SENATE—*Wednesday, May 16, 1979*

(Legislative day of Monday, April 9, 1979)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by Hon. DAVID L. BOREN, a Senator from the State of Oklahoma.

PRAYER

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

Love is patient and kind; love is not jealous, or conceited, or proud, love is not ill-mannered, or selfish, or irritable; love does not keep a record of wrongs; love is not happy with evil, but is happy with the truth. Love never gives up; its faith, hope, and patience never fail. Love is eternal.—I Corinthians 13: 4–8, Today's English Version.

Eternal Father, make us to abound in the love enjoined by the Apostle, that possessed of faith, hope, and patience, we may not fail in the task committed to us. Guide by this higher wisdom the President, the Congress, and all in authority that we may rejoice in every action which advances Thy kingdom of justice and truth.

And to Thee shall be all the praise and glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 16, 1976.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID L. BOREN, a Senator from the State of Oklahoma, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

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

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

A NATIONAL GASOLINE SHORTAGE

Mr. ROBERT C. BYRD. Mr. President, the abrupt shortage of gasoline suffered by residents of California is now spreading throughout the country. This past weekend in the Washington area, many of our people experienced the inconvenience and discomfort of long lines at local gas stations. With each minute that Americans spend waiting their turn at the pump, they are not only burning gasoline but also are questioning the sequence of events which has brought us to this point. Current polls show that many people do not even believe there is a real shortage; rather, they believe the crisis was manufactured by the oil companies to raise the price of gasoline. It is no wonder that other nations question our ability to curb energy consumption—when we have not convinced ourselves that there really is an energy crisis.

There are confusing and conflicting explanations of the current shortage. The Department of Energy alleges that the situation was created by a combination of the Iranian oil shutdown, the recent surge in gasoline consumption, and by the President's order that refineries reduce gas production this summer to build up heating oil reserves for next winter. Oil company officials claim that, in an effort to bring down OPEC charges, the Government did not allow them to compete overseas for high-priced crude oil. While prices remained high, crude oil inventories were depleted, and now the United States must bear the brunt of the oil shortage. Gasoline retailers maintain that Government allocation regulations encouraged refiners to cut the amounts of gasoline distributed to customers, in anticipation of higher prices following decontrol of domestic crude oil. We read that panic buying contributed to the crunch, and there is no doubt it has. All in all, no one knows what to believe. But we do know that our energy future looks bleak—or we should know it.

The American people will not be satisfied with more conflicting statements and statistics from the Government. They are entitled to accurate information and competent administration from those who are responsible for these matters.

Next week, the Senate Energy Committee, under the very able and distinguished leadership of Chairman JACKSON and Senator JOHNSTON, chairman of the Subcommittee on Energy Regulation, will begin hearings on the energy supply situation. The committee will receive testimony from Secretary Schlesinger and from representatives of five major oil companies. The committee will seek to learn why we are experiencing shortages of gasoline and other refined fuels, what the projections are for the coming winter, what mechanisms exist to prevent regional supply imbalances, and whether Government regulation helps or hurts. I commend the committee for this effort to get to the bottom of the matter. All of us will watch the proceedings with great interest, in the hope that these troubling questions will be answered.

Mr. President, we cannot ask our citizens to sacrifice and then fail to provide a full accounting of how this gas shortage came to pass, and what is going to be done to alleviate recurrences in the future.

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

RECOGNITION OF THE MINORITY LEADER

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

THE GASOLINE SHORTAGE

Mr. BAKER. Mr. President, I commend the distinguished majority leader for his timely remarks on an important subject.

I am sure it breaches no fundamental confidence or tradition of discretion to say that recently I met with the President of the United States to talk about SALT, the Strategic Arms Limitation Treaty. It happened to be about the same day that television news commentators were showing the long lines in California and reporting incidents of people being dragged from their cars for trying to break into the lines, and the like.

