON SCHMITT,.
*New Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR SCHMITT: During the La Mesa fire we at KRSN & KRSN-FM were busy.

From our files here are copies of four of the letters we received.

Perhaps there is a tendency from time to time to be complaisant about the services of local radio stations and to consider national radio of more interest and value. An incident such as the La Mesa fire makes it obvious that local radio stations are irreplaceable.

Sincerely,

DARREL K. BURNS.

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UNITED STATES ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION,
*Los Alamos, N. Mex., July 7, 1977.*

DARREL K. BURNS,
*KRSN Radio Station,*
*Los Alamos, New Mexico.*

DEAR DARREL: I am taking this opportunity to express my appreciation for the cooperation and dedication that was demonstrated by KRSN during the recent days and nights of the La Mesa fire.

The support and effort shown by members of your station contributed substantially in keeping local residents informed of the status of the fire. Also, it is recognized that the additional time spent at the station resulted in some of your employees being away from their homes and families for long periods of time. Therefore, please convey my sincere thanks to all of those who participated.

On behalf of the Energy Research and De-

velopment Administration, let me say: "Thank you for a job well done."

Sincerely,

KENNETH R. BRAZIEL,
*Area Manager.*

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DARREL, we are most appreciative of the excellent coverage supplied by you and your outstanding and patient staff of the recent disastrous fire!

You are all to be complimented!! I hope other Los Alamos citizens are as proud of KRSN as are we.

Most sincerely,

MARGARET AND JIM BROWNE.

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LOS ALAMOS, N. MEX.,
*June 26, 1977.*

Mr. DARREL BURNS,
*Radio Station KRSN,*
*Los Alamos, N. Mex.*

DEAR MR. BURNS: Fredrica and I wish to thank you and your news staff for the excellent radio coverage of the La Mesa fire. Throughout the tense weekend you provided factual information while avoiding the sensationalism that could very easily have resulted in mass panic. We are grateful to all of you who put in such very long days for our benefit.

Sincerely,

PAUL D. SMITH.

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JUNE 20, 1977.

Mr. DARREL K. BURNS,
*Radio Station KRSN,*
*Los Alamos, N. Mex.*

DEAR DARREL: My congratulations to you and your staff on the very excellent coverage you have provided on the fire. Most of my years as a newspaperman were spent in regions subject to forest fires, hence I am quite aware of the many difficulties such situations present.

My wife and I have commented several times during the past several days on the factual, low-key level of KRSN's reporting, which I am sure has contributed greatly to the community's peace of mind and may well have averted panic at times.

It has also been a distinct pleasure to listen to straight news without having to endure commercials interjected after every paragraph such as the TV news seems to require. I appreciate the fact that commercials keep the place going, but I shudder when they overwhelm the news.

Keep up the good work.

Sincerely,

JOHN V. YOUNG.

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LOS ALAMOS, N. MEX.,
*July 6, 1977.*

Hon. HARRISON SCHMITT,
*U.S. Senate,*
*Washington, D.C.*

DEAR SIR: As you are well aware, the battle against the very costly and destructive La Mesa fire near Los Alamos has now been won.

In the spirit of the Communications Act of 1934 and the FCC's test of public interest, convenience and necessity which *all* radio services must meet, we wish to call your attention to the communications service provided by the Los Alamos Amateur Radio Club through its club station W5PDO and repeaters WR5ABU, WR5AFP, WR5ARO and WR5AEQ (the last three belonging to the Santa Fe VHF Society, Jemez Mountain Repeater Association and the Caravan Club of Albuquerque, respectively.) For over eight days, the club and its volunteer members and friends provided continuous round-the-clock communications service for all the agencies involved in this emergency. The agencies served included the U.S. Forest Service, weather service and the military. All the Forest Service administrative traffic was handled through the radio club including 145 pieces of priority traffic. In addition, approximately 565 health and welfare phone patches were handled for the firefighters, many of whom had come from California, Idaho, Washington, Oregon, Montana and South Dakota and other states. These men and women in not a few instances had to leave pressing personal problems at home to help fight the fire and many would have found it difficult to resolve them without our phone patch service. We were told by many of the firefighters that they had never before had such a service provided for them and were given a substantial boost in morale for having it. (It should be noted that a commercial mobile telephone unit brought in for the purpose was unsuccessful and was removed from the base camp.) In all, fifty-five people were involved for a total of nearly 1900 man hours, using their own personal equipment.

The next time New Mexico faces a disaster of this magnitude, we amateur radio operators may not be in a position to provide such assistance. With the convening of the World Administrative Radio Conference (WARC) in 1979, and the persistent attack on the already small spectrum space that the amateurs have dedicated to them that will occur there, amateurs may find themselves without sufficient resources and flexibility to insure quality reliable communications where all others fail. The situation is exacerbated by faulty press reporting as appeared in a nationally syndicated column a few months ago.

You could do a great service to the amateur radio operators in New Mexico and across the United States by calling to the attention of your colleagues in the Senate on the floor of the Congress and in the Congressional Record the kind of help amateur radio provides to the public in times of great need and consequently the valuable resource that this country has in this body of competent, disciplined and dedicated amateur radio operators.

For the Los Alamos Amateur Radio Club, Best Regards.

BARRY S. NEWBERGER.

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## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. JAVITS. Mr. President, the Equal Employment Opportunity Commission since its creation by title VII of the Civil Rights Act of 1964, has been the key Federal agency charged with eradicating discrimination in employment throughout the Nation on the basis of an individual's race, color, religion, sex, or national origin. Unfortunately, the EEOC has in recent years become known more by its failures than by its successes—yet its responsibilities are enormous and vital. Particularly since 1972, when the EEOC was finally granted enforcement powers by the Congress, the Senate Human Resources Committee has conducted extensive oversight activities in an attempt to improve the effectiveness of EEOC and strengthen enforcement of the act.

Now, just a few weeks after being sworn in as the Chairperson of the Commission, Eleanor Holmes Norton has announced a sweeping reorganization of EEOC, which she aptly characterizes as a "total redesign of the Commission and its functions." I approved highly of the President's nomination of Ms. Norton to this position after her 7 distinguished years of service heading the New York City Commission on Human Rights. She has already begun to prove the confidence that I and the other members of the Human Resources Committee have in her. The important changes announced last week before the House Subcommittee on Employment Opportunities deserve the attention of the Senate.

Accordingly, Mr. President, I ask unanimous consent to have the statement of Eleanor Holmes Norton, and the accompanying charts, as she testified before the Subcommittee on Employment Opportunities in the other body, printed in the RECORD.

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

STATEMENT OF ELEANOR HOLMES NORTON

Mr. Chairman, distinguished members of the Committee, I am pleased to be here today to present to you the first results of our efforts to reshape the Equal Employment Opportunity Commission. I shall be presenting a comprehensive plan—much of it already being implemented—that can only be characterized as the total redesign of the Commission and its functions. It represents the most extensive overhaul of the agency structure and processes since the establishment of the Commission in 1965. Among its purposes are to integrate the litigation powers Congress gave the Commission in 1972 with the pre-existing investigative and conciliation functions of the agency to overcome a much criticized dual agency structure where investigators work at cross purposes with lawyers instead of in partnership to fruitfully develop cases.

But I stress that the plan is much more than a reorganization or structural redesign, as important as that is. Its chief purpose is functional: to improve the enforcement of Title VII. For it is the operations of the Commission where the most serious problems exist—in case processing, litigation of significant cases, internal management and information systems, and the like. Thus, structure has been addressed only as a means of improving specific functions.

I am pleased to announce that this plan was drawn with the explicit cooperation of the sitting commissioners, Vice Chair Ethel Bent Walsh, Commissioner Daniel Leach, and the General Counsel Abner Sibal, utilizing their staffs alongside my own. The Commission unanimously approved the plan last Wednesday. The development and approval of such fundamental changes in so short a time could simply not have been accomplished otherwise. I have been at EEOC only six weeks. Only the most disciplined self-analysis drawing all parties into the process could have produced this result in that brief time. Thus, in this first important effort of my term, I believe I have reversed the long-existing situation where commissioners were inadequately informed and utilized and insufficiently involved in policy-making, a result which in the past contributed to internal conflict that has taken its toll at the agency. We believe the intensive cooperation of Vice Chair Walsh, Commissioner Leach, and General Counsel Sibal in producing this plan in itself represents a significant accomplishment. I intend to pursue reform of the agency on each and every issue in this collegial fashion.

With your permission, I should like to insert into your record a copy of the resolutions unanimously adopted by the Commission on July 20, 1977, setting the reform of the Commission in motion. The changes which we have adopted and are now implementing include: *

*While the general outline of the programs discussed here have been submitted to the Commission, detailed regulations and manual changes including some of the details discussed in this testimony will be submitted for specific approval pursuant to Paragraph VI of the Resolution of July 20, 1977.

1. Introduction of a new Rapid Case Processing System with emphasis on expanded intake procedures, face-to-face fact-finding and settlement.

2. A separate backlog case processing system to give systematic and priority attention to presently backlogged cases.

3. A "direct service" consumer oriented structure patterned after the National Labor Relations Board, introduced through a model office approach in three to five locations now being selected.

4. Integration of litigation, investigation and conciliation functions.

5. Establishment of a program to deal with systematic discrimination, addressing first those whose actions have demonstrated clear disregard for the purpose of Title VII.

6. A new Program Office to place the Commission in an affirmative posture for developing Title VII through guidelines, interpretations, and other rulings.

7. A new management accountability and information system to insure that the above programs take hold and are implemented.

8. A national training program and standards to assure that the staff will be able to effectively administer the new systems.

This set of changes was hammered out in intensive and detailed discussions during the last six weeks, but they did not spring full blown in that short period of time. Rather they build upon studies made by the staff of this Committee, by the General Accounting Office, by the Commission on Civil Rights and by other analysts over a number of years, reflecting a growing concern over the quality of the implementation of Title VII. Thus we are able to move confidently ahead knowing that these first steps follow the direction that most studies of the Commission agree are appropriate to improve the performance of the agency.

I would like to make one important point before I proceed. We are deeply concerned to mitigate problems that change will bring to our employees. The installation of new systems will inevitably involve the unfamiliar and some dislocation among staff can be expected. We have already had, and will continue to have, appropriate discussions with the representatives of the employees concerning these matters. I come to the EEOC with a record of deep respect for the rights of employees and am confident that the necessary changes can be installed with the cooperation and understanding of the present staff. This is especially important in an agency which in the past has had serious personnel problems. We will do everything possible to minimize hardship on our employees that may come out of the effort to better serve the public.

I would like to discuss the principles and the basic plan which we have adopted to reform Commission activities.

RAPID CHARGE PROCESSING SYSTEM

The first principle that has received priority is the need for expedited charge resolution. I am determined that we will no longer deny justice by delaying it. We are therefore instituting a rapid charge processing system to handle new complaints as they come in.

This will involve a much more detailed pre-charge counseling and interviewing process than took place under the old system. There has been inadequate analysis of the problems of complainants at the time they seek the aid of the EEOC. As a consequence we take many cases which are clearly outside our jurisdiction, or where detailed inquiry of the complainant would establish that he or she did not have a viable Title VII claim. For example, a Black person was rejected on the basis of his resume alone but the resume provided no direct or indirect indication of race through name, address, schools, work history, or other information. Intake officers will be trained to make meaningful referrals elsewhere to parties whose claims should not become a part of our caseload.

At the same time we fail to seek emergency relief for those complainants who may be entitled to it. The old system makes it difficult to secure temporary restraining orders in situations where an employee is about to be fired, or to be disciplined for filing a charge, or where acts of overt discrimination are continuing, or in similar situations. The new system will correct both of these problems.

The detailed intake interview with the complainant will enable the drafting of a precise charge and the preparation of a request for information from the respondent directed to the specific issues in the case. This interrogatory will be sent to the respondent along with a copy of the charge within 10 days. The respondent will be on notice as to what precisely is involved in the charge of discrimination.

In the history of the Commission, there have been periods when charges were not served in a timely manner upon respondents. Originally the practice of serving the charge only when the investigator arrived at the respondent's establishment was developed for fear of possible retaliation against those who filed charges with the Commission. Very few episodes of retaliation under Title VII have occurred. I do not believe that the delayed service of charge is any longer appropriate. Congress in 1972 indicated that employers should receive a notice of the charge within ten days of its filing. I now believe that it is appropriate to serve the charge itself as part of our rapid processing system and intend to so recommend to the Commission. Our rapid charge processing system will be possible only if respondents are promptly served with the complaint. When a respondent becomes aware that a charge has been filed, it will have the option to secure a just resolution of the grievance without further processing. The respondent will be encouraged to settle early in the process.

The importance of encouraging settlement of Title VII claims cannot be overstated. The Congressional intent to encourage settlement is clear in the statutory language mandating conciliation. But the practical imperative is even more demanding. With a filing rate this year projected at more than 80,000 charges, no formal process can avoid being swamped. Therefore if the system is to function, it must use resolution techniques which do not require exhausting the entire process. Swamping of the process harms complainants and respondents alike and threatens the very existence of charge-processing as a system.

Thus we must vigorously pursue settlement as the primary method of administrative enforcement of the law and as the only techniques which can secure a remedy for a significant number of complaints in a timely fashion. All of our procedures are being shaped with the objective of encouraging prompt and fair conciliations.

We believe that early settlement practice will produce fair results for individual complainants. During my tenure at the New York City Commission on Human Rights, almost 50% of complainants chose to settle in the first three months after the case was filed. Many of these cases could not have survived the rigor of the more formal parts of the case process and would have gotten no remedy at all if settlement had not been introduced as a possibility early and aging of the case foreclosed. At the same time, we will continue to recognize the individual right to pursue Title VII claims through litigation.

If initial attempts at settlement fail, the case moves to the next step in the process: a fact-finding conference. This is a new investigative technique for the Commission. It has been used to good effect in New York City and some other Sec. 706 deferral agencies. We believe this new technique will: 1) substantially reduce the time it takes to investigate a case; 2) improve the quality of the information which the Commission obtains; and 3) enhance the possibility of settlement. Prior to the conference, information which has been requested as a result of the initial intake interview with the charging party is supplied to an investigator by the respondent. The investigator presides at the fact-finding conference. Both charging party and respondent are present. The investigator questions both parties to develop a clear understanding of the factual background and the nature of the particular dispute. At the same time, the fact-finding conference provides a way for the parties to develop a deeper understanding of each other's position, which in turn provides a realistic atmosphere conducive to serious settlement discussions. The settlement effort may be concluded at the fact-finding conference, or within a short time thereafter. If settlement is not achieved the facts developed at the conference may be sufficient to allow an early decision that the case does not have merit or that reasonable cause should be found.

However, if the facts developed through the fact-finding conference do not clearly establish that there is "no cause" or that the respondent has violated the statute, further in-depth investigation will take place. The familiar techniques of interrogatories, field visits, witness interviews and document examination will be utilized. But the time required for this investigation will be substantially reduced because of information developed and issues defined at the fact-finding conference and at intake.

There is another matter which I wish to touch upon in connection with the new method of taking charges and conducting the investigation. In the past the Commission has tended to construe charges of discrimination broadly and has sometimes encouraged complainants to file charges that contain broad and general allegations of discrimination. The purpose of the Commission in encouraging and accepting such charges was clearly laudatory. It was to use the individual charges to secure evidence concerning possible discrimination against any employee. This was a necessary approach because the Commission did not have any other effective program to deal with systemic discrimination. Under those conditions, the broadening of the charge to deal with discrimination made sense.

History, however, has demonstrated that this approach has had an adverse effect on individual complainants. The broad investigation has turned out to be long and delayed and has contributed substantially to the build-up of aging cases in the backlog. Very few of these cases have resulted in "cause" findings, conciliation agreements, or Commission-initiated litigation. The aging of the case while the broad investigation was conducted has, in turn, made it more difficult to obtain relief for the individuals who initially filed charges.

Thus the effort of the agency to secure justice as quickly as possible to those who sought the aid of the Commission was frustrated by the long and involved investigation. Since many of these investigations did not prove fruitful, the result was that neither the complainant's interest nor the general public interest in eliminating employment discrimination was served.

We will better serve both the complainant's interest and the larger public interest in eliminating discrimination by separating insofar as possible the processing of the individual complaint and the elimination of systemic discrimination. Thus we will construe complaints as relating to the harm that

the individual has suffered. We will investigate that harm. In that investigation, of course, we will examine the extent to which the employers' restriction or exclusion of minorities or women as a class may have contributed to a particular individual employment decision. However, we will do this by a sharply focused investigation of the general statistics of the employer and the activities in the particular unit in which the discrimination is alleged to have occurred. Thus individuals will no longer be able to automatically invoke a systemic investigation by the Commission. However, individuals or organizations will be able to formally petition for a systemic inquiry. This petition will then be considered by the systemic program, which I will discuss shortly.

We realize that there cannot be a rigid separation of individual and systemic matters and that there will be circumstances in which it is desirable to expand the individual complaint investigation into "like and related" matters and conduct a full scale investigation of the respondent's operations. But this will be done only after a careful analysis and conclusion that such a step would further the overall purpose of Title VII.

This represents an important policy change. By affirmatively developing systemic or class cases we expect to maximize our impact. The Commission has been unable to deploy its resources to target the most serious instances of discrimination. Instead, it has allowed individual complainants to randomly choose targets and issues. This has diverted the use of the Commission's own expertise and policymaking responsibility to affirmatively, rationally, and fairly choose class-action targets. The result has been to dilute the impact of the Commission on discrimination against minorities and women. The decision to separate individual from class claims is therefore an important corrective.

BACKLOG CASE PROCESSING SYSTEM

The next principle that underlies this plan, one that necessarily has high priority, is to systematically reduce the backlog of cases. We will give effective priority treatment on a systematic and continuous basis to the cases that are presently in the system until the inventory is at a reasonable and manageable level. Alongside the rapid charge processing system will be an independently staffed backlog charge processing system. This new system utilizes a positive management approach to the backlog. It involves grouping files by respondent and selecting those with the largest number of charges for first review. A special management review team in each office will oversee the endeavor and will move each case forward with the next steps delineated, staff assignments made and time frames set. After special referral of cases with litigation potential, we will inquire of every charging party concerning his or her desire to proceed with the case. Some charges will be closed at this point. We will then contact by phone or visit every respondent to encourage it to engage in no-fault settlement discussions. If settlement fails, investigative interrogatories will be sent immediately with mandated follow-up to conclude the case as quickly as possible.

These cases will be processed under current Commission policies and procedures except that we will limit the scope of the case to individual matters unless we make a conscious decision that a systemic approach is required. As mentioned earlier, many charging parties whose cases are in the backlog have been denied justice in part by the very breadth of the charges which the Commission itself sometimes had encouraged them to file.

I reemphasize that this approach to the backlog will be continuous and systematic. This distinguishes this effort from the crash programs of the past that temporarily increased productivity by disposing of large numbers of charges. While certain defects in procedures were criticized, those efforts have generally been praised. Unfortunately, many of the sound management innovations were not carried over into permanent streamlining of the Commission's overall processes.

It is important to note that the backlog figure of nearly 130,000 cases is deceptive and misleading. Worse, it is useless for operational and managerial purposes. It appears that EEOC has allowed "backlog", a term meaning old cases, to be used synonymously with "inventory", a reference to all cases received. Cases that were filed years ago and cases that were filed yesterday are reported to the Congress and the public as "backlog". Current subcategories make no sense and do not measure the work of the agency. The Commission is designing a reporting-measurement system which will enable it to know the stage of the charge and how long it has been there as against how long it should be there under management goals and standards for charge processing. The information systems we have found at the Commission must be totally revised to make such information available. For example, charges categorized under "pending assignment" may have been substantially investigated but moved back into the category upon the departure or transfer of the investigator previously handling the case. We are moving to redesign this information system to reflect the location of the cases in the various processes of the agency. We will draw upon the experience of the National Labor Relations Board which uses "time in stage" standards rather than gross numbers. This approach gives precise information on the age of cases rather than lumping all cases together as part of an undifferentiated backlog.

The systematic approach to backlog through a separate charge processing system has several advantages. It allows immediate conversion to a new system with rapid charge processing staff. It assures special and priority treatment of the backlog in a systematic way. It avoids the total absorption of personnel in backlog cases allowing instead for planned allocation of staff among all the priorities of the system.

HEADQUARTERS-TO-FIELD SERVICE ORIENTED MODEL OFFICES

The third principle which has guided reform is direct service to those who have been discriminated against through a lean rather than a multi-tiered model. This will mean the adoption of direct headquarters-to-field model offices and, I would propose, the eventual elimination of intermediate regional litigation centers. In the new model offices, investigators and lawyers will work together, handling cases. We are introducing a new technique, a formal investigator-lawyer conference, to eliminate the much publicized conflict over standards between the legal and investigative staffs.

In adopting a direct service model, we have drawn heavily upon the experience provided by the National Labor Relations Board. The Board has had forty years of experience in complaint processing using a direct headquarters-to-field office system. We intend to move carefully toward such a system because it will involve all staff in service delivery, where the emphasis of our operations must be to meet mounting workload requirements.

Under the present structure cases are litigated from five regional centers while the 32 district offices are supervised by seven regional offices. Thus, there are situations in which the Commission has three separate offices—a district office, a regional office and a regional litigation center in the same city—but they often are not in the same building and too often have little communication. The difficulty of communication created by the fact that litigators are physically separated from investigators means that there is frequently a wide gap between what the investigators secure and what the lawyers require. We believe that the integration of litigation and investigation functions in a single field office will not only enable the more rapid processing of cases but will improve the ability among the staff to achieve effective enforcement.

As we establish this unified field office system we recognize that there will be many problems that cannot be foreseen and we intend to introduce the systems very carefully. We will begin in 3 to 5 offices now being selected to test the new process. As we move forward to successive offices we will build on the experience we have gained in instituting the procedures in the first set of offices.

During the period the new structure is being phased in, we will maintain the existing structure to provide continuity of management and case handling, to allow adequate planning for reassignment of staff, and to provide advance and adequate training and sufficient time to adapt to the new model.

The designation of the model offices has been put on the Commission agenda for next Tuesday, August 2, 1977.

INTEGRATION OF LITIGATION, INVESTIGATION, AND CONCILIATION FUNCTIONS

The fourth principle of reform has been that there must be an integration of the investigation and conciliation processes with the power to litigate given to the Commission by Congress in 1972. Virtually all who have studied the Commission's processes have made this recommendation, including this Subcommittee. In the last six weeks we believe we have solved the difficult technical problem of how to accomplish the integration. The integration will take place as Chart A (attached) indicates at the point of the decision that there is reasonable cause to believe that there may be discrimination.

Historically the finding of reasonable cause meant only that there was sufficient evidence to attempt to settle the case. This definition was developed when the Commission first went into operation in 1965. At that time there was a great uncertainty as to the legal concept of discrimination and hence a need for a finding by the Commission before conciliation was attempted. An attempt to settle a case without a reasonable cause finding back in 1965 would have left the parties in confusion as to what the law required. Thus it was appropriate that the standard for reasonable cause be sufficient evidence to warrant settlement efforts.

Today the vast expansion, strength, and definition of the law concerning discrimination and the widespread knowledge of Title VII among those who deal in employment matters mean that we no longer need a reasonable cause decision as a predicate for settlement efforts. The high settlement rate of the New York City Commission, discussed earlier was almost all obtained before the finding stages. It is time EEOC moved to dispose of cases before a finding to get maximum justice for complainants before cases are allowed to deteriorate through aging.

The Commission continued to define reasonable cause to mean that conciliation should be attempted even after Congress gave it the power to litigate in 1972. Since this standard required less evidence than that necessary to go to litigation, few cases in which reasonable cause was found were taken to court. This meant that the Commission did not secure leverage in settlement from the prospect of litigation, and that there was a double standard—one for conciliation and one for litigation.

As we move into our new system we will redefine reasonable cause to mean that the case is worthy of litigation. The attorneys

and investigators—now located into the same office—will participate in a litigation-investigation conference before the finding of reasonable cause. With the knowledge that the reasonable cause decision means the case is litigation-worthy, conciliation efforts will be much more successful. Those cases which do not meet the new standard of reasonable cause will be "no cause" and a notice of right-to-sue issued. We will explain that the standard of reasonable cause has been upgraded so as not to disable those whose cases are rejected from having a fair opportunity to litigate if they wish to do so.

Cases in which conciliation has failed may be taken by private attorneys or referred to the General Counsel for recommendation to the Commission for litigation. If the Commission approves the recommendation the case will be sent back to the district office and the litigation will be conducted in that office under the direction of the General Counsel.

There need be no fear that this new and tighter standard of evidence for finding reasonable cause will adversely affect remedies for complainants. Based on actual experience from other agencies, the tightened standard of reasonable cause should: 1) increase the rate of remedies at earlier stages; and 2) increase the likelihood of successful conciliation after the reasonable cause decision. Under our rapid charge processing system, cases will move much more quickly to the reasonable cause stage, and cause may be found in cases which, under the old system, would have been dismissed as stale. Thus I am confident that the Commission will do justice for more people than under the old system.

SYSTEMIC DISCRIMINATION PROGRAM

The next principle is the necessity to establish an effective program to attack discrimination. As I stated to the Senate Committee on Human Resources at my confirmation hearing, I am convinced that only by an effective attack on entire systems that discriminate can we have any significant impact on discrimination and ultimately achieve the objectives which Congress established in Title VII. Only an organized program can cope with patterns of employment discrimination. The primary vehicle for our systemic program will be use of Commissioner charges.

I am aware that the filing of a Commissioner's charge alleging discrimination will require considerable time, effort, and expense by respondents. It is only fair that the initiation of these charges of discrimination be organized on a rational basis before the government imposes such costs on respondents. We intend to develop a rational and sensible basis for proceeding on systemic discrimination matters. A first indicator will be a poor statistical profile of minorities and women. The Supreme Court in the Hazelwood School case indicated that, where relevant statistics demonstrate an employer has fallen significantly below comparable employers, there exists a prima facie case of discrimination. This decision provides support for aggressive action to correct discriminatory patterns.

We have already begun an analysis of our own statistical data to identify appropriate subjects for further inquiry. While we will emphasize the statistics, the net judgment as to whether to proceed will be based not only on the statistics but on all other information available to us and to other governmental agencies, as well as on an analysis of petitions for a systemic inquiry filed by individuals and organizations.

Settlement will be as important in systemic cases as in individual cases. At all stages we will be prepared to settle with respondents with an agreement which ends the past discrimination, to take affirmative action to assure that there will not be discrimination in the future and to provide appropriate compensation for identifiable victims of discrimination. Strict monitoring of agreements and assistance to employers in meeting Commission requirements will be important elements in the program. My experience in New York is an indication of the high impact systemic work can have. Last year in a particularly entrenched economy, the New York City Commission secured new jobs and promotions for women and minorities, of the value of $20 million dollars.

Generally, the systemic program will be developed in headquarters and executed in the district offices except for those matters which transcend district boundaries.

AFFIRMATIVE ENFORCEMENT OF TITLE VII

The next principle is that the Commission must make affirmative use of the wide range of administrative powers available to it to enforce Title VII. By advising those subject to the law of our interpretation of it, we hope to reduce dependency on the litigation of individual cases in achieving compliance with Title VII, the slowest and most arduous way to achieve conformity with law. We have already begun this process. Before the Commission secured the power to litigate, it engaged in very effective, creative administrative activities, particularly in issuing guidelines and publishing reasonable cause decisions. In this fashion, the Commission played a major role in developing the law of Title VII. For example, the Commission shaped the interpretation of the "bona fide occupational qualification" exemption and the concept that selection procedures which adversely affect minorities or women were required to be job related.

The Commission will formally establish its activities in the field of interpretations and guidelines, in order to secure wide-scale conformity to Title VII with a minimum of specific individual proceedings. We began this function on July 12, 1977 when we issued our interpretation of the decision of the Supreme Court in *Teamsters v. United States* and *Evans v. United Airlines*. To assure that this activity continues we will establish a headquarters program to support on an ongoing basis the affirmative enforcement aspects of the administrative process. This program will consider and recommend to the Commission the adoption of interpretations, guidelines and the holding of hearings, as well as other Commission-initiated activities.

MANAGEMENT ACCOUNTABILITY AND INFORMATION SYSTEM

The next underlying principle is the need for sound and careful management in order to balance the three priorities described above—the processing of old cases in the backlog, converting to a new rapid case processing system and developing a systemic program. Balancing these priorities in district offices will require a highly effective management system. That system will be modeled after the system which I installed in New York, whose results were so effective that the New York City Commission on Human Rights became the first agency in city government to win decentralized authority over important personnel and budget decisions. A system, which holds managers of all functions at the Commission accountable for their performance will be instituted. The Management System will have four major parts: a) a prioritized and detailed statement of the agency's missions and program objectives within each mission; b) a performance and resource plan with objectives and goals jointly developed by line managers and the execution director; c) a systematic way to identify and correct specific operational deficiencies with deadlines for accomplishment; and d) a system for anticipating critical issues which must be faced during each quarter, thus avoiding management by crisis. Agency managers will be held accountable for meeting the objectives of the management plan and will be evaluated accordingly.

Our computerized and manual information systems are already being revised to assure that the new case processing system is measured from the first day of implementation. Both management and planning depend on good and timely information. We have found several independent and uncoordinated information systems at the Commission, and this fragmentation makes effective planning and management virtually impossible. We are transforming them into a unified information network so that management and planning can take place effectively. Within this information network we will be able to encompass all the operations of the Commission and of the 706 deferral agencies along with as much information about private Title VII litigation as possible.

UNIFORM STAFF TRAINING AND STANDARDS

The final principle is that systematic training of staff will be necessary if the reforms I have described are to take hold and prove effective. The Commission resolution of July 20th has centralized in headquarters responsibility for training. This will facilitate the development of uniform and high quality standards of staff performance. Already in progress are ten training modules. These are to be used not only to introduce the new programs, but also to train new personnel who come to the Commission after the new programs are in effect. Thus they will afford an ongoing training capability which the Commission has not had before. They will also be available for use by state and local civil rights agencies. Examples of training modules in preparation include materials to assist lawyers and investigators in working together under the new standard of reasonable cause; to develop investigative skills necessary to conduct a fact-finding conference; and to train personnel for in-depth interviewing of complainants and the drafting of more precise charges as part of the new comprehensive intake procedures.

*Progress on other issues*

In addition to fundamental issues of organizational and procedural reform, which I have just discussed, I have also addressed a number of basic issues and operational matters that have long concerned this Committee and the public. I should like briefly to report on progress concerning them.

These issues include the dual set of selection guidelines, the problem of centralized line authority at EEOC, financial responsibility, vacancies and hiring control, grievance procedures, union relationships, state and local agencies, the private bar and the role of other Commissioners.

*1. Selection guidelines*

First, on the morning I took office on June 6th, I set in motion the process of resolving the separate and competing federal selection guidelines. This most exasperating dilemma had been under negotiation for four years, ending with an impossible situation in which employers are confronted with two sets of standards from the federal government. I am most pleased to report now that there has been excellent cooperation among the Assistant Attorney General for Civil Rights, Drew Days, Civil Service Commissioners Campbell, Poston and Sugarman and the Assistant Secretary of Labor, Don Elisberg; that the staffs of the agencies have been directed to develop unified guidelines; that an informal draft prepared by Justice and EEOC has been developed; and that comments on this draft have served to sharpen and narrow the issues, to the point where I am now hopeful that we will shortly produce draft uniform guidelines for public comment.

*2. Orderly line of reporting at EEOC*

Second, we have met the criticism of diffuse authority within EEOC by establishing a reporting line of command directly through my newly appointed Executive Director to me. I moved immediately on arrival to consolidate the fragmentation and the separate and often competing efforts among staff units. In the first week of my administration, headquarters offices were ordered to go through the Executive Director on all matters that were to come before the Commission, and this is being uniformly adhered to. In the second week, line authority was reestablished directly from the regional offices to the office of the Executive Director. Weekly meetings were organized with all office directors to coordinate activities, reports on new developments, and review all matters affecting more than one office.

*3. Installation of new financial system*

Third, I moved to clarify a tangled financial situation and to establish fiscal responsibility. Immediately upon coming to EEOC I found a difference of opinion between the financial office and the Internal Audit unit, on an over-obligation matter that had previously been raised by the General Accounting Office. A special investigation, which I ordered immediately, has now resolved the issue, revealing that there was no over-obligation, but that the former fiscal system was in such poor repair, that it was virtually impossible to make a proper accounting. An improved system, fully accountable has since been developed and we are working on the computer capability to make it functional. We have reported fully to the General Accounting Office. A copy of our final report is being made available to this Subcommittee. We are now moving on target toward a completely reliable financial system to be operational by the beginning of the new fiscal year.

*4. Vacancy rate corrected*

Fourth, we have corrected the situation in which we were carrying a large number of vacancies without appropriate personnel action. Today the opposite situation obtains. A new vacancy control unit has been established which is not only approving vacancies but must control them so that jobs are filled only when absolutely required and only when consonant with projected reorganization.

*5. Employee use of internal grievance processes*

Fifth, I am taking action on a distressing grievance situation in which an unprecedented number of compliants were brought against management either through the standard labor-management grievance machinery or through the equal opportunity discrimination apparatus.

This has produced an unfortunate climate in which some managers hesitate to make difficult decisions and evaluations. I have ordered a study of the various grievance mechanisms to see where and how this might be approached. I have also informed all managers that their job is to manage and that I will stand behind them firmly if they demand accountability and are fair in their evaluations. I believe that the climate of charge and counter-charge is already being reversed.

*6. Labor-management relations*

Sixth, I sought a meeting with the union at the agency during my first week in office in order to establish a relationship that will minimize tension in labor-management affairs. Any difficulties flowing from reorganization can be dealt with through open consultation and exchange of opinion. We have already begun to consult with union officials on a regular basis to provide them with information and to receive the benefit of their thinking.



*7. Sec. 706. Deferral agencies, private bar, law school, and legal organizations*

I am moving to use available outside resources to help the Commission in its operations. Heretofore, these groups and agencies, which receive grants from the Commission, have often had no systematic relationship to the workload of EEOC but operated entirely independently. As the 706 agencies, the law schools, the public interest legal organizations and the private bar begin to handle an increased case load, it becomes apparent that we need to view them as an integral part of the overall equal opportunity machinery. We are beginning to fashion improved and uniform standards for national intake and charge notification forms, procedures for the efficient sharing of work and a formula for a fair and rational allocation of funds. The 706 agencies will be brought into our training system, and in the next round of negotiations we will build in quality case processing standards, not contracts based on numbers of cases processed alone. Contracts with the law schools will similarly emphasize the need to produce programs responsive to, and integrated with, on-going EEOC operations.

I view the state and local 706 and 709 agencies as associates in a national anti-discrimination effort. They are neither adjuncts of the EEOC nor unrelated institutions. At our request, Congress recommended in its most recent appropriations bill for EEOC, that we establish a system of improved and uniform standards for the more expeditious processing of charges for FEP agencies. We are establishing a national case processing system with national standards, universal forms and procedures, and standardized reporting. State and local agencies will be better used in case processing. Currently over 60% of the charges filed with EEOC are deferred to these agencies. Yet they process only 22% of the annual resolutions. The reasons for the fall-off are varied. Many of these agencies are backlogged. Large numbers of charges are sent back or not filed with the local agencies, with the loss of 60 days of valuable processing time. And, the lack of clearly articulated uniform standards for investigation and charge resolution may result in the rejection of local agency findings. The EEOC has the responsibility to address these problems and is currently doing so. Of course, we will fully consult with the state agencies as these plans and programs are being worked out.

The law schools and legal organizations are another important resource which has not been used to the maximum benefit of the Commission. We are currently renegotiating all private bar funding contracts so they will contain provisions ensuring the promotion of a national litigation system.

*8. Development of Collegial System to better use Commissioners in operations and policymaking*

Eighth, I am working to correct the criticism of this agency that commissioners have been underutilized, thus diminishing the Commission's overall capability. I am working with the commissioners to establish new roles, specific responsibilities and a collegial decisionmaking system. I have instituted weekly briefings for commissioners and their staffs to familiarize them with issues as they emerge so that they are involved and contributing well before an issue appears on the Commission agenda. Formal commission meetings are to be used for extensive reporting on agency operations and programs to get maximum participation from commissioners in the formation of policy and programs.

CONCLUSION

We believe that structural and procedural reforms I have described here today and the work being done to meet specific problem areas will correct the major deficiencies of the Equal Employment Opportunity Commission and make the Commission the effective instrument for eliminating discrimination that Congress intended it to be. This Committee over the years has done an outstanding job in focusing on the problems of the Commission and pointing it in new directions. I welcome your oversight and suggestions. I hope you will allow me to come back on a regular basis to report on our problems and progress.

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## OCCUPATIONAL SAFETY AND HEALTH

Mr. DOLE. Mr. President, I would like to address a few questions to the distinguished floor manager for the pending conference report. The amendment I sponsored on OSHA consultation practices was deleted by the conference. As you know, the Dole amendment would have required OSHA to consult with any employer after the OSHA inspector had found a nonserious and nonwillful violation of OSHA regulations. If the violator corrected the problem within a reasonable time, he could not be fined or cited.

I know that the Senator from Washington and the Senator from Massachusetts strongly supported the Senate's position in the conference. I understand this amendment was one of the last items settled by the conference committee because the Senate conferees were strongly committed to the intent of the amendment. Nevertheless, because of the adamant opposition of some Members of the House delegation the amendment was deleted and report language was adopted in its place. The conferees have directed the Secretary of Labor to develop a detailed plan for provision of mandatory consultation services for all small businesses in the United States.

My amendment received a board spectrum of support from individuals and business groups across the country. These people, who have had first hand experience with OSHA's heavy handed regulations and fines, spontaneously and almost unanimously voiced their approval for the intent of my amendment. Unfortunately, one of the largest groups representing small businesses withdrew their support at the last minute and opposed my amendment in conference. The reasons are unclear for their change in heart, however, I hope that the next time I sponsor an amendment to help small businesses that I will have their complete and lasting support.

In reading the report language, I have seen one possible ambiguity. Because this language was part of a compromise on my amendment, I assume that the mandatory consultation plan the conferees intend to have developed will focus on consultation after violations have been found.

Mr. MAGNUSON. It is my understanding that is the intent of the conferees on this matter.

Mr. DOLE. The alternative interpretation would be a mandatory plan which forces employers to seek OSHA consultation. Would the Senator agree that the Secretary of Labor should not interpret the conference report as a mandate to compose a plan forcing employers to have mandatory consultation outside of the inspection process?

Mr. MAGNUSON. That is the way that I read the language. I believe the conferees intended this mandate to be interpreted in light of the Dole amendment

which addressed consultation after the normal inspection process.

Mr. DOLE. In light of the large vote for the Dole amendment in the Senate, 61 Senators in favor and 27 opposed, does the distinguished Senator from Washington intend to include the Labor Department OSHA report on the agenda for committee consideration next year.

Mr. MAGNUSON. That is why the due date of January 1, 1978 was selected, so that the report would be available for committee consideration next year.

Mr. DOLE. I thank the Senator from Washington and the Senator from Massachusetts for this clarification and for the support he gave to my amendment in the conference committee. I also want to make it clear that I intend to continue my efforts for the reforms contained in my amendment. I firmly believe that small businesses across the country are hurt unfairly by the current OSHA law. These employers simply cannot afford to obtain the technical advice needed to comply with every OSHA regulation.

The intent of the OSHA law is to make work places safer and more healthy for every American worker. The Government can never achieve this goal without the cooperation of businessmen. If no fine could be imposed when a nonserious and notwillful violation is promptly corrected, the feelings of employers toward OSHA would be vastly improved. The two-fold thrust of my amendment requiring consultation and peventing imposition of a fine if the nonserious and nonwillful violation is corrected, would be a major step toward a reform of OSHA.

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## LT. GEN. SAMUEL V. WILSON

Mr. HARRY F. BYRD, JR. Mr. President, the Freedoms Foundation at Valley Forge has presented its George Washington Honor Medal for the Public Address category for the Bicentennial Year to a dedicated American, Lt. Gen. Samuel V. Wilson.

The occasion for his address was a bicentennial program at Farmville, Va., on July 4, 1976.

It is an inspiring commentary on this Nation's need to pursue the basic fundamentals that have been its rock and its substance, and it suggests a vigorous future for this country if these qualities continue to endure.

General Wilson has served with distinction as Defense Attaché in Moscow, as Deputy Assistant Secretary of Defense for Intelligence and Resources Management, and now serves as Director of the Defense Intelligence Agency.

Mr. President, I ask unanimous consent that General Wilson's address be printed in the RECORD.

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

BICENTENNIAL PRESENTATION, INDEPENDENCE DAY, JULY 4, 1976, FARMVILLE, VA.

Some years ago, a young President of the United States, told the American people, "This generation has the power to be the best or to be the last." How much has happened since John Kennedy told us that and depending on how you measure a generation—I'm never quite sure where one begins or ends—one more may have come along—but his words are still very true—and they should be our challenge today.

The best or the last—which will it be? Maybe some of you are aware of the dire predicitions that this will be the *last* for America. Seems that before this Nation ever began as a shining example—a British historian, Alex Tyler, offered the theory that a Democracy cannot exist as a permanent form of government—that it contains within it the seeds of its own destruction. He theorized that a democracy would only last until the voters discover that they can vote themselves benefits from the National Treasury. That discovery would be followed by the election of those who promise to expand the benefits until the point is reached when the Nation goes bankrupt. Not a pleasant thought.

Now couple that with another theory—this one based on an historical research which suggests that the average life expectancy of a great civilization is right at—get this—200 years. Those who hold to these theories would turn our Bicentennial birthday party into a wake—but I hope you agree with me that the title of a DeSeversky book a number of years back still is more apropos—recall he wrote about an "America: Too Young To Die."

America has made it to 200 years—through good times and bad—in sickness and in health—through inflation and times of prosperity—in peace and in war. We have survived to celebrate this Bicentennial. But the question I keep hearing more and more—do we dare plan a Tricentennial?

Nor does the question seem to be asked in the calm of logic—or the ground of historical perspective—no, rather we hear it in the roar of the doomsayers—the loud clamor of those who think they see the end of this Nation—see it slip to number two—and then continues a downward trend. Amid this loud weeping and gnashing, it is sometimes difficult to pick out the quiet sounds of the more confident—especially the voices of those who have walked this way before—who carry with them the wisdom of days gone by. Perhaps, for a moment, at this Bicentennial celebration, we should turn the volume down on the shrill harsh screams of the present, so that we can better listen to the voices as the past speaks to us.

And those voices speak to us today. Can you hear Thomas Paine? He looked around his world and he too saw "crisis." He characterized those days as "the times that try men's souls." He forecast that there would be drop outs when he said "the summer soldier and the sunshine patriot will in this crisis shrink from the service of their country." Listen as Paine speaks to us today as he adds for all who would hang in there. "Tyranny, like Hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph. What we obtain too cheap, we esteem too lightly; it is dearness that gives everything its value. Heaven knows how to put a proper price upon its goods; and it would be strange indeed if so celestial an article as freedom should not be highly rated." (The opening paragraph, "The Crisis," 1776).

Now eavesdrop on a conversation in Philadelphia. When the discussion of what kind of Nation America should be was over, a woman is reported to have asked Franklin, "What kind of government have you given us? And Franklin, reflecting on the frailty of the new Nation, and predicting the doomsayers heckling even to today, said, "A republic, madam, if you can keep it."

Listen to Franklin today—"A republic, ladies and gentlemen, but only if we can keep it."

Not all of our forefathers reeked of confidence that the Nation would see a centennial, let alone a Bicentennial. John Adams, close enough to the dream to have thought better, is speaking. Hear him prophesy, "There never was a democracy that did not commit suicide." Disturbing? It shouldn't be—he just presented the other side of Franklin's coin—that of the *need* for you in the USA. If the Nation is to survive, Franklin told us, it's up to us to keep it; if it is to die, it will be we who kill it—the suicide that Adams speaks of. Perhaps what those early voices are saying to us is that this happening called America cannot be taken from us—but we do have the power to give it away. You may not have thought about it, but that is a distinction the Founding Fathers didn't want to allow when they wrote the Declaration of Independence. When Jefferson penned the original draft, he wrote of *in*alienable rights, but the revision committee—Samuel Adams, Franklin and himself changed it to *un*alienable. The distinction is significant. *In*alienable means it can't be taken away without consent of the possessor, but he may sell it, abandon it, or give it away. *Un*alienable is now an archaic word, but in Jefferson's time it had a precise meaning and was commonly used. It meant that which could neither be taken away nor given away. We have to listen to those voices of the past tell us of an America that should not be able to be taken nor given away.

Other nations have not listened to their voices and their fates are well known. It is sometimes helpful for perspective to recall that when this Nation was founded, there was a Holy Roman Empire, France was ruled by a king, China by an emperor, Russia by an empress, Japan by a shogun—Germany and Italy weren't even nations—just conglomerates of bickering principalities—Venice was a republic. Now in the time it has taken for America to grow, all of those ruling regimes and scores of others have passed into history. Are we listening America? We should be.

Do we hear Zachary Taylor in 1849 sum it up beautifully when he says, "The prediction of evil prophets who formerly pretended to foretell the downfall of our institutions are now remembered only to be laughed at. The United States of America at this moment presents to the world the most stable and permanent government on earth."

No, I don't think America was listening sincerely years later as it prepared for a Centennial celebration. 1976 America—we who survived the second hundred years—listen to how it was in 1876—and draw some encouraging parallels. The Nation was still smarting from the wounds of a most decisive war—the Civil War—recalling too clearly how its military was ignobly defeated by an indigenous guerrilla force, because as the celebration began in Philadelphia, word came that Custer's entire command had been wiped out at Little Big Horn, reeling under an economic situation that saw salaries virtually slashed in half in the panic of 1876, looking for help from a government that was virtually dismantled by scandal. And when Tilden out-polled Hayes for the Presidency, Congress gave it to Hayes anyway. Lynch law was rampant. Sound familiar?

Do you think the clamor went up in that Centennial Year? Do you think there were people around this country predicting that we would ever see this Bicentennial Day? You bet there were—and there were some who would have given up—thrown in the towel—accepted what they called fate. And suppose they did—what a loss for the world—no cure for polio—no heavier than air flight—no man to the Moon—but even more important—no nation to intercede in World War I, none with the resources to defeat the Axis in World War II—none to frustrate the Communist surge of the past thirty years for world domination. In short, none to preclude slavery for the world.

Some were listening but it seems that

there have always been those who wonder "how long can it last." Can you decipher the accent as the French historian Guijot asks the American poet, James Russell Lowell how long the American Republic would last? You shouldn't have any trouble with Lowell's answer. "It will last as long as the ideals of its Founders remain dominant." And that places the burden not on outside forces—but squarely back on us. When we hear the voices they whisper one theme, "It's up to us." If we listen carefully, we can hear more recent voices. A Roosevelt speaking of nothing to fear but fear itself. More familiar voices—not from two hundred years back, but thirty-two years—not from Concord, but from Omaha Beach, on the coast of France, D-Day. We recognize those voices—and the names are in our hearts, as well as on the tablet—the men of the 166th—our sons, nephews, cousins, school-time friends who speak to us today—of confidence and courage, if, we like they, are willing to pay the price.

The message of the voices is loud and clear—and it is simply, America is alive and well—and will stay that way until Americans choose otherwise—and nobody wants to consciously make a choice like that. Perhaps one more voice we should hear in warning is that of Carl Sandburg. From his great grasp of history he wrote the poetic analysis—and it should tell us what we must do.

"When a society or civilization perishes, one condition may always be found.

They forgot where they came from.
They lost sight of what brought them along.
The hard beginnings were forgotten and the struggles.
Unity and common understanding there *had* been.
—enough to overcome rot and dissolution.
—enough to break through their obstacles.
But eventually the mockers came, and the deniers were heard.
And vision and hope faded,
And the custom of greeting one another
Became—"What's the use?"
And men whose forefathers
Would go anywhere
Holding *nothing* impossible
In the genius of man
Joined the mockers and deniers
Not knowing the past, they lost sight
Of what brought them along."

Are we listening America? Mr. Sandburg—indeed all of the voices from the past are plainly calling for a return to the fundamentals that made this Nation great.

But isn't it true, doesn't history and personal experience both tell us when a nation or an individual starts doing "pretty well," like America has been—there is a great temptation to drift from the path that was so important to success—to back off of the fervor and the spirit that was responsible for achievement—to begin to avoid what I call responsible citizenship and permit certain individual material goals to become paramount.

I am talking about a fundamental attitude that speaks of public unconcern amid personal self gratifications—resulting in less involvement in elections, less concern for the schools, less everything for the community—more for ourselves. You realize that isn't the way it all began in America—that isn't what "brought us along"—that isn't the way most of us recall it from our childhood—and I don't think that's the way we want our kids to recall it either.

There is a story you may have heard about the festival in France that is apropos. There was a little village in France that held its traditional harvest festival—a week of celebration and thanks. As each family began to gather its part of the food and drink, the villagers decided to make the filling of the wine barrel a cooperative effort. Each family was to bring its own wine, the wine they had made themselves, and put it into the community barrel. At the climax of the celebration the mayor was asked to open the barrel and begin the round of toasts. When he opened the spigot, however, and tasted the first glass, he discovered it was only water, *only water*. You see, each villager, not willing to give of themselves, had brought water—saved his own wine at home. Each one was so sure that, in so large a barrel his little water would never be noticed.

That can't be permitted to happen in this nation—and it's up to each of us to do something about it—we are going to have to give of ourselves—contribute the results of our work as a committee of ones to the community—bring our wine—not water.

For a more modern reference, consider the title of Gayle Sayer's book. The great halfback for the Chicago Bears said a lot in his title—"I am third." He was indicating that God and his fellow man came before himself. I'd suggest that our title might be an even higher number, perhaps "I'm fifth—or I'm sixth," placing at least country and community in that sequence ahead of ourselves.

Let me tell you I know a return to the fundamentals is expensive—because it costs in self—the toughest price to pay. It demands involvement, not in your own private little world, or even your family—but in the community family as well. Placing country and community ahead of self doesn't allow you to sit back with a receipt or a refund from the IRS and say smugly, "I'm paid up"—because it won't let you believe that you pay for liberty with tax money. You pay with *your* time and *your* self. You see like the folk song says, "Freedom Isn't Free, You Have To Pay the Price, You Have To Sacrifice, For Your Liberty." That hasn't changed in 200 years—and it isn't about to change now.

What we have to ask ourselves is are we still listening or have our values changed? Do we still price this Nation, and the heritage that is ours as highly as we used to or ought to—or have we allowed indifference and apathy to mark down the most priceless of gifts,, And if we say "sure we still value the Nation as highly as ever," then *we* must ask, are we willing to pay the price?

At this point, I believe you have a legitimate right to ask, "What do you want us to do?" I'd say for the most part—just keep doing what you have been doing, doing so well for so many years. But as you do, feel the burden to guarantee that your children, and their children will also continue your fine tradition. For you see, the answer to whether we get an American tricentennial really rests with them.

We pride ourselves here in this area for the great educational opportunities we give our kids—both high school and college systems.

Complacent? Probably. We have to guard against the Euphoria of apparent success with our youngsters—we can't afford to get lost in the shuffle like some schools and some parents who have lost the whole ball game are lost—on the fundamentals—the kind of fundamentals our teens need to prevent them from fumbling their lives—and this nation's future away.

It's a highly technical world. There is the need for the technical information—the physics, chemistry, mathematics and all the rest. I feel that Farmville—indeed, most high schools and universities throughout the nation—are geared to do that—and are doing it successfully. But, more is required—for example, we can get anyone to teach English, but who can we get to teach honest communication? We can get anyone to teach philosophy and study what is true and what is good, but who can we get to teach integrity? We can get anyone to teach American history, but who can we get to teach patriotism? Yet, honest communication, integrity and patriotism are fundamental to the success of this nation—vital to the continuing existence of our way of life.

And I think you understand that our way of life isn't for just anybody—you have to be something special. I used to think differently, used to believe that those fabulous precepts of Locke, Rousseau, Paine, the Adams, and my personal hero, Thomas Jefferson, were for all people—could be exported. My experiences with Vietnam and in Russia have convinced me differently. It takes a special kind of person to be able to handle it, one with special moral fiber, personal discipline, and a great deal of maturity. That isn't every man, nor is it every nation.

Let me tell you why. For our system to work properly, we have to establish the highest possible level of tolerance for dissidence, short of anarchy.

Dissension has been woven into the very fabric of the nation. And, it is the supreme virtue of our system that, rather than tearing us apart, our crises have forged us into a more cohesive people.

But we must understand that dissent is expressed only because we are a free country—our Constitution embraces dissent. In order to have progress, we must have dissent with the status quo—and we certainly do. We must express ourselves, discuss things, get them out of our system, scrub them down, go on to try to do what's right. That we do have dissent doesn't bother me—dissent can be patriotic, you see, dissent is founded in freedom—our heritage from the greatest form of government devised by man—based upon the principle of freedom under law—of respect for the dignity of each individual. But many of the dissenters are not patriots—they're anarchists. The difference is an important one—for both dissent—both seek change. But the patriot does so within the framework of the law—from which freedom and justice for all Americans is derived—he is *con*-structive—while the anarchist expresses his dissatisfaction ouside the framework of the law—he is *de*-structive. We must listen to the patriot—we must not tolerate the anarchist.

So, you have to have a special people—enlightened and responsible citizenry. One example will suffice—just look at our system of law. In order to insure the maximum protection for the innocent, sometimes the guilty go free. Now it takes a special kind of maturity to understand that—to accept it as a necessity to insure the level of protection of the innocent—to resist the temptation to take advantage of it—following the example of the evil doer—forgetting that right is right if no one is right—wrong is wrong if everybody is wrong—a fundamental we have known here since the very beginning. That is the special brand of maturity that has to be inculcated into our children.

Maybe you, like I, were frightened in the mid 60's with the demonstrated lack of this maturity on the college campuses all over the Nation—in the inner cities of Watts, Chicago, Detroit. We survived that—due in main to what I have said—the Nation can accept dissidence—to a point. So it really takes something special. Jefferson, as usual, hit the nail on the head when he said, "I know no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with wholesome discretion, the remedy is not to take it from them, but to inform their discretion."

So, it is an education process—and one that has to be conducted, not in the schools alone, but in church and family. You know that—have produced it for years. The best instructor is "good example"—and we are all a necessary part of that. Day-in and day-out, we must be infusing our children with the same important principles, the same understanding, the same maturity that the voices of the past have given us—that have made possible a bicentennial.

That is the red wine we bring to the barrel—and that sometimes is tough. But it

sometimes gets even tougher. As harsh as it may sound on this great day, there's another part of the understanding, the principles and the maturity we must consider. Involvement may be enough—but when those who would threaten us rise up, there is a clear call for the ultimate involvement—putting your life on the line. It may be necessary for some of us to send our sons, even as our parents sent theirs—some will have to pick up the rifle, march away, maybe not to return—even as our friends and reatives honored in marble have done. For that is the ultimate involvement, the shouldering of the burden to insure the Tricentennial. With the day-to-day red wine, there may be—God forbid it—there may be—the occasional red blood. And we will have to bear it—we can't all run off to Canada or find reason to be Four-F and still expect a Tricentennial.

You ask again, what can I do? I answer in a shorthand I hope you understand—wine and blood, in a single word, patriotism.

Now for some reason, in this country, it has never been considered manly to talk about being patriotic—only to show it. Then it became fashionable to be against even showing it. We have to turn that around. I'm not suggesting that patriotism is proclaiming you love this country with a bumper sticker, or even a flag on the holidays—you have to proclaim it with personal effort. We have to give example, provide an atmosphere that fosters love and appreciation for the Nation. Don't worry if you can't define patriotism. It's one of those ideas that is too hard to pin down. Like leadership or love—if you attempt to define it—you put a fence around it—limit its scope. It is much too complex to be imprisoned in words. All you have to remember is that patriotism is a love—a love of country—and love is something we all can grasp. It is for richer—for poorer—in good times and in bad—it is loyalty that develops an attitude to serve—to sacrifice—even your life—to protect honor and country. That is what patriotism is all about—and it's an every day affair. As I see it, those voices of the past are trying to tell us that we must return to the fundamentals that have carried this Nation through the first two hundred years—that we must practice them ourselves and devise ways to communicate them, instill them, root them deep in our young people. Are we listening?

If we hear and heed, then the doomsayers, the pessimistic heirs of those who predicted no Bicentennial for America, those who now feel there is no hope for a Tricentennial, will have their sounds drowned out by the thundering whisper of some future Americans joining voices with ours and those of the past to procaim—oh, say does that Star Spangled Banner yet wave—over the land of the free and the home of the brave.

You bet it does.

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## SENATOR RUSSELL LONG—CARRYING ON THE FAMILY TRADITION OF PUBLIC SERVICE WITH DISTINCTION

Mr. HUMPHREY. Mr. President, I would like to take just a moment to call to the attention of my fellow Senators a superb article on a fascinating subject—our colleague, RUSSELL LONG.

The August 1977 issue of Nation's Business has a well-researched article written by senior editor Vernon Louviere on RUSSELL which weaves the historical background of the Long family with the issues facing the Senate today.

As you know, RUSSELL is the third Long to be a Senator. Both his father and mother preceded him, serving here with distinction and honor.

RUSSELL and I have been friends a long time, longer than I care to recount in public. We attended college together at LSU in his native State of Louisiana—and that does go back a few years.

Mr. President, I ask unanimous consent to have printed in the RECORD a very fine article about a very great Senator.

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

SENATOR RUSSELL LONG: HE CAN INFLUENCE YOUR LIFE FOR YEARS TO COME

At 1600 Pennsylvania Avenue N.W., in the White House, Jimmy Carter ponders legislation that will affect the nation for years to come—legislation involving taxes to pay for Medicare, welfare, Social Security, and massive new health programs.

On Capitol Hill, less than two miles away along the avenue, one senator will pass judgment almost single-handedly on what President Carter gets or doesn't get in these areas.

Russell B. Long (D-La.) is chairman of the Senate Finance Committee, and, as such, his decisions influence the lives of all Americans. The man who fashions the tax policies of this nation ultimately touches us all.

Although he has almost as much power as any man in Washington, Sen. Long rarely, if ever flaunts it publicly.

NO CHIP OFF THE OLD BLOCK

The son of flamboyant, outgoing, petulant Huey P. Long, Louisiana governor who also became a U.S. senator, he is no chip off the old block. Huey Long, who was felled by an assassin at age 42, when Russell was 17, did pass on many of his traits to his son. Russell Long is clever—some say brilliant. He is a master of legislative tactics and strategy, and he is a good storyteller. But the Kingfish, as Huey Long was called, was a spellbinder before an audience. Russell is rather lackluster.

Huey Long "was more a revolutionary," Russell Long says. "I am more the evolutionary type."

Russell Long shows no outward signs of wanting to be President, as his father did. Huey Long published a book in 1935, the year he was assassinated. It was called, "My first Years in the White House."

DEFEAT FOR ROOSEVELT?

"I think he would have been elected in 1940 if he had lived," Russell says. "He would have run as a third-party candidate. President Roosevelt had polls indicating that Huey Long would get so many votes as a third-party candidate in 1936 that a Republican would run ahead of Mr. Roosevelt.

"If that had been the case, and the people had gotten four more years of the kind of government that they had under Herbert Hoover, the public would have been inclined to look toward someone like Huey Long. At that point, I think, he would have had a chance to win."

NAME TO RECKON WITH

After Huey Long came out of the scrub country of northern Louisiana in 1918 to serve in his first elected office, as a member of the old state railroad commission in Baton Rouge, the name Long became synonymous with politics in the Bayou State. It still is.

The Kingfish dominated the political scene during his years as governor and senator. Russell Long's mother, Rose, completed Huey's unexpired term in the Senate. Russell's tempestuous uncle, Earl, who took over the so-called Long political machine in 1935, twice served as governor and won a seat in the House of Representatives in 1960, but died before he could take office.

Another uncle, Dr. George Long, a dentist, served in the House. So did a distant cousin, Speedy Long. Another distant cousin, Gillis Long, is an incumbent congressman.

A SENATOR AT 30

Russell Long's own plunge into politics started early. After a colorful, hoopla-filled campaign, he was elected president of the Louisiana State University student body. He later received his law degree at L.S.U.

In 1948, at age 29, he won a special election to fill the two-year unexpired U.S. Senate term of the late John P. Overton. He had to stand aside briefly before taking the seat because the Constitution sets the minimum age for a senator at 30.

Today he is sixth in seniority in the 100-member Senate, having served half his life there. He was named chairman of the Senate Finance Committee in January, 1966, after Sen. Harry F. Byrd, Sr. (D-Va.) resigned for health reasons. At 58, Sen. Long has been a Senate committee chairman longer than all but four other chairman. Some chairmen are in their late 70's.

Sen. Long has been described as a conservative, a liberal, a populist, and a reactionary, depending on who was hanging the label on him. In an interview with a Nation's Business editor, he said of himself:

"I am a populist in some respects, and I would like to think I am a conservative in other respects. I think some of the best senators and best Presidents are both conservative and liberal by the best definition of those words. If you mean conservative because they favor keeping the good things about the existing order, I would call them conservatives. And if you mean liberal because they favor aggressive, constructive change, I favor that.

"In some respects I even regard myself as a reactionary because there were some very good things in our lives that we let get away and should try to regain. Some of the old values had much more to be said for them than some of these new values we hear so much about. Whatever it was that gave us our inner strength as a nation, we should try to recapture it."

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Last year he took on Sens. Kennedy and Proxmire, who had leveled such accusations. In a lengthy letter to "The Washington Post," the Louisiana lawmaker said:

"If the ringleaders of the false tax reform group had their way, they would not return the revenue gains of their 'reforms' to taxpayers by lowering tax rates. They would end many of the incentives which encourage private enterprise to expand and to create new jobs, in order to plow these billions into bigger government, more bureaucracy, and ever-expanding social welfare programs.

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### CONFRONTATIONS WITH CARTER

Russell Long and Jimmy Carter probably will confront each other many times in the months ahead. One such confrontation could come over the manner in which the President seeks to shore up the Social Security system, which is paying out more than it is taking in. Among Mr. Carter's proposed solutions is to divert money from general Treasury revenues until Social Security can be restored to pay-as-you-go status.

"I have grave doubts about that," Sen. Long asserts. "It suggests that we simply bail out politicians who have promised more than they are willing to tax the public to pay for. They would do this with printing-press money.

"The way to avoid this is simply to put on enough taxes or else cut back on some of the windfall benefits."

Has Social Security been so burdened with new benefits, over the years, that the saturation point has been reached?

"We haven't reached that point," the Senator says, "but we have passed the point when we can provide additional benefits merely by changing our assumptions [economic yardsticks which attempt to forecast the effects of inflation and other factors on Social Security payouts]. When I first came to the Senate, we were financing Social Security on the theory that we would build up a trust fund of more than $200 billion by the year 2000. Then we began to change the assumptions to say that we didn't need that large a fund as long as we collected more money each year than we paid out in benefits. In due course we found we weren't even keeping up."

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The senator says Congress must recognize that every new Social Security system benefit will have to be accompanied by a tax increase or paid for in some other fashion. He is skeptical about using the income tax to finance Social Security.

"Some people criticize the Social Security tax as being regressive, but keep in mind that we have an earned income credit which is paid out of general revenues to reimburse the working poor for the Social Security taxes they pay," he says.

"In view of the fact that the Social Security benefits are weighted heavily in favor of people at the lower end of the economic ladder and against people at the upper end, it seems to me there should be no complaints that an income tax is more progressive than a Social Security tax."

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The senator says "many liberals and good, sincere labor leaders" contend that Social Security benefits can be broadened with money that is "provided by taxing five percent of the people in the upper income brackets without taxing the great majority of the other 95 percent." This, he says, is just so much foolishness.

"Income taxes on the average take 50 percent of the earnings of those in the top bracket. They are paying Social Security taxes for themselves and indirectly for others in the price of everything they consume. They are paying property taxes and all the consumer, state, and local taxes that the mind of man can conceive. They are paying high gift taxes, and when they die, up to 70 percent of what they own is taken in inheritance taxes."

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"This article points out briefly and clearly what is wrong with the President's proposed energy plan: It is an unmitigated disaster on the production side.

"The conservation side of the equation must be pursued. However, the most that this aspect can accomplish in the foreseeable future is to reduce the gross rate in energy consumption.

"To get at the energy problem in a way which does not stultify and impede the growth of the American economy, this country must place far more emphasis on the production side."

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The senator has equally strong views about correcting the welfare system, which he feels does not offer incentives that are adequate for getting the able-bodied poor to help support themselves.

He says he agrees with Labor Secretary Ray Marshall that private-sector jobs are preferable but that, when they cannot be provided, the government should step in and make jobs available.

"We are generally talking about families of two, three, or more members where at least one person is able-bodied and in a position to earn some pay," he explains. "We should offer a work opportunity sufficiently rewarding to move that family out of poverty.

"If such jobs are turned down, this kind of family should not be privileged to live on the tax money of people who are working at the same relative wage scale and are paying their fair share of taxes.

"I don't want anyone to starve, of course. But I see no reason why help should be extended to those who are able and yet reject employment opportunities."

Sen. Long thinks true welfare reform will finally come about someday. He doesn't know when.

Among the senator's proudest accomplishments is that he was able to help block adoption of President Nixon's proposed family assistance plan, which would have added low-income wage earners to welfare rolls for the first time.

"This would have doubled the number of people on welfare immediately and quadrupled the number in time," Sen. Long explains. "If this legislation had passed, our form of government could have been destroyed. There would have been so many people on welfare that the politicians could not have avoided continuing to raise benefits. And more and more people would have gone on welfare, to the point where those on welfare would have outnumbered those not on welfare.

"By defeating this legislation, we may have saved the American free enterprise system."

Does the senator see the private enterprise system as being in trouble now?

"It sure is. So many burdens are being piled on business—on an environmental basis, on a safety basis, on the basis of the government telling business how to produce its products and to whom they can be sold.

"Today's businessman must have the genius of an Einstein, the memory of an elephant, and the education of a lawyer, scientist, and educator all wrapped in one.

"If we keep adding burdens on business,

the system will fail. Businessmen simply cannot shoulder all of these burdens. We must reduce government interference in the operation of businesses and in the lives of our people in general."

SHARING THE WEALTH

When Huey Long pushed a program of heavier taxation on businesses and prosperous individuals in Louisiana, he hit on a slogan—"share the wealth"—which made him a popular figure in what was then a generally impoverished America.

Russell Long would like to share the wealth, too, but not in his father's fashion of taking from the haves and giving to the have-nots.

"My greatest hope is to see us reach a day when the great majority of our people will enjoy the good things of this country," he says. "I don't seek to redistribute the wealth as my father did in his day. I would just like to see us distribute the wealth somewhat more evenly."

He estimates that about 85 percent of today's property, money, tangible goods, etc., are owned by 15 percent of the people, while 35 percent own about ten percent and the other 50 percent have the remaining five percent.

"I would like to see this redistributed in such a fashion that 30 percent would be owned by the 15 percent of the people at the top, about 35 percent by the 35 percent in the middle, and the balance by the other 50 percent of our citizens."

He adds that he see "an America where someday everybody will live above the poverty line."

How would the senator accomplish this? He explains:

"You would need more employe stock ownership plans and expanded pension plans, and you may need some other things that I can't anticipate at this time."

Sen. Long advocates an employee stock ownership plan which, he says, is gaining popularity around the country. He sponsored a provision in the Tax Reduction Act of 1975 which cleared the way for creation of ESOP's.

When a company files for a ten percent investment tax credit, the government adds an extra one percent tax credit for setting up an ESOP trust fund. Monies accumulating in the fund are converted to shares of stock which in turn are assigned to employees. [See "How to Motivate Your Employees and Raise Capital, Too," Nation's Business, October, 1976.]

There is no question that Russell Long enjoys his work. He rarely misses a Finance Committee session and will sit through hours of tedious testimony, seemingly relishing every word.

In 1973, in a rare display of emotion, the entire Senate spontaneously applauded Sen. Long after passage of a complicated Social Security bill. For 2½ days, and well into the night, Mr. Long had been on the floor managing the bill. Dozens of amendments were debated and voted upon.

THE ULTIMATE ACCOLADE

The ultimate accolade came from then Senate Majority Leader Mike Mansfield (D-Mont.), who, when the final vote was taken rose and said:

"I commend the distinguished senator from Louisiana for doing his usual skillful managerial job on a most difficult piece of legislation.

"Speaking personally, I am glad I am not in his shoes because this is a most difficult committee to chair, and this piece of legislation, which the Senate has just agreed to, was one of the most difficult to manage through this chamber.

"When one considers all the amendments which have been offered today and one becomes aware of the skill, the knowledge, and the maneuverability of the distinguished senator, one cannot help but admire him."

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ISSUES BEFORE SENATOR LONG'S COMMITTEE NOW

Here is some of the major legislation being considered this year by Chairman Russell Long's Senate Finance Committee:

*Energy tax measures.*—Impose a crude oil equalization tax to bring the market price of price-controlled oil up to the price of uncontrolled oil by 1980. Grant per capita tax rebates to all taxpayers and special rebates to individuals using home heating oil. Levy a two-tiered tax on industrial users of oil and natural gas who consume in excess of the equivalent of 50,000 barrels per year. Impose a tax on new cars obtaining less than 15 miles per gallon of gasoline and offer tax-credit incentives for home insulation and other conservation measures.

*Public Assistance Amendments of 1977.*—Expand federal support for child welfare services with particular emphasis on taking children out of foster care, either by reuniting them with their families or by arranging for their adoption. Provide an additional $200 million in child care funds and extend the federal program of supplemental security income to needy, aged, and disabled persons in Puerto Rico.

*Social Security financing.*—The Social Security system faces a serious long-term deficit and needs additional funding in the near future. President Carter has proposed a combination of tax increases and benefit modifications to deal with this financing problem.

*Medicare and Medicaid abuses.*—This bill contains a number of provisions designed to curb abuse of the Medicare and Medicaid programs by providers of medical care.

*Hospital cost containment.*—President Carter has proposed short-term measures to limit reimbursement to hospitals in order to save funds under major federal health programs. Other proposals pending in the committee deal with curbing hospital cost increases over the long term.

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## SENATOR RUSSELL LONG

Mr. TALMADGE. Mr. President, there appeared in the August issue of Nation's Business magazine an excellent article about Senator RUSSELL LONG, chairman of the Senate Committee on Finance, in which he sets forth perceptive views on legislation that is important to all Americans and the economic security of our Nation.

I do not know of any Senator, past or present, who has been harder working or a more effective chairman. He presides over the Finance Committee with an even hand and he consistently demonstrates a quick grasp of complex legislative matters involving tax laws, health care, and energy. He is respected without respect to party lines.

I bring this article to the attention of the Senate and 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:

SEN. RUSSELL LONG: HE CAN INFLUENCE YOUR LIFE FOR YEARS TO COME

At 1600 Pennsylvania Avenue N. W., in the White House, Jimmy Carter ponders legislation that will affect the nation for years to come—legislation involving taxes to pay for Medicare, welfare, Social Security, and massive new health programs.

On Capitol Hill, less than two miles away along the avenue, one senator will pass judgment almost single-handedly on what President Carter gets or doesn't get in these areas.

Russell B. Long (D.-La.) is chairman of the Senate Finance Committee, and, as such, his decisions influence the lives of all Americans. The man who fashions the tax policies of this nation ultimately touches us all.

Although he has almost as much power as any man in Washington, Sen. Long rarely, if ever, flaunts it publicly.

NO CHIP OFF THE OLD BLOCK

The son of flamboyant, outgoing, petulant Huey P. Long, Louisiana governor who also became a U. S. senator, he is no chip off the old block. Huey Long, who was felled by an assassin at age 42, when Russell was 17, did pass on many of his traits to his son. Russell Long is clever—some say brilliant. He is a master at legislative tactics and strategy, and he is a good storyteller. But the Kingfish, as Huey Long was called, was a spellbinder before an audience. Russell is rather lackluster.

Huey Long "was more of a revolutionary," Russell Long says. "I am more the evolutionary type."

Russell Long shows no outward signs of wanting to be President, as his father did. Huey Long published a book in 1935, the year he was assassinated. It was called, "My First Years in the White House."

DEFEAT FOR ROOSEVELT?

"I think he would have been elected in 1940 if he had lived," Russell says. "He would have run as a third-party candidate. President Roosevelt had polls indicating that Huey Long would get so many votes as a third-party candidate in 1936 that a Republican would run ahead of Mr. Roosevelt.

"If that had been the case, and the people had gotten four more years of the kind of government that they had under Herbert Hoover, the public would have been inclined to look toward someone like Huey Long. At that point, I think, he would have had a chance to win."

NAME TO RECKON WITH

After Huey Long came out of the scrub country of northern Louisiana in 1918 to serve in his first elected office, as a member of the old state railroad commission in Baton Rouge, the name Long became synonymous with politics in the Bayou State. It still is.

The Kingfish dominated the political scene during his years as governor and senator. Russell Long's mother, Rose, completed Huey's unexpired term in the Senate. Russell's tempestuous uncle, Earl, who took over the so-called Long political machine in 1935, twice served as governor and won a seat in the House of Representatives in 1960, but died before he could take office.

Another uncle, Dr. George Long, a dentist, served in the House. So did a distant cousin, Speedy Long. Another distant cousin, Gillis Long, is an incumbent congressman.

A SENATOR AT 30

Russell Long's own plunge into politics started early. After a colorful, hoopla-filled campaign, he was elected president of the Louisiana State University student body. He later received his law degree at L.S.U.

In 1948, at age 29, he won a special election to fill the two-year unexpired U.S. Senate term of the late John P. Overton. He had to stand aside briefly before taking the seat because the Constitution sets the minimum age for a senator at 30.

Today he is sixth in seniority in the 100-member Senate, having served half his life there. He was named chairman of the Senate Finance Committee in January, 1966, after Sen. Harry F. Byrd, Sr. (D.-Va.) resigned for health reasons. At 58, Sen. Long has been a Senate committee chairman longer than all but four other chairmen. Some chairmen are in their late 70's.

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"It sure is. So many burdens are being piled on business—on an environmental basis, on a safety basis, on the basis of the government telling business how to produce its products and to whom they can be sold.

"Today's businessman must have the genius of an Einstein, the memory of an elephant, and the education of a lawyer, scientist, and educator all wrapped in one.

"If we keep adding burdens on business, the system will fail. Businessmen simply cannot shoulder all of these burdens. We must reduce government interference in the operation of businesses and in the lives of our people in general."

SHARING THE WEALTH

When Huey Long pushed a program of heavier taxation on businesses and prosperous individuals in Louisiana, he hit on a slogan—"share the wealth"—which made him a popular figure in what was then a generally impoverished America.

Russell Long would like to share the wealth, too, but not in his father's fashion of taking from the haves and giving to the have-nots.

"My greatest hope is to see us reach a day when the great majority of our people will enjoy the good things of this country," he says. "I don't seek to redistribute the wealth as my father did in his day. I would just like to see us distribute the wealth somewhat more evenly."

He estimates that about 85 percent of today's property, money, tangible goods, etc., are owned by 15 percent of the people, while 35 percent own about ten percent and the other 50 percent have the remaining five percent.

"I would like to see this redistributed in such a fashion that 30 percent would be owned by the 15 percent of the people at the top, about 35 percent by the 35 percent in the middle, and the balance by the other 50 percent of our citizens."

He adds that he sees "an America where someday everybody will live above the poverty line."

How would the senator accomplish this? He explains:

"You would need more employee stock ownership plans and expanded pension plans, and you may need some other things that I cannot anticipate at this time."

Sen. Long advocates an employee stock ownership plan which, he says, is gaining popularity around the country. He sponsored a provision in the Tax Reduction Act of 1975 which cleared the way for creation of ESOP's.

When a company files for a ten percent investment tax credit, the government adds an extra one percent tax credit for setting up an ESOP trust fund. Monies accumulating in the fund are converted to shares of stock which in turn are assigned to employees. [See "How to Motivate Your Employees and Raise Capital, Too," NATION'S BUSINESS, October, 1976.]

There is no question that Russell Long enjoys his work. He rarely misses a Finance Committee session and will sit through hours of tedious testimony, seemingly relishing every word.

In 1973, in a rare display of emotion, the entire Senate spontaneously applauded Sen. Long after passage of a complicated Social Security bill. For 2½ days, and well into the night, Mr. Long had been on the floor managing the bill. Dozens of amendments were debated and voted upon.

THE ULTIMATE ACCOLADE

The ultimate accolade came from then Senate Majority Leader Mike Mansfield (D.-Mont.), who, when the final vote was taken, rose and said:

"I commend the distinguished senator from Louisiana for doing his usual skillful managerial job on a most difficult piece of legislation.

"Speaking personally, I am glad I am not in his shoes because this is a most difficult committee to chair, and this piece of legislation, which the Senate has just agreed to, was one of the most difficult to manage through this chamber.

"When one considers all the amendments which have been offered today and one becomes aware of the skill, the knowledge, and the maneuverability of the distinguished senator, one cannot help but admire him."

## APPROVAL OF THE ACCEPTANCE OF FOREIGN EDUCATIONAL TRAVEL

Mr. STEVENSON. Mr. President, as required by rule 43, paragraph 4(b), I give notice that the Select Committee on Ethics approved the following staff acceptance of foreign educational travel at its meeting of August 4, 1977:

Several Senators requested approval for the acceptance of foreign educational travel by staff under their supervision pursuant to the invitation of the Van Leer Jerusalem Foundation, Jerusalem, Israel, dated July 13, 1977, and the requirements of rule 43, paragraph 4(a) on gifts.

The responsible officer of the Department of State reports that this program of the Van Leer Jerusalem Foundation is privately funded and the Department has no reason to believe employee participation would violate any law or be contrary to the interests of the United States.

The program in which Senate staff are invited to participate is scheduled for August 24 to September 2, 1977, and will deal with political and social problems of the Middle East. The foundation will pay the necessary expenses of travel to and from Israel and incidental food and lodging while there. Each employee for whom approval is requested assists the supervising Senator on international affairs.

In accord with rule 43, paragraph 4(a): First, the committee is informed that this program's principal objective is educational, it is sponsored by an independent foreign organization, and participation in it is not in violation of any law; and second, the committee therefore finds that participation by the following Senate employees is in the interest of the Senate and the United States:

Mr. Mark Edelman, Office of Senator JOHN C. DANFORTH;

Mr. Burton Wides, office of Senator PAUL S. SARBANES;

Mr. Carl Blake, office of Senator DONALD W. RIEGLE, JR.;

Mr. Peter Fenn, office of Senator FRANK CHURCH; and

Mr. William Reinsch, office of Senator H. JOHN HEINZ III.

## APPROVAL OF THE ACCEPTANCE OF FOREIGN EDUCATIONAL TRAVEL

Mr. STEVENSON. Mr. President, as required by rule 43, paragraph 4(b), I give notice that the Select Committee on Ethics approved the following staff acceptance of foreign educational travel at its meeting of August 4, 1977.

A Senator requested approval for the acceptance of foreign educational travel by a staff person under his supervision pursuant to the invitation of the Foreign Affairs Association of South Africa, Pretoria, Republic of South Africa, dated July 11, 1977 and the requirements of rule 43, paragraph 4(a) on gifts.

The responsible officer of the Department of State reports that the Foreign Affairs Association of South Africa is a private foundation and the Department has no reason to believe employee participation would violate any law or be contrary to the interests of the United States.

The program in which Senate staff is invited to participate is scheduled for August 5 to 19, 1977, and will permit the employee to confer with South African leaders in education, business, and government, as well as to travel in the country for factfinding purposes, better enabling him to assist the Senator in his work on the Foreign Relations Committee.

The foundation will pay the necessary expenses of travel to and from the Republic of South Africa and within that country and incidental food and lodging while there.

In accord with rule 43, paragraph 4(a): First, the committee is informed that the principal objective of this program is educational; it is sponsored by

an independent foreign educational organization; and participation in it is not in violation of any law; and second, the committee therefore finds that participation by the following Senate employee is in the interest of the Senate and the United States: Mr. Ralph Nurnberger, Office of Senator JAMES B. PEARSON.

## CAPITAL FORMATION OPTIONS TO FINANCE POLLUTION CONTROL

Mr. HARRY F. BYRD, JR. Mr. President, as chairman of the Subcommittee on Taxation and Debt Management of the Finance Committee, I recently held hearings on the question of incentives for the future economic growth of our Nation. One of the suggestions which emerged from the hearings was that special tax preferences be given for companies which are mandated by the Government to make capital expenditures to purchase expensive pollution control equipment.

The following is an article by Prof. Scott C. Whitney of the Marshall-Wythe School of Law of the College of William and Mary in Williamsburg, Va. Professor Whitney deals with the governmental policy questions raised by environmental laws which require private companies to purchase pollution control equipment. His article was published in the Columbia Journal of Environmental Law and is entitled, "Capital Formation Options to Finance Pollution Control." Professor Whitney's work is a scholarly analysis of a difficult problem, 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:

CAPITAL FORMATION OPTIONS TO FINANCE POLLUTION CONTROL

(By Scott C. Whitney)

The economic cost of environmental pollution and the cost of implementing far-reaching corrective measures are increasingly recognized as significant national problems. Extensive effort has been expended in recent years to analyze and quantify pollution abatement and control costs and forecast capital demands that will be necessary to comply with environmental laws and regulations.

As this analysis has become more sophisticated, environmental costs have been classified into four basic categories: damage costs, avoidance costs, abatement costs, and so-called "transaction" costs. Although official concern for pollution abatement costs dates from 1972, and although increasingly frequent studies of this problem have subsequently been undertaken, it has generally been recognized that this analysis is still in its infancy.

Despite the difficulties of cost quantification and the recognition that forecast environmental costs are at best approximations, it seems clear that environmental costs will be a major factor affecting the national economy in the foreseeable future. Similarly, it is not feasible at this time to forecast with precision the capital investment that will be required by the private sector during the next decade and beyond to comply with existing federal environmental laws and regulations, and the various state and local requirements. The most recent comprehensive forecast was published by the Council on Environmental Quality (CEQ) in its 1976 Annual Report. The CEQ estimates incremental pollution control expenditures for the private sector alone during the period 1975–1984 will exceed $300 billion, of which approximately $275 billion will consist of capital investment and capital costs.

This analysis considers legislative and regulatory options available to cope with future private sector capital requirements to meet both "conventional" and environmental needs. While by no means agreed as to the precise amount of these needs, virtually all studies indicate they will be immense and will place great strain on the national economy.

Moreover, it must be recognized that these pollution abatement costs will tend to increase rather than decrease. The as yet unchecked force of inflation is of course one important factor contributing to this problem. More importantly, most existing statutory environmental abatement programs are structured in a way that progressively increases the stringency of environmental requirements and consequently their cost. For example, the incremental cost to achieve national secondary ambient air quality standards will undoubtedly significantly exceed the cost to achieve primary standards. Furthermore, the law requires that once the national ambient air quality standards are attained, they must then be maintained. This maintenance will necessitate an indefinitely ongoing comprehensive nationwide air quality maintenance program. Furthermore, compliance with the judicially enunciated goal of no significant deterioration of the air quality in regions with air cleaner than that required by secondary standards will likewise create increasing direct and indirect incremental costs.

The same cost augmentation phenomenon is built into the Federal Water Pollution Control legislation, which likewise envisions implementation of progressively more stringent standards culminating in the goal of eliminating discharges of all pollutants by 1985. Like the clean air strategy, maintenance of water quality is required once the mandated goal is achieved. Here too, this maintenance will necessitate costly continued planning and regulatory strategies to accommodate the apparently inevitable national growth while yet adhering to the no discharge requirement.

To date no environmental cost forecast methodology has evolved accurate indicia to measure this phenomenon of disproportionately increasing costs, but it is essential to consider this factor when considering what legislative, regulatory or other action is appropriate to devise effective capital formation and/or capital recovery strategies.

Before considering possible specific legal-legislative options for capital formation, two basic policy issues must be considered: first, whether it is appropriate for the federal government to assist the private sector to meet the costs of federally enacted environmental laws and regulations, and second, if it is determined that it is either necessary or desirable that the federal government assist private sector compliance, what form the assistance should take.

I. FEDERAL GOVERNMENTAL OPTIONS OR INTERNATIONALIZATION OF ABATEMENT COSTS?—A CRITICAL NATIONAL DECISION

For the private sector to be able to alter its plants and processes to comply with existing environmental laws and regulations it must develop the funds to pay for abatement. The CEQ correctly recognizes that these costs and capital needs are "incremental"; that is, expenditures are necessitated by the designated federal environmental legislation beyond those "business as usual" expenditures that would have been made absent the legislation. Consequently these incremental environmental requirements are *additional* to the so-called "conventional" capital requirements that are necessary to a growing and productive economy capable of assuring that the *other* vital national goals of adequate employment and containment of inflation are achieved. Given the forecast capital shortfall during the coming decade, there is a distinct likelihood that rival claims on existing capital supply by the productive sector of the economy versus legally mandated environmental reform may well increase the cost of capital to the point that expansion of productive capacity and economic growth may be retarded with adverse effects on employment and the ability to control inflation. The Environmental Protection Agency (EPA) notes that "this spectre is particularly troubling because of the experience of 18–30 months ago when capacity shortages in the basic materials-producing industries seemed to throttle economic growth and spur inflation with unemployment at very high levels."

Consequently, the nation is faced with the reality that *additional* capital formation methods (beyond those necessary to meet "conventional" needs) must be devised if we are to achieve the multiple national goals of a healthy economy and a protected environment.

Two basic possibilities of forming the necessary capital exist: (1) some form of federal assistance (grants, subsidies, tax incentives or "tax expenditures" of various kinds), or (2) "internalization" of environmental costs by inclusion of the environmental increment into the pricing of goods and services to the consumer.

The CEQ has considered the option of imposing effluent charges set at a sufficiently high level to compel extraction of most of the pollutant, with the effluent charge being passed on to the consumer in the form of higher prices. This option entails serious disadvantages. First, to "internalize" environment costs of the magnitude involved by passing them to the consumer in the form of higher prices would aggravate the inflationary price spiral and create further stresses between labor and management. The environmental cost increment added to the price of goods and services would undoubtedly give rise to increased wage demands and the cost would in large part redound to industry in the form of higher labor costs. Moreover, imposition of effluent charges only indirectly addresses the critical problem of how to rid the environment of pollution. If a given plant simply pays the charge and continues to pollute then the pollution is not abated. If instead, the plant chooses to install appropriate abatement equipment and avoids the effluent charge the problem of how to obtain the capital to buy the abatement equipment remains unanswered.

An additional disadvantage of internalizing environmental costs is that to do so would further weaken the United States international trade position by further pricing United States goods out of competitive markets. The "distortions" arising from unequal environmental control costs incurred by the United States private sector vis-a-vis competitors from its eleven principal trading partners constitute a major national problem which Congress sought to address in the Trade Act of 1974. Given the national commitment to contain inflation within acceptable limits, it is rather clear that the nation's pricing structure cannot be expected to absorb some 300 billion dollars of additional environmental costs.

Moreover, the CEQ concept envisions use of varying charge levels to achieve desired degrees of pollution abatement:

"Since the costs of removing any given pollutant presumably will vary as between processes, products and plants, a requirement of the same proportionate reduction, or a reduction to the same absolute level, would impose high costs on some and relatively low costs on others. The same aggregate reduction in an area could be achieved by an ef-

fluent charge which will lead to substantial or very large proportionate reductions in pollution where that could be achieved relatively inexpensively, with little reduction where it was relatively more expensive to make improvements."

To be effective, this system must produce a program of pollution abatement which results in compliance at any given time with statutory environmental standards. Coordination of a schedule of fees which might well vary from industry to industry and from plant to plant to produce pollution levels that comply with standards required by law would be extraordinarily difficult to determine accurately and costly to administer. Thus it would appear that "internalization" could not produce adequate net capital accretions and would create problems at least as troublesome as those it seeks to solve.

Finally, it seems clear that Congress by enacting the various environmental laws has elevated environmental protection to a major national policy not unlike public health (with which the environmental quality is closely related), law enforcement and national security. Consequently, whenever private sector compliance is either impossible as an economic matter, or is attainable only at the expense of major impacts on the national economy, it seems appropriate, in fact necessary, that public funds, whether in the form of so-called tax expenditures, in the form of tax incentives, or in the form of grants, guaranteed loans or subsidies, be used to achieve the national goal of environmental protection. Congress has repeatedly recognized this principle in its appropriation of grants for, *inter alia*, publicly owned treatment works, environmental planning, research and development, and monitoring systems.

II. ASSUMING FEDERAL FISCAL ACTION, WHAT FORM SHOULD IT TAKE?

Given the determination that federal fiscal action is preferable to "internalization" of environmental costs in the price structure, the *form* this federal action should take is controversial. Leaving out of account certain tax incentives devised to influence conduct that tends to have beneficial environmental consequences, Professor Stanley Surrey has identified two basic federal options:

1. "Direct government expenditure programs," a process under which programs are normally given direct and searching budget management evaluation (this would include grants, subsidies and loan guarantees).

2. "Tax subsidies" or "tax expenditures," a process by which some program or project is financed by tax liability concessions of one kind or another (this would include investment tax credits, accelerated depreciation and tax exemption).

Professor Surrey opposes "tax expenditures" because they "tumble into the law without supporting studies, being propelled instead by cliches, debating points, and scraps of data and tables that are passed off as serious evidence." Apart from this rhetoric, it appears that Professor Surrey's *substantive* objections to use of the "tax expenditure" option are:

(1) That the need for programs supported by tax expenditures receives inadequate or at least less consideration than the need for direct expenditure programs;

(2) That the costs and benefits of a program are given less or inadequate consideration when tax expenditures are employed;

(3) That program effectiveness evaluation is less likely to occur when programs are supported by tax expenditures;

(4) That program objectives of tax expenditure programs are more apt to be obscure.

Professor Surrey advocates that the antidote to ill-considered programs supported by tax expenditures is to "restate the tax program as a direct expenditure program and ask whether such a program represents a desirable policy. But even if the program when "directly" evaluated turns out to be a "desirable policy," Professor Surrey still believes that support of the program should be in the form of a direct expenditure program:

"Thus, for example, if it is decided that elimination of tax expenditures for natural resources should be accompanied by government assistance in oil and mineral exploration, the direct programs can be readily devised."

Whether some, many or all tax expenditure programs in fact "tumble into the law" without the four-fold program evaluation Professor Surrey advocates is a question that need not be resolved herein. It is elementary good government that all programs should receive such evaluation regardless of what funding process is utilized. In the ensuing portions of this analysis devoted to consideration of the various capital formation and/or recovery options available through tax legislation such direct program evaluation will in fact be undertaken. Such direct evaluation demonstrates that adoption of improved investment tax credit measures, a special environmental investment tax credit system, and improved capital recovery measures are all essential to achieve the multiple national goals of a sound economy and environmental protection.

The fundamental dispute arises over the proposition that tax expenditure programs should or must be "translated" into direct government expenditure programs to be effective and accountable.

One of the primary realities that must be recognized is that the investment tax credit and the special environmental credit are not "tax subsidies." As shown hereinafter, neither will produce any revenue dilution but rather, based on some fifteen years' experience, will stimulate treasury receipts due to the increased production of pollution abatement devices which thereby increases the private sector taxable basis.

In contrast, given the presence of perennial budget deficits, to address capital formation problems by direct grants would aggravate the federal deficit picture and necessitate further federal borrowing to obtain grant funds that would otherwise be available through tax credits without incurring interest charges. Thus a direct expenditure approach to the capital formation problem would be more costly in absolute numbers of dollars and would contribute to increasing the national deficit. Moreover, the various investment tax credit provisions are virtually self-administering, thereby obviating the cost of additional grant administration personnel.

The importance of the foregoing is underscored by the fact that the federal government is already heavily involved in direct environmental grant programs that are increasing rapidly: $5.9 billion in 1975, $7.1 billion in 1976 (estimated) and $8.6 billion in 1977 (estimated). Moreover, the federal government also expends substantial amounts to assist state and local governments in bearing their share of environmental abatement costs and programs. CEQ forecasts that the federal government will subsidize state and local governments by more than $3 billion between 1975 and 1983, quite apart from the above-noted grants.

III. CAPITAL FORMATION BY TAX LEGISLATION

*A. The investment tax credit*

During the period 1962 through 1975, the various investment tax credit measures have provided an important source of capital for American industry. Experimentation with the investment credit during this period has demonstrated that it is a particularly effective means of controlling the level of capital supply thereby significantly affecting productivity, employment levels, and the rate of inflation. Moreover, use of the investment credit can be made without incurring dilution of Treasury revenues. The increased productivity resulting from investment credit expenditures increases the corporate income base and thus produces corporate tax revenues to the Treasury which substantially exceed revenue dilution. This factor was implicitly recognized by the Congress in its recent enactment of the Tax Reform Act of 1976 which extended the existing investment credit until December 31, 1980 (which would otherwise have expired December 31, 1976). In addition, there is a long-lasting continued increase in budget revenues as a result of the investment tax credit.

While a four year extension constitutes some progress, it is evident that indefinite extension of investment credit provisions is a minimum essential merely to accommodate existing non-environmental capital needs. Former Secretary of the Treasury Simon recently stressed the serious effects of corporate borrowing, which has sharply increased during the past decade as internally generated corporate funds and equity financing fell short of meeting capital needs.

"One of the factors which can inhibit the future growth of needed capital formation is the financial condition of American corporations. Analysis of debt-equity ratios indicates that corporate balance sheets have shown signs of deterioration over the past decade, which is a break from the pattern which persisted in earlier periods. Debt has increased dramatically, both in absolute terms and relative assets and income. Interest costs have risen appreciably, roughly doubling over the past ten years. The combination of increased debt financing and higher interest rates has resulted in a decline in the coverage ratios reported by American corporations—that is, the ratio of earnings to interest charges. The ratio of liquid assets to debt has shrunk. As a result of these developments, there is a serious question about the potential capability of companies to be able to finance the capital investment that will be required to achieve our basic economic goals of reducing unemployment and inflation as I outlined earlier in my testimony."

The investment credit device offers significant advantages. First, the taxpayer is entitled to the credit only when the proceeds are in fact used for the designated statutory purpose thereby assuring that the purpose of the credit is achieved. It thus possesses the advantage of being for all practical purposes self-administering, unlike direct government expenditure programs.

Second, the investment credit is a highly effective means of "capital deepening" and can, over the years, contribute significantly to the capital base of the economy that will be necessary for increased productivity and employment, and containment of inflation to an acceptable rate. To achieve these goals the investment credit must be both adequate in amount and of sufficiently long duration.

As to the amount, Congress in its wisdom in the Tax Reform Act determined that 10 percent was appropriate during the period through December 31, 1980. Yet virtually every responsible economic forecaster predicts that the "capital gap" will increase during the next decade and probably for the remainder of the century. It would have been more consonant with economic realities had Congress followed the Senate bill and enacted an investment credit provision of indefinite duration. Moreover, such investment credit should be structured to increase in amount from the basic irreducible 10 percent to higher rates which would generate increasing capital necessary to maintain acceptable levels of productivity and employment. By such a system the amount of investment credit could be adjusted to keep pace with capital requirements without resort to the time-consuming process of enacting new tax legislation periodically, and in addition the long term continuity that is

essential would thereby be provided. Experience with the Tax Reduction Act of 1975 demonstrates that due to long lead times in obtaining heavy equipment, there must be a long term investment credit program if companies are to utilize the credit effectively.

The Tax Reform Act of 1976 contains other important provisions that facilitate capital formation. Congress modified the prior limitation of the investment credit to $25,000 of tax liability plus 50 percent of liability in excess of $25,000 and provided a three year carry-back and a seven year carry-forward for credits not used due to the above-noted limitations. Under this system, credits accruing in a given taxable year are applied against the tax liability for that year before any carry-overs or carry-backs of unused credits from other taxable years become applicable.

In addition, under the 1976 Act a so-called "first-in first-out" method of handling investment credits was adopted. Thus in a given taxable year the *oldest* pending credit is used first, the next oldest next, and so on. The effect of this provision is to enhance the likelihood that credits will be fully utilized by effectively extending the duration of credit eligibility. Lengthening the potential duration of earned credits likewise increases somewhat the possibility that unprofitable or marginally profitable companies may utilize such credits.

*B. Environmental investment tax credit*

Prior to enactment of the Tax Reform Act of 1976, federal tax provisions provided little in the way of "tax expenditures" to meet pollution control capital requirements. One such provision provides that the interest earned on industrial development bonds shall not be included in the gross income of the bondholder if he either qualifies as an "exempt person" (*i.e.*, an Internal Revenue Code Section 501(c)(3) entity exempt from tax under Section 501(a) or if substantially all of the proceeds of the bond are used, *inter alia*, (A) for sewer or solid waste disposal facilities, or (B) for air or water pollution control facilities. However, provision (A) may well (among other disadvantages and limitations) actually encourage waste disposal rather than recycling; and as to air and water pollution control facilities, most if not all bond proceeds would inure to the benefit of state or local governments rather than meeting private sector needs.

The other "environmental" provision prior to passage of the 1976 Act allows "every person" to elect five year amortization for "any certified pollution control facility" which is "a new identifiable treatment facility which is used, in connection with a plant or other property in operation . . . to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes or heat" if both the state and federal "certifying authorities" approve. By virtue of the definition of "new identifiable treatment facility" this five year amortization can be elected only as to "tangible property" (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subect to the allowance for depreciation provided in section 167 "but only if the construction is completed after December 31, 1968 and placed in service before January 1, 1976. The amortizable basis of such a facility was not eligible for the investment credit.

The 1976 Act provides for two significant improvements:

1. As to qualifying facilities constructed after January 1, 1969, but before January 1, 1976, the taxpayer can elect a five year amortization plan and take one-half the investment credit provided the investment did not lead "to a significant increase in output or capacity, a significant extension of useful life, or a significant reduction in total operating costs for such plant or other property (or any unit thereof), or a significant alteration in the nature of a manufacturing production process or facility."

2. As to qualifying facilities placed in service after December 31, 1976, the taxpayer can elect both a five year amortization schedule and an investment credit not to exceed two-thirds of the 10 percent standard investment credit.

Adoption of the principle of a special environmental investment credit by the Congress is of the utmost importance. As already noted it is highly doubtful the capital formation produced by the standard investment credit provision of section 802 will be sufficient to meet future needs and, as suggested above, should be keyed flexibly to increasing capital requirements. Without special provision for an environmental investment credit to meet capital requirements created by private sector compliance with federal environmental laws and regulations, an unhealthy competition for capital would arise which would both impede productivity and related employment and thwart or delay unduly compliance with national environmental objectives. In this latter connection it should be stressed that a number of environmental statutes condition compliance and attainment of standards upon economic practicability. Hence congressional recognition of the need for special environmental investment credits is of landmark significance.

It should be further noted that were Congress to adopt the "sliding scale" approach to the regular investment credit, as advocated, the special environmental credit for qualifying facilities placed in service after December 31, 1976, which amounts to two-thirds of the regular credit would likewise escalate when the regular credit escalated to meet increased capital needs.

Although Congress in the 1976 Act expanded somewhat the definitional scope for qualifying facilities, it still remains unduly circumscribed. The credit should be available not only for pollution abatement equipment and buildings that are entirely pollution abatement facilities, but for other buildings and structures as well. The credit should extend to environmentally designed production facilities and processes as well if reform objectives are to be realized. In future years when the national air and water quality goals have, hopefully, been reached, then the predominant regulatory objective will be the maintenance of these standards. Necessarily, with anticipated growth in population and industrial activity, air and water quality maintenance objectives will be feasible only by fundamental redesign of many plants and processes. Extension of investment credits for plants would provide a needed stimulus to phase out existing operations which are costly and not optimally feasible to modify, and to replace these with environmentally designed plants better capable of achieving future standards at acceptable maintenance and operation cost levels. It is widely recognized that the incremental cost of achieving higher levels of environmental purity mounts steeply as stricter goals are met and maintained. In the long run it will thus be cheaper to convert to plants and processes which have been designed to achieve a high degree of environmental protection rather than continue to "fix," or modify or retrofit, existing plants to meet and maintain increasingly stricter standards.

To be fully effective, tax incentives should be available for *any* control facility or abatement procedure required by federal, state or local environmental laws or regulations. Accordingly, existing law should be amended to include a broad tax incentive definition, such as:

"The term 'pollution control facility' means any facility (including buildings and equipment) the primary purpose of which is to abate, control or prevent actual or potential environmental pollution."

While air and water pollution control at present appears to comprise the major portion of forecast environmental cost, Congress has enacted extensive legislation addressed to other kinds of pollution. Abatement strategies for stripmining, solid waste, pesticides, oil spills, ocean dumping and other categories are in their infancy. As regulatory programs in these areas are developed, significant additional costs will undoubtedly result. Congress, therefore, should provide for comprehensive environmental tax incentives keyed to the full range of environmental protection and reform programs that it has enacted.

While there has as yet been no actual experience with implementation of the environmental tax credit, available data suggests it will offer all the same advantages that the conventional credit provides. Like the conventional credit, the environmental credit program is self-administering and avoids the cost of grant administration personnel. Furthermore, recent CEQ economic studies conclude that funds spent on environmental abatement will not only significantly enhance the productivity of existing firms that manufacture or build abatement equipment and facilities but will attract new private sector activity as well.

While these CEQ studies do not undertake to quantify the amount by which Treasury tax receipts are increased by the new economic activity stimulated by the "environmental industry," CEQ does estimate "that approximately 300,000 people are now employed who would not otherwise be." CEQ adopted a rule-of-thumb indicator that a billion dollar expenditure generates directly or indirectly about 70,000 jobs. Thus given the expenditure of the forecast private sector environmental capital requirements during the period 1975–1984, it is evident that the federal tax base will be expanded enormously, and such expansion will increase the Treasury tax revenue yields as well. Thus there is every reason to conclude that the revenue yield history of the conventional investment credit will also hold true for the environmental tax credit.

Moreover, since it is virtually universally conceded that a protracted period of capital shortage will prevail, it is evident that without the environmental tax credit, every investment dollar diverted from "conventional" production activity to meet legally mandated environmental requirements will thereby increase the expected capital gap and so contribute to less productivity, lower employment and, correspondingly, less tax revenues.

Finally, to the extent that the special environmental credit contributes to the ability of United States industry to compete effectively costwise with our eleven leading trade partners, the credit will contribute to solution of the "distortion" problem arising from unequal United States versus foreign environmental costs without recourse to import relief measures.

*C. Accelerated capital recovery*

As with investment credits, United States policy with respect to capital recovery provisions must take into account both the so-called conventional needs of the economy to achieve increased productivity and employment and the special demands resulting from environmental pollution abatement. Despite the recent upturn in the United States economy, certain basic long-term indicators suggest that major increases in investment will be necessary to restore its vitality. The United States has lagged significantly behind other industrialized nations in terms of productivity growth during the period 1960–1973. This trend is particularly ominous because in the past the United States has been able to preserve viable

market shares against foreign competition despite price disadvantages by virtue of superior worker productivity.

A similarly bleak trend is evident in the comparative real gross national products (GNP) per employed civilian of several nations during the period 1950–1972. The declining worker productivity in the United States has produced a condition in which the GNP per worker in the United States has fallen below that enjoyed by such nations with troubled economies as Great Britain, France and Italy. Given the well-established relationship between the level of investment and growth, it is clear that expanded capital recovery provisions are necessary to augment capital supply and production investment to counter these trends. It is no coincidence that virtually all of the industrialized nations have more liberal capital recovery provisions than those presently in force in the United States under the Asset Depreciation Range (ADR) System. These facts suggest the immediate need to increase the permissible range under the ADR System for depreciating capital assets from 20 percent to a significantly higher level.

A further important corrective measure would be the elimination of the salvage increment in depreciation schedules. During periods of inflation, depreciation allowances based on original cost fail to recover capital adequate to finance facilities having significantly higher replacement costs. Moreover, during such inflationary periods corporate profits, unless adjusted for inflation, are overstated. It has heretofore been noted that the inability to generate sufficient capital from corporate profits has weakened the economy by creating increasing dependence on debt financing with resultant deterioration of debt-equity ratios. This shortfall in capital recovery during a period of higher replacement costs and declining profits is aggravated by inclusion of a salvage factor in depreciation schedules. It must be recognized that the salvage increment is a holdover from the archaic policy of gearing depreciation schedules to the actual life of assets. Retention of such anomalies in the tax law impedes attainment of adequate capital supplies and is thus counterproductive.

Given the magnitude of capital requirements to increase productivity and employment, the additional drain on capital funds created by environmental requirements mandates special treatment. Pollution control costs have increased and are forecast to continue to increase dramatically. The CEQ study notes that expenditures for pollution control totalled $12.3 billion for capital expenditures in 1974, and that these are forecast to reach $27.5 billion for operating and maintenance and $27.8 billion for capital expenditures in 1983. In view of the increasingly high incremental cost of attaining progressively stricter goals that are structured into major existing environmental laws, these estimates may indeed be low.

IV. CONCLUSION

For at least the remainder of this century the United States faces uniquely complex and difficult challenges. It must cope with already well-established trends of declining productivity, inflation and unemployment. To do so, adequate domestic energy resources must be developed at economically viable levels and industrial productivity must be expanded. Both goals also involve major impacts on the environment which will be increasingly costly to control within acceptable limits. What constitutes acceptable limits has been defined by Congress in terms of legal deadlines established by comprehensive legislative and regulatory programs. These programs were structured by Congress to impose progressively more stringent standards which will become increasingly costly to achieve.

Moreover, environmental control programs are likely to expand—*e.g.*, to protect more effectively ocean, outer continental shelf and coastal resources. Significant additional effort will be required in the areas of research, planning and environmental design

All of these efforts must be undertaken and implemented contemporaneously. Consequently, the government must devise capital formation and recovery provisions capable of financing *all* of these deeply interrelated activities. At a minimum the following program appears to be indispensable:

1. Continuation on an indefinite basis of existing investment credit provisions amended to provide sliding scale adjustments to reflect changes in capital requirements.

2. Adoption of the perfecting amendments to existing investment credit provisions.

3. Continuation of the special investment credit for environmental control expenditures keyed to the level of the standard investment credit as adjusted by the sliding scale procedure.

4. Reform of existing capital recovery provisions for non-environmental investment.

5. Expensing in the year invested rather than depreciating facilities installed pursuant to environmental requirements.

Anything short of this multi-dimensional program will seriously jeopardize the prospects for attaining one or more indispensable national goals: With the exception of certain suggested improvements the validity of all of the foregoing has been recognized in principle by the Congress in the Tax Reform Act of 1976. These measures have in fact been carefully scrutinized, their costs and benefits weighed, and the ultimate program objectives considered. Important improvements and refinements remain to be made but it is clear that the tax legislative approach is a far sounder method of coping with capital formation requirements and offers many more advantages than the direct government expenditure alternative.

## ANNOUNCEMENT OF HEARINGS

Mr. McINTYRE. Mr. President, the Research and Development Subcommittee of the Armed Services Committee will meet in executive session on August 24 to continue hearings on the fiscal year 1978 supplemental military authorization bill. Witnesses will include Gen. Richard H. Ellis, Commander and Chief of the Strategic Air Command, and other representatives of the Departments of Defense and Energy. The hearing will be held in room 224 of the Russell Senate Office Building. The time will be announced at a later date.

STATEMENT FOR SENATOR JACKSON

Mr. President, I wish to announce for the information of the Senate and the public that the following hearings and business meetings have been scheduled before the Committee on Energy and Natural Resources beginning on September 6, 1977:

September 6, Parks and Recreation Subcommittee, 9 a.m., room 3110, hearing, S. 1976, Redwood National Park bill.

September 7, Parks and Recreation Subcommittee, 9 a.m., room 1114, hearing, S. 1976, Redwood National Park bill.

September 7, Energy Conservation and Regulation Subcommittee, 10 a.m., room 3110, hearing, part E, utility rate reform, of S. 1469, the National Energy Policy Act.

September 8, Energy Conservation and Regulation Subcommittee, 8 a.m., room 3110, hearing, part E, utility rate reform, of S. 1469, National Energy Policy Act.

September 8, full committee, 10 a.m., room 3110, business meeting, part D, natural gas pricing, of S. 1469, National Energy Policy Act.

September 9, Energy Conservation and Regulation Subcommittee, 8 a.m., room 3110, hearing, part E, utility rate reform, of S. 1469, National Energy Policy Act.

September 9, full committee, 10 a.m., room 3110, business meeting, part D, natural gas pricing, of S. 1469, National Energy Policy Act.

September 12 through 16, full committee, 10 a.m., room 3110, business meeting, pending calendar business.

September 19 and 20, Public Lands Subcommittee, 10 a.m., room 3110, hearing, S. 2053, deep seabed mining legislation.

September 21, full committee, 10 a.m., room 3110, business meeting, pending calendar business.

September 22, Public Lands and Resources Subcommittee, 10 a.m., room 3110, hearing, S. 473; S. 553; S. 624; S. 688; S. 824; S. 917; S. 920; S. 1000; S. 1318; S. 1403; S. 1744; S. 2033; S. 2041; H.R. 1403; H.R. 2501; H.R. 2527; H.R. 4974, land conveyance bills.

September 23, Parks and Recreation Subcommittee, 10 a.m., room 3110, hearing, S. 1791, Chattahoochie River National Recreation Area legislation, and S. 1156, to establish San Antonio Mission National Historical Park bill.

HEARING NOTICES

September 13, 9 a.m., Governmental Affairs Subcommittee on Civil Service and General Services. To hold hearings on S. 386, S. 865 and S. 1133 to repeal the requirement relating to apportionment in the civil service in the District of Columbia among the states. 457 Russell Building.

September 14, 9 a.m., Governmental Affairs Subcommittee on Civil Service and General Services. To hold hearings on H.R. 2931 to establish uniformity in Federal employee health benefits and coverage provided pursuant to contracts by pre-empting state or local laws inconsistent with such contracts. 1202 Dirksen Building.

September 15, 9 a.m., Governmental Affairs Subcommittee on Civil Service and General Services. To hold hearings on S. 666 to allow Federal employment preference to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to the benefits of or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians. 6202 Dirksen Building.

## THE NECESSITY OF EARLY ENACTMENT OF S. 1882, THE ARSON CONTROL ASSISTANCE ACT OF 1977

Mr. GLENN. Mr. President, on July 19 I introduced S. 1882, the Arson Control Assistance Act of 1977. My bill is designed to combat the astonishing growth of arson for profit. This vicious crime is terrorizing and devastating many of our urban centers while going virtually unchecked.

S. 1882 does two things, that, taken together, will strengthen the enforcement effort against arson. First, it reclassifies arson from a "part two" to a "part one" major crime under the FBI's Uniform Crime Reports System. Second, it gives specific authority to LEAA to make grants that assist localities in developing programs designed to combat arson. Only by properly declaring arson a major crime can we begin to collect accurate data and focus proper national attention and awareness on this crim-

inal activity that, by some estimates, has grown by over 300 percent over the past decade. Increased technical assistance and training programs will also serve to further increase law enforcement "heat" on the arson-for-profit criminal.