A remark I made to the President then was facetious, although I trust not disrespectful, and it does tend to add a perspective to our problems—not their relative importance but certainly the intensity of the emotion that goes with them. I suggested to the President, "If we don't get those gas lines in California under control, the Russians could be in the next county before anybody would care."

It really is not quite that bad, Mr. President—but almost.

We simply must focus our resources, our talents, and our determination in this body to find a coherent and logical energy program for the United States. It took us a while to get into this problem, and it will take us a while to get at it.

My own views are these, briefly:

First, I believe in the free enterprise system, a competitive economy. I believe

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

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that the only chance we have of getting out of this crisis is to produce our way out of this crisis. Therefore, I support deregulation and decontrol—phased and gradual, but I support it. The free market system has to get us out of this mess. We can produce better than anybody else, and there is much yet to be produced.

It has to be phased in gradually, because there are some areas that have special problems. New England, for example, is at the end of the pipeline. They are the first to run out, the first to pay the highest price, and the ones to suffer most severely in the winter. So special provisions must be made for special problems.

Next, as deregulation and decontrol produce increased profits, as inevitably they will, those profits must be plowed back into production, because otherwise there is no justification for this policy. So there should be a plow-back provision. In laymen's terms, they should either plow back those profits into production or they should be taxed away with a windfall profits tax or an excess profits tax.

Last, Mr. President, the energy industry and the oil companies, in particular, must take a leadership role in seeing that we do, in fact, produce our way out of this dilemma. They know more about energy production than we do. They should be showing the way. If those of us who believe in free enterprise and deregulation and decontrol must suffer the burden of seeing ever-increasing profits in most cases retained or distributed in dividends, it will create a situation impossible to support.

So I call on the oil companies to show us the way to produce our way out of this crisis.

I believe in private enterprise. I believe in the production capacity of the American oil industry. I believe in deregulation and decontrol. I believe we can produce our way out of this problem. But we must have the oil companies' help and assistance.

Mr. President, there is another branch of this same problem, that is, our dependence on foreign fuel. We have to break that dependence, at least reduce that dependence. And by the way, I think that reduced dependence would quickly produce a reduction in the cost of imported oil, especially so-called spot prices.

But there are other things that we have to consider, Mr. President. We must consider how much worse things could be, for instance, if the supply of oil from the Arabian Gulf, from Saudi Arabia were interrupted. In that respect we have a great challenge before us in trying to reassure our friends there that the recent treaty between Egypt and Israel does not jeopardize their interests—and it does not—but rather the treaty is a step toward peace and stability. We need to reassure our friends that we have a vested interest in the area and that we will protect and defend those interests.

THE SHAH OF IRAN

Frankly, Mr. President, we have set a poor example in this regard in recent months. We have not shown a constancy and a determination to protect the stability of the area with certainty. Our handling of the crisis in Iran, for example, was awkward. Our refusal to permit the Shah of Iran to come to the United States is, I believe unconscionable and I am afraid will set a bad example for leaders in other countries who in their private moments can see themselves politically in that position.

Recently I called on the administration to reverse its decision to prevent the deposed Shah of Iran from coming to this country. I am not a great admirer of the Shah. He had a very, very difficult regime. He is certainly no paragon of human rights. But for no other interest than the best interests of the United States, we should accede to his request to admit the Shah of Iran to this country, to provide his own security at his own expense.

Mr. PERCY. Mr. President, will the distinguished Senator yield for a comment on both his comments and that of the majority leader?

Mr. BAKER. Mr. President, if I have time remaining, I am happy to yield.

The ACTING PRESIDENT pro tempore. The Senator has 2½ minutes remaining.

Mr. BAKER. I thank the Chair.

I yield.

Mr. PERCY. What is the order of business after that?

The ACTING PRESIDENT pro tempore. The Senator from Illinois will be recognized on his own right.