Mr. President, Senators MOYNIHAN and FORD have joined as cosponsors of S. 1882. Additionally, since introduction of S. 1882 last month, there have been several major newspaper stories further documenting the epidemic of arson for profit in various forms as well as community efforts to fight the spread. I urge my colleagues to read these materials and I ask unanimous consent that they be printed in the RECORD.

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

[From the National Underwriter, Property & Casualty Insurance edition, July 29, 1977]

FIRED UP OVER ARSON

The upsurge in arson activity over the past several years, with its attendant severe toll in economic as well as human terms, has been duly reported in this and other publications on many occasions.

However, developing effective methods to reduce or curb the incidence of arson and to bring to justice those responsible for commission of that act is a problem whose solution, we feel, should be of paramount importance to insurers.

The absence of reliable arson statistics is a severe stumbling block to reducing or controlling the crime, in the opinion of John Wrend, vice president of the Chicago-based Property Loss Research Bureau.

In a recent talk at the annual meeting of the National Crime Prevention Assn. in Washington, D.C., Mr. Wrend said that to a great extent nobody really knows what are the dimensions of the arson problem, and one reason for the mystery is that data on arson is "sketchy, inexact and largely unsubstantiated."

One key step that can be taken to upgrade arson data is to bring about a reclassification of arson in the ranking of crimes by the FBI, the recognized source of crime statistics in the U.S. and whose reports greatly influence the crime-fighting efforts of states and municipalities.

Mr. Wrend notes that currently arson is listed by the FBI as a Part II crime much in the same class with such relatively minor offenses as vagrancy, drunkenness and disorderly conduct. To bring this into focus, Mr. Wrend said, "If an individual steals a bicycle he's guilty of having committed a Part I crime. On the other hand, if that same person torches a building which results in a multi-million-dollar loss, he would be guilty of having committed a Part II crime.

Mr. Wrend predicted that reclassifying arson as a Part I crime, and thus boosting it to the same level of severity as murder, rape and theft, would produce much more significant data than is now required for Part II crimes, for which the FBI demands minimal statistics.

Reclassification, in the words of Mr. Wrend, "would exert a tremendous influence in jolting the public, legislators, prosecutors, judges and our own industry into a greater awareness of the arson problem."

It seems amazing to us that arson should have ever been classified as a Part II crime by the FBI. Indeed, one wonders who was the bureaucratic boob who ranked such a serious offense alongside of such innocuous offenses against society as vagrancy or drunkenness.

And it also seems to us that the insurance industry should assume a more active and persistent role in demanding better statistics with which to work toward developing approaches to control the incidence of arson.

To paraphrase an Illinois judge, arson is not only a fraud against the insurance industry, it is also a fraud on members of the community who must share the cost of fraudulently induced insurer payouts.—D.C.J.

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[From the New York Times, July 26, 1977]

BROOKLYN WELFARE FAMILY LINKED TO $40,000 ARSON-FOR-PROFIT PLOT

(By Molly Ivins)

A Brooklyn family has engaged in "arson for profit" for more than seven years and received more than $40,000 in special welfare benefits for relocation and replacement costs, according to a report by the State Office of Welfare Inspector General.

The report, made public yesterday, accuses New York City's Human Resources Administration of "an unbelievable degree of laxity bordering on dereliction." Ralph A. Cipriani, acting Inspector General, said 13 fires had occurred in the apartments of one woman welfare client and one of her grown daughters. Ten of the fires have occurred since 1974, he said.

In each case the family was reimbursed for loss of furniture, even though in five of the fires there was some evidence that the furniture had been removed before the fire started, the report said.

LACK OF EVIDENCE REPORTED

A spokesman for the city's H.R.A. said: "The case he's talking about was investigated by the H.R.A.'s Inspector General with the cooperation of the Fire Marshal. There was suspicion of arson, but the Marshal concluded there was not enough evidence to refer to the District Attorney's office. As you know, arson is especially hard to prove, because the evidence goes up in smoke. We consider Mr. Cipriani's charges uncalled for."

Fire Commissioner John T. O'Hagan said: "We have long been aware of the problem of arson to obtain social support payments. We have alerted H.R.A. and requested them to discontinue the profit factor long before Mr. Cipriani became interested in this."

The Fire Commissioner said that H.R.A. officials had told him they believed arson is a factor in only "a relatively small percentage of cases."

"I am at a loss to influence the H.R.A.," Mr. O'Hagan went on, adding that he believed the city agency should refuse to pay for new furniture and moving expenses after one fire.

The family described in the report by the Office of the Inspector General is headed by a 42-year-old South Carolina woman who has been on the city's welfare rolls since 1954. Five children from 7 to 16 live with her, and two older daughters, 23 and 24, have moved out and have four children of their own. They are also on welfare. The family has lived at various times in the arson-prone areas of Bushwick, Williamsburg, Bedford-Stuyvesant and Brownsville.

FAMILY NAMES NOT GIVEN

The names of the family members are not being released "pending action by the city," the state report said.

Mr. Cipriani said a copy of the report had been sent to District Attorney Eugene Gold of Brooklyn. Commissioner O'Hagan said: "He hasn't shared his records with us."

The first fire occurred in December 1969, and the mother was given $1,751 to replace furniture, clothing and food. Three months later, on March 20, 1970, another fire occurred in the same apartment. This time the family was put up in a hotel until mid-November at a cost of $20,114—about $10,000 in special grants, $6,270 for hotel rooms and $3,844 for food. Such funds are 50 percent Federal, 25 percent state and 25 percent city.

Sometimes social workers who visited the scene of the fires noted that there was little furniture in the apartments, but according to the Inspector General's reports, other workers apparently did not bother to go out to investigate the scene. In three of the fires, no "fires and disasters" report was made by the H.R.A., in violations of H.R.A. procedures, according to the report.

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[From the Washington Post, July 25, 1977]

ARSON SUSPECTS GOT FIRE AID

NEW YORK, July 25.—Members of a Brooklyn family who received at least $250,000 in welfare since 1969 may have set fire to several of their homes and collected an additional $40,000 in relocation costs, according to a report released today.

The report, by State Comptroller Arthur Levitt, said that the city's Human Resources Administration "exercised an unbelievable degree of laxity bordering on dereliction" in handling the case of the unnamed family.

It noted that the fire department had filed investigative reports for only half the fires, although family members were allegedly well-known as suspects in "arson for profit."

Hearings conducted by the welfare inspector general also "disclosed a history of 13 fires since 1969, of which 10 occurred since 1974."

The family lived in various sections of Brooklyn. It includes a 42-year-old grandmother on welfare since 1954, five of her children from 7 to 16 years of age, two older daughters, 23 and 24, and four of their children.

Relocation funds were paid for furniture and clothing allegedly lost in the fires and for hotel rooms and meals while living quarters were found for the family, even though, on five occasions, "there were sufficient evidence to indicate that the fires were set after removal of furniture," the report said.

The report recommended that the Department of Social Services submit a report to Brooklyn District Attorney Eugene Gold.

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[From the Cincinnati Call and Post]

COMMITTEE TO REWARD SUPPRESSION OF ARSON

COLUMBUS, OHIO.—A $10,000 arson reward fund has been established to help Ohio public officials fight the crime of arson. Rewards from the fund will be part of a citizen-participation program announced by the Blue Ribbon Arson Committee of the Ohio Fair Plan Underwriting Association.

Gene L. Jewell, committee chairman and chief of the Ohio State Fire Marshal's Arson Bureau, said public-spirited citizens who help to suppress arson in their communities will be eligible for cash rewards from the fund. Persons who provide information to a fire chief, police chief, prosecuting attorney or any member of their staffs may be nominated for a reward if that information aids in supressing a case of arson to property in Ohio.

Information on fires that occurred on or after January 1, 1977, are eligible for nominations, but the program itself will run from August 1, 1977 to August 1, 1978. All nominations will be reviewed, award amounts determined and rewards will be presented in August, 1978.

The fund was subscribed by major property insurance companies in Ohio, and anyone connected with the program will not be eligible to receive an award. Ineligibles include members of Jewell's committee, staff of the Ohio Fair Plan, insurance industry employees, public officials, law enforcement and prosecuting personnel and their families.

Jewell said the conviction rate for arsonists is lower than the rate for any other crime: "Studies show that only about one percent of suspected arsonists are convicted. Fire and law enforcement officials want to reverse that figure, but we need community help and citizens' participation."

[From the New York Times]

ARSON, A DEVASTATING BIG-CITY CRIME

(By Joseph P. Fried)

Several factors have combined in recent weeks to heighten public consciousness of arson; the fires that accompanied the July blackout and Mayor Beame's decision, apparently under pressure of his re-election campaign, to emphasize New York City's efforts to combat incendiarism. But as exhausted firemen, frightened residents and dismayed community leaders can testify, in the city and elsewhere in the region from Rochester, N.Y. to Elizabeth, N.J., arson is a phenomenon that has been around—and growing—for more than the last few weeks.

The exact dimensions of the phenomenon are difficult to determine, partly because "a good arsonist destroys the evidence," as Francis Cruthers, chief of operations of the New York City Fire Department, puts it. But there are sufficient clues for Chief Cruthers and other officials to conclude that arson is common. The evidence includes the recurrence of fires in abandoned buildings and the tendency for numerous fires to erupt in the same, usually declining, neighborhoods.

Bushwick and the West Bronx are among the latest New York City neighborhoods to be victimized by arsonists, joining the South Bronx and Brownsville and East New York in Brooklyn. Chief Cruthers estimates that 25 to 40 percent of the building fires in New York City are deliberately set. Because the limited staff of fire marshals cannot investigate all blazes, the official arson figures are much lower than that. The number of structural fires in the city has risen steadily, from 48,000 in 1972 to 56,000 last year, but the number proven by investigators to be arson has hovered at around 4,000 annually.

In Yonkers, fire investigators report 203 fires examined for suspected arson so far this year. At that rate, the annual total would greatly exceed the 269 of last year. Mount Vernon recently recalled its retired fire chief, Alexander Leggatt, to active duty as a full-time arson investigator. The city has suffered more than 80 suspicious fires this year, primarily in its black neighborhoods. Officials in the upstate cities of Rochester and Albany also report significant increases in arson.

In New Jersey, Newark has long had substantial arson in some of its neighborhoods, and "there is a sign of it in the past year or two" in Elizabeth, according to that city's fire chief, Edward Sisk.

In the United States as a whole, fire-protection specialists estimate the arson rate has tripled in the last 15 years to about 15,000 annually. The damage and loss amount to about $1 billion.

Fire officials in New York City and elsewhere attribute part of the increase to businessmen or property owners seeking to collect on their insurance policies. The "arson for profit" owners may be slumlords who see no value in their decaying buildings other than the insurance money. Although many of these owners may be driven by desperation, one former city prosecutor insists that at least some are avaricious entrepreneurs who buy decrepit buildings solely to arrange a profitable fire.

Other suspected arsonists are slum residents who, fire officials say, ignite their own apartments to obtain higher priority for relatively few public housing vacancies or to get emergency benefits, such as relocation allowances, that New York City offers to welfare families. A welfare family consisting of the parents and three children, for example, can obtain up to $2,000 if city officials determine that a fire has made the family's apartment uninhabitable and destroyed its furniture and clothing.

Real estate officials argue that landlord arson has been exaggerated. Some welfare officials and community leaders insist that tenant arson has also been exaggerated and that, given the cost of moving and buying new clothing and furniture, there is not much to gain by burning one's apartment.

Still other arsonists are said to be "building strippers" and scavengers who find that a fire is the quickest way to empty a building and gain access to plumbing, appliances and other objects that can be sold for scrap. There are also youngsters who, if they are not being paid to "torch" a building for an owner, set fires for sheer excitement. People of all ages, moreover, are sometimes moved to arson by the desire for revenge.

Federal, state and local officials have acted recently to deal with arson in New York City. The city formed a 100-member team of fire marshals and police officers to concentrate on the most affected neighborhoods. In the past, though, police and fire officials have not worked well together on arson-suppression teams, one fire official has acknowledged.

At the state level, Governor Carey last week signed into law a bill designed to take the profit out of arson by permitting cities to collect delinquent taxes and other payments from landlords' insurance proceeds. And a Federal grand jury recently started an investigation into arson for fraud in the Bronx and northern Manhattan.

To many urban specialists, however, these steps, although important, are not regarded as the ultimate answer. They believe that as long as urban decay continues to spread as rapidly as in recent years, arson will continue.

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[From the New York Times, July 21, 1977]

ARMED CITIZENS PATROL BUSHWICK, SAYING THE POLICE DO NOT DO JOB

(By Pranay Gupte)

Late every evening, when the sun has disappeared behind the decaying tenements in the Bushwick section of Brooklyn, William Johnson brings out his shotgun, coaxes his two German shepherd dogs out of their kennels and starts patrolling his block.

The block, between Granite and Furman Avenues, has, like other areas in Bushwick, been repeatedly struck by arsonists in the last few months. And so now, contending that the New York City Police Department has failed to monitor the area properly, Mr. Johnson and other residents of the neighborhood have formed a citizens' vigilance group.

"We have no choice but to take on this responsibility," said Mr. Johnson, who is licensed to possess a shotgun. He lives at 1501 Bushwick Avenue.

His house, a three-story frame structure, stands next to two other similar type of buildings that were attacked by arsonists several months ago. The debris from the fire still has not been cleared away, and neighbors fear that if there is another fire on the premises, the blaze could well sweep the entire block, because all the houses are connected.

The residents of this block say their apprehensions are aggravated because a sudden, sweeping fire—caused by arsonists, according to the police—spread through a seven-block area last Monday not far away from this neighborhood. That fire destroyed 23 buildings and displaced more than 250 people.

Yesterday, District Attorney Eugene Gold of Brooklyn announced the arrests of three youths from the borough on charges that they started the fire, which raged for several hours.

Mr. Gold identified two of the suspects as John Damico, 18 years old, of 1358 DeKalb Avenue, and John Rivers, 16, of 135 Irving Avenue. They have been charged with arson. The identity of the third suspect—all the suspects were arrested late Tuesday night—was not disclosed because of his juvenile status. He is 12 years old, Mr. Gold said, and he has been charged with juvenile delinquency.

The police said that the suspects, who lived several blocks from where the fire began, set it to destroy evidence of the glue they had been sniffing.

Yesterday another fire hit the Bushwick section of Brooklyn. It was a three-alarm blaze that occurred in a vacant five-story brick factory at Lexington and Lewis Avenues, about 10 blocks from Monday's fire, which started in an abandoned knitting plant at the corner of Myrtle and Knickerbocker Avenues.

The fire yesterday began shortly after 1 a.m., and two firemen were reported slightly hurt extinguishing it.

Fires like these have made Mr. Johnson and his neighbors extremely wary.

Gwendolyn Hart, who lives at 1473 Bushwick Avenue, said she feared that if something was not done to prevent such fires, there would soon be no homes left in Bushwick.

"Where are our officials?" Miss Hart asked yesterday. "What do they do to help us? We want a decent neighborhood, but the city government is systematically ruining us by its neglect."

Both she and her mother, Pearl Hart, recalled the time when they first moved into the neighborhood, 20 years ago. There were mostly Germans and Italians here then, they said, and there was harmony between them and the few blacks in the area.

A CHANGE FOR THE WORSE

Sanitation pickups were regular and crime was minimal, Miss Hart said. Now, she said, the garbage is collected only infrequently and the crime rate is high—not unlike other low-income areas around the city.

And Kareen Wilson, who lives near the Harts, remembered the elms that lined Bushwick Avenue 18 years ago when she and her parents came here. Miss Wilson, a Brooklyn College sophomore, was 5 years old at the time, and she spoke of how residents would rest or picnic under the shady trees on warm summer afternoons.

But the elms are gone now, victims of a tree disease that struck the area a few years ago. The whites are gone, too—to the suburbs, for the most part, or to neighborhoods where crime is not so high. Now most of the residents are black and nearly all own the houses they live in. They say that fear characterizes their lives now.

"This whole neighborhood is dead," Miss Wilson said. "There is no protection for us—no one cares for Bushwick."

Why, then, do people stay?

"Where are we going to run to?" Miss Hart said.

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## NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Bernal D. Cantwell, of Kansas, to be U.S. marshal for the district of Kansas for the term of 4 years vice Jack V. Richardson.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, August 12, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

## NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Hubert H. Bryant, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma for the term of 4 years vice Nathan G. Graham, resigned.

Carl W. Gardner, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma for the term of 4 years vice Harry Connolly.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Friday, August 12, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

## REFERRAL OF A BILL—S. 897

Mr. GLENN. Mr. President, I have a further unanimous-consent request. I ask unanimous consent to amend the referral of S. 897 and amendment No. 745 thereto to provide that the bill and the amendment be jointly referred to the Committee on Governmental Affairs, the Committee on Foreign Relations, and the Committee on Energy and Natural Resources, with the proviso that the Energy and Natural Resources Committee shall be limited in its consideration of the bill and amendment to sections 102, 103, 104, 105, 202, 501, 502, and 503 of the amendment, and that the Committee on Energy and Natural Resources shall complete its consideration of such sections not later than September 20, 1977, and further that such committees shall report their recommendations to the Senate not later than September 23, 1977.

This has been cleared with the chairmen and ranking members of the Committees on Foreign Relations, Energy, and Governmental Affairs.

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

## ORDER FOR CERTAIN ACTIONS DURING ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate may be authorized to receive messages from the President of the United States and to appropriately refer them during the adjournment of the Senate over to 12 o'clock noon on September 7.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Vice President of the United States, the President of the Senate pro tempore, the Acting President of the Senate pro tempore, and the Deputy President of the Senate pro tempore may be authorized during the adjournment of the Senate over to 12 noon on September 7 to sign all duly enrolled bills and joint resolutions.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate may be authorized during the adjournment of the Senate to receive messages from the House of Representatives and to appropriately refer them if it is necessary to do so.

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

## AUTHORIZATION TO APPOINT A SPECIAL DELEGATION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk on behalf of myself and the distinguished minority leader a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

*Resolved,* That the President of the Senate is authorized to appoint a special delegation of not to exceed 12 members of the Senate upon the recommendation of the Majority and Minority Leaders to visit certain countries in the Middle East and other areas as needed to conduct a study on United States economic and security interests in those areas.

SEC. 2. (a) The expenses of the delegation, including staff members designated by the chairman or co-chairman to assist said delegation, shall not exceed $45,000, and shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman or co-chairmen of the said delegation.

(b) The expenses of the delegation shall include such special expenses as the chairman or co-chairmen may deem appropriate, including reimbursements to any agency of the Government for (1) expenses incurred on behalf of the delegation (2) compensation (including overtime) or employees officially detailed to the delegation, and (3) expenses incurred in connection with providing appropriate hospitality.

(c) The Secretary of the Senate is authorized to advance funds to the chairman or co-chairmen of the delegation in the same number provided for committees of the Senate under the authority of Public Law 118, Eighty-first Congress, approved June 22, 1949.

The PRESIDING OFFICER. Is there objection to its immediate consideration?

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

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 256) was agreed to.

## EMERGENCY RUNOFF RETARDATION AND SOIL EROSION PREVENTION PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 344, S. 1462

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1462) entitled Emergency Runoff Retardation and Soil Erosion Prevention Program.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee reserves the right to object.

Mr. BAKER. And I shall not object.

I simply inform the Chair that the majority leader and I have discussed this matter previously, and I have assured him that it is cleared for consideration and passage at this time on this side.

There being no objection, the Senate proceeded to consider the bill (S. 1462) which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike out all after the enacting clause and insert the following:

That the Secretary of Agriculture is hereby authorized to undertake such emergency measures for runoff retardation and soil-erosion prevention, in cooperation with landowners and land users, as he deems necessary to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire or any other natural occurrence has caused a sudden impairment of that watershed.

SEC. 2. There is hereby authorized to be established and maintained in the United States Treasury an emergency fund to carry out emergency activities pursuant to this Act. The fund shall be available to the Secretary of Agriculture wtihout fiscal year limitation.

SEC. 3. There are hereby authorized to be appropriated such sums as Congress may determine necessary for the establishment and maintenance of the emergency fund authorized under section 2 of this Act.

SEC. 4. The Secretary of Agriculture is authorized to prescribe such regulations as he determines necessary to carry out the provisions of this Act.

SEC. 5. The provisions of this Act shall become effective October 1, 1978.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–372), explaining the purposes of the measure.

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

### SHORT EXPLANATION

S. 1462 authorizes the Secretary of Agriculture to undertake emergency measures to safeguard lives and property from floods, drought, and erosion whenever fire or any other natural occurrence has caused a sudden impairment of a watershed. The bill authorizes the establishment of an emergency fund in the U.S. Treasury for the use of the Secretary in carrying out such measures, and the appropriation to the fund of such sums as may be necessary.

The provisions of the bill would become effective October 1, 1978.

### BACKGROUND AND NEED

Section 7 of the Act of June 28, 1938 (52 Stat. 1215, as amended; 33 U.S.C. 701b–1), authorizes the Secretary of Agriculture to provide emergency assistance similar to that authorized in S. 1462, with a funding limit of $300,000 annually. After the $300,000 is obligated, additional emergency assistance is dependent upon supplemental appropriations. The present $300,000 limitation has been in effect for some 25 years. During that time, several emergencies have occurred which resulted in a need for Federal assistance in an amount greater than $300,000.

During the last 7 years, supplemental appropriations were approved as follows: $4 million in fiscal year 1969; $3.7 million in fiscal year 1970; $16.5 million in fiscal year 1972; $20 million in fiscal year 1973; $22.5 million in fiscal year 1973; $22.5 million in fiscal year 1974; and $65.8 million in fiscal year 1976.

When supplemental appropriations are needed, the installation of emergency measures is often delayed for long periods and in some instances is never accomplished. As a result, persons are subjected to greater hardships, and the environment is subject to additional degradation.

S. 1462 will help alleviate this problem by making funds available to enable the Secretary of Agriculture to respond to emergency situations in a more timely manner. Passage of this bill will not affect the total funds needed, since the total amount of funds expended in any one year is solely dependent on actual emergency needs created by fire or natural occurrence such as floods, drought, erosion or sedimentation.

COMMITTEE CONSIDERATION

The Committee on Agriculture, Nutrition, and Forestry, meeting in Executive Session on June 28, 1977, amended S. 1462 to make the provisions of the bill effective beginning October 1, 1978. The Committee also made several minor technical amendments to S. 1462 and ordered the bill reported to the Senate.

The amendment was agreed to.

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

The title was amended so as to read:

A bill to authorize the Secretary of Agriculture to undertake an emergency runoff retardation and soil-erosion prevention program, and to establish an emergency fund to carry out the program.

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

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

The motion to lay on the table was agreed to.

## TRANSFER OF MEASURE TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there is a bill on the calendar which has been cleared for passage by unanimous consent. It is Calendar Order No. 359, S. 1752, a bill to extend certain programs under the Elementary and Secondary Education Act of 1965 for 1 year, and for other purposes.

I ask the clerk to transfer that bill to the Unanimous Consent Calendar.

The PRESIDING OFFICER. It will be so transferred.

## SMALL BUSINESS DEVELOPMENT CENTER ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, there is a bill at the desk, S. 972, that has been reported from the Small Business Committee. I ask unanimous consent for its consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 972), to authorize the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning and development, and domestic and international market development, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill (S. 972) which had been reported from the Committee on Small Business with an amendment to strike out all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Small Business Development Center Act of 1978".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) small business concerns rarely have access to useful and practical advice, information, and services of the types which are available to large business concerns or, through the Department of Agriculture extension service, to farmers and agricultural business concerns;

(2) small businesses would benefit from having a local, single source of assistance which would interpret, analyze and counsel on matters such as management, marketing, product development, manufacturing, technology development and exchange, finance, government regulations and policies and other similar problem or policy areas; and

(3) Universities are aware of local small business problems and are better equipped than the Federal Government to develop and establish management and technical assistance programs designed to aid small business concerns in such local communities.

(b) It is the purpose of this Act to expand the small business sector, to stimulate economic diversity, and to foster competition by encouraging the development of Small Business Development Centers through a grant program giving States wide flexibility in developing and establishing Centers to aid in the development and growth of existing and new small business concerns.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "Administration" means the Small Business Administration;

(2) the term "Center" means State Small Business Development Centers and regional Small Business Development Centers established or operated with assistance furnished under this Act;

(3) the term "Board" means the Small Business Development Center Advisory Board;

(4) the term "University" means any public or private nonprofit institution of higher education which is located in any State; and

(5) the term "State" means a State of the United States, the District of Columbia, or any territory, possession, or commonwealth of the United States.

GRANTS

SEC. 4(a). The Administration, upon the advice of the Board, acting through the Associate Administrator for Management and Technical Assistance, is authorized to make grants to States to assist Universities within the States in developing and operating a Center program that furnishes small businesses with a broad range of advice, information, and assistance, as described in section 6 of this Act.

(b) A grant may be made to finance 75 percent of the cost of developing and operating a State Center program. Assistance made available pursuant to this Act may be used only to support activities described in section 6 of this Act and for such other comparable activities as are approved by the Administration which are designed to benefit small business concerns by providing direct information and assistance or by providing access to business analysts who can refer small business concerns to available experts or consultants.

(c) The Administration may make a grant to finance 100 percent of the cost of developing and operating regional Center activities described in section 6 or other such comparable activities as are approved by the Administration.

STATE PLANS

SEC. 5. (a) A State may apply to participate in the Center program by submitting to the Administration for approval a plan naming:

"the Universities within the State that would participate in the program, the geographic area to be served by each University, the services that each University would provide, the method for delivering services by each participating University, the budget for each University, and any other information and assurances the Administration may require to insure that the State will carry out the activities eligible for assistance under this Act."

(b) Assistance shall be made available through the States to a University only if that University is included in that State's plan which has been approved by the Administration.

CENTERS

SEC. 6. (a) State and regional Centers receiving grants under this Act shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations.

(b) A State Center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. It shall also, to the extent possible, make full use of other Federal and State Government programs that are concerned with aiding small businesses. A State Center shall have:

(1) a full time staff including a State director to manage the program activities;

(2) business analysts to counsel, assist, and inform small business clients;

(3) technology transfer agents to provide state of the art technology to small businesses through coupling with national and regional technology data sources;

(4) information specialists to assist in providing information searches and referrals for small businesses;

(5) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises; and

(6) access to laboratory and adaptive engineering facilities.

(c) Services provided by a State Center shall include, but shall not be limited to:

(1) furnishing one-to-one individual counseling to small businesses;

(2) assisting in technology transfer, research and coupling from existing sources to small business concerns;

(3) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Technology development shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

(4) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

(5) providing and maintaining a comprehensive library that contains current infor-

mation and statistical data needed by local small businesses;

(6) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community; and

(7) conducting in depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in that locality.

(d) A State Center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

(e) Regional Centers shall be established to support State Centers when the Administration, with the advice of the Board, determines a need for providing assistance and information on technical or specialized problems that may require capital intensive research and which transcend State boundaries. Regional Centers shall be provided a specific charter and staff according to the services they will be expected to provide. Their assistance shall be available to all State Centers participating in the program.

(f) Laboratories operated and funded by the Federal Government are authorized and directed under this Act to cooperate with Centers participating in this program. Laboratories shall make facilities and equipment available as an aid in providing experiment station capabilities in adaptive engineering; provide library and technical information processing capabilities; and provide professional staff for consulting. Centers shall reimburse the laboratories for necessary expenses.

PROGRAM MANAGEMENT

SEC. 7. (a) There is hereby established in the Small Business Administration a division to be known as the Small Business Management and Technical Assistance Division. The Division shall be headed by an Associate Administrator for Management and Technical Assistance who shall be appointed by the Administrator, and shall receive compensation at the rate provided by law for other Associate Administrators of the Small Business Administration.

(b) The Administrator shall appoint a Deputy Associate Administrator for Management and Technical Assistance who will report to the Associate Administrator for Management and Technical Assistance and who shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate for GS–17 of the General Schedule.

(c) The sole responsibility of the Deputy Associate Administrator for Management and Technical Assistance shall be to administer the Small Business Development Center Program. Duties of the position shall include, but are not limited to establishing the annual program budget, reviewing the annual budgets submitted by each State, establishing appropriate funding levels therefore, selecting States to participate in this program under this Act, establishing policies implementing the provisions of this Act, reviewing applications for research grants under section 8 of this Act, maintaining a clearinghouse to provide for the dissemination and exchange of information between Centers, disseminating information obtained under section 8 of this Act, and conducting audits of recipients of grants under sections 4 and 8 of this Act. The Deputy Associate Administrator for Management and Technical Assistance shall confer with and seek the counsel of the Board in carrying out the responsibilities described in this section.

(d) (1) There is established a National Small Business Development Center Advisory Board which shall consist of 17 members, 12 of whom are to be appointed from civilian life by the President, by and with the advice and consent of the Senate, and shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. Of the 12 members so appointed, no more than 3 shall be from Universities or their affiliates and 9 shall be from small businesses or associations representing small business. At the time of the appointment of the Board, the President shall designate at least one third of the members and at least one from each category whose term shall end in two years from the date of appointment, and a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three year terms, with one third of the Board changing each year. The other members of the Board shall be the National Science Foundation Director of the Office of Small Business Research and Development, Director of the Energy Extension Service of the Department of Energy, Assistant Secretary of Commerce for Science and Technology, Deputy Assistant Secretary of Defense for Material Acquisitions and the Assistant Administrator for Industry Affairs and Technology Utilization of the National Air and Space Administration.

(2) The Board shall elect a chairman and advise, counsel and confer with the Deputy Associate Administartor for Management and Technical Assistance in carrying out the duties described in section 7 (c) of this Act. The Board shall meet at least quarterly and at the call of the chairman of the Board. Each member of the Board, other than representatives of the Federal Government, shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occuping the position under GS–18 of the General Schedule for each day he is engaged in activities of the Board and shall be entitled to be reimbursed for his expenses as a member of the Board.

(e) Regional and State Centers shall establish advisory boards which shall consist of a majority of members from small businesses and which shall include members from Universities and members from State and local governments. State Center Board members shall be appointed by the Governor not regional Center Board members shall be appointed by the Administrator of the Small Business Administration and persons selected for both boards shall have outstanding qualifications and known to be familiar and sympathetic with small business needs and problems.

RESEARCH GRANTS

SEC. 8. The Administration, upon the advice of the Board, acting through the Associate Administrator for Management and Technical Assistance, is authorized to make grants to Universities, public and private organizations, and business concerns to undertake research to identify and solve managerial, economic, financial, operational, technological, or other problems which affect small business concerns. The Deputy Associate Administrator for Management and Technical Assistance, with the advice of the Board, shall develop criteria to insure that all research projects are coordinated and that they address the need for relevant and meaningful small business data and information.

AUTHORIZATION

SEC. 9. There is authorized to be appropriated for grants under section 4 of this Act not to exceed $8,000,000 for fiscal year 1979 and $15,000,000 for each fiscal year from 1980 through 1982 and under section 8 of this Act not to exceed $5,000,000 for each fiscal year from 1979 through 1982. Salaries and expenses of the Administration and the Board under section 7 of this Act shall not exceed 5 percent per annum of the per annum authorization.

EVALUATION

SEC. 10. The Administration, with the advice of the Board, shall establish a plan for evaluation of the Center program which may include the retaining of an independent concern to conduct such an evaluation. The evaluation shall be both quantitative and qualitative and shall determine:

(1) the impact of the Center program on small businesses and the socio-economic base of the region it served; and

(2) the multi-disciplinary resources the Center program was able to coordinate to assist small businesses. For the purpose of these evaluations, the Administration is authorized to require any Center or party receiving assistance under section 8 of this Act to furnish it with such information annually or otherwise as it deems appropriate. The first such evaluation must be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives no later than the third year after the date of enactment of this Act and each year thereafter.

ASSOCIATE ADMINISTRATOR

SEC. 11. (a) Section 4(b) of the Small Business Act is amended by striking the world "four" and inserting in lieu thereof the word "five".

(b) Section 5316 of title 5, United States Code, is amended by striking from paragraph (11) the figure "(4)" and by inserting the figure "5".

Mr. BAKER. Mr. President, I rise only to advise the majority leader that we are aware of this bill. It has been cleared on the minority side, and we have no objection to its passage.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–404), explaining the purposes of the measure.

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

PURPOSE

The Small Business Development Center Act of 1978 would expand the small business sector, stimulate competition, and aid in the development and growth of new and existing small businesses by providing assistance, interpretation, analysis and counseling to small businesses on matters involving manufacturing, technology development, marketing, sales, finance, accounting, planning, strategy development, personnel, administration, government regulatory compliance, and other related business functions. Rural and urban small businesses, including those engaged in agricultural activities, would all be assisted by this measure.

The amendment was agreed to.

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

The title was amended so as to read:

A bill to authorize the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small businesses with advice and counseling on management development, technical information, product planning and development and for other purposes.

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

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

The motion to lay on the table was agreed to.

## APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. MATSUNAGA). The Chair, on behalf of the Vice President, pursuant to Public Law 95-45, appoints the Senator from Vermont (Mr. STAFFORD) to the 64th Fall Conference of the Interparliamentary Union, to be held in Sofia, Bulgaria, September 20-30, 1977.

## QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 30 seconds.

There being no objection, the Senate, at 9:18 p.m. on Friday, August 5, 1977, adjourned until the hour of 9:18 and 30 seconds p.m. the same day.

## AFTER ADJOURNMENT

FRIDAY, AUGUST 5, 1977

The Senate met at 9:18 and 30 seconds p.m., pursuant to adjournment, and was called to order by Hon. SPARK MATSUNAGA, a Senator from the State of Hawaii.

## THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of this legislative day be dispensed with.

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

## THE FIRST 7 MONTHS—SENATE ACCOMPLISHMENTS OF THE 95TH CONGRESS, JANUARY 4-AUGUST 5, 1977

Mr. ROBERT C. BYRD. Mr. President, the accomplishments of the Senate during the first 7 months of the 95th Congress are impressive. Senators have worked assiduously on a variety of issues both in committee and on the floor. We have made changes to the rules of the Senate which have resulted in greater efficiency of the Senate and greater effectiveness of Senators. We have passed 12 of the 13 regular appropriation bills well in advance of the beginning of the approaching fiscal year. We have come to grips with issues ranging from farm prices to the B-1 bomber which affect the well-being of every American and the security of the Nation. We have acted expeditiously on two extremely important programs which were left from last year—strip mining controls and air quality standards.

The Congress finally prevailed in establishing a Federal program to minimize the degradation of the environment by surface mining. Two previous Republican Presidents thrice vetoed our initiatives to set up uniform minimum strip mining and reclamation standards. President Carter, however, supported our efforts and signed the Surface Mining Act into law on Wednesday.

The Senate is continuing to give President Carter's legislative proposals thorough study and consideration, as illustrated in a status report on his major recommendations which will be included at the conclusion of my remarks.

In response to the priority concern of this Congress, the Senate has already passed 21 energy-related measures. Senate action ranges from giving the President special authority to deal with the natural gas shortage during the record cold winter to passage more recently of a measure which will facilitate the expeditious and orderly development of the energy resources on the Outer Continental Shelf. Eight energy-related bills have become law including an act creating a Department of Energy. Two await the President's signature while one other is in Senate-House conference. Ten await passage by the House as listed below:

ENACTED

Deepwater Ports Extension (H.R. 6401, Public Law 95-36).

Department of Energy (S. 826, Public Law 95-91).

ERDA Nonnuclear Authorization, 1977—Civilian (S. 36, Public Law 95-39).

Export Control—Arab Boycott (H.R. 5840, P.L. 95-52).

FEA Authorization (S. 1468, Public Law 95-70).

Natural Gas Emergency (S. 474, Public Law 95-2).

Urgent Power Supplemental Appropriation (H.J. Res. 227, Public Law 95-3).

Strip Mining (H.R. 2, Public Law 95-87).

SENT TO PRESIDENT: 2

Public Works—Energy Research Appropriation (H.R. 7553, P.L. 95- ).

Clean Air (H.R. 6161, P.L. 95- ).

IN CONFERENCE: 1

Mine Safety (S. 717).

PASSED SENATE, NOT HOUSE

Alaska Pipeline Destruction (S. 1496)

Educational Institution Energy Saving Grants (S. 701)

ERDA Nonnuclear Authorization, 1978—Civilian (S. 1340; H.R. 6796 on House Union Calendar)

ERDA Nuclear Authorization—Civilian/Military (S. 1341)

ERDA Nuclear/Nonnuclear Authorization—Civilian (S. 1811)

ERDA Nuclear Authorization—Military (S. 1339; H.R. 6566 on House Union Calendar)

ERDA Synthetic Fuel Loan Guarantee Program (S. 37)

Outer Continental Shelf (S. 9; H.R. ordered reported 7/27)

Pipeline Destruction (S. 1502)

Radiation Exposure (S. 266)

Aside from these 21 bills which we have considered on the Senate floor, our committees have already spent many hours hearing witnesses and examining the numerous components of the President's omnibus energy package. Senators are to be congratulated on the important committee work they have already done so that the full Senate will have this urgent matter for consideration in September.

The leadership is grateful to all Members of the Senate for their cooperation in writing this record of achievement of which we can all be proud.

A more detailed accounting of the measures the Senate has passed the year is contained in a report prepared by the staff of the Democratic Policy Committee. I ask unanimous consent that this report and other relevant material be inserted in the RECORD at this point.

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

LEGISLATIVE DIGEST

(January 4-August 5, 1977)

ENERGY-ENVIRONEMENT

Emergency Natural Gas.—Congress enacted early this year a measure giving the President special emergency authority to deal with the natural gas shortage during the winter months.

Department of Energy.—Congress has written into law provisions creating a cabinet-level Department of Energy incorporating some 50 energy-related agencies including FEA, ERDA and the FPC. The Senate has confirmed the President's nomination of of James R. Schlesinger to become its first Secretary only minutes after the President signed the bill into law.

Strip Mining.—Congress has enacted a program to minimize the degradation of the environment by requiring minimum uniform standards for mining and reclamation.

Export Control—Alaskan Oil.—Congress has enacted a measure prohibiting the export of Alaskan oil except for mutually beneficial exchanges or for national security reasons.

Clean Air.—Congress has sent the President a measure setting final auto emission standards in 1981, and requiring other measures to improve air quality.

Public Works—Energy Research Appropriations.—We have cleared for the President an appropriation of $10.4 billion of which $5.9 billion is for energy research.

Clean Water.—In Senate-House conference is a $26.5 billion 5-year authorization for Federal grants to local municipalities for construction of sewage treatment plants. It also severely limits the use of phosphates in detergents sold in States bordering the Great Lakes.

Mass Transit.—The Senate has approved $5.3 billion in new funds to help cities and States pay for urban mass transit programs.

ERDA.—The Senate has authorized $5.2 billion for nuclear and nonnuclear energy research and development and $3.8 billion for ERDA programs which have military applications.

Outer Continental Shelf.—The Senate has passed a measure which will facilitate the environmentally-safe development of oil and other resources on the Outer Continental Shelf.

Energy Saving Grants for Schools.—The Senate has authorized matching grants to schools to help them meet the high costs of fuel and to encourage energy conservation measures.

Pipeline Destruction.—The Senate has passed provisions making it a Federal crime to willfully destroy the Trans Alaska pipeline or any interstate pipeline system transporting gas or oil.

**Alaska Pipeline Treaty.**—The Senate voted to ratify a treaty with Canada to insure that present and future pipelines across Canadian territory will be free from interruptions in flow and from discriminatory taxation.

ECONOMY-UNEMPLOYMENT

**Tax Cut.**—Congress has enacted a 3-year $34 billion tax cut. Forty-six million Americans—90% with incomes less than $20,000—will pay less taxes. Corporations will be allowed a tax credit on hiring new employees. Ninety-six percent of all taxpayers will have a simpler method of computing their taxes.

Economic Stimulus Appropriations.—Congress has enacted a measure providing $20.1 billion to create 415,000 new CETA jobs in implementing the President's economic stimulus proposals. Includes funds for public works projects, public service employment, and countercyclical revenue-sharing to help State and local governments continue their basic services and to target employment and training programs to youth, veterans and unskilled workers.

Public Works Employment.—Congress has enacted a measure authorizing $6 billion for local public works projects which provide jobs through construction in places with the most distressing levels of unemployment.

Unemployment Compensation.—Congress has extended the unemployment compensation program until October 31 to aid those temporarily unemployed with an income to meet their day-to-day living expenses.

Youth Employment.—We have sent the President a bill adding a new title to CETA to put 200,000 unemployed youths to work on neighborhood improvement, public facilities, parks and other projects in an effort to enhance job prospects and career opportunities for youths.

Housing and Community Development.—Under consideration by Senate and House conferees is a $14.6 billion multi-year authorization for housing assistance and community development.

INTERNATIONAL

Arab Boycott.—We have enacted provisions attacking the most repugnant aspects of the Arab boycott against Israel and generally improving export administration.

Rhodesian Chrome.—Congress acted early this year to halt the importation of chrome from Rhodesia which was in violation of U.N. sanctions against trade with that country.

Foreign Corporate Bribes.—The Senate passed a measure to make it a crime for U.S. companies to bribe foreign officials and to remove the means of concealing bribes by falsification of corporate records.

Intelligence Activities.—For the first time in history, the Senate voted on a separate bill authorizing the budget for the intelligence activities of the U.S. Government including specific amounts for the CIA and the DIA.

Transfer of Prisoners in Mexican/Canadian Jails.—The Senate has agreed to a resolution of ratification of treaties with Mexico and Canada to allow American convicted prisoners in those countries to return to the U.S. to serve out their prison terms.

HEALTH

Black Lung.—The Senate has concluded debate on a measure to improve the benefits program to miners disabled from Black Lung disease and awaits passage of the House bill.

Clinical Laboratories.—The Senate has voted to expand the program of mandatory licensure to all laboratories except military and veterans hospitals.

Health Research.—Congress enacted a $3.3 billion authorization for the major public health programs.

Mine Safety.—The Senate has voted to strengthen the national mine safety and health program by providing uniform administration and enforcement for the entire mining industry under a single Act administered by the Department of Labor.

OTHER

Presidential Reorganization Authority.—Congress has enacted a 3-year extension of the President's authority to submit to Congress plans to reorganize Executive branch agencies.

Defense Funds.—In conference is a measure appropriating $109 billion for the Department of Defense. As recommended by the President, the Senate omitted funding for procurement of the B–1 bomber.

Omnibus Farm Bill—Food Stamps.—The Senate and House have agreed to extend the basic price support programs for major commodities and the Food for Peace (P.L. 480) program. This bill also makes important revisions in these programs as well as needed reform to the Food Stamp program which is extended for two years.

Senate Committee Reorganization and Code of Ethics.—At the beginning of the session, the Senate reduced the number of Senate committees and realigned jurisdictions into a more rational order. It agreed to numerous other changes to spread legislative responsibilities more equally among all Senators. The Senate also adopted an official code of conduct for Senators and staff which requires extensive financial disclosure.

Ethics in Government.—The Senate has passed a bill requiring extensive financial disclosure by top officials and employees throughout the Federal Government and providing for the appointment of a special prosecutor who would be responsible for investigating any wrongdoing of top government officials.

Waterway User Fee.—The Senate has voted to establish, for the first time in our history, a system of commercial user charges to pay for the maintenance and improvement of the inland waterways.

Insecticides (FIFRA).—The Senate has passed a measure designed to improve the operation of the Federal pesticide registration program and to protect the public against health and environmental hazards from pesticides.

Omnibus Judgeships.—The Senate passed a bill providing for the appointment of 110 additional permanent district court judges to permit the judicial system to keep pace with increased cases.

Campaign Financing.—The Senate has passed a measure simplifying the reporting requirements for candidates and generally improving the administration of the present law.

5-YR COMPARISON OF SENATE LEGISLATIVE ACTIVITY (THROUGH AUGUST 5)

| | 1973 | 1974 | 1975 | 1976 | 1977 |
|---|---|---|---|---|---|
| Days in session | 117 | 106 | 116 | 112 | 121 |
| Hours in session | 665:15 | 657:24 | 739:49 | 775:39 | 746:17 |
| Total measures passed | 412 | 426 | 425 | 552 | 440 |
| Rollcall votes | 362 | 336 | 376 | 492 | 346 |
| Rollcall votes before 12 m | 28 | 19 | 32 | 65 | 17 |
| Rollcall votes after 8 p.m | 10 | 0 | 27 | 25 | 20 |
| Public laws | 82 | 118 | 66 | 172 | 92 |
| Treaties | 9 | 3 | 1 | 10 | 4 |
| Confirmations | 37,636 | 38,827 | 36,141 | 39,185 | 43,433 |
| Senate average attendance (percent) | 87.60 | 88.62 | 89.87 | 85.26 | 89.13 |
| Sessions convened before 12 m | 65 | 75 | 79 | 77 | 57 |
| Sessions convened at noon | 52 | 31 | 37 | 35 | 18 |
| Sessions convened after noon | 0 | 0 | 0 | 0 | 46 |
| Sessions which continued after 6 p.m | 18 | 25 | 29 | 15 | 25 |
| Sessions which continued after 7 p.m | 4 | 8 | 3 | 14 | 21 |
| Sessions which continued after 8 p.m | 5 | 1 | 16 | 18 | 21 |
| Saturday sessions | 4 | 0 | 2 | 1 | 0 |

STATUS OF MAJOR MESSAGES AND COMMUNICATIONS OF THE PRESIDENT, 95TH CONG., 1ST SESS. BY SENATE DEMOCRATIC POLICY COMMITTEE, ROBERT C. BYRD, CHAIRMAN, AUG. 5, 1977

| Message or communication title, bill No. | Senate action | House action | Conference or other action | Date approved | Public Law No. |
|---|---|---|---|---|---|
| Presidential Message No. 21 (Jan. 17, 1977): Budget rescission ($452,600,000 for Nimitz-class nuclear carrier and Aegis), H.R. 3839. | Passed Senate, Mar. 15, 1977 | Passed House, Mar. 3, 1977 | | Mar. 25, 1977 | 95–15 |
| Presidential Message No. 22 (Jan. 17, 1977): Top level exceutive, legislative and judicial salary increases. | Senate tabled Allen, et al. amendment to S. Res. 4 disapproving pay recommendation Feb. 2, 1977; vote Mar. 3, 1977, against repealing increase. | House twice objected to request to consider disapproval resolution, H. Res. 115, Feb. 16, 17; voted June 29, 1977, to reject amendment to H.R. 7932, 1978 legislative branch appropriations, delaying funds for Mar. 1 increases. | | Feb. 20, 1977 became effective. | |
| Presidential Message No. 22 (Jan. 17, 1977); Ethics Code. | S. Res. 110 (Senate Ethics Code), passed Senate Apr. 1, 1977. | H. Res. 287 (House Ethics Code). Passed House, Mar. 2, 1977. | | House code became effective Mar. 2, 1977, Senate code became effective Apr. 1, 1977. | |
| Executive Communication No. 441 (Jan. 26, 1977): Emergency Natural Gas Act S. 474 (administrative bill). | Passed Senate, Jan. 31, 1977 | Passed House, amended Feb. 2, 1977 | Conference report agreed to Feb. 2, 1977, in Senate; Feb. 2, 1977, in House. | Feb. 16, 1977 | 95-2 |
| Presidential Message No. 32 (Jan. 31, 1977): Economic recovery: | | | | | |
| (a) Economic stimulus appropriations (public works jobs, revenue sharing, and public service empolyment, H.R. 4876. | Passed Senate, amended May 2, 1977 | Passed House, Mar. 15, 1977 | Conference report agreed to May 4, 1977 in House; May 5, 1977 in Senate. | May 13, 1977 | 95–29 |
| (b) Public works jobs ($4,000,000,000 increase), H.R. 11. | Passed Senate, amended Mar. 10, 1977 | Passed House, Feb. 24, 1977 | Conference report agreed to Apr. 29, 1977 in Senate; May 3, 1977 in House. | do | 95–28 |

STATUS OF MAJOR MESSAGES AND COMMUNICATIONS OF THE PRESIDENT, 95TH CONG., 1ST SESS. BY SENATE DEMOCRATIC POLICY COMMITTEE, ROBERT C. BYRD, CHAIRMAN, AUG. 5, 1977—Continued

| Message or communication title, bill No. | Senate action | House action | Conference or other action | Date approved | Public Law No. |
|---|---|---|---|---|---|
| (c) Countercyclical revenue sharing | Passed Senate, as amendement to H.R. 3477, Apr. 28, 1977. | H.R. 6810, passed House, Apr. 13, 1977 | Conference report contained 1-yr extension of program instead of 5 yr as requested by President. | May 23, 1977 | 95-30 |
| (d) Tax reform and simplification for individuals and business (tax rebate withdrawn, H.R. 3477. | Passed Senate, Apr. 29, 1977 | Passed House, Mar. 8, 1977 | Conference report agreed to May 17, 1977 in House and Senate. | do | 95-30 |
| Presidential Message No. 33 (Feb 4, 1977): Presidential Reorganization Authority ,S. 626. | Passed Senate, Mar. 3, 1977 | Passed House, amended Mar. 29, 1977 | Senate agreed to House amendments Mar. 31, 1977. | Apr. 6, 1977 | 95-17 |
| Presidential Message Nos. 40 (Feb. 21, 1977) and 57 (Mar. 24, 1977): Water development projects: | Senate adopted Johnston amendment expressing sense of Congress to continue funding for water projects. | | | May 13, 1977 | 95-28 |
| H.R. 11 (public works jobs) | | | | | |
| H.R. 7553 (public works appropriations, 1977). | Passed Senate, amended Jul. 13, 1977 (Senate bill funds 9 of 18 water projects opposed by President). | Passed House, June 14, 1977 (House bill funds 17 of 18 opposed by President). | Conference report agreed to Jul. 25, 1977 in House and Senate funding 9 of 18 water projects. | | 95- |
| Presidential Message No. 41 (Feb. 22, 1977): 1978 budget revisions, S. Con. Res. 19. | Passed Senate May 4, 1977 | Passed House amended May 5, 1977 | Conference report agreed to with amendment May 16, 1977 in Senate; House agreed to Senate amendment May 17, 1977. | Action complete | |
| Presidential Message No. 42 (Mar. 1, 1977): Creates Cabinet Department of Energy, S. 826. | Passed Senate May 18, 1977 | Passed House amended June 3, 1977 | Conference report agreed to Aug. 2, 1977 in House and Senate. | Aug. 4, 1977 | 95-91 |
| Presidential Message No. 45 (Mar. 4, 1977): Airline deregulation. | Commerce Committee markup on staff draft proposal which combines S. 292 and S. 689, June 21, 30, July 12, 14, 19-21, 26, 28, Aug. 2, 4. | Public Works Subcommittee on Aviation hearings April 18; field hearings in Pennsylvania June 17, 18, in Chicago July 30. | | | |
| Presidential Message No. 47 (Mar. 9, 1977): Youth unemployment: | | | | | |
| (a) $342,000,000 increase for Job Corps. | | | | In H.R. 4876, Economy stimulus appropriation, Public Law 95-29. | |
| (b) New Youth title to CETA, H.R. 6138. | Passed Senate, amended May 26, 1977 | Passed House May 17, 1977 | Conference report agreed to July 19, 1977 in House; July 21, 1977 in Senate. | Aug. 5, 1977 | 95- |
| (c) 1-yr extension of CETA, H.R. 2992. | Passed Senate, amended May 25, 1977 | Passed House Mar. 29, 1977 | House agreed to Senate amendment June 3, 1977. | June 15, 1977 | 95-44 |
| Presidential Message No. 51 (Feb. 17, 1977): Foreign Aid: | | | | | |
| (a) Multilateral development assistance (financial institutions), H.R. 5262. | Passed Senate, amended June 14, 1977 | Passed House Apr. 6, 1977 | Conference report agreed to July 27, 1977 in Senate. | | |
| (b) Bilateral development assistance ($1,300,000,000)—Public Law 480 program changes, H.R. 6714. | Passed Senate, amended June 15, 1977 | Passed House May 12, 1977 | Conference report agreed to July 21, 1977 in House; July 22, 1977 in Senate. | Aug. 3, 1977 | 95-88 |
| (c) Public Law 480 program extension, S. 275. | Passed Senate May 24, 1977 | Passed House, amended July 28, 1977 | In conference | | |
| (d) Security assistance, H.R. 6884 | Passed Senate, amended June 15, 1977 | Passed House May 24, 1977 | Conference report agreed to July 21, 1977 in House; July 22, 1977 in Senate. | | 95- |
| Presidential Message No. 52 (Feb. 17, 1977): Oil tanker spills. | S. 682 (tanker safety) passed Senate May 26 1977. Commerce Committee ordered new bill reported in lieu of S. 687 (oil pollution) Aug. 4; to be referred to Environment Committee. | Merchant Marine and Fisheries reported H.R. 6803 (H. Rept. 95-340) May 16. | | | |
| Presidential Message No. 55 (Mar. 22, 1977): Election reform: | | | | | |
| (a) Voter registration | S. 1072 on Senate Calendar (Cal. No. 144). | H.R. 5400 on Union Calendar (Cal. No. 162). | | | |
| (b) Public financing | Senate agreed to Allen amendment to S. 926 deleting public financing for Senate elections Aug. 2. | Administration Committee hearings on campaign reform completed July 12; markup to be scheduled after Sept. 7. | | | |
| (c) Campaign Act amendments | S. 926, passed Senate Aug. 3, 1977 | do | | | |
| (d) Direct election of President | Judiciary Subcommittee on Constitution, markup on S.J. Res. 1 complete; full committee to consider by Sept. 15. | Judiciary Subcommittee on monopolies and commercial law hearings on H.J. Res. 33, 118, and 350 not yet scheduled. | | | |
| (e) Hatch Act changes | Governmental Affairs Committee hearings on S. 80 July 18, 19; to resume after Sept. 7. | H.R. 10, passed House June 7, 1977 | | | |
| Presidential Message No. 56 (March 23, 1977): Drought assistance: | | | | | |
| (a) EDA emergency water system improvement, S. 1279. | Passed Senate May 5, 1977 | Passed House May 17, 1977 | | May 23, 1977 | 95-31 |
| (b) FHA emergency water system improvement and Southwestern Power assistance to irrigators on Federal Reclamation Bureau projects. | | | | In H.R. 4877 supplemental appropriations, 1977, Public Law 95-26. | |
| (c) SBA drought assistance loan program. | S. 1306 on Senate Calendar (Cal. No. 343). | Small Business hearings on H.R. 6047 (administravite bill) and 11 related bills Apr. 19, 22, June 9, 13, 17. | | | |
| (d) Water bank objectives, S. 925 | Passed Senate March 15, 1977 | Passed House, amended April 4, 1977 | Senate agreed to House amendments, April 4, 1977. | April 7, 1977 | 95-18 |
| (f) Transfer of emergency livestock feed program. | Senate agreed to Humphrey amendment to S. 275 (farm bill) which passed Senate May 24, 1977. | H.R. 4295 in full committee (President no longer supports because of subcommittee amendments). | Senate 275 in conference | | |
| Presidential Message No. 64 (April 6, 1977): Agency for Consumer Advocacy. | S. 1262 on Senate Calendar (Cal. No. 143). | H.R. 6805 on Union Calendar (Cal. No. 183). | | | |
| Presidential Message No. 71 (April 25, 1977): Health care system improvements: | | | | | |
| (a) Hospital Cost Containment Act | Human Resources Committee ordered S. 1391 reported Aug. 2. | Ways and Means and Interstate and Foreign Commerce Subcommittees on Health joint hearings on H.R. 6575 complete; markup July 20, 27-29, Aug. 2; will resume after Sept. 7. | | | |
| (b) Child health assessment program. | Finance Committee hearings on S. 1392 not yet scheduled. | Interstate and Foreign Commerce Subcommittee on Health and Environmental hearings on H.R. 6706 Sept. 8, 9. | | | |
| Presidential Message No. 74 (April 27, 1977): Nuclear nonproliferation policy. | Governmental Affairs Committee reported S. 897 in lieu of S. 1432 Aug. 2; Foreign Relations Subcommittee on Arms Control completed hearings on S. 1432; Energy Subcommittee on Energy Resources and Development hearing on S. 1432 June 10. | International Relations Committee ordered H.R. 8638 reported Aug. 2. | | | |

| Message or communication title, bill No. | Senate action | House action | Conference or other action | Date approved | Public Law No. |
|---|---|---|---|---|---|
| Executive Communication No. 1246: Energy policy: | | | | | |
| (1) Pricing, regulatory, and nontax (S. 1496). | Energy Committee overview hearings May 3, 19; markup in progress, to be completed by Aug. 8 with subjects to be taken up in the following order: (1) Coal conversion (S. 977 markup completed July 21). (2) Conservation (Banking, Housing and Urban Affairs Committee residential conservation markup completed July 20; Energy Committee markup completed Aug. 1). (3) Natural gas (markup scheduled to begin after Sept. 7). (4) Utility rates (markup to begin after the August recess). | PIH 8.5.77 (allows continued control of natural gas pricing, but broadens the definition of "new gas"; approves an oil equalization tax; contains a modified gas guzzler tax; and does not allow the administration's proposed gas hike). | | | |
| (2) Tax provisions (S. 1472) | Finance Subcommittee on Administration of the Internal Revenue Code hearings June 6 and 27 on the administrative difficulties of anticipated tax revenues: Full committee hearings scheduled Sept. 8–12 with executive session to begin Sept. 15. | do | | | |
| Presidential Message No. 78 (May 3, 1977): Ethics in Government. | S. 555, passed House June 27, 1977 | Select Committee on Ethics reported H.R. 7401 Aug. 5 (H. Rept. 95–574). | | | |
| Presidential Message No. 79 (May 9, 1977): Social Security Trust Funds (draft legislation not yet received). | Finance Committee hearings on Social Security financing complete, markup July 26. | Ways and Means Subcommittee on Social Security hearings on H.R. 8218 complete; markup week of Sept. 12. | | | |
| Message (May 23, 1977): Genocide Convention ratification. | Foreign Relations hearings May 24, 26 | No action needed | | | |
| Presidential Message No. 83 (May 23, 1977): Environmental protection: | Jointly referred to: Environmental, Energy, Agriculture, Banking, Commerce, Foreign Relations, Governmental Affairs, and Human Resources Committees. | | | | |
| (a) Clean air, H.R. 6161 | Passed Senate, amended June 10, 1977 | Passed House May 26, 1977 | Conference report agreed to in Senate House Aug. 4, 1977. | | 95– |
| (b) Outer Continental Shelf | Passed Senate, July 15, 1977 | OCS Committee ordered H.R. 1614 reported July 27. | | | |
| (c) Strip mining, H.R. 2 | S.9 Passed Senate, amended May 20, 1977. | Pass House, Apr. 29, 1977 | Conference report agreed to July 20, Aug. 3, 1977 1977 in Senate: July 21, 1977 in House. | | 95–87 |
| (d) Urban homesteading provisions in H.R. 6655. | Passed Senate, amended June 7, 1977 | Pass House, May 11, 1977 | In conference | | |
| (e) Endangered Wilderness Act | | H.R. 3454 on Union Calendar (Cal. No. 282). | | | |
| Presidential Message No. 86 (June 2, 1977): Extension of most-favored nation status of Romania. | Finance Subcommittee on International Trade hearing complete. | H. Res. 653 (disapproval resolution)—House postponed indefinitely Aug. 3. | | | |
| Presidential Message No. 95 (July 15, 1977): Reorganization Plan No. 1—Executive Branch. | Governmental Affairs Committee hearings on S. Res. 222 (disapproval resolution) July 27, Aug. 1. | Government Operations Subcommittee on Legislation and National Security—hearing on H. Res. 688 (disapproval resolution) Aug. 3. | | | |
| Presidential Message No. 97 (July 19, 1977): Rescission of $642,000,000 for B-1 bomber and $1,400,000 for SCRAM-B. | Referred to Appropriation Committee, no action taken. | Referred to Appropriation Committee | | | |
| Presidential Message No. 103 (Aug. 2, 1977): Drug abuse. | Referred to Foreign Relations Committee, Human Resources Subcommittee on Health, and Judiciary Committee. | Referred to Committee on State of Union. | | | |

## Senate Legislative Achievements

(95th Congress, 1st Session)

(Prepared by Senate Democratic Policy Committee, Robert C. Byrd, Chairman)

### Senate Activity

| | |
|---|---|
| Days in session | 121 |
| Hours in session | 746:17 |
| Total measures passed | 440 |
| Private laws | 5 |
| Public laws | 92 |
| Treaties | 4 |
| Confirmations | 43, 433 |
| Record votes | 346 |

Symbols: (VV)—Passed by Voice Vote; numbers in parenthesis indicate number of record vote on passage, conference report, or reconsideration.

### Agriculture

Federal Crop Insurance Corporation capital.—Amends the Federal Crop Insurance Act to increase the authorized capital stock of the Federal Crop Insurance Corporation from $100 million to $150 million in order to replenish its operating capital which was nearly exhausted as a result of indemnity payments to insured farmers for crop losses during the 1976 drought and harsh winter of 1977. S. 955—Public Law 95–47, approved June 16, 1977. (VV)

FIFRA.—Extends through fiscal year 1979 the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and authorizes therefor $54.5 million for fiscal 1978 and such sums as necessary but not to exceed $70 million for fiscal 1979; limits the scope of the prohibition against the use of a pesticide in a manner inconsistent with its labeling by providing four specific exceptions; amends the provision relating to the use of data submitted by an applicant for registration of a pesticide which relies on the test data submitted by another applicant by extending to the data owner a right to compensation for use of the data for 7 years after its original submission and establishes a procedure for settling compensation disputes by binding arbitration; eliminates the prohibition against the use of data submitted to the Environmental Protection Agency in order to obtain registration which contains "trade secret" information in processing the application of another person for the registration of a similar pesticide; establishes procedures governing the generation of data needed to maintain existing pesticide registration, including provisions requiring all registrants of a pesticide to take appropriate steps to secure the necessary additional data, arrangements by which the necessary data can be submitted, jointly by the registrants to avoid the waste involved in duplicative testing, and the settling of disputes over cost-sharing arrangements by binding arbitration;

Authorizes "generic" registration of pesticides; directs the Administrator to establish a simplified system for registering pesticides and exempts applicants who purchase registered technical-grade or manufacturing-use pesticides for formulation into end-use products from requirements pertaining to the submission of data to determine safety and from the obligation to pay compensation for use of the data; authorizes the Administrator of EPA to waive registration requirements pertaining to the submission of data relating to the efficacy of pesticides in considering an application for registration; authorizes the conditional registration of pesticides during the period in which data needed for complete registration are being generated if the conditional registration would not significantly increase the risk of any unreasonable adverse effect on health or the environment; permits the Administrator to classify all pesticides prior to the completion of the reregistration required by the 1972 amendment, in order that States may proceed with programs for the training and certification of applicators; permits the Administrator to conduct programs for the certification of applicators of pesticides in States which do not have an approved State plan by October 20, 1977; directs the Administrator to consider restricting a pesticide's use or uses as an alternative to cancelling a registration; requires the Administrator to issue a notice of intent to cancel a conditional registration if the condition upon which the registration was based had not been satisfied within

the time provided; requires the Administrator to submit an annual report by February 15 of each year beginning with fiscal 1979 on the total number of applications for conditional registration, those approved, and the conditions upon which they were approved; limits the prohibition against public disclosure of "trade secret" information only to data relating to the manufacturing process or the identity or percentage quantity of inert ingredients which data could nonetheless be made public if necessary to protect against an unreasonable risk of injury to health or the environment;

Modifies the civil penalty provisions of the act and authorizes the Administrator to issue a warning in lieu of a civil penalty in certain cases; gives the States primary enforcement responsibility with Federal enforcement permitted only if the State is not carrying out regulation and enforcement provisions in accordance with the act; authorizes cooperative agreements with Indian tribes and clarifies the provision relating to the use of the services of the Cooperative State Extension Services to inform and educate all pesticide users of the provisions of the Act; extends to January 1, 1981, the Scientific Advisory Panel; establishes "professional applicators" as a class to which provisions of the Act apply and defines the term as an applicator who applies pesticides for hire; requires applicators to keep certain records and includes their business premises among the establishments subject to inspection by designated agents of the Administrator; provides that a non-registered pesticide or device intended for export would be misbranded if the label did not contain the phrase "Not Registered for Use in the United States"; requires the registration of establishments that produce pesticides or active ingredients from which they are produced for export; and requires the Administrator, within nine months, to submit a report to the Congress on the feasibility of assessing and collecting fees to cover the costs of the pesticide registration program. S. 1678—Passed Senate July 29, 1977. (VV)

Grain inspection.—Amends the United States Grain Standards Act to facilitate and improve the implementation of the amendments made in 1976 (Public Law 94–582); establishes a temporary 12-member committee (representing farmers, consumers and all segments of the grain industry) to advise the Administrator of the Federal Grain Inspection Service (FGIS) on the implementation of the 1976 act, and provides for its termination 18 months after the date of enactment; eliminates the requirement that grain merchandisers and elevator operators using grain inspection or weighing services maintain certain itemized types of records of their operations for a five-year period and requires them instead to keep only such records as the Administrator may prescribe for administration and enforcement; repeals, effective October 1, 1977, the authority for the charging of fees for Federal supervision of grain inspection and weighing and provides instead for funding of these activities through the regular appropriations process; makes several technical amendments; and prohibits effective May 1, 1977, subclassing of the hard red winter wheat on the basis of color, kernel content, or percentage of dark, hard and vitreous kernels. S. 1051—Passed Senate March 30, 1977. Note: (Provisions contained in S. 275, Omnibus Farm Bill, which passed the Senate May 24, 1977.) (88)

Great Plains Conservation.—Amends effective October 1, 1978, section 16(b) of the Soil Conservation and Domestic Allotment Act, which provides for a Great Plains conservation program by (1) striking the provisions in current law that no new conservation contracts may be entered into after December 31, 1981, thus making the Great Plains conservation program permanent; (2) making the program available to all farmers in eligible States, not just those in counties classified as "semi-arid"; and (3) amending the authorization to carry out the program by deleting the current $300 million limitation on total appropriations and $25 million limitation on annual appropriations and authorizing instead, such sums as necessary. S. 896—Passed Senate August 3, 1977. (VV)

Land and Water Resources Conservation.—Establishes a mechanism for making long-range policy to encourage the wise and orderly development of the Nation's soil and water resources; requires the Secretary of Agriculture to (1) prepare an appraisal of the Nation's land, water and related resources and (2) develop a national land and water conservation program setting forth the direction for future soil and water conservation efforts on the Nation's private and non-Federal lands by December 31, 1979, and to update them each fifth year thereafter; requires that the appraisal and the program together with a detailed statement of policy intended to be used in framing budget requests for Soil Conservation Service activities be transmitted to Congress on the first day it convenes in 1980 and at each 5-year interval thereafter; requires that programs established by law be carried out in accordance with the statement of policy unless either House adopts a disapproval resolution within 90 days of receipt; provides that Congress may revise or modify the statement of policy, and that the revised or modified statement of policy shall be used in framing budget requests; requires, beginning with the fiscal 1982 budget, that requests sent by the President to Congress governing Soil Conservation Service activities express the extent to which the projected programs and policies meet the statement of policy approved by Congress; requires the President to set forth reasons for requesting Congress to approve a lesser program or policy where budget recommendations fail to meet the established policy; and requires the Secretary to submit to Congress beginning with fiscal 1982, an annual report evaluating the program's effectiveness. S. 106—Passed Senate March 23, 1977; Passed House amended June 6, 1977. (VV)

Omnibus farm bill.—Extends for 5 years through fiscal year 1982 the basic price support programs for wheat, feed grains, cotton, rice, and wool; extends, with major changes, the food stamp program through fiscal year 1979; extends through 1982 the Food for Peace Program (P.L. 480) with some changes; and establishes a new charter and clearer direction for the Federal role in agricultural research;

Payments limitation.—Places a limitation of $50,000 on the total payments which a person may receive annually under one or more of the programs for wheat, feed grains, upland cotton, extra long staple cotton, and rice instead of the present $20,000 limitation and the separate $55,000 limitation on rice;

Commodity programs.—Milk—sets the price support at 80 percent of parity adjusted semi-annually but reviewed quarterly; extends for 5 years the Class I base plans, seasonal base excess plans, and seasonal takeout—payback plans for 5 years; Wool—updates the support levels to 90 percent of the formula; Wheat—sets the target price in 1977 at $2.90 per bushel and the target price for 1978 at $3.10 per bushel and an increase thereafter if the cost of production exceeds that level; Feedgrains—sets the target price levels for corn at $2.28 per bushel in 1978 and any increases thereafter will be based on cost of production, and ties the target level for other feedgrains to corn; Cotton—establishes a target price of 51.1 cents per pound for 1978 to increase in subsequent years in relation to cost of production increases; Peanuts—establishes a national acreage allotment and a minimum national poundage quota; sets up a price support program for producers through loans, purchases or other operations; Soybeans—requires price support loans for producers on the 1978 through 1982 crops at not less than $4 per bushel;

Grain reserves.—Requires the Secretary to formulate a producer storage program on original or extended price support loans for wheat and feedgrains at the same support level as provided by the 1949 Act, as amended; authorizes the President to negotiate a system of food reserves for humanitarian food relief and to maintain such a reserve of food commodities as a contribution of the United States to the system; expands the authority of the Secretary to acquire commodities for disposition in the event of national disasters; makes the following changes in the farm storage facility loan program: authorizes the Secretary of Agriculture to use guarantees on secured loans as well as direct loans as a means of assisting farmers to construct or purchase onfarm facilities; permits the making or guaranteeing of loans for the construction of facilities to store high moisture grain and forage crops, as well as dry grain; and requires, with respect to direct loans, that the borrower put up security for the loan and base the interest rate charged to farmers on the rate charged the Commodity Credit Corporation;

Food for peace program (P.L. 480).—Extends the program through 1982 and increases the annual authorization to $750 million (with the understanding that the committee's suggested reform would become a part of S. 1520, the foreign aid authorization bill);

Food stamp reforms.—Extends the program for 2 years; eliminates the purchase requirement and establishes a single benefit reduction rate at 30 percent of net income; limits participation to households at or below official Federal poverty levels; replaces current itemized deductions with standardized deductions; requires unemployed participants to seek employment; requires a 60-day period of ineligibility for a household whose head voluntarily terminates employment; eliminates automatic, categorical eligibility of welfare recipients; gives Indian tribal organizations greater authority over food distribution programs on reservations; increases incentives for States to root out program abuse and improve administration; authorizes pilot projects to improve administration; and extends authority to purchase commodities and establishes the Federal share of administrative costs for the Commodity Supplemental Food Program;

Food and agricultural research.—Expands support for research programs, improved dissemination of research findings, increased efficiency and coordination of Federally-funded food and agricultural research including nutrition research and animal health research; creates three interrelated advisory panels to improve coordination; provides for a program of competitive grants within the Department to initiate high priority research activities; authorizes the Secretary to make grants to agriculture experiment stations and land-grant universities to support the Federal-State cooperative research program; authorizes research on solar energy as applied to agriculture; directs the Secretary to develop and implement a national nutrition research and extension program;

Grain inspection.—Adds the language of S. 1051, the Federal Grain Inspection and Weighing Program Improvements bill as earlier passed by the Senate, which amends the United States Grain Standards Act with respect to recordkeeping requirements and supervision fees, and establishes an advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service;

Other provisions.—Amends the authorizations for several existing rural development and conservation programs and contains other provisions including those relating to the inclusion of aquaculture and human

nutrition as functions of the Department of Agriculture, beekeepers indemnity, and the importation of filberts. S. 275—Passed Senate May 24, 1977; Passed House amended July 28, 1977; In conference. (169)

Rabbit meat inspection.—Makes rabbit meat inspection mandatory at Federal cost, by extending, with certain exceptions, the provisions of the Poultry Products Inspection Act to rabbits and rabbit products, effective October 1, 1978. H.R. 2521—Passed House March 29, 1977; Passed Senate amended July 25, 1977. (VV)

Soil erosion prevention.—Authorizes the Secretary of Agriculture to undertake emergency measures to safeguard lives and property from floods, drought, and erosion whenever fire or any other natural occurrence has caused a sudden impairment of a watershed; authorizes the establishment of an emergency fund in the Treasury for the use of the Secretary in carrying out these measures and authorizes therefor such sums as necessary; and makes the bill effective October 1, 1978. S. 1462—Passed Senate August 5, 1977. (VV)

Tobacco quotas.—Amends the Agricultural Adjustment Act of 1938 to increase from 50 percent to 80 percent the amount of the farm acreage allotment for Fluecured tobacco which must be planted on farms desiring to lease acreage-poundage quotas after June 14 of any year. H.R. 3416—Public Law 95–54, approved June 25, 1977. (VV)

Tomato standards.—Amends section 8e of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to require that imported tomatos conform with pack-of-container standards imposed on domestic tomatos under marketing orders. S. 91—Passed Senate July 25, 1977. (VV)

Western States conservation.—Amends, effective October 1, 1978, section 16(b) of the Soil Conservation and Domestic Allotment Act, which provides for a Great Plains conservation program in the States of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming by (1) extending the program into all 22 contiguous States west of the Mississippi River; (2) authorizing farmers and ranchers participating in the program to utilize program funds to improve irrigation systems to conserve water; and (3) adding a condition to cost-sharing contracts under the program that farmers or ranchers who destroy permanent conservation measures installed on farms or ranches under the program forfeit all rights to Federal disaster payments for farm production losses. S. 1614—Passed Senate August 3, 1977. (VV)

Wheat and feed grains loan levels.—States as the sense of the Senate that the Secretary of Agriculture should exercise his authority under existing law to increase the loan levels for the 1977 crops of wheat and feed grains. S. Res. 193—Senate agreed to June 22, 1977. (VV)

Wheat producers assistance.—Provides temporary emergency assistance to wheat producers who planted prior to January 1, 1977, in order to prevent further increases in carryover stocks resulting from record U.S. wheat production and decreasing U.S. exports: requires the Secretary of Agriculture to carry out, through the Commodity Credit Corporation, a special wheat acreage grazing and hay program for the 1977 crop whereby a wheat producer who elects to participate may designate an acreage of cropland on his farm, of not to exceed 40 percent of the wheat allotment, for grazing purposes or hay production only: requires that the producer designate the specific acreage on the farm to be so used; directs the Secretary to pay any participating producer an amount determined by multiplying the number of acres placed in the program times the projected yield established for the farm times $1; makes the producer ineligible for any other payments or price supports, including deficiency payments and disaster payments under section 107 of the Agricultural Act of 1949, on that portion of the wheat allotment placed in the program; provides that such acreage shall be deemed to have been planted for harvest for the purposes of wheat acreage history; and authorizes the Secretary to issue the necessary regulations to carry out this act. S. 650—Passed Senate March 16, 1977. (60).

Wheat referendum.—Defers the wheat marketing quota referendum for the 1978 crop, which by law must be held no later than August 1, until 30 days after the adjournment of Congress or October 15, whichever is earlier, in order to provide additional time for enactment of legislation, presently being considered by Congress, for the 1978 and subsequent wheat crops which would eliminate the need for a referendum. S. 1240—Public Law 95–48, approved June 17, 1977. (VV)

APPROPRIATIONS

*Fiscal 1977*

Continuing.—Extends the continuing resolution (Public Law 94–473) which expires on March 31, 1977, until April 30, 1977, to provide financing authority for the following programs traditionally funded under the Departments of Labor, and Health, Education and Welfare Appropriations Act: higher education; National Health Service Corps; home health services; emergency medical services; library resources; teacher corps; alcohol abuse and alcoholism prevention, treatment and rehabilitation; health professions educational assistance; D.C. medical and dental manpower; activities under title VI of the Comprehensive Employment and Training Act; vocational education; and National Institute of Education; and amends the resolution to provide such amounts as necessary for the calendar quarter ending March 31, 1977, for general revenue sharing payments to State and local governments. H.J. Res. 351—Public Law 95–16, approved April 1, 1977. (VV)

Economic stimulus.—Makes economic stimulus appropriations in the total amount of $20,101,484,000 in new budget obligational authority for fiscal year 1977; includes the following to implement the economic stimulus proposals recommended by the President in his message of January 31, 1977:

Public Works Projects—$4 billion for acceleration of local public works projects;

Revenue Sharing Program—$4,991,085,000 for revenue sharing payments for the last three quarters of fiscal 1977:

Antirecession Financing—$632.5 million for increased antirecession payments under Public Law 94–369 to States and local governments in areas of high unemployment to assist them in maintaining basic services;

Public Service Employment—$7.987 billion for public services jobs which will expand the present Comprehensive Employment and Training Act (CETA) public service programs from the current 310,000 jobs to 600,000 jobs by September 30, 1977, and 725,000 jobs by December 31, 1977;

Targeted Employment and Training Programs—$1.438 billion for programs targeted to youth, veterans and those in need of new skills; and

Older Americans—$59,400,000 for an additional 14,800 jobs for community service employment for Older Americans;

In addition, includes the following appropriations: $95 million for production of NASA's third shuttle orbiter; $300 million for the construction grants reimbursement program for sewage treatment plants; $175 million for a drought assistance program contingent upon enactment of authorizing legislation; $35 million increase in the obligation limitation on airport development grants; $366 million for various programs authorized under the Federal-Aid Highway Act; $50 million for the Northeast Corridor improvement program to speed up construction currently underway; and $2 million for IRS accounts collection and taxpayer service. H.R. 4876—Public Law 95–29, approved May 13, 1977. (130)

Supplemental.—Makes supplemental appropriations in the total amount of $28,923,859,260 for the fiscal year 1977 for almost every department and agency of the Federal Government including appropriations to cover costs associated with the October 1, 1976, general government pay raise. H.R. 4877—Public Law 95–26, approved May 4, 1977. (98)

Urgent disaster supplemental.—Makes urgent supplemental appropriations of $200 million for fiscal year 1977 for disaster relief activities resulting from the severe weather conditions prevalent throughout the nation. H.J. Res. 269—Public Law 95–13, approved March 21, 1977. (VV)

Urgent power supplemental.—Makes urgent power supplemental appropriations of $6.4 million for fiscal year 1977 for the Department of the Interior, Southwestern Power Administration, for power purchases caused by critically low stream flow conditions in the area served by the Administration; and removes the restrictions in Public Laws 94–355 and 94–373 which limit the use of funds appropriated to ERDA subject to enactment of authorizing legislation to assure the continued funding of essential energy research development and demonstration programs. H.J. Res. 227—Public Law 95–3, approved February 16, 1977. (VV)

*Fiscal 1978*

Agriculture.—Appropriates $12,749,378,000 in new budget authority for the Department of Agriculture and related agencies for fiscal year 1978; includes $441,202,000 for the Animal and Plant Health Inspection Service and $1 million for the Farmers' Home Administration for planning and evaluation of housing program; contains funding for domestic food programs; appropriates $50 million for fiscal year 1977 to be immediately available for the Agricultural Conservation Program in drought areas in the Southeast; and contains other provisions. H.R. 7558—Public Law 95– , approved 1977. (VV)

Defense.—Appropriates $109,805,080,000 for the Department of Defense for fiscal year 1978 including the pay, allowances, and support of military personnel, operation and maintenance of the forces, procurement of equipment and systems, and research, development, test and evaluation; omits funding for procurement of the B–1 bomber; commissaries; bars the use of funds to consolidate undergraduate helicopter pilot training; requires military personnel in nonappropriated fund activities such as post exchanges and officers' clubs to be returned to military duties; limits the number of enlisted aides for general flag officers to a total of 150 for the Department of Defense; limits payments to hospitals under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) which pay for medical care for military dependents; and prohibits pay raises that would cause pay of wage board employees to exceed prevailing rates in the private sector but stipulates that no employee's pay shall be reduced from current levels. H.R. 7933—Passed House June 30, 1977; passed Senate amended July 19, 1977; conference report filed. (308)

Foreign aid appropriations, 1978.—Appropriates a total of $6,851,854,000 for foreign assistance and related programs for fiscal year 1978 including funds for foreign economic and military assistance, foreign military credit sales and the Export-Import Bank; appropriates $13 million for disaster assistance to Romania for fiscal year 1977; increases by 10 percent the U.S. contribution to the United Nations Development Program; appropriates $50 million for the Sahel Development Program and limits U.S. assistance to 10 percent of total cash contributions to

this drought-stricken area; includes security supporting assistance in the amount of $785 million for Israel, $750 million for Egypt, $300 million for Portugal, $80 million for Southern Africa Special Requirements Fund, $20 million for Lebanon, and $15 million for Cyprus; provides $2 billion for international development banks which is a billion dollar increase above fiscal year 1977; states sense of the Senate establishing appropriate levels for the "U.S. share" of future contributions to the internat onal development banks; states sense of the Senate language regarding human rights considerations in U.S. voting in international financial institutions; and limits the 1978 contribution to international banks until U.S. Executive Directors' salaries now ranging from $78,820 to $83,830 are reduced to $50,000, the salary of the Assistant Secretary of the Treasury. H.R. 7797—Passed House June 23, 1977; passed Senate amended August 5, 1977; Senate requested conference August 5, 1977. (346)

HUD.—Appropriates a total of $67,648,491,000 in new budget authority for fiscal year 1978 which includes $35,655,781,000 for the Department of Housing and Urban Development; $39,144,000 for the Consumer Product Safety Commission; $843,203,000 for the Environmental Protection Agency; $4,017,940,000 for the National Aeronautics and Space Administration; $43,970,000 for the National Science Foundation; and $17,194,882,000 for the Veterans' Administration; contains a provision to prohibit the use of government vehicles to drive Federal officials other than the Secretary of Housing and Urban Development between home and work; and provides that no government consultants shall be paid in excess of the rate paid a GS–18 civil servant. H.R. 7554—Passed House June 15, 1977; Passed Senate amended June 24, 1977; House agreed to conference report July 19, 1977. (237)

Interior.—Appropriates a total of $10,026,349,000 for the Department of the Interior and related agencies for fiscal year 1978; includes significant increases in natural resources program, the Department's energy and minerals programs directed at the safe and environmentally sound development of energy resources both onshore and on the outer continental shelf, and the Forest Service; contains increased funding for energy programs outside the Interior Department with the major part directed to the Strategic Petroleum Reserve and programs benefiting American natives that are administered by Interior and HEW with emphasis on health, educational, and economic opportunities and the wise management of their natural resources; expands support for programs enhancing the Nation's cultural resources and for specific programs for the arts and humanities, historic preservation, the Smithsonian Institution, and others; and contains other provisions. H.R. 7636—Public Law 95–74, approved July 26, 1977. (221)

Labor-HEW.—Authorizes a total of $60,168,561,000 in new budget authority for fiscal year 1978 with $5,679,187,000 for the Department of Labor, $53,185,557,000 for the Department of Health, Education and Welfare. and $1,303,837,000 for related agencies;

Makes significant increases over the Administration's budget requests for the following: employment and training assistance programs, with primary emphasis on creating jobs for unemployed youths; the Occupational Health and Safety Administration to provide for an additional 100 Federal compliance staff members; health programs for community health services, preventive medicine, research and training; elementary and secondary education programs to provide title I grants to disadvantaged students, impact aid for schools in Federally aeffcted areas, and emergency school aid to help school districts encountering special desegregation problems; higher education programs, particularly the basic opportunity grant, the direct student loan programs and a one-time demonstration project for law school clinical experience programs; the Head Start program; aging programs; rehabilitation programs; community service programs; and the Corporation for Public Broadcasting;

Makes significant decreases in the administration's budget requests for the Bureau of Labor Statistics, public assistance, and the Social Security Administration;

Contains funds restricting the use of public funds for abortions; and requires the use of funds appropriated by this act to require the transportation of students, reorganization of school grade structures, pairing of schools, or clustering of schools for the purpose of achieving racial desegregation. H.R. 7555—Passed House June 13, 1977; Passed Senate amended June 29, 1977; House agreed to conference report August 2, 1977; Senate agreed to conference report August 4, 1977, with House amendment on the abortion provision remaining in disagreement and requested further conference with House. (266)

Legislative.—Appropriates a total of $990,067,800 for the Legislative Branch for fiscal year 1978; includes $653,395,000 for Congressional operations and $336,672,200 for related agencies totalling $20,520,700 for Congressional operations and related agencies; deletes $55 million for the extension of the West Front of the Capitol and includes language instructing the Architect of the Capitol to ascertain which operations currently housed in the Capitol could be relocated to the office buildings and to prepare plans and drawings in detail with cost estimates for restoration of the West Front; provides that virtually all 1977 costs associated with the March 1, 1977, pay raise be absorbed through savings; includes changes in Senatorial allowances, as mandated by the Official Code of Conduct Amendments of 1977, S. Res. 110, and reduces the 1978 budget request for Sente activities by $12 million; consolidates the clerk-hire and the so-called S. Res. 60 allowances into a single allowance which will afford maximum flexibility to Senators in utilizing funds authorized for employment; retain the S. Res. 60 provisions for accessibility to committee files and meetings and certain reductions for committee chairmen and ranking minority members effective October 1, 1977; revises the current Consolidated Office Expense Allowance to provide more flexibility to Senator and to create a fixed allowance for each State; adds to the categories of expenses for which Members may be reimbursed: per diem and travel for Members and staff in the U.S. on official business, travel on official business in Washington, D.C. and in the vicinity of the home State office; and sets aside one-tenth of each Member's allowance to meet any other official office expense; makes each Senator eligible for two WATS telephone lines to be paid out of the contingent fund of the Senate; increases allowances by 10 percent although the consumer price index has risen 42.5 percent since last adjustment; allows an employee to be on the payroll of more than one Senator; directs that a supplement to the Congressional Directory be printed during second sessions rather than a new edition; reduces from 100 to 50 the number of recipients per Senator of free copies of the Congressional Record and requires publication of their names on the Record; eliminates a requested $250,000 subsidy for the Senate Restaurant with the intent of balancing the budget through price increases and improved management; phases out the 34 elevator operator jobs on automatic elevators at a savings of $292,000; and contains other provisions. H.R. 7932—Public Law 95– , approved 1955. (296)

Military construction.—Appropriates $2,977,720,000 for military construction for the Department of Defense for fiscal year 1978 which provides the necessary funding for the planning, design, construction, alteration and improvement of military facilities worldwide, both for active and Reserve forces, including military family housing; provides certain types of community impact assistance as well as assistance to members who face loss on the sale of private residences due to installation realignments; includes $8.5 million for an energy consumption metering program; and provides for the U.S. share of NATO infrastructure construction costs. H.R. 7589—Public Law 95– , approved 1977. (vv)

Public Works—Energy research.—Appropriates $10,350,669,000 for public works for water and power development and energy research for fiscal year 1978; provides $5,978,155,000 for the Energy Research and development Administration (except for fossil fuel and certain conservation programs) in title I; provides $2,728,242,000 water resources development programs (including power) and related activities of the Department of the Army, civil functions—Army Corps of Engineers' civil works program; provides $785,168,000 for the Department of the Interior's Bureau of Reclamation and Power agencies; provides $802,849,000 for related independent agencies and commissions including the Appalachian Regional Commission and Appalachian regional development programs, the Federal Power Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority; and the Water Resources Council in title IV; includes funding for 9 water resources projects which the President had removed from the budget and omits new construction starts of such projects; omits funds for the Clinch River Breeder Reactor; bars production of enhanced radiation weapons until the President certifies to Congress that production of these weapons is in the national interest, with the proviso that the Congress, by concurrent resolution, may disapprove such production within 45 days following Presidential certification. H.R. 7553—Public Law 95– , approved 1977. (284)

State-Justice-Commerce.—Appropriates a total of $7,709,432,000 in new budget authority for fiscal year 1978 including $1,234,970,000 for the Department of State; $2,300,619,000 for the Deartment of Justice; $1,923,275,000 for the Department of Commerce; $444,318,000 for the Judiciary; and $1,806,250,000 for related agencies including the Arms Control and Disarmament Agency, the International Trade Commission, the Small Business Administration, the Equal Employment Opportunity Commission, and the Legal Services Corporation; makes fiscal year 1977 supplemental appropriations totalling $211,515,000 for certain agencies with the major portion of the appropriation to replenish the Small Business Administration's disaster loan fund; and prohibits the use of funds for implementation of the President's pardon program for Vietnam-era draft resisters. H.R. 7556—Public Law 95–86, approved August 2, 1977. (242)

Transportation.—Appropriates $6,196,609,023 for fiscal year 1978 for the Department of Transportation (including the Coast Guard, Federal Highway Administration, National Traffic Safety Administration, Federal Railroad Administration, Urban Mass Transportation Administration, and Materials Transportation Bureau) and for related agencies (including the National Transportation Safety Board, Civil Aeronautics Board, Interstate Commerce Commission, Panama Canal Zone Government, United States Railway Association, Washington Metropolitan Area Transit Authority, and the National Transportation Policy Study Commission. H.R. 7557—Public Law 95–85, approved August 2, 1977. (230)

Treasury-Postal Service.—Appropriates a total of $7,478,254,000 in new budget obligational authority for fiscal year 1978 of which $2,842,714,000 is for the Treasury Department,, $1,695,540,000 is for the Postal

Service, $71,697,000 is for the Executive Office of the President, and $2,868,303,000 is for certain independent agencies; contains reductions in the number of permanent personnel positions in the Treasury Department based on the Presidential memorandum of March 1, 1977, restricting hiring until new personnel ceilings have been established and provides that if the ceilings established are lower than the committee recommendations the funds may not be used for other purposes without approval of the Appropriations Committees; and directs the Secretary of the Treasury to study the practice by Treasury Department agencies relating to the use of official Government vehicles by personnel and report to the committee by January 1, 1978. H.R. 7552—Public Law 95–81, approved July 31, 1977.

ATOMIC ENERGY AND NASA

NASA authorization.—Authorizes $4,049,429,000 for the National Aeronautics and Space Administration for fiscal year 1978 of which $3,041,500,000 is for research and development, $160,940,000 is for the construction of facilities, and $846,989,000 is for research program and management; includes funds to support the following new programs: (1) 5 space shuttle orbiters, (2) development of the shuttle-launched space telescope for research in astronomy, (3) a third generation earth resources survey spacecraft, Landsat-D, to carry an advanced scanning instrument, (4) initiation of a search and rescue satellite system in cooperation with Canada, and (5) initiation of a Jupiter orbiter probe mission; provides continued funding of the Space Shuttle; and includes the second funding increment for a fuel efficient aircraft technology development program designed to decrease fuel consumption of commercial jet transports by 50 percent. H.R. 4088—Public Law 95–76, approved July 30, 1977. (VV)

Nuclear Regulatory Commission authorization.—Authorizes $299,640,000 for fiscal year 1978 for the Nuclear Regulatory Commission; includes $41,480,000 for nuclear reactor regulation, $12,130,000 for standards development, $36,050,000 for inspection and enforcement, $22,090,000 for nuclear materials safety and safeguards, $148,400,000 for regulatory research, $10,180,000 for program technical support, and $29,310,000 for program direction and administration; provides for a reduction in appropriations if (1) the Clinch River Breeder Reactor project is cancelled or indefinitely deferred, (2) the license application is withdrawn or further construction is cancelled for the fuel reprocessing plant at Barnwell, S.C., and (3) plans for commercial fuel reprocessing and plutonium recycle are cancelled; and directs the Administrator of the General Services Administration to study and report to the Environment Committee by June 15, 1977, on the feasibility of consolidating the NRC which is presently housed in nine buildings throughout the Washington metropolitan area. H.R. 3733—Passed House May 17, 1977; Passed Senate amended May 25, 1977. (VV)

BUDGET

Rescissions.—

Helium Purchases.—Rescinds $47.5 million in contract authority for helium purchases under Public Law 87–122 as recommended by the President in his message of September 22, 1976, for which purchase contracts were terminated by the Interior Department in 1973 and the contract authority therefore is no longer needed. H.R. 3347—Public Law 95–10, approved March 10, 1977. (VV)

Second budget rescission. Rescinds $664,050,000 of the $941,278,000 in budget authority recommended by the President in his message of January 17, 1977, as follows: Department of Defenses—Military—$143.6 million in retired pay, $452.6 million in Naval shipbuilding and conversion because of the decision not to procure the fourth nuclear powered aircraft carrier (CVN–71) or convert the nuclear powered cruiser USS Long Beach to the Aegis air defense weapons system, and $145.35 million for Air Force procurement because of termination of the Advanced Logistics System (ALS): $41.5 million in funds appropriated to the President for foreign military credit sales; and $12 million for the Department of State contributions for international peacekeeping activities because of the lower budget levels established by the U.N. General Assembly; and disapproves $277,228,000 as follows: Department of Commerce—$525,000 for salaries and expenses of the U.S. Travel Service and $1.5 million for operations, research and facilities of the National Oceanic and Atmospheric Administration to continue surveys, mission and cost analysis and initiation of design and engineering studies for OCEANLAB; and $6,803,000 for the Department of Transportation for retired pay for the Coast Guard. H.R. 3839—Public Law 95–15, approved March 25, 1977. (VV)

Resolutions:

Third budget resolution, 1977.—Revises the Second Budget Resolution (S. Con. Res. 139) for fiscal year 1977 setting the level of revenues at $347.7 billion, outlays at $417.45 billion, deficit at $69.75 billion, budget authority at $472.9 billion and public debt at $718.4 billion; contains an adequate funding level to permit enactment of up to $13.8 billion in tax legislation stimulus as proposed by the administration and $3.7 billion in increased outlays to produce jobs in areas of high unemployment; sets a level of budget authority at $1.1 billion and outlays at $760 million for EPA construction grants, railroad and highway construction and improvement in recreational facilities; sets the following levels of funding for the relief of individuals and families hard hit by the recession and the harsh winter: (1) 1.8 billion in budget authority and outlays for direct payments to recipients of social security, SSI, and railroad retirement, or any similar stimulus proposals, (2) $508 million in budget authority and $508 million in outlays to extend the Federal supplemental benefits program for the unemployed, and (3) $200 million in budget authority and $200 million in outlays for Federal assistance to low- and moderate-income families to help them meet fuel costs during the winter emergency; includes adequate levels of budget authority for housing to support increased reservations for a total of 360,000 dwelling units for low- and moderate-income families; and makes the following revisions to the totals for budget authority and outlays contained in the Second Budget Resolution to reflect savings which have been achieved and additional costs which have arisen under existing programs (in billions of dollars):

National Defense—BA: $108.8 instead of $112.1, O: $100.1 instead of $100.65;

International Affairs—BA: $7.9 instead of $8.9, O: $6.8 instead of $6.9;

General science, space, and technology—BA: $4.5 instead of $4.6, O: $4.4 instead of $4.5;

Natural resources, environment, and energy—BA: $18.7 instead of $18.2, O: $17.2 instead of $16.2;

Agriculture—BA: $2.3 instead of $2.1, O: $3.0 instead of $2.2;

Commerce and transportation—BA: $17.3 instead of $17.2, O: $16.0 instead of $17.4;

Community and regional development—BA: $14.8 instead of $9.55, O: $10.55 instead of $9.05;

Education, training, employment and social services—BA: $30.4 instead of $24.0, O: $22.7 instead of $22.2;

Health—BA: $40.6 instead of $40.5, O: $39.3 instead of $38.9;

Income Security—BA: $170.9 instead of $155.9, O: $141.3 instead of $137.2;

Veterans benefits and services—BA: $18.9 instead of $20.3, O: $18.1 instead of $19.5;

Law enforcement and justice—BA: $3.5, O: $3.6;

General Government—BA: $3.5 instead of $3.6, O: $3.5;

Revenue sharing and general purpose fiscal assistance—BA: $7.6, O: $7.7;

Interest—BA: $38 instead of $39.6, O: 38 instead of $39.6;

Allowances—BA: $0.8 instead of $0.7, O: $0.8;

Undistributed offsetting receipts—BA: —$15.6 instead of —$16.8, O: —$15.6 instead of —$16.8. S. Con. Res. 10—Action complete March 3, 1977. (38)

First budget resolution, 1978.—Sets the level for total budget outlays for fiscal year 1978 at $460.95 billion, estimated revenues at $396.3 billion, new budget authority at $503.45 billion, and the estimated deficit at $64.65 billion as compared to the President's estimates of $462.6 billion in budget outlays, $404.7 billion in revenues, $506.2 billion in new budget authority, and a proposed deficit of $57.9 billion; sets the appropriate level of the public debt at $784.9 billion and the amount by which the statutory amount may be increased at $83.6 billion; for estimated revenues (1) assumes the level of fiscal stimulus in fiscal 1978 provided in the Tax Reduction and Simplification Act as agreed to by House and Senate conferees; (2) accepts a $65 million allowance for miscellaneous tax and tariff legislation; (3) considers the entire cost of the earned income credit as a reduction of revenue; and (4) postpones the treatment of tax credits in excess of recipients tax liabilities until development of the second budget resolution; recommends outlays for budget programs by function for fiscal year 1978 as compared with the President's proposed budget outlays as follows:

National Defense: $110.0 billion as compared to $112.8 billion;

International Affairs (conduct of foreign affairs, foreign information and exchange activities, the Peace Corps, Food for Peace, and non-military foreign assistance): $7.3 billion as compared to $7.2 billion;

General Science, Space and Technology: $4.7 billion, which is the same estimate submitted by the President;

Natural Resources, Environment, and Energy: $20.0 billion as compared to $20.9 billion;

Agriculture: $4.35 billion as compared to $4.4 billion;

Commerce and Transportation: $19.4 billion as compared to $19.9 billion;

Community and Regional Development: $10.8 billion as compared to $9.9 billion;

Education, Manpower, and Social Services: $27.2 billion as compared to $27.0 billion;

Health: $44.3 billion as compared to $44.6 billion;

Income Security (social security and unemployment insurance, retirement systems for Federal and railroad employees and assistance programs for the needy): $146.7 billion as compared to $148.7 billion;

Veterans Benefits and Services: $20.2 billion as compared to 18.8 billion;
lion as compared to $18.8 billion;

Law Enforcement and Justice: $3.85 billion as compared to $3.8 billion;

General Government: $3.85 billion as compared to $4.0 billion;

Revenue Sharing and General Purpose Fiscal Assistance: $9.7 billion, which is the same estimate submitted by the President;

Interest: $43.0 billion as compared to $40.9 billion;

Allowances (includes Federal pay increases for civilian agencies and other expenditures which cannot be reasonably assigned to other functions): $1.9 billion as compared to $1.2 billion; and

Undistributed Offsetting Receipts (includes receipts from rents and royalties on leases on the Outer Continental Shelf and other deductions from outlays which cannot be reasonably assigned to other functions):

$16.3 billion in undisturbed offsetting receipts in the Congressional budget as compared to $16.0 billion in the President's budget. S. Con. Res. 19—Action completed by both Houses May 17, 1977. (137,142)

CONGRESS

Capitol Grounds extension—Amends the act of July 31, 1946, as amended, to include certain specified areas and portions of streets within the U.S. Capitol Grounds in order to strengthen Capitol Police jurisdiction over traffic and other matters for security purposes. S. 1859—Passed Senate July 20, 1977. (VV)

Congressional Campaign Committee employees retirement credit.—Amends title V, U.S.C., to provide that a congressional employee may credit not to exceed 10 years of service as an employee of the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee or the Republican National Congressional Campaign Committee for Civil Service Retirement purposes provided the required deposits for such service are made to the fund; and makes the provisions of this act, applicable to an employee who retires on or after the date of enactment. S. 992—Passed Senate March 5, 1977. (VV)

Ernest Gruening statue.—Accepts, in the name of the United States, the statue of the late Senator Ernest Gruening, presented by the State of Alaska, for the National Statuary Hall collection; expresses the appreciation of the Congress for the contribution; and provides for the temporary placement of the statue in the rotunda of the Capitol with appropriate ceremonies to mark the occasion. S. Con. Res. 25—Senate agreed to July 15, 1977. (VV)

Joint Committee on Atomic Energy Abolishment.—Abolishes the Joint Committee on Atomic Energy and provides for the disposition of its staff and the transfer of its statutory functions and authority to other congressional committees having jurisdiction over the development, utilization or application of atomic energy. S. 1153—Public Law 95– , approved , 1977. (VV)

Provides for transitional accommodations for the Joint Committee on Atomic Energy. S. Res. 252—Senate agreed to August 5, 1977. (VV)

Joint Committee on Congressional Operations Abolishment.—Abolishes the Joint Committee on Congressional Operations effective September 30, 1977, and transfers its duties and responsibilities to the Senate Committee on Rules and Administration. S. 1608—Passed Senate July 12, 1977. (VV)

Joint Economic Committee Study.—Directs the Joint Economic Committee, or any of its subcommittees, to investigate past and prospective changes in the United States and world economies and their impact on the economies of the United States and other nations and to report to Congress their recommendations for meeting the economic policy requirements of the United States; authorizes the Committee to hire expert professional staff and supporting assistants as well as individual consultants and organizations and to sit and act during sessions of the present Congress whether or not either House is recessed or adjourned; and authorizes therefor $900,000 for the period July 1, 1977, through December 31, 1978, of which not to exceed $250,000 may be expended prior to December 31, 1977. H. Con. Res. 248—Action completed by both Houses July 18, 1977. (VV)

State taxation of Members of Congress.—Adds a new section 113 to title 4, U.S.C., effective with respect to all taxable years, which provides that no State in which a Member of Congress maintains a place of residence to attend sessions of Congress may for State income tax purposes treat the Member as a resident or domiciliary or treat his Congressional salary as income for services performed within or from sources within that State unless the Member represents the State. H.R. 6893—Public Law 95–67, approved July 19, 1977. (VV)

CONSUMER AFFAIRS

Debt collection practices.—Amends the Consumer Credit Protection Act to add a new title entitled the "Fair Debt Collection Practices Act" to protect consumers from a host of unfair, harassing, and deceptive debt collection practices; prohibits a debt collector from: (1) contacting third parties other than to obtain location information except the consumers attorney, a credit reporting agency, the creditor, the creator's or debt collector's attorney, or any other person to the extent necessary to effectuate a post-judgment judicial remedy; (2) engaging in any conduct which harasses, oppresses or abuses any person; (3) using any false, deceptive or misleading representations; (4) using any unfair or unconscionable means; (5) attempting to collect a disputed debt until the consumer receives verification of the debt; and (6) applying payments to disputed debt; provides that if a consumer notifies a debt collector in writing that he refuses to pay a debt or wishes the debt collector to cease further contacts the debt collector must cease further contacts, the debt collector must so cease except to notify the consumer of the debt collector's or creditor's further actions; requires that actions on real property be brought in the judicial district in which the property is located and actions on personal suits be brought either where the contract was signed or where consumer resided; provides that a debt collector who violates the act is liable for actual damages plus costs and reasonable attorney's fees; permits the court to award up to $1,000 in individual actions, and up to $500,000 or 1 percent of the debt collections net worth, whichever is less in class actions; provides the following two defenses; (1) good faith reliance on an FTC advisory opinion and (2) bona fide error notwithstanding procedures to avoid the error; provides that a court may award reasonable attorney's fees to a defendant if it finds that the consumer brought a suit in bad faith for harassment; sets a 1-year statute of limitation on bringing actions; places enforcement of the act with the FTC and the Federal bank regulatory agencies; prohibits the promulgation of any additional rules or regulations pertaining to debt collectors; requires the FTC to report annually to the Congress on the Act's effectiveness and administrative enforcement; annuls state laws only if inconsistent to Federal; allows the FTC to exempt any collection practices within any State if they are subject to substantially similar requirements; and provides that the act shall take effect within 6 months of enactment. H.R. 5294—Passed House April 4, 1977; Passed Senate amended August 5, 1977. (VV)

CRIME-JUDICIARY

Daughter of the Confederacy patent renewal.—Extends for 14 years design patent number 29,611 which is the insignia of the United Daughters of the Confederacy. S. 810—Passed Senate May 13, 1977. (VV)

Drug Enforcement Administration.—Amends the Comprehensive Drug Prevention and Control Act of 1970 to extend for 2 years through fiscal 1979, the Drug Enforcement Administration at an annual authorization of $182 million plus such additional amounts as necessary for salary increases and other employee benefits authorized by law. S. 1232—Passed Senate June 6, 1977. (VV)

Federal Rules of Criminal Procedure.—Approves with modifications certain amendments to the Federal Rules of Criminal Procedures proposed by the Supreme Court on April 26, 1976, and disapproves other such amendments;

Changes rule 6(e), which deals with the secrecy of grand jury proceedings, to allow disclosure information of grand jury proceedings to personnel deemed necessary by an attorney for the government to assist in the performance of his duty to enforce Federal criminal law; changes rule 23(b), which deals with cases tried by juries or less than 12 persons, to allow the parties to stipulate that a valid verdict may be returned by a jury should the court find it necessary to excuse one or more jurors after the trial commences, and changes rule 23(c), which deals with cases tried without a jury, to require that a request for a special finding be made prior to the general finding and to allow findings to be made orally; disapproves the Supreme Court's proposed changes to rule 24 which deals with the number of peremptory challenges to prospective jurors; changes rule 41(c), which deals with the issuance of search warrants, to provide for a telephone search warrant procedure; amends the present removal to Federal Court statute to minimize the disruption and unnecessary delay in State criminal procedures that can result from delatory petitions for removal; and specifies the effective dates of the proposed modifications. H.R. 5864—Public Law 95–78, approved July 30, 1977. (VV)

Jefferson F. Davis citizenship.—Restores posthumously full rights of citizenship to Jefferson F. Davis effective December 5, 1968. S.J. Res. 16—Passed Senate April 27, 1977. (VV)

Juvenile justice.—Strengthens and extends for 3 years, the program established by the Juvenile Justice and Delinquency Prevention Act of 1974 with authorization levels of $150 million, $175 million, and $200 million for fiscal years 1978, 1979, and 1980, respectively; extends the definition of "juvenile delinquency program" to include programs for all youths who would benefit from services designed to reduce delinquent conduct; reaffirms Congressional intent that the provisions of the act are to be administered through the Office of Juvenile Justice and Delinquency Prevention; changes the title of the head of the Office from Assistant Administrator to Associate Administrator and upgrades the position to the Executive Schedule, Level 5, to emphasize the importance of the position; affirms the authority of the Associate Administrator of the Office to administer LEAA juvenile justice funds subject to delegation and direction by the Administrator of LEAA; retains the Office's National Institute for Juvenile Justice and Delinquency Prevention and strengthens the scope of its activities particularly in the area of training;

Gives increased emphasis and recognition to the proper roles of the National Advisory Committee for Juvenile Justice and Delinquency Prevention and the Coordinating Council on Juvenile Justice and Delinquency Prevention; provides for the addition of the Commissioner of the Office of Education and the Director of Action to the statutory membership of the Council, and states that the Director of the Special Action Office for Drug Abuse Prevention shall be replaced on the Council by the Director of the Office of Drug Abuse Policy; expands the scope of representation on the advisory committee and requires that future appointments to the committee include at least three youth members who have been under the jurisdiction of the juvenile justice system; provides for more significant input at all levels from persons who, by virtue of their training or experience, have special knowledge concerning the prevention and treatment of juvenile delinquency and the administration of juvenile justice; makes changes to the formula grant program intended to fine tune this modified grant program, to clarify ambiguous language in the 1974 act, and to assist States to more effectively expand formula grant funds according to priority areas identified in the States' juvenile justice plan; requires that,

beginning in fiscal year 1979, not more than 7.5 percent of a State's total formula grant allotment may be used to cover the costs of planning, administration, or any pre-award activities, and that any grant funds used for these purposes must be matched on a dollar-for-dollar basis from State or local funds; provides that formula grant program funds will cover 100 percent of the approved cost of any program or activity effective October 1, 1978; extends eligibility for State formula grant pass-through funds to local private agencies which have applied to the appropriate units of local governments for funding and have been denied; provides one additional year for States to comply with the deinstitutionalization requirements of the program; requires that all facilities for juveniles be monitored in order to determine whether they are properly classified as juvenile detention and correctional facilities or as other types of facilities where status offenders may be placed; provides that participating States shall provide the Associate Administrator with a review of the extent of compliance with deinstitutionalization requirements; provides that States in compliance with the deinstitutionalization requirement shall have preference for reallocated formula grant funds;

Provides that 25 percent, rather than 25-50 percent, of Part B funds be allocated for the special emphasis program, and expands its scope to include activities to help prevent school violence and vandalism, to promote youth advocacy, and to assist State legislatures to develop legislation to achieve State compliance with the act; increases the minimum private agency share of special emphasis funding from 20 to 30 percent;

Prohibits the use of formula grant funds to match other LEAA funds, but allows the formula grant funds to be used as match for other Federal juvenile delinquency program grants; provides that the Administrator's authority to require a matching contribution extends to grants for the concentration of Federal efforts and programs of the National Institute for Juvenile Justice and Delinquency Prevention, but not to grants for special emphasis programs; requires that program records be kept confidential; authorizes funding at the level of $25 million for fiscal years 1978, 1979, and 1980 for the extension of the Runaway Youth Act to enable the Secretary of HEW to increase assistance to local groups which operate temporary shelter care programs in areas where runaways tend to congregate; and contains other provisions. H.R. 6111—Passed House May 19, 1977; Passed Senate amended June 21, 1977; Senate agreed to conference report July 28, 1977. (VV)

Mississippi court terms.—Amends section 104(a)(1), title 28, U.S.C., to provide for holding terms of the U.S. District Court for the Eastern Division of the Northern District of Mississippi at Aberdeen, Ackerman, and Corinth. S. 662—Passed Senate April 7, 1977. (VV)

North Dakota Judicial District.—Amends title 28, U.S.C., to realign the judicial districts of North Dakota by transferring Bottineau, McHenry, and Pierce Counties from the Northeastern Division to the Northwestern Division and transferring Sheridan and Wells Counties from the Southeastern Division to the Northwestern Division in order to reduce the average distance which litigants, attorneys, and jurors in these counties must travel to the nearest place of holding court by approximately 100 miles S. 195—Passed Senate May 24, 1977. (VV)

Omnibus judgeships.—Provides for the appointment of 110 additional permanent district court judges in 65 specified judicial districts; creates three temporary district court judgeships, for a minimum of 5 years, in the Eastern District of Kentucky, Southern District of West Virginia, and Southern District of Florida; divides the fifth circuit into a new fifth circuit consisting of Alabama, Florida, Georgia, and Mississippi which would have 14 judges, and a new eleventh circuit consisting of Louisiana and Texas which would have a total bench of 12 judges; creates a total of 35 new circuit court judgeships distributed as follows: one new judgeship in the first circuit; two in the second circuit; one in the third circuit; three in the fourth circuit; five for the revised fifth circuit; two for the sixth circuit; one for the seventh circuit; one for the eighth circuit; ten for the ninth circuit; one for the tenth circuit; and six for the new eleventh circuit; contains a "report back" provision which requires the Judicial Council of the Ninth Circuit Court to make recommendations for a solution to the unique problems of that circuit within one year of the date on which the tenth new judge is appointed; authorizes the Administrative Office of the United States Courts to upgrade and reclassify eight employee positions; and amends existing law to require that actions brought against rail or motor carriers on claims for damage or delay to shipments be subject to a minimum jurisdictional amount of $10,000 for each bill in lading, in order to prevent abuse of the Federal judicial process by persons bringing such actions simply as a means of tolling the statute of limitations while settlement negotiations are undertaken. S. 11—Passed May 24, 1977. (VV)