Mr. PERCY. Mr. President, I wish to use a few minutes of the minority leader's time and then I will use a part of my own reserved time to comment also because I think this colloquy is of vital importance.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

THE SHAH OF IRAN

Mr. PERCY. Mr. President, first, on the emotional issue of the Shah of Iran, and I very much appreciate the distinguished minority leader commenting on this, I spoke in the Chamber yesterday on that subject. I questioned our next Ambassador to Iran, Ambassador Cutler, on this subject in open hearings yesterday. Since I made my comments, I have heard from several allies and friends of the United States who have come to me to simply indicate that they are very disturbed about what looks to be the unwillingness of the United States to act in this matter. It is hurting American prestige and our image abroad to have a ruler of a country who was a close ally of the United States for over a quarter of a century feel that in this great Nation there is not some place where he could be secure. We cannot overlook the fact that it would cause some problems in Iran, but after all there are plenty of problems in Iran right now, and this would not compound them.

This would not make that big a difference, I should think. We have to sort out our differences with that government. When that government and its revolutionary committee commits to death the Shah, his family, and the former Ambassador from Iran. Ardeshir Zahedi, that kind of action I feel calls for us to reach out now to find an answer to this problem and to see whether, if the Shah would wish to live in the United States, we can find a way to make that possible.

I thank my distinguished colleague for his comments on that subject, and I ask unanimous consent to have printed in the RECORD at this point my discussion in the Senate Foreign Relations Committee with Ambassador Cutler yesterday.

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

Senator PERCY. Mr. Cutler, I have been deeply concerned about the well being of the Shah, his family, and Ardeshir Zahedi and very disturbed by the revolutionary action marking them all for death. What is our responsibility as a country? What position do you recommend the Administration take in this matter?

Secretary Kissinger feels quite strongly that to turn our backs on a 28-year friend, despite his faults, would be disastrous. I have talked to ambassadors from Arab countries who feel that it would damage the credibility of this country if we do not do something. This land of the brave and home of the free has taken in so many people. If we were to turn our backs at this time on a long-time friend, despite his problems, we would somehow betray our principles.

How do you feel about this? What recommendations would you, as Ambassador to Iran, make to the Administration?

Ambassador CUTLER. Senator, I am aware of the strong feelings on this issue. Because of the nature of the issue, and I think it is a rather delicate one, I think it deserves very careful study.

My answer to your question as to what I would recommend is a very honest one, and it is this. I have very recently returned from Zaire. I would regard my responsibility, as such, to look at it very carefully before I actually make any recommendations. I think a question such as this has to be viewed in a broad context, certainly one that includes our broader national interests. There are a number of complicating factors with respect to a decision by the Shah to come into this country. The best I can tell you at this point, Senator, is that I think this deserves careful study and that is what I intend to give it.

Senator PERCY. Have you engaged in any conversations with the Administration and is a policy being formulated on this within the Administration, to the best of your knowledge?

Ambassador CUTLER. I think the Administration has already stated that, in principle, the Shah is certainly not unwelcome here and would be welcome, but that there are questions of timing and security which have to be carefully considered. I am not aware that it has gone beyond that.

Senator PERCY. I think that is one of the points disturbing to so many people who are concerned about this, including members of the Senate. Somehow this nation would look very impotent if we could not assure, someplace in this vast country, adequate security. Don't you feel it possible that such provision could be made? As an excuse that just won't fly with a lot of people and will not make us very credible with the rest of the world.

Ambassador CUTLER. I think there is a very real question of security for the Shah and his family. I think that poses problems, obviously, to any country where he may reside. But I am not one to say that this cannot be worked out, Senator.

My initial reaction to the problem—which I admit I have not had a chance to study in

depth—is while there are questions of credibility and of old friendships, I do think we should also look at the question in the broad context of how this would impact upon our national interests and what we are trying to do in Iran itself. I think they should not be taken solely in the abstract.

Senator PERCY. I realize the difficult position that you are in. I have discussed this issue with Secretary Vance. I just wanted you to know that some of us feel very strongly that this is an issue that is going to have to be faced up to. We hope a decision will be made.

I will continue to carry on that dialogue with the Administration.