U.S. magistrates.—Enlarges and amends the current jurisdictional provisions for U.S. magistrates in order to improve access to the Federal courts for the less advantaged;

Allows magistrates to finally determine civil cases, upon the consent of the parties involved; authorizes a magistrate to "conduct any or all proceedings in any jury or nonjury civil matter"; specifies appeal and review procedures available to an aggrieved party in a civil matter decided by a magistrate;

Qualifies the existing discretion of district courts to select and appoint magistrates by: directing the Judicial Conference to promulgate standards for qualification and selection procedures of magistrates; requiring that all subsequent magistrate appointments must conform to these standards; providing that the qualifications of full-time magistrate appointees must also be approved by the judicial council of the circuit before the appointment takes effect; and requiring that all magistrates must have been admitted to practice of law for at least five years; extends statutory prohibitions on outside activities to all full-time and part-time magistrates who exercise the new case-dispositive jurisdiction provided for in the bill; extends the existing provisions for payment of certain litigation expenses for indigents in proceedings before a district judge to proceedings before a magistrate;

Expands jurisdiction of magistrates to try minor criminal offenses to include all misdemeanors; eliminates the requirement for defendant consent to a magistrate conducting the trial in a petty offense case; allows the conduct of jury trials in misdemeanor cases before a magistrate where the court has specifically designated the magistrate to proceed in that manner; permits magistrates to sentence young adults and youthful offenders if the commitment imposed does not exceed the maximum term for an adult convicted of the same offense; provides that the procedural requirements of the Juvenile Delinquency Act do not apply to single petty offense cases in which terms of commitment or imprisonment are not usually imposed; and contains other provisions. S. 1613—Passed Senate July 22, 1977. (VV)

DEFENSE

Coast Guard authorization.—Authorizes $1,262,521,000 for fiscal year 1978 for the Coast Guard for the procurement of vessels and aircraft, construction and improvement of shore and offshore facilities, alteration and removal of obstructive bridges, aids to navigation, pollution abatement, administrative expenses, and operating expenses; authorizes a year-end strength for active duty personnel of 39,145; authorizes an average military student load of 5,506; includes funds for the recent Presidential program of boarding and inspecting oil tankers, reactivation of Coast Guard cutters to be used as back-up vessels in the enforcement of the 200-mile Fishery Conservation Zone, enforcement of the Fishery Conservation and Management Act of 1976, a search and rescue mission capability at the Portage, Mich., Coast Guard station, two additional icebreaking tugs and one large icebreaker, procurement of 2 short-range recovery helicopters for the search and rescue station at Cordova, Alaska, the procurement of radar and other equipment for a continuation of various vessel traffic systems, and the study of oil spill containment in high seas or fast rivers; restores funds which the Coast Guard expended as a result of the unanticipated winter storm damage; adds a new section which permanently authorizes the Coast Guard to continue its present accounting procedure of merging prior year "Operating Expenses" and "Reserve Training" appropriations with current year appropriations for the same purpose; authorizes the Coast Guard to contribute funds to the North Marin County Water District in California for the construction of a sewage treatment plant; authorizes the Coast Guard to accept money from the city of Baltimore, Maryland, for use in replacing Coast Guard facilities which will be removed by the city incident to a road improvement project; reextends an exemption from Coast Guard inspection for fishing tender and cannery tender vessels in the States of Alaska, Oregon, and Washington and authorizes the commandant of the Coast Guard to assist HEW in providing medical emergency helicopter transportation services to civilians. H.R. 6823—Public Law 95-61, approved July 1, 1977. (VV)

Defense production extension.—Extends for two years, through fiscal 1979, the titles of the Defense Production Act of 1950, as amended, which contain the sole authority for a number of programs designed to maintain the national defense production base in peacetime, prepare for mobilization, provide a pool of trained manpower for war production management, provide uniform cost accounting standards for negotiated defense contracts, provide for the examination of national policy with regard to material supplies and shortages, and continue the Joint Committee on Defense Production. S. 853—Public Law 95-37, approved June 1, 1977. (VV)

Deputy and Under Secretaries of Defense.—Eliminates one of the two positions of Deputy Secretary of Defense and establishes the position of Under Secretary of Defense for Policy; and changes the title of the Director of Defense Research and Engineering to that of Under Secretary of Defense for Research and Engineering. S. 1372—Passed Senate June 9, 1977. (VV)

Military construction authorization.—Authorizes $3,724,718,000 for construction and other related authority for the military departments, and the Office of the Secretary of Defense within and outside the United States; contains authority for the construction of new projects which will create an estimated 50,000 jobs in the construction industry and to operate and maintain the current inventory of military family housing; contains funds for upgrading the chemical weapons storage sites; contains nearly $200 million for selected projects designed to conserve energy and to control pollution at military installations; encourages the utilization of solar energy where practical and economically feasible for projects authorized by this act; includes $70 million for a test program which will meter energy consumed in individual

military family housing units in order to establish, once feasibility is demonstrated and after Congressional review, reasonable energy consumption ceilings and to assess occupants for any consumption in excess of the established ceiling; specifies the guidelines which should be included in the program; includes $7.3 million for construction of support facilities for personnel stationed at Diego Garcia; increases from $400,000 to $500,000 DOD authority for new minor construction projects without specific authorization; establishes permanent procedures for accomplishing base realignments at military installations employing more than 500 civilian personnel; makes these procedures applicable to relocating functions and civilian personnel positions if the authorized level of such personnel is to be reduced by 1,000 or 50 percent of the authorized strength, whichever is smaller, except if the reductions result from work load adjustments or other similar causes; requires that DOD notify Congress of any proposed action, comply with the provisions of the National Environmental Policy Act of 1969, submit a detailed justification for any final decision, and defer implementation for 60 days following notification of the final decision; authorizes the Secretary to enter into contracts for periods not to exceed 10 years for the purchase of fuel derived from waste products; provides that commissary surcharge funds may be used to provide new commissaries and renovate existing commissaries anywhere in the world; authorizes $2 million for the construction of visitors facilities for the U.S.S. Arizona memorial in Hawaii; and contains other provisions. S. 1474—Public Law 95–82, approved August 1, 1977. (VV)

Military enlistment and reenlistment bonuses.—Amends chapter 5, title 37, U.S.C. to extend for 15 months, from June 30, 1977, to September 30, 1978, present law authorizing the armed services to pay enlistment and reenlistment bonuses to selected enlisted personnel who possess a critical skill or to those who enlist for service in a critical skill including the combat arms; and adds a provision whereby a member would forfeit his bonus if he becomes technically unqualified in the skill for which the bonus was paid unless it is the result of an injury, illness, or other impairment which is not a result of his own misconduct. H.R. 583—Public Law 95–57, approved June 29, 1977. (VV)

Military procurement authorization.—Authorizes a total of $36.1 billion for fiscal year 1978, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development test, and evaluation for the Armed Forces; continues funding of submarine-based missiles, land-based ICBM's and manned bombers to maintain the strategic balance with the Soviet Union; increases funds for Naval shipbuilding including several new initiatives; contains funds to improve the deterrent and fighting capabilities of NATO without increasing the commitment of American ground forces; establishes a Naval Shipbuilding Commission to study and report to the President and Congress on current naval policies and procedure together with its recommendations on a more efficient and cost-saving means of procuring vessels; prohibits the use of funds after fiscal 1980 for the development of procurement of any main battle tank, mechanized infantry combat vehicle, armored personnel carrier, armored self-propelled artillery vehicle, or armored self-propelled air defense artillery vehicle which does not possess collective system protection for all occupants against chemical and radiological agents; sets the end-strength for active duty personnel at 2,085,100, the average strength of the Selected Reserve at 868,900, the end strength of civilian personnel at 1,018,600 with authority for the Secretary to exceed the limit of 1¼ percent, and the average military student load at 248,894; sets at $313.20 the monthly pay for a cadet or midshipman; directs the Secretary to expand the job classifications to which female members of the Armed Services may be assigned; authorizes a test educational bonus program for the Selected Reserve and requires quarterly reports to Congress; requires the Secretary to maintain at least one ROTC unit in each State; includes $95,250,000 for programs of the Defense Civil Preparedness Agency; provides that females who become members of the Armed Forces will incur the same 6-year statutory obligation as males; eliminates the requirements for annual inspections of National Guard units and for quadrennial physical examinations for members of the Fleet Reserve and the Fleet Marine Corps Reserve; extends the authority to provide financial assistance of $100 a month to officer candidates under the Marine Corps Platoon Leaders Class program; extends to October 1, 1979, the President's authority to transfer to Israel by sale, credit sale, or guaranty aircraft and equipment to counteract military assistance provided to other countries in the Middle East, and authorizes the Secretary to restock Armed Forces inventories with equivalent aircraft and equipment; requires the Secretary to submit to the Armed Services Committees by October 1 of each year a full accounting of all experiments and studies conducted by DOD in the preceding 12-month period which involved the use of human subjects for testing chemical or biological agents and requires the Secretary to notify the Committees 30 days after final approval and 30 days prior to initiation of plans to conduct such tests; prohibits such experiments involving civilians unless local officials are notified in advance and a period of 30 days has expired; prohibits DOD from increasing the percentage of funds allocated to private research and development contracts pending submission of a study to Congress or March 15, 1978; prohibits the use of funds for advertising the Special Discharge Review Program for certain Vietnam-era individuals; reduces the authorized levels of generals and admirals to 1,073 over a 3-year period beginning fiscal 1978 and provides for a like reduction in the number of civilian personnel grades GS 13–18; requires the Secretary to submit a report with the fiscal 1979 authorization request on the required number of general officers as well as any justification for deferring the proposed reductions; provides for congressional consideration of modifications in U.S. Strategic Arms Programs which the President may recommend to facilitate negotiation or agreement in the Strategic Arms Limitation Talks; requires the Secretary to report to Congress on the proposed sale or transfer of defense articles from active forces' inventories or current production valued at $25 million or more; and provides that retiring military and civilian personnel (of Grade GS–13 or above) in the procurement field may submit written suggestions for methods to improve procurement policy H.R. 5970—Public Law 95–79, approved July 30, 1977. (144)

DISASTER ASSISTANCE

Disaster relief programs.—Amends the Disaster Relief Act Amendments of 1974 to extend the authorizations for the Federal disaster assistance programs of the Federal Disaster Assistance Administration, which expire on June 30, 1977, through fiscal year 1980. H.R. 6197—Public Law 95–51, approved June 20, 1977. (VV)

Drought emergency authority.—Provides temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–77 drought conditions affecting irrigated lands in the western States; authorizes the Secretary, acting through the Bureau of Reclamation and the Bureau of Indian Affairs, to: (1) study available means to augment, utilize, or conserve Federal reclamation and Indian irrigation projects water supplies and to undertake construction (which must be completed by November 30, 1977), management, and conservation activities to mitigate drought damage, (2) acquire water supplies by purchase from willing sellers and redistribute the water to users based upon priorities he determines, and (3) undertake evaluations and reconnaissance studies of potential facilities to mitigate the effects of a recurrence of a drought emergency and make recommendations to the President and Congress; provides that payment for water acquired from willing sellers be at negotiated prices; directs the Secretary to determine the priority of need in allocating the acquired or developed water; authorizes the Secretary to defer without penalty, the 1977 installment charge payments, including operation and maintenance costs, owed to the U.S. on Federal reclamation projects, with the costs to be added to the end of the repayment period which may be extended if necessary; requires that this program be coordinated, to the extent practicable, with emergency and disaster relief operations conducted by other Federal agencies under existing provisions of law; requires the Secretary to report to Congress by March 1, 1978, on all expenditures made under this act; authorizes the Secretary to make interest-free five year loans to individual irrigators for construction, management and conservation activities or acquisition of water; authorizes $100 million to carry out the water purchase and reallocation (water bank) program of which 15 percent shall be available to carry out other programs authorized by this act; and provides that up to 15 percent of fiscal 1977 funds available to the Secretary for the Emergency Fund Act may be used for non-Federally financed irrigation projects, 5 percent for State Government drought emergency programs, and $10 million for the purchase of water. S. 925—Public Law 95–18, approved April 7, 1977. (54)

Amends Public Law 95–18 to remove constraints on the allocation of funds for drought assistance and permit the use of funds already appropriated for the programs authorized in a more effective and timely manner, and permits the Secretary to waive all or any portion of the repayment of loans made if the recipient agrees to undertake a program of water conservation. S. 1935—Public Law 95– , approved 1977. (VV)

Drought emergency relief.—Authorizes $225 million in grant and loan authority to the Economic Development Administration for assistance to States, Indian tribes or units of local government with a population of 10,000 or more for drought-related projects; includes among the permissible activities for which grants may be made the improvement or expansion of existing water supply facilities, construction of new facilities, well drilling or impoundment where appropriate, transportation of water by pipeline, and purchase of water if it is the most economic method of providing the needed supply; gives the Secretary of Commerce authority to designate areas eligible for assistance; limits grants to 50 percent of the cost of any project and provides that loans shall be at 5 percent interest for not to exceed 40 years and at terms determined by the Secretary; directs the Secretary to consider the relative needs of the applicants giving priority to communities facing the most severe problems; permits obligation of funds for drought impacted projects conducted by eligible applicants during fiscal year 1977 if they are compatible with the purposes of the act; permits funds to be obligated to December 31, 1977, and requires that projects be completed by April 30, 1978; and extends the time allowed for convening the White House Conference on Balanced Growth and Economic Development from 12 to 18 months after the date of enactment of Public Law 94–487. S. 1279—Public Law 95–31, approved May 23, 1977. (VV).

DISTRICT OF COLUMBIA

D.C. Armory Board.—Amends the Home Rule Act to allow the Armory Board of the District of Columbia, which manages Robert F. Kennedy Stadium and the D.C. Armory, to operate under a fiscal year coinciding with the calendar year, rather than the October 1–September 30 fiscal year required of all city government agencies in order to accommodate the special seasonal nature of the revenues earned by the concerns, and changes the filing date for the Board's annual reports from January to July. S. 1062—Passed Senate May 26, 1977. (VV)

D.C. bonds.—Adds a new subsection to the section of the Home Rule Act authorizing the issuance of revenue bonds to provide that payments made pursuant to acts authorizing such bonds may be made without further authorization or approval. S. 1063—Passed Senate May 26, 1977. (VV)

D.C. borrowing authority.—Amends the Home Rule Act to extend until October 1, 1979, the District's interim authority to borrow from the Treasury of the United States to finance the District's capital improvements projects; changes from November 1 to February 1 of each fiscal year the date by which the Mayor must submit to the Council of the District a complete financial statement and report for the preceding fiscal year; and makes procedural and technical changes to the act respecting qualifications for appointment to the Commission on Judicial Disabilities and Tenure, and to the Judicial Nomination Commission. S. 1061—Passed Senate June 13, 1977. (VV)

D.C. reciprocal tax collection.—Authorizes any State, territory or possession to bring suit in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it, if a reciprocal right is accorded to the District by the State, territory or possession. S. 1103—Passed Senate May 26, 1977. (VV)

Federal water, and sewer payment.—Allows the District of Columbia to collect the amount of money owing from the Federal Government for water and sewer services in its next fiscal year's budget. S. 1322—Passed Senate June 7, 1977. (VV)

George Washington University.—Restates completely the charter of The George Washington University, substituting a more adequate, flexible and modern document for the cumbersome and antiquated original charter granted in 1921; changes the name from George Washington University to The George Washington University; cites the schools purposes and states explicitly that a policy of nondiscrimination must govern its pursuit of those objectives; enumerates the specific powers of the University to control and direct its operations; provides for the creation of a board of trustees and its executive committee; vests in the board the powers to control and direct the operation of the university, in addition to authority over school personnel and the bylaws; empowers the trustees to merge the university with other nonprofit organizations; and ensures the continuity of the school's corporate status. S. 1060—Passed Senate May 26, 1977. (VV)

ECONOMY-FINANCE

Export Administration—Arab boycott.—In title I, authorizes $14,033,000 for the extension to the Export Administration Act of 1969, through fiscal year 1979; requires a review of the export control lists, rules, and regulations issued under the Act, to be submitted not later than December 1, 1978; authorizes the Secretary of Defense to recommend his approval of an export license application whenever he determines that the export would be detrimental to U.S. national security; exempts agricultural commodities purchased for export and stored in the United States from subsequent export restrictions if such storage will not have a serious domestic inflationary impact; requires a study of the national security impact of the export of technical information to restricted countries within 6 months of enactment and adds other reporting and notification requirements of the act;

Excludes petroleum products refined in the U.S. foreign trade zones or in Guam from any quantitative limitations imposed for short supply purposes unless the Secretary of Commerce limits such exports; prohibits export of Alaskan oil except (1) for exchanges of crude oil in similar quantity, for convenience or increased efficiency in transportation, with governments of adjacent foreign states, or for oil that is temporarily exported for increased efficiency of transportation across part of an adjacent foreign state and reenters the United States, or (2) where the President publishes and submits to Congress 60 days prior to export an express finding that the export of such oil is in the national interest and in accord with the provisions of the Export Administration Act of 1969; allows a 60-legislative-day period for any such action to be vetoed by either House of Congress prior to any export; provides that any contract for the export of such oil may be terminated any time that U.S. petroleum suppliers are seriously threatened;

Reaffirms Congressional intent that the secrecy provisions of the act do not abridge the inherent right of Congress to acquire information obtained under the act; directs the Secretary of Commerce to undertake a review or unilateral and multilateral export controls and to submit the results to Congress by December 31, 1978; requires that monitoring of exports for short supply purposes commence at a time adequate to insure that sufficient data will be available to permit achievement of the act; increases the penalties applicable to violations of the Export Administration Act and otherwise improves the administration of U.S. export controls;

In title II, seeks to prevent most forms of compliance with foreign boycotts; prohibits refusal to do business with blacklisted firms and boycotted friendly countries pursuant to foreign boycott demands; prohibits discrimination against any U.S. person on the grounds of race, religion, sex, or national origin in order to comply with a foreign boycott; prohibits U.S. persons from furnishing information about any person's race, religion, sex or national origin for foreign boycott enforcement purposes; provides for public disclosure of requests to comply with foreign boycotts; requires domestic U.S. persons who receive such requests to disclose publicly whether they are complying with such requests; provides that these provisions apply to all domestic concerns and persons, including intermediaries in the export process;

Exempts from the antiboycott provisions transactions in which a unilateral and specific selection is made by a boycotting country, or national or resident thereof; allows United States persons residing in a foreign country to comply with the laws of that country with respect to his activities exclusively therein; permits a negative certification with respect to carriers or route of shipment in order to comply with requirements protecting against war risks and confiscation; allows compliance with immigration or visa requirements with respect to the individual and members of his family; permits U.S. persons to comply with requests for information pertaining to securing or maintaining employment in a boycotting country; preempts all State foreign boycott laws; provides a 2-year grace period for agreements in effect on or before March 1, 1977, with three additional 1-year extensions available in cases where good fatih efforts are being made; and generally strengthens U.S. law against foreign boycotts to reduce their domestic impact. H.R. 5840—Public Law 95–52, approved June 22, 1977. (140)

Export-Import Bank.—Extend from June 30, 1978, to September 30, 1978, the operating authority of the Export-Import Bank in order to conform to the new fiscal year. H.R. 6415—Passed House May 3, 1977; Passed Senate amended June 29, 1977; In conference. (VV)

Financial institutions regulatory agencies.—Provides financial institution regulatory agencies with greater and more specific authority to stop unsafe or unsound practices or violations of law; prohibits interlocking management and director relationships between financial institutions that are not commonly owned nor affiliated in order to foster competition among these institutions in financial markets; allows the Federal Reserve to exempt by rule interlocking, management or director relationships if the effect would be procompetitive; requires the prior approval of the Federal Deposit Insurance Corporation for a State-insured non-member bank to establish a foreign branch or invest in a foreign bank; contains language to clarify the authority of the bank regulatory agencies to examine bank contractors; Provides that it is a crime to forcibly assault or intimidate a financial institution regulatory official; proscribes revolving door employment practices by the heads of financial institutions regulatory agencies; and provides increases in salaries for officials of these regulatory agencies. S. 71—Passed Senate August 5, 1977. (VV)

Foreign corporate bribes and domestic disclosure.—Amends the Securities Exchange Act of 1934 to require companies subject to the jurisdiction of the Securities and Exchange Commission to maintain accurate records, prohibit certain bribes, and expand and improve disclosure of ownership of the securities of U.S. companies;

In title I, requires companies subject to SEC jurisdiction to maintain strict acounting standards and management control over their assets: prohibits the falsification of accounting records and the deceit of accountants auditing the books and records of such companies; makes it a crime for U.S. companies to bribe a foreign government official for the specified corrupt purposes; imposes a maximum fine $500,000 on companies and $10,000 and 5 years imprisonment on individuals for violation of the criminal prohibitions;

In title II, requires those persons who already file reports with the SEC when they own more than 5 percent of the shares in a U.S. company to identify their residence, citizenship, and the nature of their beneficial ownership; provides for the development of a comprehensive system in publicly held companies; requires the Commission to consolidate the various beneficial ownership reporting requirements of the Securities Exchange Act into a centralized nonduplicative system for the collection of such information, and to tabulate and make it available to regulators and the public; requires the Commission, within 30 months of enactment, to report to Congress with respect to the effectiveness of the ownership reporting requirements and the desirability and feasibility of reducing or otherwise modifying the 5-percent disclosure threshold giving appropriate consideration to specified regulatory and public policy; and provides the Commission with authority to assure that the jurisdictional effectiveness of section 15(d) of the Securities Exchange Act is not inappropriately limited because of the use of nominee and street name registration of securities. S. 305—Passed Senate May 5, 1977. (VV)

Interest rates (regulation Q)—Federal credit unions.—Extends from March 1, 1977, until December 15, 1977, existing authority (commonly known as Regulation Q) under the Interest Rate Control Act by which Federal financial regulatory agencies set interest rate ceilings on deposits in financial institu-

tions under their respective jurisdictions; extends until August 31, 1977, the Treasury Department's authority to borrow funds from the Federal Reserve System;

Modernizes the powers of Federal credit unions under the Federal Credit Union Act in order that they may provide more contemporary financial services to their members; considers demand deposit accounts of state chartered credit unions as member accounts, if they qualify pursuant to state law, thus making them eligible for Federal share insurance; establishes varying self-replenishing lines of credit to member borrowers; removes the distinction between secured and unsecured loans and raises the maximum loan maturities to 12 years (currently 5 years on unsecured loans and 10 years on secured loans); empowers the board of directors to establish their own loan maturity and collateral requirements; removes the $2,500 maximum amount for unsecured loans; provides the necessary flexibility to meet members' needs in accordance with the applicant's creditworthiness and the credit union's soundness rather than arbitrary loan ceilings; permits real estate loans with maturities up to 30 years; and includes the following restrictions on such lending authority: (1) loans must be secured by a first lien, (2) loans must be for a one-to-four family dwelling, (3) the dwelling must be the principal residence of the borrower, and (4) the sales price must not exceed 150 percent of the median sales price of residential real property to be determined on a market area basis; allows loans with maturities of up to 15 years for the purchase of mobile homes used as the member's residence, or for the repair, alteration or improvement of a member's residence; permits Federally guaranteed or insured loans, such as the VA guaranteed mobile home loans, with maturities as specified in those statutes; increases the officials' borrowing limit on unsecured loans from $2,500 plus pledged shares to $5,000 plus pledged shares and permits them to guarantee or endorse up to the same amounts without board approval; clarifies the existing provisions regarding the penalty for excess interest and the provision regarding loan amortization; ensures that a member may repay his or her loan prior to maturity with no penalty; authorizes loans to other credit unions and credit union organizations; and contains other provisions. H.R. 3665—Public Law 95–22, approved April 19, 1977. (VV)

International Trade Commission.—Authorizes $11.5 million to the U.S. International Trade Commission for fiscal year 1978; provides that the President will designate one Commissioner as Chairman and one Commissioner as Vice-Chairman, each to serve for 2-year periods, except that the individual the President designates may not be of the same party affiliation as his predessor; makes the Chairman responsible for all administrative functions of the Commission subject to disapproval by a majority vote of the Commission; and authorizes the Commission to continue publication of its reports on synthetic organic chemicals until 1981. H.R. 6370—Passed House April 25, 1977; Passed Senate amended May 17, 1977; Senate agreed to conference report August 5, 1977. (VV)

Securities and Exchange Commission authorizations.—Amends the Securities Exchange Act of 1934 to increase the authorization for fiscal year 1977 from $55 million to $56.6 million. S. 1025—Public Law 95–20, approved April 13, 1977. (VV)

Authorizes $58,290,000 for fiscal year 1978 to the Securities and Exchange Commission. H.R. 3722—Passed House May 17, 1977; Passed Senate amended May 25, 1977; House requested conference July 19, 1977. (VV)

Small business amendments—Disaster relief loans.—Amends the Small Business Act to authorize a total of $1.4 billion for fiscal 1978 and $1.565 billion for fiscal 1979 for the Small Business Administration; sets levels of $2 billion for the surety bond guarantee program, $4 million for the lease guarantee program, $150 million for pollution lease guarantees, and $171 million for salaries and expenses; places ceilings for the first time on SBA lending programs except for the physical and economic injury disaster loans which are open ended authorizations;

Eliminates SBA's obligation to pay interest on capital appropriations to the Real Estate Lease Guarantee Revolving Fund, the Surety Bond Guarantee Revolving Fund and the Pollution Control Lease Guarantee Revolving Fund; eliminates the authority to invest temporarily idle funds except for fees from the Pollution Control Lease Guarantee Revolving Fund; requires the submission of certain reports to the Senate and House Small Business committees and others to the Senate Select Committee on Small Business, the President of the Senate and the Speaker of the House; requires SBA's annual report to break out the assistance provided to socially and economically disadvantaged individuals; requires SBA to specify the Administration's goals for the next fiscal year with respect to minority small business and to make recommendations to improve such assistance; authorizes SBA to finance residential or commercial construction or rehabilitation for sale but provides that such loans may not be used primarily for land acquisition; authorizes SBA to undertake, for a period of 5 years, a small business concern's obligation to make required payments under a SBA loan if the business would become or remain insolvent without such a suspension; requires the business to repay the amounts that become due during the suspension and authorizes SBA to extend the maturity date of the loan to coincide with the suspension; expands SBA's displaced business loan program by authorizing SBA to make displaced business loans to small concerns suffering substantial economic injury as a result of displacement by a State or local government or public service entity which exercises its right of eminent domain; authorizes SBA economic injury loans, upon the request of the Governor of the State, to small business concerns in an area affected by a natural disaster even if the extent of the disaster was not sufficient for a disaster declaration by the President, Secretary of Agriculture, or Administrator of SBA; authorizes the Administrator, upon certification by a State Governor, to lend up to $100,000 to a small business concern in an impacted area which would otherwise become insolvent because of the magnitude of economic dislocations or natural disasters;

Lowers the interest rate on physical disaster loans from the period July 1, 1976, to October 1, 1978, for the uninsured damaged portion of a principal residence and property from the present rate of 6–5/8 percent to the following: 1 percent on the first $10,000 of the loan and 3 percent on the next $30,000 of the loan; reduces to 3 percent on the first $250,000 the interest rate on all loans to other applicants; makes similar reductions in the Farmers Home Administration disaster loan programs; reduces to 3 percent on the first $25,000 the interest rate on economic injury disaster loans; authorizes SBA to increase the principal of a loan by not to exceed $2,000 in order to insulate property which was damaged or destroyed during the period April 1, 1977, to January 1, 1978, whether or not the property was insulated at the time of the damage.

Authorizes SBA to certify a small business company's ability to perform a specific government contract; provides that a contract may not be withheld for any reason without referring the matter to SBA for a determination and that the contract must be awarded if SBA issues a certificate of competency; directs the contracting procurement agency for set-aside contracts in excess of $1 million to reduce the dollar amounts of each contract in excess of that amount in order that SBA may issue a surety bond guarantee; and directs that priority be given to labor surplus areas when awarding small business set-aside contracts. H.R. 692—Public Law 95–89, approved August 4, 1977. (VV)

Small Business Associate Administrator.—Establishes an Associate Administrator for Women's Business Enterprise within the Small Business Administration. S. 1526—Passed Senate August 5, 1977. (VV)

Small business grants.—Authorizes the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning and development, and domestic and internationl market development, S. 972—Passed Senate August 5, 1977. (VV)

Small business loan ceilings.—Amends the Small Business Act to increase the fiscal year 1977 authorization ceilings for the following SBA financial assistance programs: Business Loan and Investment Fund from $6 billion to $7.4 billion, Economic Opportunity Loans from $450 million to $525 million, and Small Business Investment Company Program from $725 million to $887.5 million; and amends the Small Business Investment Act of 1958 to increase the fiscal year 1977 ceiling on the Surety Bond Guarantee Program from $56.5 million to $110 million, H.R. 2647—Public Law 95–14, approved March 24, 1977. (VV)

Smith College carillon—SSI food stamp eligibility—child support funding—child day care study—Medicaid funding.—Directs the Secretary of the Treasury to admit free of duty thirty-three carillon bells, including all accompanying parts and accessories, provided by the Paccard Founderie de Cloches, Annecy, France, for the use of Smith College, Northampton, Massachusetts;

Extends through fiscal year 1978 current provisions of law relating to the method whereby SSI recipients are eligible for food stamps;

Extends from July 1, 1977, through fiscal year 1978 the Federal matching payments to States for paternity and parent locator services directed toward maximizing child support for nonwelfare families;

Extends from July 1, 1977, until April 1, 1978, the date by which HEW must submit its report on the appropriateness of the Federal Interagency Day Care Program; and

Extends for 90 days the statutory requirement whereby States must have in place regular independent evaluations of long-term patients in skilled nursing homes, intermediate care facilities, and mental hospitals to be eligible for their share of Medicaid funding. H.R. 1404—Public Law 95–59, approved June 30, 1977. (VV)

White House Conference on Small Business.—States as the sense of the Senate that the President should convene a White House Conference on Small Business to develop recommendations that will increase public awareness of the importance of small business; identify the problems of new, small, and independent business enterprise; and suggest appropriate governmental actions to encourage and maintain the economic interests and potentials of the small business community in order to strengthen the overall economy of the Nation. S. Res. 105—Senate agreed to March 28, 1977. (VV)

EDUCATION

Education of the Handicapped.—Extends certain programs under the Education of the Handicapped Act for 5 years, through fiscal year 1982, with authorizations for each of fiscal years 1978 through 1982, respectively, as follows: (1) Part C, Centers and Services to Meet Special Needs of the Handicapped—$76 million, $80 million, $86 million, $89 mil-

lion, and $93 million; Part D, Training Personnel for the Education of the Handicapped—$77 million, $82 million, $87.5 million, $92.5 million, and $97.5 million; Part E, Research in the Education of the Handicapped—$20 million, $22 million, $24 million, $26 million, and $28 million; Part F, Instructional Media for the Handicapped—$24 million, $25 million, $27 million, $29 million, and $29 million; and provides the authority for the Bureau of Education to support model education projects for all handicapped children under section 641 of the act. H.R. 6692—Public Law 95–49, approved June 17, 1977. (VV)

Higher Educational Technical Amendments.—Makes technical and miscellaneous changes to the higher education provisions contained in the Education Amendments of 1976 (Public Law 94–482). H.R. 6774—Public Law 95–43, approved June 15, 1977. (VV)

Vocational Education Amendments.—Makes a number of technical amendments to title II of the Education Amendments of 1976, Public Law 94–482, dealing with printing and clerical errors and changing certain reporting dates; removes the $25 million a year limit for State administrative expenses and authorizes funds under the basic State grant for this purpose with the requirement that States match Federal funds used; requires States to set forth in their State plan the amount of Federal funds it plans to retain at the State level for administration; and gives each local recipient the option of using a percentage of Federal funds which is equal to the percentage of Federal funds in their vocational education program or to use any amount of Federal funds as long as they are matched by State appropriated funds administrative expenses. H.R. 3437—Public Law 95–40, approved June 3, 1977. (VV)

ELECTIONS

Campaign Act Amendments.—Amends the Federal Election Campaign Act of 1971 to substantially reduce the number of reports required to be filed with the Federal Election Commission; raises the threshold above which detailed information with respect to contributions and expenditures must be reported from $100 to $250 and, with respect to independent expenditures, from $100 to $250; makes changes in the law to strengthen the role of political parties in future elections; contains language to encourage a candidate to support his political party's Presidential candidate by providing that the costs of listing or mentioning the name of any Presidential nominee by any other candidate in his campaign material will not be considered as a contribution in-kind prohibited by the act; permits the transfer of excess campaign funds to a political party committee without limitation; contains provisions to improve the act in regard to political action committees; and contains several administrative provisions to facilitate more expeditious handling of complaints; authorizes $250,000 in fiscal year 1978 to reimburse States for the additional costs of receiving and preserving Federal campaign reports; and changes the statute of limitations from 3 years to 5 years with regard to violations of Campaign Act. S. 926—Passed Senate August 3, 1977. (331)

Federal Election Commission Authorization.—Authorizes $7.5 million for activities of the Federal Election Commission for fiscal year 1978. S. 1435—Passed Senate May 5, 1977; Passed House amended July 18, 1977. (VV)

Overseas Citizens Voting Rights.—Amends the Overseas Citizens Voting Rights Act of 1975 and the Federal Voting Assistance Act of 1955 to improve the administration and operation of these laws: vests the authority and responsibility for collecting and disseminating absentee voting information to citizens overseas in the President's designee (currently the Secretary of Defense) under the Federal Voting Rights Assistance Act; authorizes utilization of the same ballot application and free airmail postage provisions presently contained in the Federal Voting Assistance Act for all citizens residing overseas; provides the designee with the authority to revise the absentee registration and ballot application forms currently recommended for use by military personnel and civilians temporarily residing abroad and to develop a single form which could also be used by citizens covered by the Overseas Voting Act; provides that any balloting material sent from the United States to persons covered by either act or returned by them to this country shall be sent by priority airmail or by the most expeditious postal service available; directs the designee to publicize and notify appropriate citizens and State election officials of the availability of free postage and the expedited mail delivery of balloting material; and provides that the exercise of the right to register or vote in Federal elections by citizens residing overseas shall not affect the determination of his place of residence or domicile for the purpose of any tax imposed under Federal, State, or local law. S. 703—Passed Senate May 9, 1977. (VV)

EMPLOYMENT

CETA.—Extends the authorization of sums as may be necessary for all titles of the Comprehensive Employment and Training Act (CETA) through fiscal year 1978; extends the amendments to title VI made by the Emergency Jobs Programs Extension Act of 1976, which provide that each prime sponsor of a public service employment program may use its allocation, first, to sustain its existing member of public service job holders under the Act, and shall thereafter fill any additional public service jobs with low-income persons unemployed for at least 15 weeks who have been receiving or are eligible for unemployment compensation, and also provide that 50 percent of title VI job vacancies due to attrition must meet those eligibility requirements, but the remaining 50 percent may be filled under the original title VI requirements (15 days unemployment in areas having 7 percent or higher unemployment rates, and 30 days unemployment in other areas). H.R. 2992—Public Law 95–44, approved June 15, 1977. (VV)

Emergency Unemployment Compensation.—Extends the Emergency Unemployment Act to October 31, 1977, to provide a maximum of 13 weeks of emergency benefits (which combine with the 26 weeks of regular and 13 weeks of extended benefits for a total of 52 weeks of unemployment benefits) in States where the insured unemployment rate is 5 percent or more, with a phase-out under which individuals eligible before October 31, 1977, may continue to receive benefits until January 31, 1978; extends until April 30, 1977, the maximum 26 week program now in effect (which combine with 26 weeks of regular and 13 weeks of extended benefits for a total of 65 weeks of unemployment benefits) in order to avoid terminating benefits for certain participants in that program; provides that the cost of emergency unemployment compensation paid after March 31, 1977, be met from nonrepayable general revenues without the present law requirements that the costs ultimately be met from Federal Unemployment Tax;

Provides that, in addition to any eligibility requirements of State law, an individual would be disqualified from receiving emergency benefits for failing to (1) actively seek work, (2) apply for any suitable work which was referred by the State agency, or (3) accept any offer of suitable work; defines suitable work as that which (1) is within the capabilities of the claimant, (2) meets conditions of present Federal law, (3) meets the conditions of State law and practices pertaining to suitable or specific disqualifying work such as unreasonable travel distance or threat to morals, health, or safety, (4) pays wages equal to Federal or State minimum wage, (5) pays gross average weekly remuneration equal to the individual's weekly unemployment benefits plus any Supplemental Unemployment benefits he might be entitled to, and (6) was listed with the State employment service or offered in writing; allows a State to waive these requirements if an individual furnishes satisfactory evidence that prospects for obtaining work within a reasonable period of time in his or her occupation are good;

Establishes new statutory authority and procedures for the treatment of fraud and erroneous payments, disqualifies applicants submitting false or erroneous information; requires States with certain exceptions; to recover any overpayments made to individuals; makes fraud in connection with the program a Federal crime and imposes a fine of up to $10,000 and imprisonment for up to 5 years.

Provides for State implementation of changes made by this act; requires each State to enter into a modification if its present agreement within 3 weeks after the Secretary of Labor proposes the modification to the State; provides that if modification is not entered into, the Unemployment Compensation Program in that State would expire within the last week which ends on or before March 31, 1977; permits Kentucky, which does not have a scheduled meeting of its legislature during 1977, to defer until 1979 compliance with certain requirements of the act;

Simplifies administration by terminating an individual's entitlement to emergency benefits two years after the end of the benefit year for which regular benefits were payable; extends for two years, through 1979, the moratorium under which the Federal unemployment tax is automatically increased to recapture any loan to a State which is unpaid after 2 years; prohibits benefits to an individual who was illegally working at the time he earned his eligibility; allows States to deny unemployment compensation to teachers during brief mid-year vacation periods if the teacher was employed by the school system immediately before the start of the vacation and has reasonable assurance of the employment continuing at the conclusion of the vacation; makes clear that groups of local governments are to be provided the same options for financing unemployment compensation as those provided to single government units; extends from September 30, 1979, to March 31, 1980, the provision contained in Public Law 94–566 which requires States to reduce the unemployment benefits of an individual by the amount of any public or private pension including social security and railroad retirement annuities in order to conform this enactment date with the final reporting extension granted the National Commission of Unemployment Compensation; extends the time by which the National Commission on Unemployment Compensation must submit its interim report from March 31, 1978, to September 30, 1978, and the time by which it must submit its final report from January 1, 1979, to July 1, 1979; and amends present law to require an affirmative vote of the Senate and the House to make effective the President's quadrennial recommendations regarding the salary increases of Members of Congress, the Federal judiciary, Cabinet officials and other top Federal personnel. H.R. 4800—Public Law 95–19, approved April 12, 1977. (82)

Public Works Employment.—Authorizes an additional $4 billion to extend the program of grants to State and local governments to provide jobs through construction in places with the most distressing levels of unemployment as originally authorized under Title I of the Public Works Employment Act of 1976; provides that 65 percent of the funds be allotted on total numbers of unemployed and 35 percent on the basis of the relative severity of unemployment, with States participation

in the 35 percent allocation only if their unemployment rates exceed 6.5 percent for the most recent 12 month period; provides that no State shall receive less than three-fourths of 1 percent nor more than 12.5 percent; requires that within a State 70 percent or more of the funds be spent in areas with rates of unemployment above the national average and 30 percent for areas with rates below the national average but above 6.5 percent; provides a $70 million set aside for grants that were not received, considered or rejected solely because of an error by a U.S. employee or officer; contains a 2½ percent setaside for Indian and Alaskan Natives projects to insure a substantial fund for such projects while permitting high-unemployment non-Indian communities a competitive chance to be awarded projects in States with Indian communities; includes the transportation of water to drought-stricken areas within the term "public works project" and permits an applicant who received a grant to substitute one or more projects for the project for which the grant was made under certain conditions approved by the Administrator; requires that all articles, materials and supplies used in a project be produced and made from substances mined or produced in the U.S. except in certain cases; requires a grant applicant to expend 10 percent of the funds for minority business enterprises if available within project areas; requires that priority and preference be given to pending applications resulting in energy conservation; repeals the provision permitting the Secretary to consider the unemployment rate in adjoining areas from which the labor force for a project may be drawn; ensures that all laborers and mechanics employed on projects are paid the prevailing wage rate under the Davis-Bacon Act; requires the Secretary to consider only those applications for grants submitted on or after December 23, 1976, and before the date of enactment except for applications from the Trust Territory of the Pacific, Indian tribes and Alaskan Native Villages or any applicant if a sufficient number of applications were not received; requires the Secretary of Commerce to study public works investment in the U.S. and report his findings to Congress within 18 months of enactment; requires the promulgation of regulations assuring special consideration to the employment of qualified disabled and Vietnam-era veterans;

Mandates, in Title II, the obligation of funds for water resource projects for fiscal 1977 (with the exception of the Meramec Dam in Missouri) and states congressional intent not to uphold any prospective budget rescissions or deferrals regarding these projects; provides that the rates of interest or discount used to assess the return on Federal investment in projects carried out by the U.S. Army Corps of Engineers or the Department of Interior Bureau of Reclamation be those established by the Water Resources Development Act of 1974 or by prior law authorizing such projects. H.R. 11—Public Law 95–28, approved May 13, 1977. (48,216)

Youth Employment and Training.—Adds a new youth employment title VIII to the Comprehensive Employment and Training Act of 1973 (CETA), as recommended by the President as part of his economic recovery package, and authorizes such sums as may be necessary to carry out the new title over a 3-year period; creates, in title I, a National Young Adult Conservation Corps to provide work for unemployed youths in the Nation's public lands and water; establishes, in title II, a variety of employment, training, and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation's youth; authorizes the establishment of youth incentive entitlement pilot projects for economically disadvantaged youth to provide part-time employment and/or training for youths between the ages of 16 and 19 who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or its equivalent; authorizes the establishment of youth community conservation and improvements projects to put unemployed youths to work for a period not to exceed 12 months on the rehabilitation or improvement of public facilities, neighborhood improvements, weatherization and basic repairs to low-income housing, and conservation, maintenance, or restoration of natural resources on non-Federal public lands; and authorizes support for employment and training programs designed to enhance job prospects and career opportunities for young persons, including activities involving useful work experience opportunities in community betterment and appropriate training and services such as outreach, counseling, occupational information, institution and on-the-job training, and transportation assistance;

Specifies the wage rates to which employed youths are entitled; prohibits full time employment to youths who have not attained the compulsory school attendance age; permits full time employment when school is not in session; requires the Secretary of Labor to submit a report to the Congress on the progress of the programs by March 15, 1978; disregards a youth's earnings in determining the family's eligibility to participate in Federal or Federally-assisted welfare programs;

Requires the Secretary of Labor to take steps to increase CETA participation by disabled veterans and Vietnam-era veterans under 35 years of age; and provides that, in filling teaching positions in public schools with financial assistance under CETA title II (public service employment in high unemployment areas) or title VI (Jobs Corps), each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State and who are otherwise eligible under CETA. H.R. 6138—Public Law 95– , approved 1977. (170)

ENERGY

Alaska pipeline destruction.—Amends title 18, U.S.C., to make a Federal crime the willful destruction or attempt to destroy the Trans-Alaska pipeline system with a fine of not more than $15,000 and/or 15 years imprisonment. S. 1496—Passed Senate July 18, 1977. (VV)

Deepwater ports.—Extends through fiscal year 1980 the annual $2.5 million authorization under the Deepwater Port Act of 1974 which established a licensing and regulatory program governing offshore deepwater port development beyond the territorial limits of the United States. S. 891 (identical to H.R. 6401)—Passed Senate May 17, 1977. H.R. 6401—Public Law 95–36, approved June 1, 1977. (VV)

Department of Energy.—Creates a cabinet-level Department of Energy (DOE) to permit coherent administration of the national energy policy with a Secretary, one Deputy Secretary, one Under Secretary (with responsibility for energy conservation), and eight Assistance Secretaries; establishes within the Department (1) the Energy Information Administration to gather, analyze and distribute energy data and to implement a system of mandatory reporting by major energy-producing firms of information related to the economics of energy supply; (2) the Economic Regulatory Administration to administer regulatory functions which the Secretary deems appropriate and which do not fall exclusively within the jurisdiction of the Federal Energy Regulatory Commission; (3) an Office of Inspector General to promote efficiency and prevent fraud and abuse within DOE; (4) the Office of Energy Research; and (5) the Leasing Liaison Committee, composed of an equal number of members from the DOE and the Department of Interior, to provide for cooperation and consultation between the two Departments; provides that the GAO shall audit the DOE;

Transfer of Functions.—Transfers to and vests in the Secretary all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission, except those functions transferred to the Federal Energy Regulatory Commission; four Regional Power Marketing administrations and the power-marketing functions of the Bureau of Reclamation currently under the Department of Interior; authority under the Outer Continental Shelf Lands Act, Mineral Lands Leasing Act, Mineral Leasing Act for Acquired Lands, Geothermal Stream Act of 1970 and the Energy Policy and Conservation Act related to the leasing of energy resources onshore and offshore; functions relating to fuel supply and demand analysis currently under the Bureau of Mines; authority for development and promulgation of new building conservation standards now vested in the Secretary of HUD; Commerce Department programs to promote voluntary industrial energy conservation; jurisdiction over three naval oil reserves and three naval oil shale reserves currently administered by the Department of Defense; authority currently vested in the Interstate Commerce Commission related to the transportation of oil by pipelines; and authority to publish guidelines for the Rural Electrification Administration on the issuance of loans or loan guarantees for generation and transmission facilities;

Retains the responsibility for promulgation of automobile efficiency standards within the Department of Transportation, but requires the Secretary of Transportation to give the Energy Secretary 10 days in which to provide written comment on any standard prior to its implementation; leaves responsibility for policing clean air standards with the Environmental Protection agency; continues responsibility for actual leasing of resources for the extraction of energy sources from public land in Interior, but places control over all economic terms and conditions of such leases in DOE; provides that nothing in the transfer of Federal leasing functions from Interior to DOE shall be construed as affecting Indian lands and resources or as transferring the responsibility of the Secretary of Interior concerning such lands and resources; requires cabinet-level departments and agencies with conservation responsibilities to designate a principal conservation officer within their Department; provides that the responsibility for the promotion of vanpooling and carpooling shall be transferred to the Secretary of Transportation;

Federal Energy Regulatory Commission.—Creates within the Department, independent of the Secretary's control, a five-member Federal Energy Regulatory Board, with its members appointed by the President, subject to Senate confirmation; prohibits members from engaging in any other business while serving on the Commission; provides that the Commission shall have sole jurisdiction over the establishment and enforcement of rates and charges for the transmission and sale of electricity and natural gas, and authority to license hydroelectric power plants; provides that either the Secretary or the Commission may propose a rule pertaining to functions within the exclusive jurisdiction of the Commission and that the Secretary can set reasonable time limits for completion of a rule-making proceeding before the Commission; provides that the Secretary shall have jurisdiction over the import and export of natural gas and electricity, emergency interconnections and curtailment priorities;

Provides that the Secretary shall have sole power to propose oil pricing actions, and that all such proposals must be referred immediately to the Commission which has sole power to make final decisions on such proposals; provides that the Commission can

either agree to an oil pricing proposal (in which case the Secretary may issue the rule), amend the proposal (in which case the Secretary may accept the changes and issue the final rule or reject the changes and not issue the rule), or reject the proposal (in which case the Secretary may not issue the rule); provides that during an energy crisis the President may grant the Secretary temporary exclusive pricing authority;

*Miscellaneous.*—Contains general administrative and procedural provisions governing rulemaking and other proceedings of the Department, and other provisions to eliminate or minimize conflicts of interest within the Department; requires the President to submit a proposed national energy policy plan by April 1, 1979, to be updated biennially thereafter; provides that the act shall become effective 120 days after the Secretary assumes office, or earlier as the President may prescribe; and requires the President to submit to the Congress a comprehensive review of each program in the Department by January 15, 1982, for Congressional review with respect to authorizing legislation for fiscal year 1983. S. 826—Public Law 95–91, approved August 4, 1977. (148,323)

ERDA Nonnuclear Authorization—Civilian, 1977.—Authorizes a total of $4,946,261,000 for the Energy Research and Development Administration for fiscal year 1977, of which $1,175,671,000 is designated for nonnuclear scientific research and programs, and $3,770,590,000 is designated for non-weapon nuclear research programs; includes: $461,801,000 for solar energy; $65.7 million for geothermal energy; $221 million for conservation research and development; $10 million for a high Btu pipeline gas demonstration plant: $5 million for a fuel gas low Btu demonstration plant; and $10 million for solar energy projects; authorizes funds for numerous plans to make improvements to comply with safety regulations; contains authorizations for capital equipment not related to construction to replace obsolete or worn-out equipment and to purchase certain new equipment to meet the needs of expanding programs and new technology at ERDA installations; provides an additional $50 million for the clean boiler fuel demonstration plant authorized by Public Law 94–187 and $15 million for the 5-megawatt solar thermal test facility authorized by Public Law 94–187; provides guidelines under which funds for fossil energy programs may be utilized; deauthorizes authorized fossil energy projects which were not appropriated within 3 full fiscal years; allows the Administrator to assist in the demonstration of the production of synthesis gas, methane, methanol, anhydrous ammonia, and similar energy intensive products from municipal waste by entering into agreements with units of local government or persons proposing to construct facilities for the manufacture of such products; provides authority by which ERDA may reprogram funds between major program areas; directs ERDA to relate the funds authorized and appropriated in annual authorization and appropriation measures to the objectives and goals of the various enabling legislation under which the Agency operates; amends the Federal Nonnuclear Energy Research and Development Act of 1974 to transfer responsibility for preparation of demonstration project water assessments from ERDA to the Water Resources Council; requires the Administration to classify the recipients of ERDA contracts into various categories including: Federal agency, non-Federal governmental entity, profitmaking enterprise, non-profit enterprise, and nonprofit education institution; authorizes the establishment of a small grants program to promote the research, development, and demonstration of energy-related systems and technologies appropriate to the needs of local communities; requires the Administrator, in consultation with EPA, to report to the Congress on the environmental monitoring, assessment and control efforts related to its various energy demonstration projects;

Authorizes $464,302,000 for work in biomedical and environmental research, operational safety, environmental control technology, the materials sciences, and molecular mathematical and geosciences portion of the basic energy sciences program and program support; provides $26.7 million for plant and capital equipment obligations including construction, acquisition, or modification of facilities, land acquisition, and acquisition and fabrication of capital equipment not related to construction; prohibits ERDA from starting projects if the current estimated cost exceeds the original estimated cost by more than 25 percent;

Authorizes ERDA to transfer sums from its "Operating Expenses" to other agencies for work for which the moneys were appropriated; authorizes "Operating Expenses" and "Plant and Capital Equipment" as no year funds; authorizes any Government-owned contractor operated laboratory, energy research center or other laboratory performing functions under contract to ERDA to use a reasonable portion of its operating budget for funding employee suggested research projects up to the pilot plant state of development; permits ERDA to contract for advanced architect/Administrator services for construction projects essential to meet the needs of national defense or the protection of life, property, health or safety prior to congressional authorization; requires any officer or employee of ERDA in a policy making position to report certain known financial interests in various energy technologies and related resources; directs the Administrator to develop regulations that would avoid conflicts of interest in ERDA contracts with private persons or organizations involved in energy research and development; and authorizes the establishment of a National Energy Extension Service. S. 36—Public Law 95–39, approved June 3, 1977. (VV)

ERDA Nonnuclear Authorization—Civilian, 1978.—Authorizes a total of $2,496,762,000 for fiscal year 1978 for ERDA non-nuclear related programs and certain support activities for both nuclear and non-nuclear programs; provides $977.15 million for the fossil energy development program to direct research of extraction, utilization, and conversion of coal, oil and natural gas, and oil shale and in-site coal gasification (of which $88 million is for research in magnetohydronamics); $131.8 million for the geothermal energy development program; $384 million for solar energy development programs (of which $7.5 million is earmarked for design works for small community applications); $372.8 million for energy conservation research and development programs to develop and demonstrate technologies for end-use conservation and conversion efficiency; $249.9 million for the environmental research and development program to assure that environmental, health and safety standards are maintained as new energy technologies are introduced; and $379.4 million for general program management and support. S. 1340—Passed Senate June 13, 1977. (195)

*ERDA Nuclear Authorization—Joint Applications.*—Authorizes $392,050,000 for fiscal year 1978 for operating expenses and plant and capital equipment for three ERDA military programs (laser fusion, space applications and naval reactors) which have potential for civilian energy applications. S. 1341—Passed Senate June 29, 1977. (VV)

ERDA Nuclear Authorization—Military.—Authorizes a total of $1,780,436,000 for fiscal year 1977 and $2,030,144,000 for fiscal year 1978 for certain Energy Research and Development Administration (ERDA) programs which have military applications; includes funding of the three national defense programs: (1) weapons activities—supporting the operation of the three weapons laboratories; research on advanced weapons and the full scale development of the following 7 weapons—B–61 and B–61–4 tactical bombs, Trident I missile warhead, full fuzing option strategic bomb, Mark 12–A warhead, 8-inch artillery projectile, and common warhead for land attack cruise missiles and short range attack missile; continued development of improved nuclear test detection methods necessary to monitor compliance with the limited Test Ban Treaty, Threshold Test Ban Treaty and Peaceful Nuclear Explosives Treaty; operation of the Nevada Test Site and the related costs of tests of advanced weapons concepts; maintenance and reliability assessment of the current weapons stockpile, production engineering for new weapons, nuclear materials recycle and recovery and security measures to protect nuclear shipments; and production of the following 9 new weapons for the war reserve: B–61–3, B–61–4, and B–61–5 tactical bombs, Lance enhanced radiation warhead, Trident I missile warhead, full fuzing option strategic bomb, Mark 12–A warhead, 8-inch artillery projectile, and common warhead for the land attack cruise missiles and the short range attack missile; (2) special materials production—supporting 3 reactors which produce enriched weapons grade uranium, plutonium and tritium; R & D associated with special materials production and management of radioactive wastes; and surveillance, maintenance and management of production reactor waste; and (3) nuclear explosives applications—supporting development of understanding of applications of nuclear explosives for peaceful purposes; includes $411,344,000 for plant and capital equipment; provides for cost variations in the authorized amounts for projects; provides authority to merge funds appropriated in different years for the same requirement category; directs that funds appropriated pursuant to this act remain available until expended; authorizes ERDA to proceed to design any project subject to the total amount authorized for the activity; authorizes ERDA to retain monies received from outside sources and use them for operating funds; and authorizes ERDA to transfer funds to other agencies supporting its programs. S. 1339—Passed Senate May 22, 1977. (VV)

ERDA Nuclear/Nonnuclear Authorization—Civilian.—Authorizes $5,232,665,000 for civilian nuclear and nonnuclear energy appropriations for the Energy Research and Development Administration for fiscal year 1978; includes the Senate passed provisions of S. 1340 for nonnuclear applications and $75 million for the Clinch River Breeder Reactor Project; and reaffirms Congressional intent that the Clinch River Breeder Reactor Project not be terminated during fiscal years 1977 and 1978. S. 1811—Passed Senate July 12, 1977. (VV)

ERDA Synthetic Fuel Loan and Guarantee Program.—Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish a loan guarantee program to be administered by the Energy Research and Development Administration (ERDA) whereby the Administrator may guarantee the payment of interest and principal of bonds, debentures, notes, and other obligations issued for the purpose of financing the construction and initial operation of commercial-sized demonstration facilities for the conversion of biomass into synthetic fuel or other useable forms of energy; authorizes guarantees of up to 75 percent of the total project cost and, during the construction and start up period, up to 90 percent; limits the total outstanding indebtedness that may be guaranteed at any one time to $300 million; requires ERDA, before approving an application, to notify the appropriate State and local governmental officials and to give the Governor of the State an opportunity to make his recommendation respecting the facility; prohibits ERDA from guaranteeing a project if the Governor recommends against it; authorizes the Administrator, in the event of default, to complete the project

and assume management of the facility including the authority to sell the products or energy produced; provides that any patents and technology resulting from the facility will be treated as assets in cases of default and requires that the guarantee agreement contain a provision assuring their availability to the Government if needed to complete the facility; and requires ERDA to submit a report of the proposed guarantee and facility to the appropriate committees of Congress which shall have 90 days to disapprove by passage of a disapproval resolution. S. 37—Passed Senate March 31, 1977. (VV)

Energy saving grants for schools.—Establishes, for fiscal years 1978–1981, the following three programs of matching grants to provide Federal financial assistance to institutions of higher education, public elementary and secondary schools and private non-profit elementary and secondary schools to assist them in meeting the emergency caused by the high costs of fuel, fuel shortages, and harsh weather conditions: $300 million for energy conservation measures including insulation, remodeling and renovation (50 percent Federal-50 percent applicant); $50 million for demonstration projects for innovated energy conservation projects (66⅔ percent Federal-33⅓ percent applicant); and $150 million for technical assistance for energy saving programs involving planning, studies or the temporary employment of special personnel (50 percent Federal-50 percent applicant). S. 701—Passed Senate July 20, 1977. (VV)

Federal Energy Administration authorization.—Extends through fiscal year 1978 the authorities under the Federal Energy Administration Act; includes $1.210 billion to permit 250 million barrels of crude oil to be placed in the Strategic Petroleum Reserve by the end of calendar year 1978; contains $1.8 million for the appliance labeling program under the Energy Supply and Environmental Coordination Act of 1974 and extends FEA's authority to require certain facilities which presently burn oil and gas to convert to coal; adds provisions limiting the powers of the regional counsels of FEA; establishes general procedures to be followed with respect to the use of commercial standards by the FEA; and requires the Administrator within 120 days of enactment, to publish regulations which would require prospective FEA contractors to disclose all relevant data which could cause a possible conflict of interest in carrying out activities for FEA. S. 1468—Public Law 95–70, approved July 1, 1977. (VV)

Natural gas emergency.—Authorizes the President to declare a natural gas emergency if he finds that a severe shortage exists or is imminent in the United States which would endanger the supply of natural gas for high-priority uses and the exercise of his authorities is reasonably necessary to assist in meeting requirements for such uses; provides that these authorities shall terminate when the President finds that shortages no longer exist and are no longer imminent;

Emergency Allocation.—Authorizes the President, during a declared natural gas emergency, to require (1) any interstate pipeline to make emergency deliveries or transport interstate natural gas to any other interstate pipeline or a local distribution company served by an interstate pipeline; (2) any interstate pipeline to transport interstate natural gas from one interstate pipeline to another or to any local distribution company served by an interstate pipeline; or (3) the construction and operation by any pipeline of necessary facilities to effect deliveries or transportation; directs the President, in issuing such orders, to consider the availability of alternative fuel to users of the interstate pipeline ordered to make deliveries and to determine that they would not have an adverse effect on the natural gas supply or exceed the transportation capacity of the pipeline; provides that these authorities shall terminate by April 30, 1977, or after the President terminates the emergency, whichever is earlier;

Emergency Sales at Deregulated Prices.—Authorizes interstate pipelines or local distribution companies to purchase supplies of natural gas for delivery before August 1, 1977, from intrastate pipelines at unregulated prices as reviewed by the President for fairness and equity; provides that these purchases could be delivered from intrastate pipelines and any producer of natural gas not affiliated with an interstate pipeline unless such natural gas was produced from the Outer Continental Shelf, and the sale or transportation of the gas was not, immediately prior to the date of the contract for purchase of the gas, certificated under the Natural Gas Act; authorizes the President to require, by order, any interstate or intrastate pipeline to transport gas and operate facilities necessary to carry out emergency purchase contracts;

Miscellaneous.—Authorizes the President to subpoena information to carry out his authority under the Act; contains antitrust protection provisions available as a defense against civil or criminal action brought against any person for violation of the antitrust laws with respect to actions taken pursuant to a Presidential order; gives the Temporary Emergency Court of Appeals exclusive jurisdiction to review all cases including any order issued or other action taken under this act; imposes civil penalties of up to $25,000 a day for violations of orders and $50,000 a day for willful violations; directs the President to require weekly reports which shall be made available to the Congress on prices and volume of natural gas delivered, transported or contracted for, and to report to Congress by October 1, 1977, on all actions taken under this act; and authorizes the President to delegate all or any portion of the authority granted to him to such executive agencies or officers he deems appropriate. S. 474—Public Law 95–2, approved February 2, 1977. (21)

Outer Continental Shelf.—Declares that the Outer Continental Shelf (OCS) is a vital national resource reserve held by the Federal Government for all the people, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner consistent with maintenance of competition and other national needs; directs the Secretary of Interior to prepare a five-year comprehensive leasing development, subject to environmental safe-development of the OCS while assuring receipt of fair market value for publicly owned oil and gas resources; provides a mechanism for separation of exploration from development and production so that Federal, State, and local government officials can assess the political, environmental, social, and economic impact of proposed development in order to resolve any problems prior to production; contains other provisions to increase Coastal states participation in OCS policy development; directs the Secretary of Interior to contract for exploratory drilling where he determines that such drilling is necessary to gain better information about OCS reserves; requires an independent Presidential investigation of all domestic crude oil and natural gas; authorizes the Secretary to modify the bidding system with the proviso that either House of Congress may veto any such change; reduces the maximum amount of bonus bids permitted under the law from 66.67 percent to 50 percent and requires the use of new leasing systems on an experimental basis; provides that at least 20 percent of offshore production be set aside for independent refiners;

Provides that an OCS lessee is liable for the total cost of control and removal of spilled oil; creates a new strict liability rule for damages from oil spills from any offshore facility or any vessel carrying oil produced offshore; sets maximum liability amounts for a lessee or holder of a right-of-way at $35 million and for a vessel owner at $150 per gross registered ton unless such damage resulted from gross negligence or willful misconduct or violation of a safety or construction regulation; creates the Offshore Oil Compensation Fund, which is liable for the balance of damage and which receives its funds from a fee of 3 cents per barrel on oil produced from the OCS; requires that any company permitted to conduct exploratory activities on the OCS submit to the Government all data which it collected about oil and gas resources, including interpretive data, and requires the Secretary to keep all proprietary data confidential until public availability of the data would not damage the competitive position of the permittee; directs the Secretary and the Coast Guard to establish safety and environmental protection standards for equipment used for development of OCS resources; increases criminal penalties for willful violations of the act; and establishes a Fishermen Contingency Fund to provide compensation for damage to commercial fishing vessels and gear caused by OCS development. S. 9—Passed Senate July 15, 1977. (293)

Pipeline Destruction.—Amends title 18, U.S.C., to make a Federal crime the willful destruction or attemot to destroy any interstate pipeline system used in the transportation of gas or oil in interstate commerce with a fine of not more than $15,000 and/or 15 years imprisonment. S. 1502—Passed Senate July 18, 1977. (VV)

Radiation Exposure.—Extends the program of the Energy Research a nd Development Administration (ERDA) to provide financial assistance to limit radiation exposure resulting from the widespread use of sand containing mill tailings in the construction of approximately 500 public and private buildings in the Grand Junction, Colorado area; calls for a cooperative arrangement with the State of Colorado whereby ERDA is authorized to provide 75 percent of the costs of the program; extends the deadline for applying for remedial work under the program from 4 to 7 years; provides that property owners who removed mill tailings at their own expense prior to the date of enactment and without the administrative determination required may apply for such reimbursement within the first year of enactment; permits the State of Colorado to waive the requirement that it perform the remedial work; and increases the authorization therefor from $5 million to $8 million. S. 266—Passed Senate April 4, 1977. (VV)

Stripmining control and reclamation.—Establishes a program for the regulation of coal surface mining activities and the reclamation of coal mined lands, under the administration of the Office of Surface Mining Reclamation and Enforcement in the Interior Department, to assure that surface coal mining operations—including exploration activities and the surface effects of underground mining—are conducted so as to prevent or minimize degradation to the environment and that such surface coal mining is not conducted where reclamation is not feasible; sets forth a series of minimum uniform requirements for all coal surface mining on both Federal and state lands which deal with (1) preplanning (requires that an operator applying for a permit do certain research regarding adjacent land uses, the characteristics of the coal and the overburden, and hydrologic conditions and requires inclusion in his application of the planned methodology and timetable for the operation in a reclamation plan); (2) mining practices (requires that mining methods be used which will minimize or obviate environmental damage or injuries to public health and safety including restrictions on the placement of overburden, blasting regulations, water pollution control requirements, and waste disposal standards); and (3) post-

mining reclamation (requires reclamation and restoration of the mined land to its pre-mined condition including backfilling and regrading to approximate original contour, restoration of water quality and quantity, revegetation to pre-mining conditions and elimination of erosion and sedimentation with certain exceptions) provides that these minimum Federal standards be administered and enforced by the States and by the Secretary of the Interior on public lands; authorizes funds to assist States in improving their regulatory and enforcement programs; provides for Federal enforcement of a State program if a State fails to comply with the Act;

Authorizes $200,000 in 1978, $300,000 in 1979 and $400,000 thereafter for 5 years in matching funds to each State to establish a State mining and mineral resources research institute to conduct research and training mineral engineers and scientists;

Provides for the protection of scarce and vital water resources in the permit application requirements, reclamation standards and provisions for designation of areas unsuitable for mining; provides for a mechanism on both State and Federal lands for citizens to petition that certain areas be designated as unsuitable for surface coal mining; prohibits stripmining of lands which cannot be reclaimed under the standards of the Act; prohibits stripmining in national parks and recreational areas (except for such lands which do not have significant forest cover within those national forests west of the 100th meridian) and areas which would adversely affect such parks; prohibits stripmining 300 feet from an occupied building, 100 feet from a public road, or 500 feet from an underground mine; permits certain variances to the mining-reclamation standards of the bill;

Requires with regard to lands where the Federal government owns the coal but not the surface estate that the surface owner must give written consent to the stripmining of the Federally-owned coal deposits; provides that if the surface and mineral estates are in private ownership, disputes shall be settled by State law;

Requires the Secretary of Interior to issue interim regulations for environmental standards within 90 days; waives provisions of the National Environmental Policy Act of permanent standards one year after enactment; requires EPA approval of air and water quality regulations; requires compliance by all new mines within 6 months; exempts mining operators with under 100,000 tons annual production from compliance with the interim environmental standards until January 1, 1979;

Bans stripmining on alluvial valley floors if it disrupts farming and the quantity and quality of the water supply except for (1) undeveloped range lands which are not significant to farming; (2) those lands the regulatory authority finds have negligible impact on the agricultural production of the affected farm; and (3) those surface coal mining operations in commercial production during the past year or for which a permit has been approved prior to enactment; requires a coal exchange program for fee coal located in alluvial valleys;

Requires that applicants seeking to stripmine on prime farmland demonstrate to the State regulatory authority that they have the technological capability to restore the mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland soils in the surrounding area under equivalent levels of management;

Establishes a fund to be used to reclaim abandoned mined lands which will be derived from a reclamation fee levied on every ton of coal mined at 35 cents per ton for surface mined coal and 15 cents per ton for all local mined by underground methods or 10 percent of the value of the coal at the mine, whichever is less; requires that 50 percent of all fees must be allocated to the State or Indian reservation from which it was mined; applies to lignite coal a fee of the lesser of either 10 cents per ton or two percent of the value of the coal;

Provides that, beginning no later than 6 months from the date of enactment continuing until a State program has been approved or a Federal program has been implemented, the Secretary is required to carry out a Federal enforcement program which includes inspection and enforcement actions in accordance with the act; and contains comprehensive provisions for inspections, enforcement notices and orders, administrative and judicial review, penalties, and citizen participation. H.R. 2—Public Law 95-87, approved August 3, 1977. (159,310)

ENVIRONMENT

Clean Air.—Amends the Clean Air Act, as amended, as follows:

Auto Emission Standards.—Extends for 2 additional years, for model years 1978 and 1979, the existing interim auto emission standards of 1.5 grams per mile for hydrocarbons (HC), 15 grams for carbon monoxide (CO), and 2 grams for nitrogen oxides ($NO_x$); requires 1980 model cars to meet emission standards of .41 gram to HC, 7 grams for CO, and 2 grams for $NO_x$; requires 1981 model cars to meet the final emission standards set by the 1970 Clean Air Act of .41 grams for HC, 3.4 grams for CO, and 1 gram for $NO_x$; authorizes EPA to waive the 1 $NO_x$ standard to a level not to exceed 1.5 grams per mile beginning in model year 1981 (1) to encourage the production of new engines (such as the diesel) and emission systems not using precious metal catalysts, or (2) for small manufacturers who produce less than 300,000 cars and who must purchase this pollution control technology from another manufacturer (American Motors); authorizes EPA to grant a 2-year waiver of the CO standards to 7 grams; reduces warranties for emission-control devices from 5 years and/or 50,000 miles to two years and/or 24,000 miles.

Delayed Compliance.—Authorizes EPA and the States to issue enforcement orders extending compliance schedules for stationary sources until July 1, 1979; limits extension of compliance to no more than 3 years delay, except in case of innovative technology (5 years), coal conversion extensions, or smelter orders; automatically subjects noncomplying sources to a penalty after July 1, 1979, equal to the cost of compliance to eliminate any economic advantage of delay;

Non-Deterioration.—Provides that areas where air quality is presently cleaner than the existing standards shall be protected by non-deterioration standards; designates the most carefully protected areas as Class I areas and other areas as Class II and III areas; provides a mechanism for States to redesignate lands from class I to II or II to III; provides that the following areas are not eligible for Class III designation if the area is over 10,000 acres: national monuments, primitive areas, preserves, wild and scenic rivers, wildlife refugees, lakeshores, seashores, parks, wilderness areas and any new areas subsequently designated for these categories; allows a State to redesignate any Federal land as a Class I area without the concurrence of any Federal authority; allows an Indian tribe to designate its land as Class I or III;

Defines "significant deterioration" in all clean air areas as a specified amount of additional pollution measured by increments of sulfur oxides and particulates; exempts facilities otherwise subject to the nondegradation provisions which emit less than 50 tons per year of total pollutants from the increment requirements; provides that States issue construction permits to new major emitting facilities in clean air areas (with EPA acting in the role of monitor of State actions) requiring the use of best available control technology; requires new sources locating in Class II area to demonstrate to the State that they will not exceed the Class II pollution increments, or adversely affect the air quality values in any nearby Class I area; allows a State Governor to waive compliance with the Class I standards if computer models show in advance that the standards would not be exceeded for 18 days annually with the right of the Secretary of Interior to object and a final decision to be made by the President within 90 days;

Non-Attainment Areas.—Requires new sources proposed for construction in nonattainment areas (where pollution levels exceed the public health standards) to meet a number of conditions prior to approval of construction; requires that such sources meet the lowest achievable emission rate; requires that emission reductions from existing sources more than offset the emissions from the new source; requires that existing sources use all reasonably available controls; provides that sources may only be approved after July 1, 1979, if a State implementation plan exists, the source is in compliance with its requirements, and the plan assures the attainment of the health standards within 3 years; makes available an extension until 1987 for States that cannot show attainment of the oxidant and carbon monoxide standards within 3 years; provides waiver from the source-by-source emission offset requirement available to a State under limited conditions; and

Other.—Requires a review of the air quality criteria for existing ambient air quality standards which shall be completed by December 31, 1980 and subsequently every 5 years thereafter; allows a state to temporarily suspend State implementation plan requirements where necessitated by energy or economic emergencies under specified conditions; authorizes the President to require major noncomplying industrial coal burners to utilize coal supplies that are locally and regionally available instead of importing low-sulfur Western coal if necessary to avoid local economic disruption, after taking into account the final cost to the consumer; and contains other provisions. H.R. 6161—Public Law 95- , approved 1977. (190)

Clean water.—Amends the Federal Water Pollution Control Act Amendments of 1972 including the following provisions.

Waste treatment construction.—Authorizes $26.5 billion through 1982 in Federal grants to local municipalities for construction of sewage treatment plants; increases the flexibility of the Administrator of the Environmental Protection Agency (EPA) and the States in determining the best cleanup techniques; extends for 5 years, until July 1, 1983, the deadline for communities to meet clean water standards if they have been unable so far to obtain federal funds for construction;

Industrial standards.—Allows the Administrator of EPA to grant a "reasonable" time for compliance with the 1977 deadline and to set up a compliance schedule; allows EPA to grant an extension of the 1977 deadline for achieving the "best practicable technology" up to 18 months to a source whose facilities are under construction but not completed by July 1, 1977, and who in good faith has tried to meet the requirements;

Oil spill liability.—Increases the jurisdiction for oil spills out to 200 miles and the limits of liability for cleaning up oil spilled from tankers or oil terminals; sets a minimum of $500,000 for liability from an oil cargo vessel and limits liability to $150 a gross ton; raises liability for onshore and offshore handling facilities to $50 million from $8 million;

Penalties for noncompliance.—Sets fines for pollution sources in an amount equal to the economic value of noncompliance in order to remove any economic advantage which might accrue to an industry which

does not comply with the law beginning July 1, 1979;

Phosphate use.—Limits the amount of phosphates contained in laundry detergents, dishwashing compounds, and water conditioners sold in the Great Lakes region and requires a study by EPA to determine whether a national phosphates limitation program should be enacted;

Wetlands protection.—Modifies the controversial wetlands protection provisions by exempting such activities as farming and ranching and allowing the States to control disposal of dredge and fill materials; and

Community flexibility.—Allows communities to use property tax or another payment scheme to charge residential users for waste treatment if the charges are in proportion to use and if the consumer is notified of his contribution to support the waste treatment facility. H.R. 3199—Passed House April 5, 1977; passed Senate amended August 4, 1977; Senate requested conference August 4, 1977. (336)

Earthquake hazards reduction.—Establishes a national earthquake hazards reduction program under the direction of the President to minimize the loss and disruption resulting from future earthquakes; specifies the objectives of the program which includes the following four elements: (1) a research element dealing with fundamental earthquake risk analysis for land-use consideration, hazards assessment, and engineering and research to reduce earthquake, vulnerability; (2) an implementation plan to be prepared within 6 months setting year-by-year targets through at least 1985, specifying roles for Federal agencies, and recommending appropriate roles for State and local units of government, individuals, and private organizations; (3) a State assistance program allowing assistance to the States under the Disaster Relief Act of 1974; and (4) the opportunity for wide sectors of the population to participate in the formulation and implementation of the program; calls for cooperation among a number of Federal agencies including the U.S. Geological Survey and the National Science Foundation; requires the President to report annually to the Congress on progress achieved in the program; and authorizes therefor $55 million, $70 million and $80 million over a 3-year period for the U.S. Geological Survey and National Science Foundation to undertake specific activities and such sums as necessary for other agencies involved in the program, S. 126—Passed Senate May 13, 1977. (VV)

Endangered species.—Extends through fiscal year 1980 the authorization for section 6(i) programs under the Endangered Species Act of 1973 at a rate of $9 million for the Department of the Interior and $3 million for the Department of Commerce to assist States in developing programs for the protection of threatened and endangered species of fish, wildlife, and plants. S. 1316—Passed Senate May 25, 1977. (VV)

EPA authorization.—Authorizes a total of $185,330,000 for the environmental research and development program conducted by the Environmental Protection Agency for fiscal year 1978 as follows: $95 million for water quality under the Federal Water Pollution Control Act; $10.8 million for pesticides under the Federal Insecticide, Fungicide and Rodenticide Act; $830,000 for radiation under section 301 of the Public Health Service Act; $8.2 million for toxic substances under the Toxic Substance Control Act; $28 million for interdisciplinary activities; $19 million for program management; $10 million for a long-term R&D program; $2 million for training of environmental health scientists; $5 million for unanticipated environmental emergencies; $500,000 for a report by the Council on Environmental Quality on coordinating the environmental research and development activities of the various Federal agencies and departments which is to be submitted to the President and Congress by January 1, 1978; and $5 million for Gulf Coast air quality studies; provides the legislative and statutory mandate for EPA's Science Advisory Board consisting of nine members, appointed by the Administrator for staggered terms, to review conflicting claims and advise the Administrator on the adequacy and reliability of the technical basis for rules and regulations; and directs the Administrator to assess organizational structures and management techniques and determine what would be the most appropriate means of tying together the program offices, research laboratories and contracted research efforts and to submit a report to the President and Congress by September 30, 1977. H.R. 5101—Passed House April 19, 1977; Passed Senate amended May 27, 1977. (VV)

National Advisory Committee on Oceans and Atmosphere.—Repeals the Act of August 16, 1971, which established a National Advisory Committee on Oceans and Atmosphere and establishes a new and smaller National Advisory Committee on Oceans and Atmosphere (NACOA) to replace it, consisting of 18 members (which is reduced from 25 in the original act) appointed by the President for staggered 3-year terms; sets more stringent qualifications for membership by requiring that each member be an expert or otherwise knowledgeable in either oceanic matters, atmospheric matters, or both; provides for the transfer of the personnel, positions, records, and unexpended funds to the new Committee; directs the Committee to undertake a continuing review of national ocean policy (on a selective basis), coastal zone management, and the status of U.S. marine and atmospheric science and service programs and advise the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration; requires the Committee to submit a report by June 30 of each year to the President and Congress and such other reports as may from time to time be requested; gives the Secretary of Commerce 60 days (instead of 90 days) to review and comment on the annual report; directs the Secretary to provide administrative support and services to the Committee; and authorizes $520,000 for fiscal year 1978. H.R. 3849—Public Law 95-63, approved July 5, 1977. (VV)

Noise control.—Authorizes $10.9 million for general technical assistance, regulatory and administrative responsibilities under section 19 of the Noise Control Act of 1972 and $2.1 million for research and development for fiscal year 1978. S. 1511—Passed Senate May 18, 1977. (VV)

Ocean pollution research.—Establishes a comprehensive Federal program of ocean pollution research and monitoring; designates the National Oceanic and Atmospheric Administration as the lead Federal agency for ocean pollution research and monitoring; and provides for the assistance of the Director of the Office of Science and Technology Policy, through the Federal Coordinating for Science, Engineering, and Technology, in coordinating, on a continuing basis, the Federal program of ocean pollution research and monitoring; requires the Administrator to submit annually to the President and Congress a report on all Federal ocean pollution and monitoring efforts; and authorizes therefor $5 million for fiscal 1978 and $6 million for fiscal 1979 to the National Oceanic and Atmospheric Administration. S. 1617—Passed Senate August 3, 1977. (VV)

Safe drinking water.—Amends the Safe Drinking Water Act of 1974 to extend through fiscal year 1978 the following authorizations which expire on September 30, 1977: $17 million for technical information and training, $20.5 million for State water supply supervision programs, $6 million for the State underground injection control program, $25 million for technology demonstration grants, and $16 million for research and development activities; and requires the Administrator of the Environmental Protection Agency to make grants under section 1444(c) of the Act which authorizes funding of projects demonstrating technology for recycling waste water for drinking purposes. S. 1528—Passed Senate May 24, 1977; Passed House amended July 12, 1977. (VV)

Sea grant program.—Extends through fiscal 1978 the authorization for the national sea grant program as follows: $50 million for the basic sea grant program; $5 million for the national program, and $3 million for the international program. H.R. 4301—Public Law 95-58, approved June 29, 1977. (VV)

FISHERIES

Atlantic tunas.—Extends for an additional 3 years, until 1980, the Atlantic Tunas Convention Act of 1975 which implemented an international convention governing fishing for tuna and tuna-like fishes in the Atlantic Ocean and authorizes therefor such sums as necessary; and redefines the term "fishery zone" to mean the 200-mile fishery zone described in Public Law 94-265. H.R. 6205—Public Law 95-33, approved May 26, 1977. (VV)

Commercial fisheries.—Extends the Commercial Fisheries Research and Development Act for 2 years, through fiscal 1980, and increases the annual authorization for fiscal year 1978 and the two subsequent years as follows: $10 million for section 4(a) general programs (increased from $5 million); $3 million for section 4(b) which provides funds on an emergency basis if there is a commercial fishery disaster or serious disruption affecting future production due to a resource disaster arising from natural or undetermined causes (increased from $1.5 million); and $500,000 for the section 4(c) program of grants to develop new commercial fisheries (increased from $100,000). H.R. 6206—Public Law 95-53, approved June 22, 1977. (VV)

Fishermen's protection reimbursement program.—Extends the provisions of the Fishermen's Protective Act of 1967 which expires October 1, 1977, to October 1, 1979; establishes a Federal Government loan program whereby the Secretary of Commerce may make a loan after October 1, 1977, to the owner or operator of any U.S. vessel to replace or repair vessels or gear lost, damaged, or destroyed by any foreign vessel; conditions loans upon assignment to the Secretary of all rights of recovery and directs the Secretary with the assistance of the Attorney General, to take appropriate actions to collect on any right assigned to him; cancels repayment of a loan if it is determined that the owner or operator was not at fault; and provides that loans may be granted for any damage which occurred after October 1, 1976. S. 1184—Passed Senate May 24, 1977. (VV)

Fishery agreement with Canada.—Amends the Fishery Conservation Zone Transition Act by adding a new section giving Congressional approval of the Reciprocal Fisheries Agreement between the United States and Canada during the period of March 1, 1977, to December 31, 1977; authorizes Canadian vessels and nationals to fish within the Fishery Conservation Zone of the United States, or for anadromous species and Continental Shelf fishery resources of the United States beyond the zone only when the fishing is carried out pursuant to the provisions of the Agreement; waives the requirements of title II (relating to foreign fishing and international fishery agreements) and the penalty provisions in section 307 of the act; requires any person who owns or operates a United States fishing vessel and engages in fishing to which the agreement applies or any person who directly or indirectly receives

fish in sufficient quantities as determined by the Secretary of Commerce, to submit to the Secretary such statistics as he may request; authorizes the Secretary, after consultation with the Secretary of State, to issue regulations as necessary regarding the collection of such statistics; and provides that any person violating the act or regulations issued pursuant thereto would be deemed to be committing an act prohibited by section 307 of the Act and subject to a civil penalty of up to $25,000. H.R. 5638—Public Law 95– , approved 1977. (VV)

Fishery conservation zone transition.—Gives Congressional approval of the fishery agreements between the United States and the People's Republic of Bulgaria, the Socialist Republic of Romania, the Republic of China, the German Democratic Republic, the Union of Soviet Socialist Republics, and the Polish People's Republic; provides that these agreements will enter into force on the date of enactment of this joint resolution; waives the 60-day Congressional review period; limits to 7 days the 45 day period for review and comment on application permits required of the Regional Fishery Management Councils created under the Fishery Conservation Zone Act during 1977 for those applications received by the Council on or before the date of enactment and those received by the Council from the Secretary of State after the date of enactment to provide for an orderly transition from the 12 mile to 200 mile fishing limit; waives, until May 1, 1977, the requirement that foreign fishing vessels have a valid permit on board and permits the Secretary to waive the fee required before fishing permits may be issued if he is satisfied that the foreign nation will pay the fee before May 1, 1977; and repeals, effective March 1, 1977, the Northwest Atlantic Fisheries Act of 1950. H. J. Res. 240—Public Law 95–6, approved February 21, 1977. (VV)

Gives Congressional approval of the fishery agreements between the United States and Spain, Japan, South Korea, and the countries of the European Economic Community (Iceland, France, Italy, Luxembourg, the United Kingdom, Denmark, Belgium, West Germany, and the Netherlands); contains essentially the same provisions as H.J. Res. 240 (Public Law 95–240) to provide for an orderly implementation of foreign fishing within the 200-mile fishery zone of the United States after March 1, 1977, including the 7-day period of comment by the Fishery Management Councils and the public with respect to applications for permits, the May 1 extension of time for the payment of fees and permit requirements, and waives the 60-day Congressional review period. H.R. 3753—Public Law 95–8, approved March 3, 1977. (VV)

Marine mammal protection.—Extends through fiscal year 1978 the Marine Mammal Protection Act of 1972 and authorizes therefor $1.8 million for the Department of the Interior of which $1.1 million is for research grants in subjects relevant to the protection and conservation of marine mammals, $11.5 million for the Department of Commerce of which approximately $5 million would fund a 100 percent observer program on all large tuna-purse vessels, and $2 million for the Marine Mammal Commission; and makes it unlawful for any person or vessel to take any species of whale in the U.S. fishery conservation zone (the 200-mile limit) established by the Fishery Conservation and Management Act. S. 1522—Passed Senate July 18, 1977. (VV)

GENERAL GOVERNMENT

Age discrimination report—nutrition programs for elderly.—Amends the Age Discrimination Act of 1975 to extend for 6 months, until November 1977, the time in which the U.S. Commission on Civil Rights must submit its report on unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; authorizes the Commission for a 90-day period following transmittal of its report to provide technical assistance and information to Government officials; and

Amends the Older Americans Act to extend the surplus commodities provision of the title VIII nutrition program for the elderly through fiscal year 1978 in order that it will coincide with the authorization period of the other programs of the act; and gives States the option to receive cash in lieu of such commodities. H.R. 6668—Public Law 95–65, approved July 11, 1977. (VV)

Center for books.—Establishes a Center for Books in the Library of Congress, under the direction of the Librarian of Congress, which will be supported by private gifts to provide a program to stimulate public interest and research in the role of books in the diffusion of knowledge through such activities as a visiting scholar program accompanied by lectures, exhibits, publications, and any other related activities. S. 1331—Passed Senate July 12, 1977. (VV)

Civil Rights Commission authorization.—Raises the authorization limitation for the Civil Rights Commission from the present annual maximum of $9,540,000 to $10,420,023 for fiscal year 1978 plus such additional amounts as may be necessary for salary increases and other employee benefits authorized by law. H.R. 5645—Passed House May 23, 1977; Passed Senate amended July 13, 1977; Senate requested conference July 13, 1977. (VV)

Federal assistance program information.—Increases the availability of information about Federal domestic assistance programs by requiring the Director of the Office of Management and Budget (OMB) to: (1) establish and maintain a data base containing specified information on all Federal domestic assistance programs; (2) develop and maintain a computerized information system to provide for the widespread availability of information contained in the data base by computer terminal facilities; and (3) publish annually a catalog of Federal domestic assistance programs containing information from the data base, a detailed index and any other information deemed appropriate; authorizes therefor $1.2 million for the first year; $1.7 million the second year and $2.2 million the third year;

Amends section 201 of the Intergovernmental Cooperation Act of 1968 to give OMB the responsibility to insure that information is provided to the States through their Governors or designated information centers on Federal financial assistance; requires the Director to report his recommendations to Congress for improving, consolidating and further developing Federal financial information systems; and requires the General Accounting Office to submit a report to Congress 1 year after enactment on actions taken by OMB to implement this act and, within 2 years of enactment, a progress report to Congress 1 year after enactment on actions taken by OMB to implement this act and, within 2 years of enactment, a progress report including an evaluation of its effectiveness and any legislative recommendations. S. 904—Passed Senate May 17, 1977. (VV)

Federal Home Loan Bank Board members.—Amends the Federal Home Loan Bank Board Act, as amended, to permit a board member, whose term expires, to continue to serve on the board for an additional 30 days or until his successor is appointed, whichever occurs first. S.J. Res. 63—Public Law 95–56, approved June 29, 1977. (VV)

Amends the Federal Home Loan Bank Act to extend for an additional 15 days the term of the member of the Federal Home Loan Bank Board which expired on July 31, 1977, in order to permit the Board to obtain a quorum for transacting business until the new prospective chairman can be sworn into office. S.J. Res. 79—Public Law 95– , approved 1977. (VV)

GAO audits of IRS and ATF.—Amends the General Accounting and Auditing Act of 1950 to provide that the General Accounting Office may conduct management and financial audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms; contains provisions to insure the confidentiality of information including Congressional oversight and penalties for unauthorized disclosure; and requires the Comptroller General to submit to the Senate Finance and Governmental Affairs Committees, the House Ways and Means and Government Operations Committees, and the Joint Committee on Taxation, every six months, the names and titles of GAO employees having access to tax returns and information; to submit as frequently as possible results of the audit; and to submit annually a report of his findings and recommendations which must also include the procedures established for protecting the confidentiality of tax return information and the scope and subject matter of the audit. S. 213—Passed Senate March 11, 1977. (VV)

Intelligence activities authorization.—Authorizes such amounts as specified in a classified report prepared by the Senate Select Committee on Intelligence for fiscal year 1978 for intelligence activities of the United States Government includes specific amounts for activities of the Central Intelligence Agency, the Defense Intelligence Agency, the Office of the Secertary of Defense, the National Security Agency, the military service, the Department of State, the Department of the Treasury, the Energy Research and Development Administration, the Federal Bureau of Investigation, and the Drug Enforcement Administration; authorizes $8.95 million for the Intelligence Community Staff for fiscal 1978 which supports the Director of the C.I.A. in fulfilling his responsibilities for overall management and direction of the intelligence community and the Policy Review Committee of the National Security Council; sets at 170 the end-strength of full time employees for the Intelligence Community staff; and authorizes $35.1 million for the Central Intelligence Agency Retirement and Disability System for fiscal 1978. S. 1539—Passed Senate June 22, 1977. (VV)

Kennedy Center authorization.—Authorizes $4.7 million for the John F. Kennedy Center for the Performing Arts, to remain available until expended, for the Secretary of the Interior, acting through the National Park Service, to correct leaks in the roof, terraces, kitchen, and East Plaza Drive and the damage which has resulted from these leaks; gives the Center approval authority over contracts let by Interior Department; and authorizes $4 million for fiscal year 1978. S. 521—Public Law 95–50, approved June 20, 1977. (VV)

Kennedy Presidential Library.—Authorizes the Administrator of General Services to accept land, buildings, and equipment that have been or may be offered to the United States without reimbursement, for the purpose of maintaining, operating and protecting as part of the National Archives system a Presidential archival depository located next to the University of Massachusetts campus on Columbia Point in Boston in memory of John Fitzgerald Kennedy. H.J. Res. 424—Public Law 95–34, approved May 26, 1977. (VV)

Library services and construction.—Extends through October 1, 1982, and revises the Library Services and Construction Act; retains current use and allocation of funds but adds a provision to direct one-half of the funds after the appropriation level of $60 million is reached (current funding level is $56.9 million) to urban resource libraries, which are defined as public libraries in incorporated areas with populations exceeding

100,000; provides that any State that does not have an incorporated area with at least 100,000 persons will nevertheless be considered to have at least one urban resource library; adds a new title to the Act which provides special aid to and study of urban libraries; authorizes funds for projects to make libraries more energy efficient; and contains other provisions. S. 602—Passed Senate May 20, 1977; Passed House amended June 2, 1977; In conference. (VV)

National Science Foundation Authorization.—Authorizes $879.35 million for fiscal year 1978 to the National Science Foundation and an additional $4.9 million in foreign currencies which the Treasury Department determines to be in excess to the normal requirement of the U.S.; includes (1) $246.8 million for mathematical and physical sciences and engineering; (2) $210.5 million for astronomical, atmospheric, earth, and ocean sciences; (3) $47.5 million for the U.S. Antarctic Research Program; (4) $142.5 million for biological, behaviorial, and social sciences; (5) $4.5 million or 2 per cent of the funds for (1), (2), and (4), whichever is less for basic research stability grants; (6) $83.3 million for science education programs; (7) $75.85 million for Research Applied to National Needs (RANN), with not less than 25 percent of these funds to be earmarked for applied social research and policyrelated scientific research and not less than 12.5 percent be earmarked for the Small Business Innovation Program; (8) $20.9 million for scientific technological, and international affairs; (9) and $47.8 for program development and management;

Contains provisions to support interaction between academic and industry researchers, and to emphasize the activities of the Office of Science and Society; earmarks $4.5 million for programs directed to minority graduate students; contains certain requirements designed to protect pre-college students involved in research funded by the agency; establishes financial disclosure procedures to guard against possible conflicts of interest on the part of NSF employees; requires the National Science board to submit an annual report to Congress; and contains other provisions. H.R. 4991—Public Law 95– , approved 1977. (VV)

Presidential reorganization authority.—Extends for three years from the date of enactment, the authority of the President under chapter 9, title 5, U.S.C., to submit reorganization plans to Congress proposing the reorganization of agencies in the executive branch; expresses Congressional intent that the President provide appropriate means for public involvement in reorganization; requires that the President, on a continuing basis, examine the organization of all agencies of the executive branch and determine what changes are necessary to accomplish the purpose of the statute;

Provides that reorganization plans may: create new agencies, transfer or consolidate the whole or part of agencies or their functions to other agencies, abolish all or part of the functions of an agency except any enforcement function or statutory program, change the name of an agency, authorize an agency official to delegate any of his functions, and provide that the head of an agency be an individual, commission or board with a fixed term not to exceed 4 years;

Requires that each plan be based upon a Presidential finding stated in a message to Congress that the proposed action is necessary to accomplish one or more of the purposes of the statute; requires that the message specify, with respect to each plan, the reduction of or increase in expenditures likely to result from the plan, as well as any improvements in the effectiveness or efficiency of the government anticipated as a result of the plan;

Prohibits the use of reorganization authority to: create a new executive department, abolish an executive department or an independent regulatory agency, abolish any function mandated by Congress through statutes, increase the term of an office beyond that provided by law, create new functions not authorized by pre-existing statutes, or continue a function beyond the period authorized by law;

Requires the President to submit each plan, which must deal with only one logically consistent subject matter, to both Houses of Congress simultaneously for referral to the Senate Governmental Affairs Committee and the House Government Operations Committee; requires the Chairman of the respective committee to introduce a disapproval resolution whenever a reorganization plan is submitted to assure that there will be a resolution for the Committee to act on and to report either favorably or unfavorably a disapproval resolution for each proposed plan; provides that plans shall become law at the end of 60 calendar days of continuous session of the Congress or if specified, at a later date, unless either House passes a resolution of disapproval or prior to that time if both Houses defeat a disapproval resolution; requires the committees in both Houses to file recommendations on each plan with the full House within 45 days and provides, if the committee has not done so, the resolution will automatically be discharged from further consideration and placed on the calendar; specifies that no more than three reorganization plans may be pending in the Congress at any one time;

Allows the President to (1) amend a plan within the first 30 days after submission if neither committee has ordered reported a disapproval resolution or made any other recommendations on the plan, or (2) withdraw a plan at any time prior to the conclusion of the 60 day period;

Provides that any member may move to proceed to consider a disapproval resolution once it has been reported or discharged; limits to 10 hours floor debate on a disapproval resolution and on appeals and motions made in connection therewith, and makes motions to postpone consideration or amend the resolution out of order;

Provides that suits brought against an agency affected by a reorganization plan, or regulations or other actions taken by an agency under a function affected by the plan shall not abate as a result of the plan, except in the case where the function is abolished; specifies that plans may provide for the transfer or other disposition of affected records, property, and personnel, and for the transfer of unexpended appropriations if the funds will be used for their original purpose; and requires that unexpended funds revert to the U.S. Treasury. S. 626—Public Law 95–17, approved April 6, 1977. (40)

Privacy Protection Study Commission extension.—Extends the life of the Privacy Protection Study Commission from July 10, 1977, to September 30, 1977, to provide additional time for the printing of a set of appendix volumes for its final report. S. 1443—Public Law 95–38, approved June 1, 1977. (VV)

Smithsonian Institution.—Canal Zone biological area.—Increases from $350,000 to $750,000 the annual authorization for the Canal Zone Biological Area (the Barro Colorado Island Facility of the Tropical Research Institute of the Smithsonian Institution). S. 1031—Passed Senate May 2, 1977. (VV)

U.S. territories.—Provides for the continuance of the civil government of the Trust Territory of the Pacific Islands by authorizing $90 million for fiscal 1978, $122.7 million for fiscal 1979, and $112 million for fiscal 1980 in addition to such amounts authorized but not appropriated for fiscal years 1975 through 1977; authorizes $13,515,000 for the government of the Northern Marianas until the separate funding provisions of their Covenant become effective; authorizes $12.5 million for the rehabilitation and resettlement of Enewetak Atoll; provides for compensation to the people of Rongelap and Utirik Atolls in the Marshall Islands for radiation exposure resulting from a thermonuclear detonation on Bikini Atoll on March 1, 1954; authorizes $25,000 to each individual who has developed hypothyroidism or a radiation-related malignancy, $1,000 to each person or heir who was an inhabitant of Utirik Atoll at the time of exposure, and not to exceed $25,000 in compassionate compensation to an individual who has suffered a physical injury from a radiation-related cause; authorizes the Secretary of Interior to provide adequate medical care and treatment to any person who has a radiation injury or related illness with the costs to be assumed by ERDA; directs the Secretary to report to Congress by December 31, 1980, on any additional compassionate compensation that may be justified for those individuals continuing to suffer from radiation-caused illnesses or injuries;

Authorizes $15 million for a grant to the Government of Guam to assist in typhoon rehabilitation, upgrading and construction of public facilities, and maintenance of essential services; authorizes Guam to use funds provided under this act as its matching share for Federal programs and services; authorizes for 5 fiscal years beginning in fiscal 1978, $1 million annually for the Guam Development Fund; provides for the Secretary to assume the costs of the Guam comptroller effective October 1, 1977; allows Guam to impose a separate tax on all taxpayers of not to exceed 10 percent of their annual income tax obligation to the Government of Guam; grants jurisdiction to the district court of Guam to review individual claims arising from U.S. land acquisitions in Guam immediately after World War II; requires an individual to prove that he received less than fair value for his land as a direct result of fraud, duress, or other unconscionable actions by the United States and provides that claims of individuals who received payment for their land in judicial condemnation proceedings shall remain res judicata and the district court will not have jurisdiction to review their awards; authorizes the Secretary to guarantee loans to the Government of Guam of not to exceed $25 million to meet their health care needs after obtaining the approval of the Secretary of HEW; requires additional taxes in Guam in the event of a default on these loans;

Provides for the Secretary to assume the costs of the Comptroller General of the Virgin Islands; allows the Virgin Islands Legislature to vary the present 6 percent ad valorem custom duty on the importation of articles into the Virgin Islands; directs the Secretary to submit to Congress by January 1, 1978, a report on Federal programs available to U.S. territories in order to determine the feasibility of extending to Guam and the Virgin Islands those programs extended to the Northern Marianas by the Commonwealth Covenant; and authorizes a one-time payment of $15 million to Guam and an additional $14 million to the Virgin Islands for tax revenue losses. H.R. 6550—Passed House May 2, 1977; Passed Senate amended July 25, 1977. (VV)

GOVERNMENT EMPLOYEES—FEDERAL OFFICIALS

Ethics in government.—Establishes a mechanism for the appointment of a temporary special prosecutor to deal with (a) matters concerning the President, Vice President, Members of Congress, and other high-level officials, and (b) matters which may directly and substantially affect the partisan political or personal interests of the President, the Attorney General, or the President's party and in which there exists a conflict of interest within the Justice Department; contains a general provision requiring any officer or employee of Justice to disqualify himself from cases in which he could have a conflict of interest; creates an Office of Gov-

ernment Crimes within the Justice Department to deal with abuses of office committed by government officials, violations of Federal lobbying, elections, and conflicts-of-interest laws, and other matters; provides that the director of this Office shall be appointed by the President and confirmed by the Senate;

Provides that an individual who has played a leading partisan role in the election of a President cannot be appointed Attorney General or Deputy Attorney General; sets forth procedures to be followed by the Attorney General with respect to any investigation of influence peddling by the Korean Government;

Establishes an Office of Congressional Legal Counsel to represent Congress and, with the consent of Congress, protect the vital interests of Congress in matters before the courts; provides that the Congressional Legal Counsel and the Deputy Congressional Legal Counsel will be appointed by the joint leadership and must be approved by both houses, and that neither position may be filled by persons who have been Congressional members, candidates, employees or persons who have served in Congressional campaigns within the preceding three years;

Requires annual financial disclosure reports be filed by the President, Vice President, Members of Congress, justices and judges of the U.S. and D.C. government, officers and employees of the executive branch at the GS–16 level or greater; officers and employees of the legislative and judicial branches compensated at a rate equal to or greater than the GS–16 pay rate; members of a uniformed service compensated at a rate equal to or greater than the grade 0–7 pay rate, candidates for Federal elective office, and Presidential appointees subject to advice and consent of the Senate; specifies the required contents of such disclosure reports; creates various offices to monitor compliance with this statute; sets criminal penalties for knowing and willful falsification or emission and civil penalties for failure to file or accidental omissions;

Establishes an Office of Government Ethics within the Civil Service Commission with primary responsibility for implementing financial disclosure requirements throughout the executive branch; provides that the director of this Office shall be appointed by the President with the advice and consent of the Senate;

Revises the current statute concerning restrictions on post service activities by officials and employees of the executive branch by imposing a new restriction which prohibits, for a period of one year following termination of government service, a former top-level official from contacting his former department or agency on any matter pending before the department or agency; and makes other minor modifications to the statute. S. 555—Passed Senate June 27, 1977. (245)

Federal comparability increases.—Denies the October 1 cost-of-living increase to Members of Congress, the Supreme Court Justices and other members of the Judiciary, Cabinet officials, and top Executive personnel who received the March 1 quadrennial pay increase under which salaries were increased as follows: Members of Congress from $44,600 to $57,500; Cabinet officers from $63,000 to $66,000; the Vice President, Speaker, and Chief Justice from $65,000 to $75,000; the President Pro Tempore and Majority and Minority Leaders from $52,000 to $65,000; circuit court judges from $44,600 to $57,500; district judges from $42,000 to $54,500; subcabinet assistants from $44,600 to $57,500; and other top Federal personnel from $42,000 to $52,000. S. 964—Public Law 95–66, approved July 11, 1977. (44)

Secret Service protection of former Federal officials.—Authorizes the Secret Service to continue to furnish protection to certain former Federal officials (Secretaries Kissinger and Simon and Vice President Rockefeller) or members of their immediate families who received such protection immediately preceding January 20, 1977, if the President determines that they may be in significant danger, and provides that such protection shall continue for a period determined by the President but not beyond July 20, 1977, unless otherwise permitted by law. S.J. Res. 12—Public Law 95–1, approved January 19, 1977. (VV)

Child nutrition programs.—Extends through September 30, 1980, the summer food service program for children with changes designed to eliminate abuses and otherwise strengthen the administration of the program; extends through September 30, 1982, the authority of the Secretary of Agriculture to purchase agricultural commodities for donation to the child nutrition programs when acquisitions under other agricultural authorities are not available; requires the Secretary to establish procedures to assure that donations of agricultural commodities to the child nutrition programs are more responsive to the problems and needs of local school districts; requires the Secretary to conduct studies of the impact and the effect on the child nutrition programs of making cash payments in lieu of commodities, and of past and present patterns of sanitary practices of commodity producers under consideration for contracts for child nutrition programs; revises the special milk program to provide that in schools and institutions participating in the school lunch, breakfast, or child care feeding programs, free milk may be provided to children eligible for free school meals only at times other than the regular school lunch or school breakfast serving period; revises the school breakfast program to require that the Federal maximum reimbursement for especially needy schools be adjusted semiannually to reflect changes in the cost of food away from home and require States to establish the standards, subject to the Secretary's approval, under which schools in severe need may receive 100 percent of their operating costs; revises the authority under which equipment funds are furnished schools to give priority to schools without a food service program and schools without the facilities to prepare and cook hot meals; revises the authority under which States are provided administrative expenses for carrying out certain child nutrition programs to require that a specific amount (based on percentage of the State's total costs) be made available for the 1978 through 1980 fiscal years; establishes a five-year entitlement nutrition education and information program under which grants would be made to State educational agencies for the purpose of encouraging effective dissemination of scientifically valid information about food and nutrients to children participating in the school lunch and related child nutrition programs and to adults; repeals the provision in existing law which prohibits the Secretary from banning the sale of competitive foods (such as food from vending machines) in food service facilities or areas during the time that school lunches or breakfasts are being served; and requires the Secretary to establish an Institute of Food Management and Technology to address the problems of providing adequate food programs in diverse situations. H.R. 1139—Passed House May 18, 1977; Passed Senate amended June 30, 1977; In conference. (267)

*Clinical laboratories.*—Extends and expands the existing program of mandatory licensure to all laboratories (except those under the jurisdiction of the Department of Defense or the Veterans Administration) soliciting and accepting specimens for laboratory analysis: authorizes the Secretary of Health, Education, and Welfare to license those laboratories meeting quality assurance standards; authorizes the Secretary to promulgate standards and regulations to assure the quality, accuracy, and reliability of laboratory testing; authorizes the Secretary to delegate his licensure authority to states with primary enforcement responsibility to implement laboratory quality assurance programs at least equal to the Federal program; authorizes the Secretary and any State with primary enforcement responsibility to take necessary actions against laboratories not meeting the quality assurance standards; authorizes the Secretary to establish an Office of Clinical Laboratories to provide a uniform regulatory program for all laboratories subject to Federal jurisdiction; authorizes the Secretary to establish an advisory council to advise, consult with, and make recommendations to the Office of Clinical Laboratories concerning the development of quality assurance standards and the implementation of such standards; authorizes the Secretary to exempt physicians' office laboratories under certain conditions where physicians file an attested application with the Secretary, including but not limited to a description of the qualifications of non-physician laboratory personnel, the quality and type of tests conducted, and the score of proficiency examinations taken by such personnel, or where the laboratory participates in an approved proficiency testing program; authorizes the Secretary to waive from the personnel standards laboratories located in and serving rural areas; authorizes the Secretary and any State with primary enforcement responsibility to utilize the services of private, nonprofit entities for the provision of inspection and proficiency testing services; authorizes $15 million annually to permit the Secretary to provide technical and financial assistance to States to become States with primary enforcement responsibility; authorizes the Secretary to inspect laboratories without a warrant solely for the purpose of determining compliance with the promulgated national standards; authorizes the Secretary to seek revocation of a laboratory's license where it is found that the laboratory has engaged in kickbacks, bribes, or false, fictitious, or fraudulent billing practices; prohibits discrimination by any licensed laboratory against any employee who has become involved in any activity concerning allegations that the laboratory is in violation of this section; authorizes the Secretary to exempt laboratories which are primarily engaged in biomedical or behavioral research, or where the sole purpose of the tests or procedures performed is to determine insurability for insurance; authorizes $1 million annually to permit the Secretary to make grants and contracts for projects and studies respecting clinical laboratory methodology and utilization; authorizes increased penalties for failure to comply with the national standards and for any fraudulent activities undertaken in connection with obtaining reimbursement under titles XVIII and XIX of the Social Security Act; authorizes one year experimental demonstration competitive bidding in State medicaid programs under title XIX of the Social Security Act; and authorizes citizen suits for alleged violation of compliance with the law. S. 705—Passed Senate July 28, 1977. (VV)

Public health programs—Biomedical Research.—Authorizes a total of $3.357 billion to extend through fiscal year 1978, without major substantive modifications, the assistance programs under the Community Mental Retardation and Community Mental Health Centers Act and the programs under the Public Health Service Act, including biomedical research; computes the authorizations for these programs generally on a formula of the higher of the fiscal 1977 authorization or the fiscal 1977 appropriation plus 20 percent;

Establishes five supergrade positions for the National Institute on Alcohol Abuse and Alcoholism in order to attract highly qualified senior level scientific personnel; increases the number of National Cancer Institute consultants from 100 to 151; author-

izes the Secretary of Health, Education and Welfare to develop minimum public health standards to maintain preventive health care programs; directs the Secretary to arrange for studies of international health issues and opportunities and to submit a final report by January 1, 1978; authorizes an additional $67.5 million to enable the Secretary to make grants for construction and modernization projects to assist public hospitals to meet life and safety codes and avoid loss of accreditations; prohibits payments under medicare and medicaid to health maintenance organizations which memberships are made up of a majority of individuals who are recipients of such benefits; requires the Secretary of HEW to take into account unusual local conditions which inhibit access or availability of personal health services in designating medically underserved populations for the purpose of making grants and awarding contracts for community health services; reaffirms Congressional intent that the existing prohibition on the use of funds under the authority of the Public Health Service Act other than section 1004 (relating to authorizations for family planning research) includes the administrative costs of family planning research activities;

Amends the Health Professions Educational Assistance Act to provide for equity in student loan programs, scholarships programs, and payback provisions for medical students within the National Health Service Corps (NHSC) who had made commitments under previous legislation; amends the definition of a health professions educational institution eligible to participate in the guaranteed student loan program to provide that an institution would be eligible for the program if it received or was eligible to receive capitation support in the previous fiscal year; assures that all physicians graduating from medical schools accredited by the Liaison Committee on Medical Education are treated equally; provides that individuals with obligated service to the NHSC may participate in residency training programs as officers in the regular or reserve corps of the Public Health Service prior to fulfilling the obligated service in an underserved area; permits an area Health Education Center to conduct training in general pediatrics as well as in family medicine and general internal medicine; allows the Secretary to repay, in return for service in a health manpower shortage area, educational loans obtained by health professions students before October 12, 1976; guarantees that students who graduated from two-year U.S. medical schools will be treated the same as U.S. students who completed 2 years at a foreign medical school when transferring to degree-granting institutions; authorizes construction assistance for the establishment or expansion of regional health professions programs; provides that traineeships in emergency medicine for graduate medical education students shall provide for tuition and fees and such stipends and allowances that the Secretary of HEW may deem necessary; reinstates the Indian Health Scholarship program; modifies amendments to the Immigration and Nationality Act to ensure that actions by HEW officials will be consistent with the intentions of Congress in regard to the so-called "f" visa training program which sets standards for alien graduates of foreign medical schools enrolling in the United States to study and practice medicine; and amends the Public Health Service Act to conform certain provisions of the student loan program with those in the NHSC;

Increases to $399,864,200 the authorization for the maternal and child health grant programs under the Social Security Act and extends through fiscal 1980 the authority for 100 percent Federal financing of medicaid skilled nursing and intermediate care facility inspection and enforcement costs; extends for 1 month, until August 30, 1977, the date by which the Committee on Mental Health of the Elderly must make its report to Congress to coordinate its actions and recommendations with the Presidential Commission on Mental Health; provides that States shall not receive less than their 1976 formula grant allotments under the Comprehensive Alcohol Abuse and Alcoholism Prevention. Treatment and Rehabilitation Act; and authorizes $140 million for preventive family planning project grants and $5 million for the Sudden Infant Death Syndrome Counseling and Information Services. H.R. 4975—Public Law 95–83, approved August 1, 1977. (131)

HOUSING

Housing and community development.—Amends the Housing and Community Act of 1974 and authorizes a total of $14.6 billion for housing programs through fiscal year 1980;

Community development.—Authorizes $12.4 billion for extension of the community development program through fiscal 1980; provides that not less than $197 million be made available for low-cost housing projects, and not less than $120 million be used for housing for the elderly and handicapped; provides a dual formula method of allocation which permits communities to use either poverty or age of housing stock as the primary indicator of need, and allows cities with at least 50,000 population and urban counties to choose a third formula which uses the proportion of housing stock built prior to 1940 as the primary indicator of need; creates the urban development action grant (UDAG) program to aid seriously distressed cities; allows multiyear funding to small cities; authorizes $60 million for the loan rehabilitation program and $75 million for the comprehensive planning program;