Ambassador CUTLER. You can be sure, Senator, that I will remember your own views as expressed here in this Committee room. I think this is something that the Administration will want to keep in very close touch with the entire Committee on.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a brief observation here?

Mr. PERCY. I yield.

Mr. ROBERT C. BYRD. I, too, believe that if the Shah asks to come to the United States he should be allowed to come into the country. He certainly is aware of any problems that confront him anywhere he goes, and he would certainly be aware of any problems that would confront him here.

After all, I visited the Shah last year and I went in a dual role as an emissary of President Carter and as the majority leader. For this country to refuse to let the Shah enter if he wants to come in and as long as he knows what the problems are, I do not think it is a very admirable chapter in the history of our diplomacy or of our Government.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. If I may finish my thought, then I will be delighted to yield.

I again raise the question as to where all these noisy people are who not very long ago were standing out here in front of the cameras, out here on the Capitol steps with hoods over their faces? I do not know even whether they were Iranians or not. I do not know who they were. They did not show their faces. But where are they now? Where are they now, when we see people executed in Iran without trial and those who are given trials do not have any appeal and when the sentences are meted out they are taken out and shot within minutes? And where is all this hue and cry about human rights? I have not heard any voices raised about what is going on in Iran, and I am not attempting to pass judgment on whether those people who are being executed committed wrongs or not.

I do not know. But that is summary justice, and it is not with due process. And where is all the righteous indignation that should be heard around the world on the part of countries, not just our own? But even in our own I hear nothing being said. And again where are those noisy people who were hiding behind the masks out here on the Capitol steps? Not a peep out of them, not a peep about what is going on now in that country. And we have been talking about human rights a lot recently in our own administration. What is being said by this administration about human rights in Iran?

I have long said that we have enough problems with human rights in our own country without trying to tell every other country how to handle its human rights problem. But it seems to me that the silence on this matter is deafening. The silence is deafening, and I hope that these people who were out there, these noisy people who were down in front of the White House and out on the Capitol steps hiding behind these masks will speak out. I do not know whether they were paid to do this or whether they were not. But I hope we will hear someone speaking out against what is happening in Iran today.

I do not know how much longer the people of Iran are going to put up with that kind of summary trial and execution. But anyhow back to the original subject.

I feel, as I say, that if the Shah wants to come to this country, we should not turn the back of our hand to him. He knows what the problems are going to be, and we understand it is a problem, but we cannot, I do think, turn our backs on a man who was our friend and whom we were glad to have as our friend when he could help us, and now that he has had to leave his country, I think it is with some shame, if indeed we are refusing his entry into this country—and I am not absolutely sure of that point—but since the subject has been raised I just want to say that I support the idea, too.

I told the distinguished Senator from Louisiana that I would yield to him.

Mr. LONG. Let me congratulate the majority leader. I agree with what he has said here. I have been tremendously impressed with the fact that the Shah has been a friend of the United States. He risked a great deal to be our friend. He had many enemies, because he was a friend of the United States.

Now, for this Nation to turn its back on one, who was a very good friend of ours in an area where we very much needed friends, in his hour of need is not typical of American conduct in the past.

This Nation has not been known as a nation that would use people and then turn its back on them when it came our time to respond to the plight of a good friend. I would be very ashamed of America, and I would be very ashamed of our leadership, if this Nation were to encourage people to take positions and to stand up on various matters and then, having seen those people do so and pay a great price for being our friend, to see this Nation seek to run out on those who had befriended us. Americans have not done it that way in the past. We have been fair with our friends. We will be judged by many nations and by many important people in this world by the kind of friendship we display to allies.

People know that administrations change. Some executives have different ideas than others. But if this Nation is not to be known as one which is a reliable friend, I would submit it would come at a very high cost.

Mr. ROBERT C. BYRD. It would not mean this Nation subscribes to every policy that the shah ever inaugurated. He probably had many faults, as all leaders have, as every person has. But there is another principle involved here, and I think all of us have addressed it.

Mr. BAKER addressed the Chair.