Housing assistance and related programs.—Provides $1.116 billion in new contract authority for low-income housing programs and limits the amount of assistance to be used on existing rather than new housing; authorizes $708.1 million for public housing operating subsidies; permits HUD to make assisted housing payments for new or rehabilitated housing units beyond 60 days in an FHA-insured project; provides that loans for housing and related facilities for elderly and handicapped persons assisted under section 202 be made without regard to mortgage insurance limits contained in the National Housing Act; permits interest reduction subsidies for section 235 cooperatives to increase the availability of cooperative housing projects for low-income families; authorizes $60 million for policy development and research and $15 million for the urban homesteading program; allows communities which choose to not participate in the flood insurance program to continue to have access to conventional forms of financing;

Mortgage credit.—Extends through fiscal year 1978 the following mortgage credit programs authorized under the National Housing Act: insurance of financial institutions, general insurance program, housing for moderate -income and displaced families, homeownership for lower income families, rental cooperative housing for lower income families, experimental financing, armed services housing, mortgage insurance for land development, and mortgage insurance for group practice facilities; extends through fiscal 1978 the authority to set FHA interest rates (Public Law 90–301) and the National Flood Insurance Act of 1968;

Increases the maximum loan amount for FHA-insured mortgages and for loans made by chartered savings and loan associations to adjust for the inflation in the costs of homes, mobile homes, and home improvements; decreases the downpayment requirements for FHA-insured loans; lowers the FHA mortgage insurance premium paid by nonprofit teaching facilities hospitals; provides for the expansion of the experimental graduated payment mortgage program; amends the Government National Mortgage Association emergency tandem plan to correct problems in the program and give it greater flexibility, particularly for use in urban areas and for housing rehabilitation;

Community reinvestment.—Authorizes the Community Reinvestment Act which requires Federal financial regulatory agencies in the course of examining the institutions they regulate to assess each institution's performance in meeting the credit needs of its primary savings service area, to the extent consistent with sound business operations; provides that regulations resulting from the Act will become effective no later than 180 days after its enactment;

Rural housing.—Amends the Housing Act of 1949 to extend through fiscal year 1978 the housing programs under the Farmers Home Administration (FmHA); increases by $25 million the low rent housing for domestic farm labor and low income repair loans programs;

Modifies the guaranteed loan program of FmHA to completely separate the guaranteed loan program, both in operation and funding, from the insured (direct) loan program; restricts the guaranteed loan program to persons with above average incomes, thereby asserting Congressional intent that FmHA use the direct loan program for low- and moderate-income persons; makes interest rates on guaranteed loans negotiable between the borrower and the lender in order to increase the program's attractiveness to private lenders;

Authorizes $10 million in fiscal 1978 for the mutual and self-help housing program; requires that at least 60 percent of FmHA loans made pursuant to section 502 (single family) and section 515 (rental) programs benefit persons of low income; requires the establishment of a research capacity within FmHA; mandates the implementation of a rural rent subsidy; and expands the definition of "rural area" to include smaller communities with standard metropolitan statistical areas which have a serious lack of mortgage credit. H.R. 6655—Passed House May 11, 1977; Passed Senate amended June 7, 1977; In conference. (177)

Mortgage insurance.—Extends for 30 days, to July 31, 1977, the authority of the Secretary of Housing and Urban Development to: insure mortgages or loans under certain HUD-FHA mortgage or loan insurance programs under the National Housing Act, administratively to set interest rates for FHA-insured mortgage loans, enter into new flood insurance contracts; and extends certain authorities under title V of the Housing Act of 1949 with respect to FHA's rural housing program. H.J. Res. 525—Public Law 95–60, approved June 30, 1977. (VV)

Extends from July 31, 1977, to September 30, 1977, the authority of the Secretary of Housing and Urban Development to: insure mortgages or loans under certain HUD–FHA mortgage or loan insurance programs under the National Housing Act, administratively set interest rates for FHA-insured mortgage loans to meet the market at rates above the statutory maximum, and enter into new flood insurance contracts under the National Flood Insurance Act of 1968; and extends through September 30, 1977, certain authorities under title V of the Housing Act of 1949 with respect to FHA's rural housing programs. S.J. Res. 77—Public Law 95–80, approved July 31, 1977. (VV)

Supplemental housing authorizations.—Authorizes additional funds for housing assistance for lower income Americans in fiscal year 1977; extends the riot insurance and crime insurance programs; and establishes a National Commission on Neighborhoods;

Increases, in title I, the authorization for section 8 rental assistance, the major housing program for lower income Americans, by $378 million for a total of $1,228,050,000; increases operating subsidy funds for public housing projects by $19.6 million to pay for this winter's unexpectedly high heating costs; extends the contract period for new,

privately developed section 8 housing from 20 to 30 years in order to attract more private financing; authorizes such appropriations as may be necessary for reimbursement of the FHA general insurance fund for losses on the sale of foreclosed properties from the FHA inventory; contains a $10 million increase for a total of $15 million for the Hud urban homesteading program as a means of attracting additional rehabilitation funds into neighborhoods and disposing of the HUD inventory of foreclosed properties; increases from $500 million to $1.341 billion the ceiling for losses incurred by the Federal Housing Administration General Insurance Fund; extends HUD's authority to write crime insurance and riot reinsurance policies through September 30, 1978, and authorizes continuation of policies in force before April 30, 1978, through September 30, 1981; extends from April 30, 1978, to September 30, 1978, the date that the Secretary must submit a plan for the liquidation and termination of these programs; deletes the requirement whereby mortgages may be insured under section 220 of the National Housing Act only if the property is located in an area which has a workable program for community development; makes clear that mortgages insured under section 221(d)(4) of the Act may be executed by a mortgagor which is a public body or agency, or a cooperative, limited dividend corporation or other entity, private nonprofit corporation or association, as well as a profit motivated entity, as defined by the Secretary; and

Authorizes, in title II, $1 million for the establishment of a National Commission on Neighborhoods to assess existing policies, laws and programs having an impact on neighborhoods and make recommendations regarding investment in city neighborhoods, community government participation, economically and socially diverse neighborhoods, rental housing, and rehabilitation of existing structures, among other issues. H.R. 3843—Public Law 95–24, approved April 30, 1977. (VV)

INDIANS

American Indian Policy Review Commission.—Extends from February 18, 1977, to May 18, 1977, the period of time in which the American Indian Policy Review Commission must submit its final report to the Congress and increases the authorization therefor from $2.5 million to $2.6 million. S.J. Res. 10—Public Law 95–5, approved February 17, 1977. (VV)

Cheyenne-Arapaho lands.—Declares that two separate tracts of excess Government land, totaling approximately 107 acres, located in Canadian and Custer Counties, Okla., be held in trust for the Cheyenne-Arapaho Tribes of Oklahoma and authorizes the Secretary of the Interior to accept, upon request from the tribes, the fee simple title to lands conveyed to them pursuant to the acts of September 14, 1960, and May 18, 1968, to be held in trust for the tribes. S. 1291—Passed Senate June 9, 1977. (VV)

Creek Nation land.—Declares that 5 acres of Federally-owned land in McIntosh County, Okla., be held in trust by the United States for the Creek Nation of Oklahoma. S. 947—Passed Senate June 9, 1977. (VV)

Ely Indian land.—Declares that 90 acres of Federally-owned land located in White Pine County, Nev., be held in trust for the Ely Indian Colony in Ely, Nev. S. 103—Passed Senate June 9, 1977. (VV)

Indian business development program.—Amends the Indian Financing Act of 1974 to extend the Indian Business Development Program for 2 years, through fiscal year 1979, at an annual authorization of $14 million. H.R. 4992—Public Law 95–68, approved July 20, 1977. (VV)

Indian claims.—Extends to April 1, 1980, the statute of limitation under which the U.S., as trustee, can bring Indian claims for monetary damages which arose prior to the enactment of the original statute in 1966 on land claims by Indian tribes, bands and groups. S. 1377. Public Law 95– , approved 1977. (VV)

Extends for an additional month, until August 18, 1977, the statute of limitation under which the U.S., as trustee, can bring Indian claims for monetary damages which arose prior to the enactment of the original statute in 1966 on land claims by Indian tribes, bands and groups. H.J. Res. 539—Public Law 95–64, approved July 11, 1977. (VV)

Indian Claims Commission.—Authorizes $2,250,000 for the Indian Claims Commission for fiscal year 1978; adds a new section to facilitate the transfer of cases from the Indian Claims Commission to the U.S. Court of Claims; confers upon the Court the powers of the Commission to set fees for attorneys representing Indian tribes or claimants and to obtain information and documents from Government agencies and congressional committees; provides that final judgments of the Court shall be paid as other Court of Claims judgments are paid; provides that cases transferred to the Court shall be subject to review by the Supreme Court; provides that the law establishing a revolving loan fund for tribes to obtain expert witnesses in Commission cases shall remain applicable to transferred cases; and increases from 15 to 16 the number of Court of Claims Commissioners. H.R. 4585—Public Law 95–69, approved July 20, 1977. (VV)

Indians rights to Arkansas riverbed.—Directs the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Nations of Oklahoma for the use, lease, or purchase by the United States of their rights in the Arkansas Riverbed; directs the Secretary to utilize, as a basis for the terms of any agreement, the value of the property rights as determined by appraisals conducted by the Secretary and provides for payment of not less than the appraised value of the property rights involved; directs the Secretary to take such action as necessary to immediately carry out any agreement; and authorizes therefor $177 million. S. 660—Passed Senate June 30, 1977. (VV)

Siletz Indian Tribe restoration.—Extends Federal recognition to the Confederated Tribes of the Siletz Indians, Oregon; makes the provisions of the Indian Reorganization Act of June 18, 1934, applicable to the tribe; makes the tribe and its members eligible for all Federal services and benefits without regard to the existence of a tribal reservation or its members residing on a reservation; directs that a specified area, comprising seven counties, in Oregon be considered a reservation for the purpose of determining the eligibility of tribal members for those Federal services and benefits requiring residency on a reservation; restores to the tribe all rights and privileges, other than hunting, fishing and trapping, under any Federal treaty, Executive order, agreement, or statute, or under the act of August 13, 1954, which terminated the tribe; provides a procedure by which membership in the tribe is to be established; provides for an election to adopt a constitution and bylaws and to elect tribal officials as provided in the constitution and bylaws; directs the Secretary of the Interior to negotiate with all interested parties to develop a plan for the establishment of a reservation, and to submit the plan, in the form of proposed legislation, to the appropriate Congressional committees within two years of enactment; and authorizes the Secretary to promulgate such rules and regulations as necessary to carry out the act. S. 1560—Passed Senate August 5, 1977. (VV)

Sioux Black Hills claim.—Authorizes the U.S. court of Claims to review, without regard to the technical of res judicata or collateral estoppel the determination of the Indian Claims Commission entered February 14, 1974, that the act of February 28, 1877, effected a taking of the Black Hills portion of the Great Sioux Reservation in violation of the fifth amendment. S. 838—Passed Senate May 3, 1977 (VV)

Te-Moak Shoshone land.—Transfers 80 acres of land from the United States to the Te-Moak Bands of Western Shoshone Indians to be held in trust by the United States in order to provide a home for the Wells Indian Community, a group of the Te-Moak Band who are presently landless. S. 667—Passed Senate June 9, 1977. (VV)

Wichita Tribal land claim.—Authorizes the Indian Claims Commission to consider claims by the Wichita Indian Tribe and affiliated bands with respect to aboriginal title to lands which were acquired by the United States without payment of adequate compensation. S. 773—Passed Senate May 5, 1977. (VV)

Zuni lands.—Directs the Secretary of the Interior to acquire through purchase, trade or otherwise the 618.41 acres in the State of New Mexico upon which the Zuni Salt Lake is located and hold such land in trust for the Zuni Indian Tribe; confers jurisdiction upon the Court of Claims to hear and determine an aboriginal land claims that the Tribe failed to file with the Indian Claims Commission under the Act of August 13, 1946, which established that forum; and authorizes the Tribe to purchase and exchange lands in the States of New Mexico and Arizona notwithstanding the restrictions in the act of May 25, 1918, expressly prohibiting further expansion of Indian reservations in these States. S. 482—Passed Senate May 3, 1977. (VV)

INTERNATIONAL

Abu Daoud.—States as a sense of the Senate that the release by France of Abu Daoud, a known terrorist who is accused of having planned the murder of Olympic athletes in Munich in 1972, is harmful to the effort of the community of nations to stamp out international terrorism; further states that the United States should consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situation in which a terrorist leader is released from detention without facing criminal charges in a court of law; and directs the Secretary of the Senate to provide a copy of this resolution to the Secretary of State for transmission to the Government of France. S. Res. 48—Senate agreed to January 26, 1977. (13)

Arms Control and Disarmament Agency.—Authorizes a total of $16.6 million for the Arms Control and Disarmament Agency (ACDA) for fiscal year 1978, including $11.05 million for program operations, $3.55 million for external research and public affairs, and $2 million for the purpose of furthering the nuclear safeguards and program activities of the International Atomic Energy Agency; creates a new executive level IV position, Special Representative for Negotiations, to be appointed by the President with the advice and consent of the Senate to serve as the Alternate Chairman of the U.S. SALT delegation and to take a part in other negotiations; removes the requirement that all ACDA contracts and grants be with U.S. institutions and persons; allows the agency an exception from the appointment and classification provisions of the Civil Service System in order to allow the agency to compete effectively for employees with other Federal agencies; permits ACDA employees to accept reimbursement for work-related travel and expenses; adds a new section 37 to the Arms Control and Disarmament Act which states the sense of Congress that adequate verification compliance with the terms of arms control agreements should be an indispensable part of any such agreement, and requires the ACDA Director to report to Congress his determinations as to the veritability of the components of arms control proposals, any degradation of veritability in

existing arms control agreements, and the amount of agency resources expended on the verification task. H.R. 6179—Public Law 95. , approved 1977. (220)

Belgrade conference.—States as the sense of the Congress that the U.S. delegation to the preparatory Belgrade meeting, beginning on June 15, 1977, should make every effort to insure that the agenda adopted for the subsequent meeting on the Conference on Security and Cooperation in Europe provides for proper, straightforward and serious exchange of views among the participating States on the application of the principles of the Final Act of the Helsinki Conference as well as on compliance and noncompliance with all of its provisions including the presentation and thorough discussion of all violations of the Final Act, especially those related to universal humanitarian ideals. H. Con. Res. 249—Action completed June 15, 1977. (VV)

States the sense of the Senate that the U.S. representatives to the Helsinki Accords Review Conference should indicate to the Soviet Union and other states represented at the Conference the official concern of the U.S. over the treatment of Anatoly Scharansky, Yuri Orlov, and others who sought to monitor compliance with the Helsinki Accord. S. Res. 198—Senate agreed to July 12, 1977. (VV)

Harp seal killings.—Urges the Canadian Government to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters which is considered by many citizens of the U.S. to be cruel and, if continued at the current high level, may cause the extinction of that species of seal. H. Con. Res. 142—Action complete April 6, 1977. (VV)

International cooperation on nuclear proliferation.—Commends the President for his stated intentions to give diplomatic priority to the pursuit of nonproliferation measures; endorses and strongly supports active consultations with world leaders on the highest level to: (1) curb the spread of nuclear enrichment and reprocessing facilities and otherwise discourage the diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices, (2) achieve universal acceptance of international safeguards on all peaceful nuclear activities, as well as to seek international cooperation to improve the packaging and handling of high-level wastes and to provide for international storage of plutonium, spent reactor fuel, and other sensitive nuclear materials, (3) explore possible international arrangements for the provision of nuclear fuel services to help meet the legitimate energy needs of cooperating states, (4) reach agreement on sanctions to be applied against any nation which seeks to acquire a nuclear explosives option, and (5) strengthen the safeguards of the International Atomic Energy Agency; and pledges prompt Senate action on legislation to enact a clear statement of goals for U.S. nonproliferation policy providing guidance and support to these Presidential diplomatic initiatives, and to establish a clear statutory framework for the development and implementation of U.S. nuclear export policy. S. Res. 94—Senate agreed to April 28, 1977. (VV)

International development assistance—Food for peace.—Authorizes $1,646,800,000 for fiscal year 1978 for bilateral development assistance, international disaster assistance programs, operating expenses for the United States Agency for International Development (AID) and voluntary U.S. contributions to international organizations;

Authorizes $200 million for the initial U.S. contribution to the Sahel Development Program which combines the resources of more than 12 donors and 8 recipient countries in a long term development effort in the Sahel region of Africa; continues the New Directions aid policies initiated by the Congress in 1973 which require that U.S. assistance be channeled directly to aid the poor people in developing countries; extends the Housing Investment Guaranty Program through fiscal year 1979 and combines the separate Latin American and worldwide guaranty authorities; extends through fiscal 1978 the Agricultural and Productive Credit and Self-Help Community Development Programs; authorizes the following housing guaranty programs for fiscal year 1978: Israel—$25 million, Portugal—$15 million, and Lebanon—$10 million, notwithstanding the fact that these countries are not otherwise receiving development assistance; provides $30 million to continue U.S. assistance for the relief, rehabilitation, and reconstruction assistance for victims of the Italian earthquake; improves U.S. population planning programs by providing for their integration with U.S. health and other development assistance programs; bars the use of funds for assistance to or reparations for Vietnam, Cambodia, Laos, or Cuba and directs the President to continue to try to obtain an accounting of MIA's; repeals various provisions of the Foreign Assistance Act prohibiting assistance to countries which furnish assistance to or trade with Cuba or Vietnam; bars funds for involuntary sterilizations; establishes an International Energy Institute;

Includes a separate title to strengthen the economic development and trade expansion aspects of the Food for Peace program (Public Law 480) and to clarify the humanitarian intent of the program; repeals the present exclusion from title I sales program of those countries or exporters which trade with Cuba or North Vietnam; removes the restriction on title I sales to the United Arab Republic; changes the title I sales allocation formula by requiring that 25 percent of the food aid commodities provided in each fiscal year be allocated to countries other than those with a per capita gross national product of $520 instead of $300 or less and by allowing the Secretary of Agriculture to reallocate some portion of title I financing if he certifies to Congress that the quantity of commodities that would be required to be allocated could not be used effectively to carry out humanitarian or development purposes of title I; permits the Secretary to finance projects to aid in the untilization, distribution, and storage of U.S. agricultural commodities; increases the annual minimum of agricultural commodities to be shipped under title II of Public Law 480 from 1.3 to 1.5 million metric tons; requires that 1.3 instead of 1 million metric tons of this amount be distributed through the U.S. voluntary agencies and the world food program; creates a new food for development program; expands and refines the "grantback" authority provided in 1975; permits the President to waive the repayment of title I obligations under a carefully developed plan for utilization of the proceeds raised by the recipient government from the sale of title I commodities upon its own market; and makes various other improvements. H.R. 6714—Public Law 95-88, approved August 3, 1977. (207)

International financial institutions.—Provides a total of $5.125 billion in multiyear authorizations for continued participation by the United States in six international financial institutions which includes $1.57 billion for the World Bank to be spread over three years; $2.4 billion for the International Development Association to be spread over three years; $112 million for the International Finance Corporation to be spread over three years; $814 million for the Asian Development Fund to be spread over three years; and a $50 million one-year authorization for the African Development Fund with a provision directing the Secretary of the Treasury to begin discussions with other donor nations for the purpose of setting amounts for future replenishments and of reviewing the voting structure within the Fund;

Instructs U.S. representatives to all international financial institutions to use their voice and vote to channel aid to projects which address the basic human needs of people in the recipient country; requires U.S. representatives, where other means have proven ineffective in advancing the cause of human rights, to oppose all assistance to countries which engage in consistent patterns of gross violations of internationally recognized human rights or which provide refuge to airline hijackers unless the assistance is directed specifically to programs which serve basic human needs or unless the President certifies that the cause of international human rights would be more effectively served by actions other than voting against assistance; requires the U.S. Executive Directors to consider several additional factors in carrying out their duties: (1) the extent of cooperation of a country in permitting unimpeded investigations of alleged human rights violations by specified international organizations; (2) U.S. actions on bilateral assistance due to human rights considerations; (3) the extent to which economic assistance directly benefits needy people; (4) whether a country has detonated a nuclear device or is not a State Party to the Treaty on Nonproliferation of Nuclear Weapons, or both, and (5) in dealing with requests from Vietnam, Laos, or Cambodia, the responsiveness of these governments in providing a more substantive accounting of American MIAs; requires U.S. representatives to oppose loans or other assistance for expanding foreign production of palm oil, sugar, or citrus crops for export if such production will cause injury to U.S. producers of the same, similar, or competing agricultural commodities; contains language to clarify that all funds to international financial institutions, including multiyear authorizations and pledges for callable capital, are subject to the annual appropriations process; and directs U.S. officials to try to maintain salaries in these institutions at levels near to comparable positions in the United States. H.R. 5262—Passed House April 6, 1977; Passed Senate amended June 14, 1977; Senate agreed to conference report July 27, 1977. (203)

International Security Assistance.—Authorizes a total of $3,195,900,000 ($53 million below the Administration's request) in 1978 budget authority for eight programs to finance international security programs totaling $4,579,100,000;

Military programs.—Provides $228.9 million to the military assistance program which includes funds for military aid to Greece ($33 million), Portugal ($25 million), Spain ($15 million), Turkey ($48 million), the Philippines ($20 million), Jordan ($55 million), Indonesia ($15 million), and Thailand ($8 million); continues the phasedown of the military assistance advisory group program by reducing the number of groups from 34 to 17 and establishing a worldwide personnel ceiling of 865; retains the provision which states that no military personnel performing military functions may operate in any foreign country unless specifically authorized by Congress; authorizes the assignment of overseas management teams in fifteen countries; provides $31 million for the international military education and training program; provides $677 million to finance foreign military sales credits to 29 countries, with direct credits of $500 million to Israel and $20 million to Zaire, and with all loans to other countries to be financed through the Federal Financing Bank; states that a policy of restraint in U.S. arms transfers shall not impair Israel's deterrent strength or undermine the military balance in the Middle East;

Economic programs.—Authorizes $1.89 billion for the security assistance program to provide economic assistance for 15 countries and recommends that such programs be subject to the "new directions" criteria of the Foreign Assistance Act which requires

that aid be channeled directly to aid the poor people in developing countries; provides $20,000 in security supporting assistance for disaster relief in Lebanon; provides that not less than $300 million for the amount authorized for Israel shall be available only for budgetary support on a grant basis; adds a new section 533 to the Foreign Assistance Act of 1961 to create an $80 million Southern Africa Special Requirements Fund to address the economic problems caused by the conflict in that region and prohibits the use of such funds for assistance in Mozambique, Angola, Tanzania, or Zambia unless the President determines that such aid would further U.S. policy interest; authorizes a balance of payments support loan to Portugal not to exceed $300 million to assist in stabilizing the Portugal economy; provides $25.0 million to continue the Middle East special requirements fund with $12.2 million of that amount earmarked for the Sinai support mission;

Narcotics control and contingency funds.—Provides $39 million for international narcotics control, with the understanding that $12.5 million will be used for programs in Mexico; requires the Department of State to review the narcotics control assistance program in Burma; provides $5 million for the President's Contingency Fund to give the Administration some flexibility in dealing with national security;

Other provisions.—Prohibits military assistance, training, and credits to Ethiopia and Argentina; exempts Australia, Japan, and New Zealand from the license requirement contained in the Arms Export Control Act for the export of major defense equipment; includes a statement of Congressional intent to authorize $100 million for a Zimbabwe Development Fund when progress toward an internationally recognized settlement will so permit; prohibits funds to promote any military or paramilitary operations in Zaire; prohibits economic assistance to any supplier or recipient of nuclear technology of equipment unless both agreed to place the transferred equipment under multilateral auspices when available, and that the recipient agreed to place all nuclear activities under international safeguards; authorizes such sums as may be necessary in fiscal year 1978 to carry out international agreements relating to defense cooperation with Greece and Turkey, and raises to $175 million the FMS credits and sales ceiling for Turkey contained in the Foreign Assistance Act; authorizes additions to stockpiles of defense articles in foreign countries of $270 million, with the entire amount earmarked for War Reserve Stocks of ammunition for Korea, a bookkeeping shift requiring no appropriation; and requires the termination of the sale of defense articles and services for one year to any country granting sanctuary to international terrorists unless U.S. national security justifies continuation of such sales. H.R. 6884—Public Law 95– , approved 1977. (209)

National Academy of Peace and Conflict.—Establishes a 1 year Commission to study proposals for establishing the National Academy of Peace and Conflict consisting of 9 members, three each appointed by the President pro tempore of the Senate, the Speaker of the House, and the President, to conduct a study to consider whether to establish a National Academy of Peace and Conflict Resolution; the size, cost and location of the Academy; the effects the establishment of the Academy would have on existing institutions of higher education; the relationship which would exist between the Academy and the Federal Government; the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing the Academy; and alternative proposals, which may or may not include the establishment of the Academy, to assist the Federal Government in accomplishing the goal of promoting peace; and authorizes therefor $500,000. S. 469—Passed Senate June 17, 1977. (VV)

Peace Corps authorization.—Authorizes $82.9 million to finance the operation of the Peace Corps for fiscal year 1978 and $1 million for increases in salary, retirement, or other employee benefits authorized by law. S. 1235—Public Law 95– , approved 1977. (VV)

Portugal—Military assistance.—Modifies the existing statutory limitations on the allocation of military assistance funds for fiscal year 1977 contained in section 504(a)(1) of the Foreign Assistance Act of 1961, as amended, to add Portugal to the list of eligible countries and specify that $32.25 million be allocated to that country to upgrade its armed forces which were debilitated as a result of prolonged colonial wars in Africa. S. 489—Public Law 95–23, approved April 30, 1977. (VV)

Regulations to prevent collisions at sea.—Provides the necessary statutory authority to implement the provisions of the "Convention of International Regulations for Preventing Collisions at Sea, 1977" (Ex. W, 93d–1st) by specifying the means by which the Regulations will come into force and effect for the United States, ensuring coordination with the international implementation of the Regulations, and providing legal notice to interested persons through publication in the Federal Register; repeals Public Law 88–131 and replaces it with a congressional authorization for the President to proclaim the International Regulations and to establish the effective date of the Regulations, Annexes thereto, and any subsequent amendments, by publishing the proclamation in the Federal Register; provides for executive and legislative review of any proposed amendment to the Regulations and Annexes by requiring the President to notify Congress of the proposal, including the date before which objections must be received by the International Maritime Consultative Organization (IMCO) and provides that either House of Congress may adopt a disapproval resolution within 60 days of receipt of a notification or 10 days before the last date on which an objection must be communicated to IMCO; provides that the regulation will be applicable to and must be complied with by all U.S. vessels, both public and private, while operating on the high seas; makes the regulations inapplicable to vessels operating in U.S. waters covered by the Inland Rules of the Road, the Navigation Rules for the Great Lakes and their connecting and tributary waters, and the Western Rivers rules which are established by both statute and Coast Guard regulations; requires U.S. vessels to comply with the international regulations if a foreign state has not exercised its recognized right to promulgate different rules; directs the Secretary of the Navy to require a vessel to comply as closely as possible to requirements of the international regulations which he certifies cannot be complied with without interfering with the special functions of the vessel; permits the Secretary of the Navy to establish special rules for sound and light signals for ships of war or vessels in convoy provided that they not be mistaken for signals authorized in the Regulations; authorizes the Secretary of the Department in which the Coast Guard is operating to promulgate reasonable rules and regulations to implement the act and international regulations and to establish special rules for sound and light signals for fishing vessels operating as a fleet; and imposes two separate civil penalties of not more than $500 each for violations. H.R. 186—Public Law 95–75, approved July 27, 1977. (VV)

Rhodesian chrome.—Amends the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome by nullifying the effect of Section 203 (the so-called Byrd amendment) of the Armed Forces Appropriations Act of 1972, Public Law 92–156, which permitted the importation into the United States of chromium and other strategic minerals from Rhodesia, despite mandatory U.N. sanctions against trade with that country which the United States supported by its vote in the United Nations Security Council and by Executive Order 11419; prohibits the importation into the United States of Rhodesian commodities and products as specified in that Executive Order, of July 29, 1968, as well as steel mill products containing Rhodesian chromium in any form; establishes an enforcement mechanism which requires a certificate of origin for these products confirming that they do not contain chromium from Rhodesia; and authorizes the President to suspend the act if he determines that it would encourage meaningful negotiations and further the peaceful transfer of government from minority to majority rule in Rhodesia. H.R. 1746—Public Law 95–12, approved March 18, 1977. (59)

Romanian earthquake.—States as a sense of the Senate that the United States should join with other nations and international, public, and private organizations to assist the people of Romania following the 1977 earthquake; and expresses deepest sympathy to the victims and their families on behalf of the people of the United States. S. Con. Res. 12—Action complete March 17, 1977. (VV)

Romanian earthquake authorization.—Authorizes $20 million to the President for fiscal year 1977, to remain available until expended, for the relief and rehabilitation of refugees and other earthquake victims in Romania; requires the President to transmit a report to the Foreign Relations Committees of the Senate and House 60 days after enactment and quarterly thereafter on the obligation of authorized funds; and states that nothing in this act shall be interpreted as endorsing any measure undertaken by the Government of Romania which would suppress human rights as defined in the Conference on Security and Co-operation in Europe (Helsinki Declaration) Final Act and the United Nations Declaration on Human Rights or as constituting a precedent for or commitment to provide development assistance to Romania and requires that the Romanian Government be so notified. H.R. 5717—Public Law 95–21, approved April 18, 1977. (VV)

Soviet detention of Robert Toth.—States as the sense of the Senate that the U.S. should continue to press the Soviet Government for a complete accounting of the circumstances which precipitated the detention of Robert C. Toth, a Los Angeles Times staff member, and that appropriate means should be taken to obtain the safe return of Mr. Toth to the United States. S. Res. 194—Senate agreed to June 15, 1977. (VV)

Soviet expulsion of George A. Krimsky.—States as the sense of the Senate that: (1) the Soviet expulsion of Associated Press reporter George A. Krimsky is contrary to the spirit of the Helsinki Declaration respecting the rights of Journalists; (2) the decision serves only to obstruct the implementation of the free flow of information provisions contained in the Declaration; (3) the action only invites and justifies steps of a reciprocal nature by the U.S. Government; and (4) the U.S. and Soviet Governments should seek greater communication in this area to prevent similar events of a counterproductive nature from occurring in the future; and directs the Secretary of the Senate to transmit a copy of this resolution to the President for the Department of State to convey directly to General Secretary Leonid Brezhnev of the Central Committee of the Soviet Communist Party. S. Res. 81—Senate agreed to March 4, 1977. (VV)

Soviet freedom of emigration.—Conveys to

the Soviet Government the sustained interest of the American people regarding Soviet adherence to the Helsinki Declaration, including their pledge to facilitate freer movement of people, expedite the reunification of families, and uphold the general freedom to leave one's country. S. Con. Res. 7—Action complete March 22, 1977. (39)

State Department authorization.—Authorizes $1,693,308,000 for fiscal year 1978 for the operations of the State Department (including the Office of Foreign Buildings), the U.S. Information Agency (USIA), and the Board for International Broadcasting (which makes grants to Radio Free Europe/Radio Liberty);

Facilitates compliance by the United States with the Helsinki Agreement by requiring that the Secretary of State recommend the necessary waiver for any prospective visitor to the United States who could be subject to the denial of a visa solely for reason of political affiliation with the exception of the right of continued denial of entry to any person whom the Secretary judges to be a threat to U.S. security;

Strengthens the ability of the Board for International Broadcasting to oversee and set broad policy direction for Radio Free Europe/Radio Liberty, Inc.;

Provides that (1) U.S. policy toward Korea should be arrived at jointly by the President and the Congress; (2) any implementation of the President's policy of phased troop withdrawal from Korea should be consistent with the security interests of South Korea and the interests of the United States in Asia, notably Japan; (3) such policy should involve appropriate consultations between the United States and governments directly involved; and (4) any implementation of such policy shall be carried out in regular consultation with Congress;

Contains provisions to encourage the State Department to assist Americans incarcerated abroad and requires an annual report to Congress on the prisoners' status, including an assessment of the performance of Embassy and consular personnel in assisting them;

Provides that any new Panama Canal treaty or agreement negotiated with funds appropriated under this title must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal;

Repeals existing law which authorizes suits against U.S. consular officers for damages resulting from neglect or failure to perform any duty imposed by law or by an order pursuant to the law in a timely fashion;

States the sense of the Congress that negotiations toward the normalization of relations with Cuba be conducted in a deliberate manner and on a reciprocal basis; that the vital concerns of the United States with respect to the basic rights and interests of U.S. citizens whose persons or property are the subject of negotiations be protected; and that Cuban policies and actions regarding the use of military and paramilitary personnel beyond its borders and the Cuban government's disrespect for human rights are among elements which must be taken into account during negotiations;

Strengthens the Foreign Gifts and Decorations Act of 1966 by clarifying existing ambiguities as to who is covered by establishing certain reporting and publication requirements and by increasing penalties for noncompliance; prohibits the President from making a commitment to provide any reparations or aid to Vietnam and prohibits funds for reparations or aid to Vietnam and directs the President to take all possible steps to obtain a final accounting of POWs and MIAS. H.R. 6689—Public Law 95– , approved 1977. (219)

State Department supplemental authorization.—Provides a supplemental authorization of $89.5 million for the Department of State for fiscal year 1977 as follows: (1) $60 million to pay U.S. dues and assessments to UNESCO for 1975 and 1976, in arrears because of Congressional action suspending further payments until the President certified that UNECO's policies were in line with its objectives and less political, and part of the 1977 assessment, (2) $11,325,000 for aid to Soviet and East European refugees not settling in Israel and $7.4 million for the Indochinese Refugee Program administered by the United Nations High Commissioner for Refugees to continue U.S. support of 80,000 refugees in Thailand who arrived from Vietnam, Cambodia and Laos in 1975, and (3) $10,775,000 to provide for the construction of 108 apartment units for the U.S. mission in Cairo—36 for the State Department and 72 for AID; authorizes the Secretary to use appropriated funds to provide emergency medical attention, dietary supplements, and other assistance to U.S. citizens incarcerated abroad; requires that the Chairman or Vice-Chairman of the Senate and House delegations to the four interparliamentary union groups (Canada-U.S., Mexico-U.S., North Atlantic Assembly, and Interparliamentary Union) be a member of their respective foreign affairs committee; increases from 18 to 24 the size of the delegation to the North Atlantic Assembly and specifies that no more than 7 of the 12-member Senate delegation be of the same political party; and amends Public Law 94–203 (known as the Case Act which requires the Secretary of State to transmit the text of any international agreement other than a treaty to Congress within 60 days after the agreement has entered into force with respect to the United States) to require any department or agency entering into an international agreement on behalf of the United States to transmit the text of the agreement to the Department of State within 20 days following the date on which the agreement was signed. H.R. 5040—Public Law 95–45, approved June 15, 1977. (VV)

Uganda—Human Rights.—Expresses the sense of the Senate that the actions of the current regime in Uganda violating the human rights of its citizens and residents deserve condemnation by the world community and by the Organization of African Unity; urges all nations suppying lethal arms to Uganda to halt all deliveries of weapons; and urges the U.S. Ambassador to the United Nations to request that the situation in Uganda be investigated by an appropriate agency in the United Nations. S. Res. 175—Senate agreed to May 25, 1977. (VV)

Vietnam POW's and MIA's.—Directs the President, as Commander in Chief of the Armed Forces, to require an accounting of all military personnel presently categorized on personnel rosters of the various branches of the U.S. Armed Forces as prisoner of war, missing in action, or killed in action in South Southeast Asia; directs the President, by executive order, to require the Secretary of State to pursue enforcement of the Paris agreement of January 27, 1973; states that the Congress, having passed Public Law 88–408 authorizing the deployment of U.S. Armed Forces for the maintenance of international peace and security in Southeast Asia, recognize a corresponding duty and obligation to determine the fate of missing or unaccounted for Americans; requires that the President, through the Secretary of State, hold the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam responsible to account for and provide information not otherwise available to satisfactorily dispose of the POW/MIA problem in accordance with the Paris agreement or seek alternatives that might resolve the question; and requires responsible officeholders in the executive and legislative branches to address the authority of their office toward a satisfactory resolution of the problem, make a public accounting, and remove any question as to the integrity of their function. S. Con. Res. 2—Senate agreed to February 21, 1977. (VV)

States as a sense of the Congress that the honor of those Americans who upheld the dignity of the law and served in the U.S. Armed Forces should be reaffirmed and that the Government should do everything possible to address the problems of those who served during the Vietnam war; and urges that there be established, in view of the recent issuance of a general pardon for U.S. draft evaders of the Vietnam War era, a Presidential Task Force on Missing in Action and Prisoners of War to propose courses of action to achieve the fullest possible accounting for all Americans listed in a missing status in Southeast Asia, including the return of remains, and to make recommendations concerning Federal policies relating to POW's and MIA's, S. Con. Res. 3—Senate agreed to February 21, 1977. (VV)

LABOR

Mine safety and health.—Strengthens the national mine safety and health program by providing uniform administration and enforcement for the entire mining industry under a single act administered by the Department of Labor;

Repeals the Metal and Non-Metallic Mine Safety Act of 1966; amends the Federal Mine Safety and Health Act of 1969 (the Coal Act) to make its enforcement and administrative provisions applicable to the entire coal and non-coal mining industry; transfers the responsibility for the administration and enforcement of the mine safety and health program from the Department of the Interior to the Department of Labor;

Provides a streamlined mechanism for the promulgation of mandatory safety and health standards by imposing time limitations on each step of the standard-making process; vests all standard-making authority in the Secretary of Labor who may use Advisory Committees for the development of standards; provides for public comment and hearings on standard proposals and for judicial review of promulgated standards; contains provision for improved health standards;

Requires at least four inspections each year for all underground mines in their entirety, at least two inspections a year for all surface mines in their entirety, and at least one spot inspection every 5 working days for particularly hazardous mines; permits operators and miners or representatives to accompany inspectors; permits miners to request inspections in writing if they suspect a hazardous situation; requires an inspector to issue a citation to the mine operator of any violation of the health and safety standards with a time period within which the violation must be fully abated; authorizes the inspector to issue an order closing all or a portion of a mine affected by certain violations and if a pattern of violations exists; establishes a 5-member Mine Safety and Health Review Commission as the ultimate administrative review body for disputed cases of citations, penalties or closures; and provides a variety of civil and criminal penalties. S. 717—Passed Senate June 21, 1977; passed House amended July 15, 1977; in conference. (231)

MEMORIALS, TRIBUTES, AND MEDALS

Alex Haley.—Honors and pays tribute to Alex Haley for his exceptional achievement in writing *Roots* and extends to him the highest praise of the Senate. S. Res. 112—Senate agreed to March 14, 1977. (VV)

Benjamin Whitcomb Independent Corps of Rangers.—Extends best wishes of the Senate to the Benjamin Whitcomb Independent Corps of Rangers on the occasion of the reenactment, on August 19, 1977, of the Revo-

lutionary War Battle of Bennington, Vermont, and commends the Rangers for their continuing educational efforts in connection with the Revoluntionary War. S. Res. 241—Senate agreed to August 3, 1977. (VV)

Charles A. Lindbergh.—Honors Charles A. Lindbergh for his service to our country in peace and war, and expresses appreciation for his leadership and advocacy in the conservation of natural resources and for his daring and courageous contributions to the field of aviation and aeronautical science. S. Res. 177—Senate agreed to may 19, 1977. (VV)

Cora Rubin Lane 100th birthday.—Expresses the gratitude and appreciation of the Senate to Cora Rubin Lane for her long and outstanding service as an assistant to Senator William E. Borah and expresses best wishes to her on the occasion of her 100th birthday. S. Res. 162—Senate agreed to May 3, 1977. (VV)

Frances G. Knight.—Commends Frances G. Knight upon her retirement as Director of the Passport Office, Department of State, for her diligence and outstanding performance to the Nation during a landmark career of public service. S. Res. 231—Senate agreed to July 27, 1977. (VV)

Francis R. Valeo.—Commends Francis R. Valeo for his long, faithful and exemplary service as an employee of the Senate and his ten years of service as Secretary of the Senate. S. Res. 133—Senate agreed to April 1, 1977. (VV)

General Draza Mihailovich Monument.—Authorizes the Secretary of the Interior to permit the National Committee of American Airmen Rescued by General Draza Mihailovich to construct and maintain a monument to General Mihailovich on Federal land in the District of Columbia in recognition of the role he played in saving the lives of approximately 500 United States airmen in Yugoslavia during World War II; and provides that the location and design of the monument shall be subject to the approval of the National Capital Planning Commission, the Fine Arts Commission, and the Secretary of the Interior. S. 244—Passed Senate June 29, 1977. (VV)

Gerald R. Ford Building.—Names the Federal building located at 110 Michigan Avenue, N.W., in Grand Rapids, Mich., the "Gerald R. Ford Building". S. 385—Public Law 95–25, approved May 4, 1977. (VV)

Henry Ford.—Marks the occasion of the 75th anniversary of the first mass-produced motor vehicle by the elder Henry Ford as an appropriate time to recognize his unique industrial statesmanship. S. Res. 215—Senate agreed to June 29, 1977. (VV)

Jackie Robinson.—States the sense of the Senate to commemorate the 30th anniversary of Jackie Robinson's entry into major league baseball and join in the celebration of the week of July 18 through 25, 1977 in paying tribute to Jackie Robinson and what he symbolized to so many Americans. S. Res. 223—Senate agreed to July 18, 1977. (VV)

Jaycees International Conference.—Commends the "Old Sourdough Jaycees" of Anchorage, Alaska, the U.S. Jaycees, and the Jaycee International for bringing together Jaycee leaders around the world who have contributed to the betterment of mankind. S. Res. 137—Senate agreed to April 6, 1977. (VV)

Lieutenant General Ira C. Eaker Medal.—Authorizes the President to present, on behalf of the Congress, to Lieutenant General Ira C. Eaker, U.S.A.F. (retired), a gold medal of appropriate design in recognition of his distinguished career as an aviation pioneer and Air Force leader; provides a $5,000 authorization therefor; and authorizes the Secretary of the Treasury to have duplicate medals struck in bronze and sold at cost. S. 425—Passed Senate May 13, 1977. (VV)

Marian Anderson medal.—Authorizes the President to award to Marian Anderson, in the name of the Congress, a gold medal with suitable emblems and inscriptions in recognition of her highly distinguished and impressive career; provides that bronze duplicates of the medal shall be coined and sold under regulations prescribed by the Secretary of the Treasury; and authorizes therefor $2,500. H.J. Res. 132—Public Law 95–9, approved March 9, 1977. (VV)

Mike Monroney Aeronautical Center.—Designates the Federal Aviation Administration Aeronautical Center in Oklahoma City, Oklahoma, as the "Mike Monroney Aeronautical Center". S. 1640—Passed Senate June 8, 1977. (VV)

Motion Picture Academy 50th anniversary.—Congratulates the Academy of Motion Picture Arts and Sciences for its past achievements on the occasion of its 50th anniversary on May 11 and extends best wishes for the future. S. Res. 168—Senate agreed to May 11, 1977. (VV)

Nez Perce war commemoration.—States as the sense of the Senate that June 17, 1977, is to be a day for the commemoration of the Nez Perce War of 1977 and for the remembrance of the courage and honor of the Nez Perce during the long tortuous maneuvers of 1877. S. Res. 196—Senate agreed to June 16, 1977. (VV)

Philip A. Hart, death of.—Expresses the sorrow of the Senate over the death of Senator Philip A. Hart, of Michigan. S. Res. 15—Senate agreed to January 4, 1977. (VV)

President and Mrs. Ford.—Congratulates and commends President and Mrs. Ford on their exemplary conduct as President and first lady and for their dedicated public service to the Nation during their entire career of public service. S. Res. 22—Senate agreed to January 10, 1977. (VV)

President Ford.—Commends President Ford for the manner and integrity with which he carried out his responsibilities and wishes him Godspeed in his new and active life. S. Res. 38—Senate agreed to January 18, 1977. (VV)

President-elect Carter.—Extends best wishes to President-elect Jimmy Carter and to all those who will serve in his administration. S. Res. 23—Senate agreed to January 10, 1977. (VV)

Roman L. Hruska Meat Animal Research Center.—Designates the United States Department of Agriculture Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center". S. 409—Passed Senate July 12, 1977. (VV)

Rosalynn Carter.—Congratulates the President on his selection of Rosalynn Carter as his recent emissary to Latin America and commends her on her performance as a representative of the people of the United States. S. Res. 195—Senate agreed to June 16, 1977. (VV)

St. Patrick's Parish anniversary.—Commemorates the people of St. Patrick's Parish, in Pottsville, Pennsylvania, who this year are celebrating the 150th anniversary of the founding of the parish. S. Res. 116—Senate agreed to March 17, 1977. (VV)

Vice President Rockefeller.—Commends Vice President Rockefeller for the manner and integrity with which he carried out his responsibilities and wishes him Godspeed in his new and active life. S. Res. 37—Senate agreed to January 18, 1977. (V) V

William A. Ridgely.—Commends William A. Ridgely upon his retirement as financial clerk of the Senate for his lengthy, faithful and outstanding service. S. Res. 236—Senate agreed to July 28, 1977. (VV)

William O. Douglas.—Dedicates the canal and towpath of the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas; directs the Secretary of the Interior to provide the necessary identification to inform the public of the contributions of Justice Douglas and to erect and maintain within the exterior boundaries of the Park an appropriate memorial; and authorizes such sums as necessary to carry out the act. S. 776—Public Law 95–11, approved March 15, 1977. (VV)

NATURAL RESOURCES—NATIONAL HISTORIC SITES

Bull Run Reserve.—Authorizes the Secretary of Agriculture to permit, under the provisions of the Multiple Use-Sustained Yield Act of 1960, general recreational access and geothermal explorations for six months within a 42,500 acre area of the Bull Run Reserve, Mount Hood National Forest, Oregon. H.R. 7606—Public Law 95–55, approved June 25, 1977. (VV)

Eleanor Roosevelt National Historic Site.—Authorizes the Secretary of the Interior to establish 175 acres, including the Val-Kill estate in Hyde Park, New York, as the Eleanor Roosevelt National Historic Site to commemorate the life of Eleanor Roosevelt as well as provide a location for the conduct of studies and seminars relating to the issues with which she was concerned. H.R. 5562—Public Law 95–32, approved May 26, 1977. (VV)

George W. Norris Home National Historic Site.—Authorizes the Secretary of the Interior to acquire by donation or purchase with donated funds the home of Senator George William Norris (who, among other achievements, authored the 20th amendment to the Constitution which deals with Presidential and Congressional terms and the sessions of Congress, and the legislation which established the Rural Electrification Administration) in the State of Nebraska and to establish it as the "George W. Norris Home National Historic Site". S. 1828—Passed Senate July 11, 1977. (VV)

Land and Water Conservation Fund.—Amends the Land and Water Conservation Fund Act of 1965 to establish a special account for use in acquiring the backlog of lands previously authorized for inclusion in the national park system and certain similar Federal areas; increases the authorized level of the fund from $600 million to $900 million in fiscal year 1978 and from $750 million to $900 million in fiscal 1979 with the additional $450 million to be credited to the special account and to remain available until appropriated; provides that prior acquisition ceiling limitations on authorized areas may be exceeded in any one fiscal year by up to $1 million or 10 percent of the statutory limitation, whichever is greater; permits preacquisition work such as title searches, mapping, and other preliminary work which does not interfere with the rights of private landowners if Congressional authorization appears to be imminent; authorizes the Forest Service to use Land and Water Conservation Fund moneys to purchase land in the Big Thompson Canyon at pre-flood value; and gives the Secretary the authority to (1) make minor boundary adjustments in units of the national park system with such authority to expire 10 years from the date of enactment of the authorizing legislation establishing the boundaries, and (2) accept adjacent lands outside park boundaries by donation. H.R. 5306—Public Law 95–42, approved June 10, 1977. (VV)

Public Works on Rivers and Harbors—Waterways user fee.—Authorizes the construction, repair, and preservation of certain public works of the Corps of Engineers on rivers and harbors for navigation and flood control; includes authorization (either construction or Phase I engineering) for 15 projects developed by the Corps of Engineers, modifications to previously authorized projects, and general legislative items; increases monetary authorizations for eleven river basins which will cover anticipated funding requirements for fiscal year 1978;

Authorizes the reconstruction of Locks and Dam 26 on the Mississippi River at Alton, Illinois, by replacing it with a new dam and a single 1,200 foot lock with contingen-

cies for a second lock, at an estimated cost of $421 million;

Establishes, for the first time in U.S. history, a system of user charges to be paid by the commercial cargo vessels that use the 25,000 miles of Federally built and maintained inland waterways; provides that the user charge plan recover 50 percent of Federal expenditures for construction of navigation aids such as locks and 100 percent of operational and maintenance costs of the inland waterways; and provides that the charges be phased in over 10 years beginning October 1, 1979, unless Congress disapproves by concurrent resolution within 90 days. H.R. 5885—Passed House May 17, 1977; Passed Senate amended June 22, 1977; Senate requested conference June 24, 1977. (235)

Reclamation projects.—Authorizes $31,050,000 for fiscal year 1978 for continuing construction of the distribution system and drains of the San Luis Unit, Central Valley project, California; and provides for the establishment of a task force to review the of the Unit and to report to Congress by January 1, 1978, the results of an examination of certain specified issues. H.R. 4390—Public Law 95–46, approved June 15, 1977. (VV)

Recreation permits.—Establishes uniform and objective policies and procedures to be employed by the Forest Service in issuing and administering permits for ski area and other commercial outdoor recreation facilities and services on national forest lands; removes permits for ski area facilities and services from any acreage limitations providing instead a separate procedure for such areas having more than 3,000 acres; continues the present maximum permit term of 30 years and allows the renewal of the permit at any time during the permit's term if substantial investment is to be made by the permittee with the requirement that there must be six month's public notice prior to the renewal; authorizes the Secretary to suspend or terminate a permit if the permittee has breached the terms and is given due notice and a reasonable opportunity to correct the violation or if the lands are needed for another use; requires the Secretary to submit to the Congress within six months proposed regulations setting forth the conditions and procedures for the issuance of permits and provides certain congressionally mandated conditions and procedures which are to be included; requires that the permittee pay annual fees for the use of the lands to which the permit applies; increases from 25 to 50 percent the State's share of these fees; requires that the share be paid directly to affected local government rather than to the State, and widens the permissible use of the funds from construction of roads and schools only to construction of any public facility and provision of any public service; contains provisions whereby a permittee may increase a charge to the public for use of his principle facilities and services; provides for public disclosure of any memoranda, financial statement, or other materials concerning historical or financial data or information of commercial outdoor recreation facilities and services used in support of or in opposition to proposed increases in charges to the public; provides that structures, fixtures, or improvements not owned by the U.S. to which a permit applies, are the property of the permittee who may remove them and assign, transfer, encumber or relinquish their title; authorizes the Secretary to furnish, on a reimbursement of appropriation basis, all types of utility service on forest reserve lands to concessioners and permittees; contains a provision concerning maintenance of records and provisions of access to them by the Secretary and Comptroller General and requires that such records be kept for six years unless they are mandated to be kept longer in another statute; and contains other provisions. S. 1338—Passed Senate July 13, 1977. (VV)

River basins.—Authorizes $3,905,000 for fiscal year 1978 to carry out the comprehensive river basin planning program of the U.S. Water Resources Council in those areas and river basins where river basin commissions have not been created, and to finance work on national water assessments. H.R. 6752—Public Law 95–41, approved June 6, 1977. (VV)

Increases the authorization for the Brazos River Basin in Texas to $7.5 million and the San Joaquin River Basin in California to $6 million which funds are appropriated but not authorized in order to permit contractors to continue work under their present contracts and allow the Corps to let additional contracts that were scheduled to be awarded in October. S. 2001—Public Law 95—, approved 1977. (VV)

Sabine River compact.—Gives Congressional consent to the amendment to the Sabine River Compact, entered into by the States of Texas and Louisiana, which would permit the Sabine River Authorities of the respective States to address themselves to the problems of pollution abatement and saline intrusion in the water sources within their jurisdiction, subject to the powers already vested in them under the existing agreement. H.R. 1551—Public Law 95–71, approved July 23, 1977. (VV)

Water resources development—Saline water conversion.—Reinstates for fiscal year 1978 the authorization for grants under title II of the Water Resources Act of 1964, as amended, for an institute, center, or equivalent agency at a college or university in each State to carry out water resources and technology; and extends through fiscal year 1978 the Saline Water Conversion Act of 1971 and authorizes therefor $21.95 million plus an additional $40 million for four projects which demonstrate the technology of desalination of which two must utilize underground brackish water. H.R. 4746—Public Law 95–84, approved August 2, 1977. (VV)

Wilderness areas:

Oregon Wilderness.—Designates additional land for inclusion in the following wilderness areas: Kalmispsis Wilderness, Siskiyou National Forest, Oregon—82,400 acres, Wenaha-Tucannon, Umatilla National Forest, Washington and Oregon—185,000 acres, and Mt. Hood Wilderness, Mt. Hood National Forest, Oregon—33,000 acres and designates the proposal Hidden Wilderness area, Willamette and Mr. Hood National Forests, Oregon, for study for possible inclusion in the National Wilderness System under the interim management of the Secretary of Agriculture. S. 658—Passed Senate July 20, 1977. (VV)

Wilderness areas studies:

Montana Wilderness.—Directs the Secretary of Agriculture to study 9 areas of land totaling approximately 973,000 acres located within the following National Forests in Montana to determine their suitability for designation as wilderness under the provisions of the Wilderness Act of 1964: Beaverbrook National Forest—West Pioneer Wilderness and Taylor-Hilgard Wilderness; Bitteroot National Forest—Bluejoint Wilderness and Sapphire Wilderness; Kootenai National Forest—Ten Lakes Wilderness and Mt. Henry Wilderness; Lewis and Clark National Forest—Middle Ford Judith Wilderness and Big Snowies Wilderness; and Gallatin National Forest—Hyalite-Porcupine-Buffalo Horn Wilderness; requires the Secretary to complete the studies and report his findings to the President within 5 years of enactment who is to submit his recommendations with respect thereto to the Congress within 7 years of enactment; and directs the Secretary to administer the areas so as not to diminish their presently existing wilderness character and potential until Congress determines otherwise. S. 393—Passed Senate May 18, 1977.

Wildlife refuges.—Extends through fiscal year 1980 the authorization for the acquisition and development of the San Francisco Bay National Wildlife Refuge in California (consisting of approximately 21,000 acres), the Tinicum National Environmental Center in Pennsylvania (consisting of approximately 1,200 acres), and the Great Dismal Swamp National Wildlife Refuge in Virginia (consisting of approximately 107,360 acres). H.R. 5493—Passed House May 16, 1977; Passed Senate amended May 24, 1977. (VV)

## Nominations

(Action by Rollcall Vote)

Griffin B. Bell, of Georgia, to be Attorney General.—Nomination confirmed January 25, 1977. (10)

Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare.—Nomination confirmed January 24, 1977. (7)

Peter F. Flaherty, of Pennsylvania, to be Deputy Attorney General.—Nomination confirmed April 5, 1977. (99)

Ray Marshall, of Texas, to be Secretary of Labor.—Nomination confirmed January 26, 1977. (12)

Paul C. Warnke, of the District of Columbia, for rank of Ambassador for SALT negotiations and to be director of the Arms Control and Disarmament Agency.—Nominations confirmed March 9, 1977. (41 and 42)

Andrew J. Young, of Georgia, to be U.S. Representative to the United Nations.—Nomination confirmed January 26, 1977. (14)

## Proclamations

American Business Day.—Designates May 13 of each year as "American Business Day". S.J. Res. 40—Passed Senate April 27, 1977. (VV)

Family Week.—Designates that week in November which includes Thanksgiving Day as "National Family Week". H.J. Res. 372—Public Law 95– , approved 1977. (VV)

Grandparents Day.—Designates the first Sunday of September of each year as "Grandparents Day". S.J. Res. 24—Passed Senate May 16, 1977. (VV)

Lupus Week.—Designates the Week of September 18 through 24, 1977, as "National Lupus Week". H.J. Res. 24—Public Law 95–72, approved July 25, 1977. (VV)

School volunteers.—Requests the President to issue a proclamation recognizing the contributions made by the thousands of Americans who are voluntarily working to improve the quality of education in the United States. S.J. Res. 62—Passed Senate June 13, 1977. (VV)

Sickle cell month.—Designates the month of September, 1977, as "National Sickle Cell Month". S.J. Res. 71—Passed Senate August 3, 1977. (VV)

## Senate

Commission on the Operation of the Senate.—Extends for an additional 30 days, until April 1, 1977, the Commission on the Operation of the Senate. S. Res. 93—Senate agreed to February 24, 1977. (VV)

Committee reorganization.—Amends the Standing Rules of the Senate to reorder and rationalize the jurisdictions of Senate committees, effective February 11, 1977, among 15 standing committees and 6 other special, select or joint committees; abolishes the Aeronautical and Space Sciences Committee and transfers its jurisdiction to a newly created Committee on Commerce, Science, and Transportation; abolishes the District of Columbia Committee and the Committee on Post Office and Civil Service and transfers their jurisdictions to a newly created Committee on Governmental Affairs; transfers the jurisdiction of the former Interior Committee to an Energy and Natural Resources Committee; transfers the jurisdiction of the former Public Works Committee into a new En-

vironment and Public Works Committee; transfers the jurisdiction of the former Labor and Public Welfare Committee to a new Human Resources Committee; continues the existence of the Special Committee on Aging with membership reduced to 9 in the next Congress; continues the existence of the Select Committee on Nutrition and Human Needs until December 31, 1977, after which its jurisdiction will be transferred to the Committee on Agriculture, Nutrition and Forestry; establishes a temporary Select Committee on Indian Affairs to consider all legislation relating to Indians for the duration of the 95th Congress after which its jurisdiction will be transferred to the Human Resources Committee;

Limits the number of committee and subcommittee memberships a Senator can hold generally to two major or class "A" committees and one class "B" committee and eight subcommittees thereof; prohibits committees from establishing subunits other than subcommittees; permits the Majority and Minority Leaders to temporarily increase the sizes of committees to ensure majority party control; allows Senators to serve on joint committees where such service is required to be from members of a committee on which such Senator serves; prohibits Rules Committee members from serving on any joint committee unless the Senate members of such committees are required by law to be from the Rules Committee; exempts members of the Budget Committee during the 94th Congress from certain assignment limitations during the 95th Congress; continues grandfather rights for Senators who are serving on three standing committees as a result of an exemption in the Legislative Reorganization Act of 1970 to continue to do so during the 95th Congress; allows the chairmen and ranking minority members of the Post Office and Civil Service Committee and the District of Columbia Committee to serve on the Governmental Affairs Committee and two other committees of the same class, as long as their service on Governmental Affairs remains continuous; prohibits a Senator from serving as Chairman of more than one standing, select, special, or joint committee unless the jurisdiction is directly related to that of the standing committee he chairs; prohibits Senators from serving as chairman of more than one subcommittee of each standing, select, special or joint committee; limits members to two class A committee or subcommittee chairmanships and one class B committee or subcommittee chairmanship, effective at the beginning of the 96th Congress; requires that not later than July 1, 1977, the appropriate standing committees shall report legislation terminating the statutory authority of the Joint Committees on Atomic Energy, on Congressional Operations and on Defense Production; requires that the appropriate standing committees report recommendations not later than July 1, 1977, with respect to the Joint Committees on the Library and on Printing; allows Senators to serve on joint committees considered for termination pending final disposition of the issue;

Provides for sequential and join referral of bills that cross jurisdictional lines based on motions by the Majority and Minority Leaders, instead of by unanimous consent; provides for a computerized schedule of committee meetings by the Rules Committee; permits committees to meet without special leave until the conclusion of the first 2 hours of a meeting of the Senate or 2:00 p.m., except for the Appropriations and Budget Committees which may meet at any time without special consent; requires that morning meetings of committees and subcommittees be scheduled for one or both of two periods, one ending at 11:00 a.m. and a second beginning at 11:00 a.m. and ending at 2:00 p.m.; provides for continuous review of the committee system by the Rules Committee in consultation with the Majority and Minority Leaders; prohibits consideration of committee amendments to bills when the amendments are not in the jurisdiction of the committee proposing them; requires committee reports to contain an evaluation of the regulatory impact which would be incurred by individuals and businesses in carrying out the provisions of the bill; provides for the transition of staff from abolished or realigned committees to the new committees and provides for salary and tenure of committee staff during a transition period; provides that committee staff reflect the relative numbers of majority and minority members and that one-third of the committee staffing funds be allocated to the minority members for compensation of minority staff; provides that such adjustment be made over a four-year period beginning July 1, 1977, with not less than one-half being made in 2 years; provides for funding of increases in the expenditures of new committees resulting from this resolution; incorporates provisions of S. Res. 60 of the 94th Congress relating to individuals appointed by Senators to assist them with committee work; provides for the rereferral of measures according to the realigned jurisdictions; and provides that legal references to old committees are to be construed as referring to their successors. S. Res. 4—Senate agreed to February 4, 1977. (36)

Deputy President Pro Tempore.—Establishes, effective January 5, 1977, the Office of Deputy President Pro Tempore which shall be held by any Senator who is a former President or Vice President of the United States; authorizes the President Pro Tempore and the Deputy President Pro Tempore each to appoint an administrative assistant, a legislative assistant and an executive secretary; authorizes the Sergeant at Arms to provide and maintain an automobile for use by the Deputy President Pro Tempore and to employ a driver-messenger; and authorizes the Secretaries of the Conferences of the Majority and Minority each to appoint two staff assistants in each office. S. Res. 17—Senate agreed to January 10, 1977. (VV)

Names Hubert H. Humphrey of Minnesota Deputy President Pro Tempore of the Senate, effective January 5, 1977. S. Res. 27—Senate agreed to January 11, 1977. (VV)

Political fund raising.—Amends paragraph 1 of rule XLIX of the Standing Rules of the Senate to permit those two assistants of a Senator designated to solicit campaign funds to also receive, be the custodian of, or distribute such funds. S. Res. 188—Senate agreed to June 13, 1977. (VV)

Senate ethics code.—Amends the Standing Rules of the Senate to create a Code of Official Conduct; amends Senate Resolution 338, the original resolution establishing the Select Committee on Ethics, to provide for additional procedures for enforcing the new Code as well as other laws and rules of the Senate; and directs other Senate committees to study certain matters related to this resolution;

Public financial disclosure.—Requires Senators, candidates for the Senate, officers and employees of the Senate earning in excess of $25,000 per year to file a report listing their earned income and the sources and categories of value of their income, other than earned income, and all other interests, assets, and holdings held for the purposes of investment or income production;

Gifts.—Prohibits knowingly accepting a gift or gifts having an aggregate value of over $100 during a year from any individual or organization defined as having a "direct interest in legislation;"

Outside Earned Income: Limits outside earned income of a Senator, officer or employee earning over $35,000 to 15 percent of the person's salary; limits each honorarium to $1,000 for Senators and to $300 for officers and employees; allows Senators or staff to accept honoraria up to $25,000 if immediately donated to a tax-exempt charity;

Conflict of Interest: Bars the use of one's official position to introduce or aid the progress of legislation the principal purpose of which furthers one's own financial interests; allows Members or staff who earn over $25,000 to provide professional services for compensation if not affiliated with a firm or association and if their work is not carried out during regular Senate office hours; directs committee employees earning over $25,000 to divest themselves of any holdings which may be directly affected by the actions of the Committee for which they work unless permitted by their supervisor and the Ethics Committee; prohibits Senators from lobbying the Senate for one year after leaving the Senate; applies a similar prohibition to employees lobbying the Committee or office for which they worked;

Unofficial Office Accounts: Abolishes unofficial office accounts, those accounts defined as not including personal funds of a member, official funds, political funds and reimbursements;

Foreign Travel: Prohibits "lame duck" travel by a defeated or retiring member; prohibits receipt of counterpart funds where there has been reimbursement from another source; restricts per diem allowance to food, lodging and related expenses and places the responsibility on the person receiving the per diem to return any unused funds;

Franking Privilege—Radio-TV Studio—Senate Computer: Prohibits mass mailings and the use of the radio-TV studios within 60 days of an election; requires the use of official funds to purchase paper, to print, and prepare mass mailings under the frank; requires a Senator to register mass mailings annually for public inspection; prohibits the use of the Senate computer to store names identified as campaign workers;

Political Activity by Officers and Employees: Restates the present ban on staff soliciting or receiving campaign contributions; allows a Senator to name one assistant each in his Washington and State office to receive and handle campaign funds;

Discriminatory Employment Practices: Prohibits discrimination on the basis of race, color, religion, sex, national original, or state of physical handicap in employment practices in the Senate;

Enforcement: Sets forth procedures for the Select Committee on Ethics in investigating complaints of violation of the Code and enforcing its provisions;

Further Studies: Requires the Appropriations Committee to report within 120 days regarding an adjustment of official allowances; requires the Finance Committee to report within 120 days on the tax status of funds raised and expended to defray ordinary and necessary expenses of Members; directs the Rules Committee (1) to report within 120 days on the desirability of promulgating rules providing for: (a) periodic audits by GAO of all committee and office accounts; (b) a centralized recordkeeping system of accounts, allowances, expenditures and travel expenses of all committees and offices; (c) suggested accounting procedures for committee and office accounts; and (d) public disclosure and availability of information on the accounts of all committees and offices in a form which segregates the allowances and expenses of each committee and office; (2) to report within 120 days on the desirability of requiring that only official Senate funds may be used to pay for any expenses incurred by a Senator in the use of the radio-TV studies; and (3) to study laws relating to contributions made by officers or employees as well as on proposals to prohibit the misuse of official staff in election campaigns and report thereon within 180 days; requires the Governmental Affairs Committee to report (1) within 180

days regarding employee discrimination complaints and the desirability of establishing rules requiring "blind trusts" by members, officers and employees of Senate and (2) within 120 days regarding the use of simplified form of address for franked mail; and directs the Foreign Relations Committee to report in 90 days on the problem of travel, lodging and other related expenses provided members and staff paid for by foreign governments where it is not possible to procure transportation, lodging or other related services or to reimburse the foreign government for those purposes. S. Res. 110—Senate agreed to April 1, 1977. (94)

Severance pay for displaced Senate employees.—Provides severance pay for certain committee staff members whose service as an employee of the Senate was terminated solely and directly as a result of the reorganization of Senate committee staffs caused by the Committee Reorganization Amendments of 1977. S. Res. 389—Senate agreed to August 5, 1977. (VV)

South American delegation.—Authorizes the President of the Senate to appoint, upon the recommendation of the Majority and Minority Leaders, a special delegation of not to exceed 12 members of the Senate to visit certain countries in South America and other areas as needed to conduct a study on U.S. economic and security interests in those areas, and authorizes therefor $45,000. S. Res. 221—Senate agreed to July 15, 1977. (VV)

Special Committee on Official Conduct.—Establishes a temporary Special Committee on Official Conduct composed of fifteen members appointed by the President pro tempore of the Senate (eight appointed upon the recommendation of the majority leader and seven upon the recommendation of the minority leader, with the chairman designated by the majority leader and the vice chairman by the minority members) to conduct a complete study of all matters relating to standards of conduct of Members, officers and employees of the Senate in the performance of their official duties including standards for: (1) annual public disclosure of income, assets, debts, gifts, and other financial items; (2) restrictions on, or the elimination of, outside income from honoraria, legal fees, gifts and other sources of financial or in-kind remuneration; (3) conflicts of interest arising out of investments in securities, commodities, real estate, or other sources; (4) office accounts, and excess campaign contributions; (5) Senate travel; and (6) engaging in business, professional activities, employment, or other remunerative activities, so as to avoid any conflict with the conscientious performance of official duties; requires the Committee to submit a report of its findings by March 1, 1977, together with a resolution setting forth, by way of proposed amendments to the Standing Rules of the Senate, a Code of Official Conduct for Members, officers and employees of the Senate;

Provides that on March 1, 1977, after the conclusion of routine morning business, the resolution shall become the pending business of the Senate under a 50 hour time limitation with a 2 hour time limitation on amendments thereto and 1 hour on amendments in the second degree, debatable motions or appeals; provides that amendments not germane to the bill will not be received; states that motions to limit debate are not debatable and that motion to table or recommit are out of order;

Authorizes the Committee to utilize the facilities and services of the staff of any other committee and provides that expenses of the Committee shall be paid from the contingent fund of the Senate. S. Res. 36—Senate agreed to January 18, 1977. NOTE: (On March 3, 1977, the Senate, by unanimous consent, extended until midnight, March 7, 1977, the time for the Committee to file its report and provided that the leadership may call the resolution up on March 8, 1977, or any time thereafter.) (VV)

Teamsters' Pension Fund.—Authorizes the Committee on Human Resources to inspect and receive any tax return, return information, or other tax related matter held by the Secretary of Treasury with respect to the Teamsters' Central States Southeast and Southwest Area Pension Fund, and any related matter which the committee demonstrates to the satisfaction of the Secretary, contains or may contain information directly relating to its study and oversight proceedings. S. Res. 139—Senate agreed to April 22, 1977. (VV)

TAXATION

Sick pay exclusion.—Delays for one year, to taxable years beginning after December 31, 1976, the changes made by the Tax Reform Act of 1976 with regard to the exclusion of "sick pay" from income; makes a similar delay of the effective date of the provisions regarding the tax treatment of income earned abroad by U.S. citizens; modifies the withholding requirement enacted in the 1976 Tax Reform Act on proceeds of wages placed in parimutuel pools with respect to horse races, dog races, and Jai Alai requiring a 20 percent withholding tax on winnings of $1,000 or more only if the odds are 300 to one or more; extends for one year the provisions of the Internal Revenue Code to allow State legislators to treat their place of residence within their legislative district as their tax home for purposes of computing the deduction for living expenses; and waives the interest and penalties with regard to certain errors regarding underpayments of estimated tax and withholding that might be made in the tax returns for 1976. H.R. 1828—Passed House April 4, 1977; Passed Senate amended April 6, 1977; House agreed to Senate amendments with amendment which omitted the provisions regarding the treatment of income earned abroad by U.S. citizens April 6, 1977; Senate requested conference April 19, 1977. (100) (*NOTE:* Provisions included in Tax Reduction and Simplication which became Public Law 95-30).

Tax reduction and simplification.—Amends the Internal Revenue Code of 1954 to extend the individual and business income tax reductions enacted in 1975 and to provide tax simplification as follows:

Standard Deduction and Tax Simplification: Permanently changes the standard deduction to $2,200 for single returns and heads of households and $3,200 for joint returns; revises the tax tables to simplify tax computation for 96 percent of all taxpayers by building into the tax tables the personal exemption, the general tax credit, and the standard deduction;

*Individual and Corporate Tax Reductions:* Extends through 1978 the general tax credit of $35 per person or 2 percent of the first $9,000 whichever is larger; extends the earned income credit equal to 10 percent of the first $4,000 of earned income which is phased out as income rises from $4,000 to $8,000;

Extends through 1978 the corporate tax cuts, enacted in 1975 and subsequently extended, which reduced the tax rate on the initial $25,000 of corporate taxable income from 22 percent to 20 percent and reduced the rate on the next $25,000 from 48 to 22 percent;

*Filing Requirements and Withholding Changes:* Increases the income level at which a tax return must be filed from $2,450 to $2,950 for a single person and a head of household and from $3,600 to $4,700 for a joint return; requires modification of the withholding rates to reflect the changed standard deduction;

*New Jobs Credit:* Provides a new jobs tax credit for 1977 and 1978 equal to 50 percent of the increase in each employer's wage base under the Federal Unemployment Tax Act (FUTA) above 102 percent of that wage base in the previous year; reduces the employer's deduction for wages by the amount of the credit, thereby reducing the maximum gross credit for each new employee from $2,100 to $1,806; limits the credit to no more than: (1) 50 percent of the increase in total wages paid by the employer for the year above 105 percent of total wages in the previous year; (2) 25 percent of the current year's FUTA wages; (3) $100,000 per employer; and (4) the taxpayer's tax liability with provision of carrying back credit for 3 years and carrying forward credit for 7 years; provides an additional 10 percent nonincremental credit for hiring the handicapped, including handicapped veterans, who have received vocational training;

Postponement of Changes in 1976 Act: Postpones for one year the effective date of revisions made by the Tax Reform Act of 1976 in the tax treatment of sick pay and income earned abroad; relieves individual taxpayers for the periods prior to April 16, 1977, and corporations for period prior to March 16, 1977, from additions to tax and interest arising from changes in the tax law made applicable to 1976 by the 1976 Act; relieves employers from penalties for under withholding in 1976 on remuneration which became taxable prior to January 1, 1976, as a result of the 1976 Act; lifts the exclusive use of the test in the 1976 Act for business deductions for the use of the home for day care services for children, handicapped individuals and the elderly and limits such deductible expense; extends for 1976 the election to treat a State legislator's place of residence within the legislative district he represents as his tax home for purposes of determinating deductions for travel and expenses;

Minimum Tax on Intangible Drilling Costs: Provides for taxable years beginning in 1977 that intangible drilling costs incurred in oil and gas production operations are to be subject to the minimum tax to the extent that these expenses exceed oil and gas production income;

Charitable Contributions of Conservation Easements: Extends through June 13, 1981 the period during which deductions are allowable for charitable contributions of remainder interests in real property exclusively for conservation purposes as well as the period during which deductions are allowable for charitable contributions exclusively for conservation purposes of easements with respect to real property, if the easement is perpetual;

Work Incentive (WIN) Program: Authorizes an additional $435 million in each of fiscal years 1978 and 1979 for employment and supportive services for welfare recipients with no requirement for State matching funds:

Child Care Facilities Amortization: Extends through 1961 the 5-year amortization provision for expenditures relating to child care facilities for children of the taxpayer's employees;

Retirement Income Credit Election: Allows taxpayers over age 65 to choose between the retirement income credit as it existed before the 1976 Act and as revised by it for 1976 taxes only;

Accrual Accounting for Farm Operations: Postpones until 1978 the effective date for requiring accrual accounting by any farm corporation if either (a) two families own at least 65 percent of the stock, or (b) three families own at least 50 percent of the stock and substantially all of the remaining stock is owned by employees or their families;

Gambling Withholding: Modifies the 1976 requirement for withholding on gambling winnings to provide that withholding is required on proceeds of more than $1,000 from bets placed in parimutuel pools involving horses, dogs or jai alai but only if the amount of the proceeds is at least 300 times as large as the amount wagered;

Extension of countercyclical revenue sharing.—Extends for 6 quarters, or until national unemployment drops below 6 percent, the current countercyclical revenue sharing legislation which expires September 30, 1977 to help State and local governments maintain services; authorizes up to $1 billion in additional funding for fiscal year 1977 for a total of $2.25 billion; authorizes up to $2.25 billion for FY 1978; requires that the most recent data be used in the allocation formula and that the national amount be determined on the basis of tenths of the unemployment percentage in excess of 6 percent rather than on half percentage points; provides that each tenth of a percentage point will generate $30 million for allocation in addition to the basic $125 million; extends the program to Guam, American Samoa, Puerto Rico and the Virgin Islands;

Other provisions.—Amends the Social Security Act to clarify the law which provides for the garnishment of Federal payment for purposes of child support and alimony; and contains other provisions. H.R. 3477—Public Law 95–30, approved May 23, 1977. (128)

TRANSPORTATION-COMMUNICATIONS

Air transportation subsidy.—Amends the Federal Aviation Act of 1958 to provide explicit statutory authority for the payment of "flow-through" subsidy pursuant to an experimental local air service program administered by the Civil Aeronautics Board (CAB) in cooperation with Frontier Airlines, during the period August 1, 1973, through July 31, 1975. H.R. 6010—Passed House May 17, 1977; Passed Senate amended May 27, 1977; House agreed to Senate amendment with an amendment June 8, 1977. (VV)

Aircraft registration.—Amends the Federal Aviation Act of 1958 to permit citizens of foreign countries lawfully admitted for permanent residence in the U.S. and corporations lawfully organized and doing business under U.S. or State laws to register aircraft in the United States provided that (1) the aircraft is based or primarily used in the U.S. thus enabling the Secretary of Transportation to condition registration on reasonable inspection by FAA personnel and (2) as at present, the aircraft is not registered under the laws of any foreign country. H.R. 735—Passed House February 22, 1977; Passed Senate amended May 11, 1977. (VV)

Communications Act amendment—Hawaii.—Amends the Communications Act of 1934, as amended, to include Hawaii within the definition of "Continental United States", thereby removing artificial restraints on the availability of telecommunications offerings, the entry of new carriers into the Hawaiian market and service integration into the mainland structure; and adds a new subsection to the Communications Act to ensure that carriers currently serving the Hawaiian market may continue to do so. S. 1866—Passed Senate August 5, 1977. (VV)

Interim regulatory reform.—Provides for interim regulatory reform for the following independent regulatory agencies which are subject to the jurisdiction and oversight responsibility of the Committee on Commerce, Science, and Transportation: Interstate Commerce Commission (ICC), Federal Trade Commission (FTC), Federal Power Commission (FPC), Federal Communications Commission (FCC), Civil Aeronautics Board (CAB), Federal Maritime Commission (FMC), and Consumer Product Safety Commission (CPSC); directs each agency to prepare and submit to Congress a proposed modernization, revision, and codification of all statutes and other lawful authorities administered or applied by it; and

Makes it a Federal crime to kill or forcibly assault, resist, oppose, impede, intimidate, or interfere with a U.S. judge, U.S. attorney, F.B.I. agent, or any other specified Federal official or employee while that person is engaged in, or on account of, the performance of official duties. S. 263—Passed Senate June 10, 1977. (VV)

INTERIM REGULATORY REFORM

Federal Communications Commission.—Amends the Communications Act of 1934 to provide for regulatory reform with respect to the Federal Communications Commission; requires the Commission to review and recodify systematically all of the rules and regulations which it has promulgated and which are still in effect and to submit to Congress within 480 days of enactment a proposed recodification designed to (a) eliminate unnecessary, redundant, overlapping, or conflicting provisions or requirements, (b) provide timely considerations of petitions, (c) provide Congressional access to information, (d) provide representation in civil actions, (e) avoid conflicts of interests, (f) provide for appointment of the chairman by the President with the advice and consent of the Senate, and (g) provide Congressional oversight through the process of an authorization of appropriations not to exceed 4 years; provides for public comment on the proposed recodification and requires the agency to submit a final proposal within 660 days which will go into effect in 180 days unless modified by Congress; applies the conflict of interest provisions to personnel GS–16 or higher; retains the independence of the regulatory agency by not subjecting supergrade positions to OMB clearance; requires that nominees be persons who by reason of training, education or experience are qualified to carry out the function of the Commission; waives the mandatory retirement provisions giving Congress the authority to decide whether a Commissioner should continue to serve over the age of 70 at the time of his confirmation; and authorizes therefor $70 million for fiscal 1978, $74 million for fiscal 1979, $80 million for fiscal 1980, and $82 million for fiscal 1981. S. 1536—Passed Senate June 28, 1977. (VV)

Federal Maritime Commission.—Provides for regulatory reform with respect to the Federal Maritime Commission; contains the same provisions with respect to a proposed recodification of all rules and regulations promulgated by the Commission and still in effect as contained in S. 1536; and authorizes $9.424 million for fiscal 1978, $9.7 million for fiscal 1979, $10 million for fiscal 1980 and $10.4 million for fiscal 1981. S. 1532—Passed Senate June 28, 1977. (VV)

Federal Power Commission.—Amends the Federal Power Act to provide for regulatory reform with respect to the Federal Power Commission; contains the same provisions with respect to a proposed recodification of all rules and regulations promulgated by the Commission and still in effect as contained in S. 1536; and authorizes therefore $44,549,000 for fiscal 1978, $46,410,000 for fiscal 1979, $48,373,000 for fiscal 1980, and $50,444,000 for fiscal 1981. S. 1535—Passed Senate June 28, 1977. (VV)

Interstate Commerce Commission.—Amends the Interstate Commerce Act to provide for regulatory reform of the ICC; requires the Commission to review and recodify systematically all of the rules and regulations which it has promulgated and which are still in effect and to submit to Congress within 480 days of enactment a proposed recodification designed to (a) eliminate unnecessary, redundant, overlapping, or conflicting provisions or requirements, (b) provide timely considerations of petitions, (c) provide Congressional access to information, (d) provide representation in civil actions, (e) avoid conflicts of interest, (f) provide for appointment of the chairman by the President with the advice and consent of the Senate, and (g) provide Congressional oversight through the process of an authorization of appropriations not to exceed 4 years; provides for public comment on the proposed recodification and requires the agency to submit a final proposal within 660 days which will go into effect in 180 days unless modified by Congress; authorizes therefor $71,216,000 for fiscal 1978, $80,474,000 for fiscal 1979, $90,935,000 for fiscal 1980 and $102,755,000 for fiscal 1981. S. 1534—Passed Senate May 20, 1977. (VV)

Maritime authorization.—Authorizes $552,974,000 for programs of the Maritime Administration for fiscal year 1978 as follows: $135,000,000 for acquisition, construction, or reconstruction of vessels and construction-differential subsidies, $372,109,000 for payment of ship operating differential subsidies, $20,725,000 for research and development, $5,137,000 for the reserve fleet, $14,633,000 for maritime training at the Merchant Marine Academy at Kings Point, N.Y., and $5,370,000 for financial assistance to the State marine schools which includes an increased annual student subsidy from $600 to $1,200; authorizes additional supplemental amounts to cover increases in salary, pay, retirement, or other employee benefits authorized by law and for certain expenses of the Merchant Marine Academy at Kings Point; and authorizes an additional Assistant Secretary of Commerce to be the principle advisor to the Secretary for Congressional relations. S. 1019—Passed Senate May 24, 1977; Passed House amended July 13, 1977; In conference. (VV)

Rail reorganization—Office of Rail Public Counsel.—Amends the Regional Rail Reorganization Act of 1973 to authorize an additional $15 million for fiscal year 1978 to the United States Railway Association to cover litigation and other anticipated expenses involving the reorganization of the Northeast railroads, and amends the Interstate Commerce Act to authorize an additional $2 million for the Office of Rail Public Counsel which is the statutory successor to the Office of Public Counsel of the Interstate Commerce Commission. H.R. 4049—Passed House May 3, 1977; Passed Senate amended May 23, 1977. (VV)

Tanker safety.—Amends the Ports and Waterways Safety Act of 1972 to: establish more stringent construction, design, equipment, repair, manning, maintenance, and operation standards for all tankers, regardless of flag, entering U.S. ports; provides clear authority for the Secretary of Transportation to bar substandard vessels from operating in U.S. waters; authorizes the creation of a Marine Safety Information System to identify substandard vessels and disclose the true ownership of ships; authorizes the establishment of regulations for controlling lightering (vessel-to-vessel transfer of cargo) in U.S. waters and on the high seas where a U.S.-bound vessel is involved; mandates that all self-propelled vessels of 20,000-deadweight tons or larger carrying oil in bulk be equipped by no later than June 30, 1979, with a dual radar system, a collision avoidance system, a long-range navigation aid, adequate communications equipment, a fathometer, a gyrocompass, and up-to-date charts; mandates that such vessels also be equipped, by not later than June 30, 1983, with a segregated ballast system, a gas inerting system, a transponder or other appropriate position-fixing equipment, and a double bottom if the vessel is contracted for, or construction is actually commenced, after January 1, 1978; creates an expanded inspection and enforcement program; authorizes the promulgation of improved manning and qualification standards; specifies more stringent requirements for obtaining a Federal pilot's license; and provides for study and evaluation of shore-station monitoring systems of vessels as defined in the Fishery Conservation and Management Act of 1976. S. 682—Passed Senate May 26, 1977. (VV)

Urban mass transportation.—Authorizes the use of the $500 million capital grant program under the National Mass Transportation Act of 1974 for operating as well as

capital assistance costs of public mass transportation service in urbanized areas (areas with less than 50,000 population); authorizes the Secretary to make operating subsidy grants to areas other than urbanized areas; revises the method of financing the capital grant problem, extends it to 1982, and adds $5.318 billion to the remaining contract authority of $3.332 billion for a total of $8.65 billion; incorporates into statute the procedures for funding major capital grants by authorizing the Secretary to announce approval of a multi-year project and an intent to obligate funds from budget authority to be made available in future years; sets aside $400 million annually from the capital grant program for obligation for equipment replacement programs; authorizes $125 million to restore the fiscal 1980 authorization for the formula grant program to its original level; expands the basic formula grant program by creating a supplemental source of funds for high impact areas with a total of $295 million available from (a) authorization of $50 million for each of fiscal years 1978 through 1980 and (b) estimated $145 million in "recycled authority"; creates a new second tier formula program financed by new authorized funds and the reapportionment of unobligated funds; permits the Secretary to develop a new formula for additional funds taking into account the needs of major urban areas; removes certain restrictive provisions for eligibility in the grant program providing fellowships for training of personnel employed in managerial, technical, and professional positions in the urban mass transportation field; expands the definition of "construction" in the capital grant program to include preliminary engineering of mass transportation capital projects; requires the Secretary to convert the two outstanding loans under the mass transit loan program which is no longer in existence into capital grants; requires the Secretary to provide by February 1, 1980, a detailed estimate of major capital grants to be made in fiscal years 1980–84 and by February 1, 1982, a similar estimate for fiscal years 1982–86; extends from March 15, 1978, to March 15, 1980, the 50 percent emergency operating assistance for commuter rail services affected by the reorganization of the Northeastern Railroads and expands the assistance in the authorization; requires assurance that service will be continued for the last 12 months of the 50 percent period; and adds a new section providing $20 million in fiscal 1978 to cover up to 50 percent of the operating deficits of rail commuter services not eligible for the 50 percent Federal subsidy. S. 208—Passed Senate June 23, 1977. (VV)

Vessels sale.—Authorizes the Secretary of Commerce to sell, within two years of enactment, at a price which is the greater of the appraised value or scrap in the U.S. market, two obsolete Navy tankers to mid-Pacific Sea Harvestors, Incorporated, for conversion and operation in the fisheries of the United States; requires that the vessels be converted in the United States and documented and operated under U.S. laws and in conformity with all international fishery agreements to which the U.S. is a party; and requires if the vessels are scrapped within five years of the date of sale, that the work be done in the U.S. S. 854—Passed Senate July 12, 1977. (VV)

TREATIES

Agreement with Canada concerning transit pipelines.—Provides government-to-government assurances on a reciprocal basis so that present and future pipelines carrying all forms of hydrocarbons (including crude oil, petroleum products, natural gas, petrochemical feedstocks, and coal slurries) owned by one country across the territory of the other will be free from interference and discriminatory taxation by Federal, provincial or state authorities particularly in regard to taxes, duties or fees unless the charge would be applicable to similar pipelines within the jurisdiction of the public authority; allows each nation to impose proper regulations for pipeline safety and environmental protection and in the case of a natural emergency, to reduce or stop the flow until the danger has passed; permits each nation to determine the route a pipeline is to take within its territory and provides that protocols may be added to apply this agreement to a specific pipeline; and contains arbitration provisions to resolve disputes which cannot be settled by negotiation. Ex. F, 95th-1st—Resolution of ratification agreed to August 3, 1977. (324)

Protocol to Inter-American Treaty of Reciprocal Assistance (RIO Treaty).—Reaffirms the principle of "attack against one, attack against all" embodied in the Rio Treaty while restricting its applicability and resultant obligations; provides for the lifting of diplomatic, economic and military sanctions against a member state by a simple majority vote rather than by the two-thirds majority vote required for all other decisions; and revises Treaty procedures so as to provide specifically rather than by implication for binding decisions and for recommendations by the Organ of Consultation. Ex. J. 94th–1st—Resolution of ratification agreed to July 19, 1977. (300)

Treaty with Canada on execution of penal sentences.—Allows a convicted prisoner or youthful offender accused of an offense to be returned to his native country to serve the sentence imposed by the other country; limits the transfer arrangement to prisoners convicted of offenses which are criminal under the laws of both countries, who have no pending appeals, have at least six months remaining on their fixed sentences, are not domiciliaries of the nation where they are incarcerated, and have been imprisoned on other than political, military or immigration offenses; requires the prisoner to initiate the transfer process; permits the transfer of parolees and those persons receiving suspended sentences; makes the laws regarding parole and probation of the Nation to which the prisoner is transferred apply but provides that only the transferring State can grant a pardon or amnesty; and contains provisions to protect an offender against double jeopardy. Ex. H. 95th–1st—Resolution of ratification agreed to July 19, 1977. (301)

Treaty with Mexico on execution of penal sentences.—Allows a convicted prisoner, youthful offender or mentally ill person accused of an offense to be returned to his native country to serve the sentence imposed by the other country; limits the transfer arrangement to prisoners convicted of offenses which are criminal under the laws of both countries, who have no pending appeals, have at least 6 months remaining on their fixed sentences, are not domiciliaries of the nation where they are incarcerated and have been imprisoned on other than political, military or immigration offenses and have consented to the transfer; requires the country holding the prisoner to initiate the transfer process and provides that the prisoner may submit a transfer request for consideration; makes the laws regarding parole and probation of the Nation to which the prisoner is transferred apply but provides that only the transferring state can grant a pardon or amnesty; and contains provisions to protect an offender against double jeopardy. Ex. D, 94th–1st—Resolution of ratification agreed to July 21, 1977. (316)

AMVETS.—Amends the Federal charter of AMVETS (American Veterans of World War II) to conform with the organization's practice of admitting men and women who served in the Armed Forces of the United States in the Second World War, the Korean War and the Vietnam War by changing the name of AMVETS to "American Veterans of World War II, Korea and Vietnam" and provisions of its Federal charter, where necessary, to reflect this change. H.R. 1952—Public Law 95– , approved, 1977. (VV)

VETERANS

Veterans and survivors pension adjustments.—Amends title 38, U.S.C., to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents; provides a cost-of-living adjustment in the rates and annual income limitations applicable to pension for non-service-connected disabled veterans and their surviving spouses, for surviving parents receiving dependency and indemnity compensation, and in the annual income limitations applicable to persons receiving pension under section 9(b) of the Veterans' Pension Act of 1959; provides an increase of approximately 6.5 percent in rates of disability and death pension under current law, including the additional amount authorized for dependents; increases by approximately 6.5 percent the rates of dependency and indemnity compensation (DIC) payable to parents; increases by the same percentage the maximum income limitations applicable to pensioners and parents entitled to DIC under current law, and to beneficiaries under the protected pension law; increases by the same percentage the amount of additional pension and DIC payable to those recipients so entitled based upon aid and attendance or housebound status; and increases additional allowances for recipients of wartime death compensation by the same percentage based upon need for regular aid and attendance. H.R. 7345—Passed House July 12, 1977; Passed Senate August 3, 1977. (VV)

Veterans' care in State homes.—Amends title 38, U.S.C., to consolidate the construction grant-assistance programs under section 644 (for State home domiciliary and hospital facilities) and under subchapter III of chapter 81 (for State home nursing care facilities) and create new statutory authority for grants for the construction of new domiciliary facilities and the expansion of domiciliary and hospital facilities, and for initial equipment in both categories; increases to $15 million the annual authorization for fiscal years 1978 and 1979; removes the 3-fiscal-year limitation on the availability of sums appropriated for the consolidated programs, making the funds available until expended; makes the allowable nonveteran population of a grant-assisted State nursing home domiciliary, or hospital facility 25 percent in order to make allowance for veterans' spouses, surviving spouses, and Gold Star mothers; sets at 33⅓ percent the limit which any one State may receive in any year of the total amount appropriated for the program; includes domiciliary and hospital projects under the statutory nursing home program recapture provision; allows the Administrator to reduce the recapture period to less than 7 years in cases of expansion, remodeling, and alteration; limits recapture to not more than the amount of grant assistance provided for the project; repeals existing statutory authority for making grants for the remodeling of State home domiciliary and hospital facilities and governing the operation of this program; provides for an October 1, 1977, effective date with a savings provision for hospital and domiciliary grants made under the section to be repealed; and gives existing nursing home program grantees the right to obtain grant modifications consistent with the new act. H.R. 3685—Public Law 95–62, approved July 5, 1977. (VV)

World War I veterans auto allowance.—Amends section 1901, title 38, U.S.C., to extend to veterans of World War I and any eligible veterans who served before or after World War I those benefits entitlement to the automobile assistance allowance for the purchase of an automobile or other convey-

ance and provisions of the adaptive equipment necessary to operate the vehicle safely. H.R. 6502—Passed House May 23, 1977; Passed Senate amended August 3, 1977. (VV)

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(Prepared by Senate Democratic Policy Committee, ROBERT C. BYRD, Chairman)

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Joseph A. Califano, Jr. to be Secretary of HEW
Peter F. Flaherty to be Deputy Attorney General
Ray Marshall to be Secretary of Labor
Paul C. Warnke for Rank of Ambassador for SALT Negotiations and to be Director of the Arms Control and Disarmament Agency
Andrew J. Young to be U.S. Representative to U.N.

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H.R. 5970, Military Procurement Authorization, defense.
H.R. 6010, Air Transportation Subsidy, transportation.
H.R. 6111, Juvenile Justice, crime.
H.R. 6138, Youth Employment and Training, employment.
H.R. 6161, Clean Air, environment.
H.R. 6179, Arms Control and Disarmament Agency, international.
H.R. 6197, Disaster Relief Programs, disaster assis.
H.R. 6205. Commercial Fisheries Authorization, fisheries.
H.R. 6206, Atlantic Tunas Authorization, fisheries.
H.R. 6370, U.S. International Trade Commission, economy.
H.R. 6401, Deepwater Ports, energy.
H.R. 6415, Export-Import Bank, economy.
H.R. 6502, World War I Veterans Auto Allowance, veterans.
H.R. 6550, U.S. Territories, gen. gov.
H.R. 6655, Housing and Community Development, housing.
H.R. 6668, Age Discrimination Report—Nutrition Program for Elderly, gen. gov.
H.R. 6689, State Department Authorization, international.
H.R. 6692, Education of the Handicapped, education.
H.R. 6714, International Development Assistance—Food for Peace, international.
H.R. 6752, River Basins, natural res.
H.R. 6823, Coast Guard Authorization, defense.
H.R. 6884, International Security Assistance—Arms Export Control, international.
H.R. 7345, Veterans and Survivors Pension Adjustment, veterans.
H.R. 7552, Treasury-Postal Service Appropriations, 1978, approp.
H.R. 7553, Public Works-Energy Research Appropriations, 1978, approp.
H.R. 7554, HUD Appropriations, 1978, approp.
H.R. 7555, Labor-HEW Appropriations, 1978, approp.
H.R. 7556, State-Justice-Commerce Appropriations, 1978, approp.
H.R. 7557, Transportation Appropriations, 1978, approp.
H.R. 7558, Agriculture Appropriations, 1978, approp.
H.R. 7589, Military Construction Appropriations, 1978, approp.
H.R. 7606, Bull Run Reserve, natural res.
H.R. 7636 Interior Appropriations, 1978, approp.
H.R. 7797, Foreign Aid Appropriations, 1978, approp.
H.R. 7932, Legislative Appropriations, 1978, approp.
H.R. 7933, Defense Appropriations, 1978, approp.

HOUSE CONCURRENT RESOLUTIONS

H. Con. Res. 142, Harp Seal Killings, international.
H. Con. Res. 248, Joint Economic Committee Study, Congress.
H. Con. Res. 249, Belgrade Conference, international.

HOUSE JOINT RESOLUTIONS

H.J. Res. 24, Lupus Week, proclamations.
H.J. Res. 132, Marian Anderson Medal, memorials.
H.J. Res. 227, Urgent Power Supplemental Appropriations, 1977, approp.
H.J. Res. 240, Fishery Conservation Zone Transition, fisheries.
H.J. Res. 269, Urgent Disaster Supplemental Appropriations, 1977, approp.
H.J. Res. 372, Family Week, proclamations.
H.J. Res. 424, Kennedy Presidential Library, gen. gov.
H.J. Res. 525, Mortgage Insurance, housing.
H.J. Res. 539, Indian Claims, Indians.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene on September 7 at 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order, the Senate will proceed to the consideration of the coal conversion bill, S. 977, on which there is a time agreement. There is 2 hours on the bill, 1 hour on any amendment, 30 minutes on any amendment to an amendment, debatable motion, appeal, or point of order, with one exception, that being a 4-hour limitation on an amendment by Mr. KENNEDY, and at the expiration of the 4 hours it is anticipated that there will be a motion to table that amendment. If the motion to table fails, there is no time limit on further discussion of that amendment. No other amendments dealing with divestiture or the prospective divestiture of energy properties will be in order.

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

Mr. ROBERT C. BYRD. I am pleased to yield.

Mr. BAKER. Mr. President, reserving the right to object—I suppose technically this is not a reservation—it is my understanding that the Kennedy amendment probably deals with either a prospective divestiture situation or the prohibition of certain acquisitions.

It was my understanding that the unanimous-consent order was an order to provide that if that amendment were not tabled, then debate would be unlimited on that proposal. I simply wanted to make sure I understood it and that the majority leader and I were in full accord on the meaning of the unanimous-consent agreement.

Mr. ROBERT C. BYRD. The minority leader and I are in full accord on the meaning of that order with respect to that amendment.

Mr. President, there will be rollcall votes on amendments and/or motions in relation to the coal conversion bill on our return on Wednesday, September 7. Upon the disposition of that measure, hopefully that day, or certainly no later than Thursday, the 8th, the distinguished Senator from Maine will be ready to call up the second budget resolution, on which there is, under the law, a deadline for final enactment of September 15.

During the month of September and such time in October as is required, the Senate will be passing legislation dealing with the President's energy proposal, the coal conversion legislation having already been mentioned.

The committee, under the chairmanship of Mr. JACKSON, the Committee on Energy and Natural Resources, will have ready by that time a bill dealing with the conservation of energy. A report will have been printed, and that measure will be following on after the second budget resolution.

Thereafter, that same committee, under the chairmanship of Mr. JACKSON, will be ready to deal with utility rate reform and with natural gas regulation.

It is my feeling, after having discussed the matter with Mr. JACKSON on a number of occasions, that the natural gas regulation bill will precede the utility rate reform.

As I understand from Mr. JACKSON, the hearings on natural gas regulation have been completed. That measure will be marked up upon the return of the Congress on September 7.

I should also state that, according to Mr. JACKSON, possibly 2 days of hearings will remain to be conducted on the utility rate reform legislation.

At my request, Mr. LONG, the chairman of the Committee on Finance, will be holding hearings next week on the energy package—at least, that portion that deals with taxes. Mr. LONG will press for action on the tax aspects of the energy package in due time following the return of Congress, and every effort will be made to expedite action on that part of the package.

I hope that the distinguished minority leader (Mr. BAKER) and I shall be able to find ways to get consent for committees to meet during the session of the Senate, especially those committees that have jurisdiction over energy legislation and other legislation which it may be deemed absolutely necessary to pass before Congress adjourns sine die for the year.

I take this occasion to commend my friend and to thank him for the coopera-

tion, the splendid cooperation, that I have received from him as minority leader during these months of the first session of the 95th Congress. I think it is obvious and ought to be clear that, without cooperation on the part of the minority, it would not be possible for the majority to work its will on the various measures that have been taken up. The minority leader has, at all times, fully understood the problems of the majority leader and there has not been a time when the Senate has not had a measure before it. Unanimous-consent agreements have been gotten. I thank the minority leader and the Members of the Senate on his side of the aisle for their cooperation in that respect.

I take this occasion, also, to express appreciation to the majority whip (Mr. CRANSTON) for his fine cooperation and support and dedication to duty.

I also thank the minority whip (Mr. STEVENS), as I have done many times, referring to him also in respect of his capacity as the ranking member of my Appropriations Subcommittee on the Interior.

Incidentally, the Senate has now passed 12 of the 13 regular appropriation bills, well in advance of the beginning of the new fiscal year. The other body has not yet passed the 13th out of the 13 appropriation bills, the District of Columbia appropriation bill.

I am sorry to belabor the Senate at this late hour, it being 9:28 p.m. I take this occasion, however, to thank the members of the Democratic policy staff, under the direction of Tom Hart and Lee Williams, for their splendid cooperation and all of their good help to me during these many months.

I also want to express my appreciation to my able assistant for floor operations, Joe Stewart.

I take occasion, also, to express my deep gratitude to my colleagues on my side of the aisle for their patience and forbearance, understanding, cooperation, and support during these months.

Especially do I thank the chairmen of the committees on this side of the aisle and the ranking Members thereof on the other side of the aisle.

Finally, may I say to all of the officers and officials of the Senate and to the pages, the official reporters of debate, all the people at the desk, the staff of the Democratic cloakroom and the doormen and security officers of the Senate: Thanks to you.

Inasmuch as I have said finally, I shall add as a postscript that I hope for all concerned that they will have a very pleasant August and early days of September. If they are looking for a very restful place that is almost Heaven in which to spend a few of those days, at least, that place is West Virginia.

I might add, as a post-postscript, that, the Lord willing, I expect to be at Coolfont, in Morgan County, just 3 miles west of Berkeley Springs, tomorrow evening with all four of my violins, and I shall be playing there at what is called the Squirrel's Nest, a treetop restaurant. I expect to spend at least 5 hours playing a number of tunes, which, as I indicated sometime ago, will be in addition to "Rye Whiskey" and "The Cumberland Gap."

Thanks to all, my appreciation to all, and see you in September. Be ready for long days, hard work, lots of votes, and a continued splendid record of productivity on the part of the Senate of the United States.

Mr. BAKER. Mr. President, at this hour it would not be seemly nor would it be appropriate to try to emulate the good style and good will of the majority leader. So I will not try, except to say it has been my privilege to work with him in keeping with discipline on the minority side, to arrange the affairs of the Senate for maximum accomplishment, and our continuing efforts together to accommodate the requirements of our respective Members.

There are many things I could comment on about these first months of this session, and the majority leader's able administration of the affairs of the Senate, but I would mention only one. It is a remarkable thing and a refreshing thing to observe that I believe the Senate now has met every single schedule we set in the first weeks of this session, those times of nonlegislative session, this statutory recess, these other commitments that have been made, the absence of weekend sessions.

I really think it is a remarkable thing and an accolade to the majority leader that the schedule previously published has not been breached or broken a single time, and I thank him for that.

Mr. President, it has been a difficult first several months of this session. It has been trying at times. The hours have been long. The debate on occasion has been burdensome. But I think the Senate has comported itself very well, indeed, its work product is of high quality, and no small measure of that credit must go to the majority leader.

Mr. President, I will only briefly express my appreciation, in turn, to those officers and agents and employees of the Senate on the minority side. It would be literally impossible to operate the calendar and the affairs of the Senate from the minority point of view without our distinguished Secretary of the Minority, Bill Hildenbrand, his assistant, Howard Greene, and others who contribute so well and so ably to our efforts.

Mr. President, I will not prolong this session of the Senate except to say that this has been a distinct pleasure for me and a great privilege, not only to serve in this body, but with the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

I would only add to my own remarks that I, too, especially recognize and appreciate the fine cooperation that the majority leader has had from Bill Hildenbrand and Howard Greene

The PRESIDING OFFICER (Mr. MATSUNAGA). The Chair will observe that when the distinguished majority leader was speaking of Paradise, the Chair thought for sure he was referring to Hawaii.

Mr. ROBERT C. BYRD. Mr. President, in my 20 years in the Senate, I have yet to see a Senator preside with the flair, the skill, the precision and the fairness of the distinguished Senator from Hawaii who now sits in the chair, and as he adjourns the Senate I am sure that our guests in the galleries will understand what I mean.

## ADJOURNMENT TO WEDNESDAY, SEPTEMBER 7, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of House Concurrent Resolution 317, that the Senate stand in adjournment until the hour of 12 o'clock noon on Wednesday, September 7, in the year of our Lord 1977.

The motion was agreed to; and at 9:35 p.m., the Senate adjourned until Wednesday, September 7, 1977, at 12 noon.

## NOMINATIONS

Executive nominations received by the Senate August 5, 1977:

DEPARTMENT OF JUSTICE

Charles M. Adkins, Jr., of West Virginia, to be U.S. marshal for the southern district of West Virginia for the term of 4 years, vice Irvin W. Humphreys.

Edward D. Schaeffer of Pennsylvania, to be U.S. marshal for the eastern district of Pennsylvania for the term of 4 years, vice Charles S. Guy.

COMMUNITY SERVICES ADMINISTRATION

Frank Jones, of Virginia, to be Assistant Director of the Community Services Administration (new position).

## CONFIRMATIONS—AUGUST 5, 1977

Executive nominations confirmed by the Senate August 5, 1977:

NATIONAL CREDIT UNION ADMINISTRATION

Lawrence Connell, Jr., of Connecticut, to be Administrator of the National Credit Union Administration.

DEPARTMENT OF JUSTICE

George V. Grant, of New York, to be U.S. marshal for the southern district of New York for the term of 4 years.

William H. Shaheen, of New Hampshire, to be U.S. attorney for the District of New Hampshire for the term of 4 years.

DEPARTMENT OF LABOR

Roland Ray Mora, of California, to be Deputy Assistant Secretary of Labor for Veterans' Employment.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

T. F. Gilroy Daly, of Connecticut, to be U.S. district judge for the District of Connecticut.

IN THE ARMY

The following officer for appointment in the Army National Guard of the United States under the provisions of title 10, United States Code, sections 593(a) and 3385:

*To be brigadier general*

Col. James Clifford Good, [redacted].

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

*To be lieutenant general*

Maj. Gen. Harold Robert Aaron, [redacted] U.S. Army.

IN THE NAVY

Vice Adm. John G. Finneran, U.S. Navy, (age 53), for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. Charles H. Griffiths, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

IN THE AIR FORCE

Air Force nominations beginning James E. Payne, to be major, and ending William W. Lehman, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 18, 1977.

IN THE ARMY

Army nominations beginning William J. Allison, to be second lieutenant, and ending Frederick E. Wolfe, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 18, 1977.

Army nominations beginning Robert O. Abney, to be lieutenant colonel, and ending Jacqueline Wonpat, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 21, 1977.

IN THE NAVY

Navy nominations beginning John Lewis Adams, to be captain, and ending Joseph Albert Howland, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 18, 1977.

Navy nominations beginning Joseph M. Carwile, to be ensign, and ending Gayle H. Damstrom, to be Chief Warrant Officer, W-2, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 21, 1977.

# EXTENSIONS OF REMARKS

## A TRIBUTE TO THE DESERT SUN NEWSPAPER

### HON. SHIRLEY N. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, August 4, 1977*

Mrs. PETTIS. Mr. Speaker, I would like to extend my heartiest congratulations to the Desert Sun newspaper upon the occasion of its 50th anniversary. On Aug. 5, 1977, this publication celebrates 50 years of journalistic clarity, sagacity, insight, and purpose.

While there is always a temptation to compromise in the matter of principle whenever the question of economic security is involved, the Desert Sun has consistently hewed to its initial purpose and resisted all allurements to gain circulation through the sacrifice of ideals. Consequently, the people of Palm Springs and the Coachella Valley have much reason for pride in the quality of community service this publication provides.

In an oft-repeated eulogy, John Casey, professor of journalism at the University of Oklahoma, stresses the necessity, character, and influence of newspapers like the Desert Sun in these words:

Without its newspaper, the small-town American community would be like a school without a teacher or a church without a pastor. In the aggregate, the country newspaper determines the outcome of more elections, exerts a greater influence for constructing community programs, is read longer by more members of the family, and constitutes, with its millions of circulation and quadrupled millions of readers, a better advertising medium than any other group of newspapers or periodical publications.

Through service to its community the country newspaper will not merely survive, it will continue to flourish as the most representative, most distinctive, most wholesome type of journalism America has produced.

Mr. Speaker, I am confident that the staff of the Desert Sun will remain fully aware of the newspaper's heritage and will keep it consistently free from distortion, prejudice, censorship and propaganda.

In closing, I am reminded of the words of Elisha Manson, past general counsel of the American Newspaper Publishers Association:

Our founding fathers believed that the people of this country were entitled to information concerning the activities of their government. They also believed that those in power should have their activities reported to the citizens as a restraint upon possible misgovernment.

They did not guarantee freedom of the press to the publishers of this country as a special privilege. Rather they imposed upon publishers a solemn obligation and made them trustees of the right of the American people to have their information free from the control of those who are affected by it—that right to be preserved at all hazards and at all costs.

Those of us who believe in our system of democratic self government are indebted to the press of this country for its vigilance in protecting our right to enjoy life, liberty and the pursuit of happiness. As long as the press maintains its vigilance, democratic self government will exist in America. Without freedom of the press, all liberty will fail.

Mr. Speaker, I am sure that my colleagues join me today in wishing the Desert Sun the happiest of birthdays and in saluting the principles on which it stands. Undoubtedly, such principles insure a continued success which we will all be happy to honor once again 50 years from today.

## VA HOSPITALS

### HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, August 4, 1977*

Mr. EDGAR. Mr. Speaker, I would like to share with my colleagues the statement of Robert H. Vogel, director of veterans affairs and rehabilitation, the American Legion, Department of Pennsylvania, before the Subcommittee on Medical Facilities and Benefits of the Committee on Veterans' Affairs, on July 23, 1977, at the Veterans' Administration hospital in Philadelphia. In my opinion, his testimony provides a valuable insight into some of the special problems faced by veterans who use VA hospitals and clinics:

STATEMENT OF ROBERT H. VOGEL

Mr. Chairman and members of the subcommittee, the American Legion, Department of Pennsylvania, appreciates the opportunity to appear before this subcommittee of the Committee on Veterans' Affairs, and to present its views on the consolidation of the Philadelphia Veterans' Administration Hospital and the Veterans' Administration outpatient clinic as announced by the Veterans' Administration Department of Medicine and Surgery.

Before stating the American Legion's position on this subject, may I first summarize briefly the basic problems that have been brought to the attention of the American Legion by veterans receiving service at these Veterans' Administration stations during this period of consolidation.

Veterans have sent letters, telephoned, or come in person to this American Legion service office complaining of verbal abuse by physicians. They have also complained about long waiting periods at the Veterans' Administration Hospital when requesting hospital admission. They are often not admitted that day but told to report back in 1, 2 or 3 days for admission to medical service. In some cases, the veteran has reported that he was admitted within 24 hours to a community hospital with the same complaints.

Many veterans complain of waiting 3 to 4 months or longer, and reporting two or three times, for completion of their compensation and pension examinations. The shortage of physicians, therapists and clerks at the Veterans' Administration outpatient clinic has created problems with appointments, waiting periods and help with Veterans' Administration forms, etc.

What we will attempt to do in the following remarks, as briefly as possible, is to state the findings of the American Legion in reference to these complaints.

On the question of verbal abuse by the physicians, this problem has been discussed on many occasions with the hospital director and his staff. An example of this abuse is referring to veterans as drunken bums. Alcoholism is defined by the medical profession as a disease and the Veterans' Administration recognizes this by having an alcohol treatment unit in this Veterans' Administration hospital. It must be assumed then that this phrase is used by the physicians in a derogatory manner.

The problem of long waits in the admitting area are brought about by waiting for records to be located and by physicians treating veterans in the admitting area instead of referring them to clinical areas. Sometimes, veterans wait many hours and then are told to report back another day, as their records cannot be located. Along with the inconvenience to the veterans, this also compounds the problem of inadequate building space.

The practice of not admitting a veteran to the Veterans' Administration hospital, who then is admitted to a community hospital within 24 hours, tends to support the