The ACTING PRESIDENT pro tempore. The leaders' time has expired for both leaders.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be—is there an order for the recognition of a Senator?

The ACTING PRESIDENT pro tempore. The Senator from Illinois is to be recognized.

Mr. ROBERT C. BYRD. I ask unanimous consent that there be a period for the transaction of routine morning business of not to exceed 15 minutes immediately following the order for the recognition of Mr. PERCY, and Senator BAKER or any other Senator, if they so wish, may draw upon that morning business now, and they can do so with the permission of the Senator from Illinois.

Mr. PERCY. I have no objection at all.

THE SHAH OF IRAN

Mr. PERCY. Mr. President, while our distinguished colleagues are on the floor, I wish to say to them that when I first spoke to Senator BAKER this morning about my desire to have a colloquy with him on this subject, I knew very well what his position was, because he had forthrightly stated it, as I have, and did so again yesterday. But I did not know what the public position might be of our distinguished majority leader and the distinguished Senator from Louisiana.

I cannot be more gratified to know that we have been thinking along the same lines.

When I made my remarks public yesterday, both at the hearing and on the floor, the number of calls I had was tremendous from people whose judgment I respect, and who said they think it is a shame that this country is leaving, in a sense, a friend of this Nation without any indication that he can come to this country if he so chooses, and that we can find a way to work out adequate protection for him; and the depth of feeling expressed by Senator BYRD and Senator LONG is very gratifying, indeed, and I know will be most reassuring to friends and allies of this country who have told the Senator from Illinois how strongly they feel about it and what a poor position in which it puts the United States.

I am happy to report that in my discussions with Secretary Vance he indicated that he is thinking seriously about this. I found him concerned about it. We know the depth of feeling of others in previous administrations. However, I do very much appreciate the expressions that have been given this morning and, particularly, also for the position taken by Senator BAKER.

I would be happy to yield now to Senator BAKER for whatever he wishes to say.

Mr. BAKER. I thank the distinguished Senator from Illinois. I will take just a moment. I want to put one small asterisk on this colloquy this morning, and that is that this colloquy was not arranged in advance.

Mr. PERCY. That is right.

Mr. BAKER. The Senator from Illinois mentioned this to me after I came to the floor today, and I have not discussed it with the distinguished majority leader or with the distinguished chairman of the Committee on Finance.

But it is important to separate this colloquy and conversation we have just had from so many that occur on the floor. It came from the heart, and it was a strong statement of conviction from all of us. I am especially pleased that the Senator from Illinois brought it up, and the distinguished majority leader and the distinguished chairman of the Committee on Finance joined in, and I hope it has stated a position that the country can examine very carefully and find a solution for.

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

Mr. PERCY. I would be happy to yield.

Mr. ROBERT C. BYRD. I want to make it clear that the support that I have stated for the entry of the Shah in the event he wants to come, knows what the problems are, and is willing to bear the expense of whatever it may be in his dealing with the problems, is wholly out of respect for the principle that we ought not turn our back on one who has been a friend.

It is not meant to say, as I said a moment ago to Mr. LONG, that we condone all of his policies. There may have been policies carried out in the history of his reign we would all have condemned and criticized. But what is going on now—two wrongs do not make a right—should be condemned by the international community. I simply want to balance out the RECORD as far as I am concerned.

Mr. PERCY. Mr. President, I would like to add a final thought. I know how many Members of the Senate on this side of the aisle feel very strongly on this issue. There is one distinguished additional Member on the other side of the aisle whom I know feels strongly about it. He is a former Ambassador to the United Nations, and he knows how important this is not to just one distinguished family but to the image of the United States of America in the world today. He is the junior Senator from New York, Senator MOYNIHAN, who feels very strongly that this is an important matter and should be and must be faced up to.

So I thank my distinguished colleagues again.

GASOLINE AND THE ENERGY SHORTAGE

Mr. PERCY. Mr. President, while the majority leader is on the floor, I would like to refer back to the comments he made on the gasoline problem and the energy shortage.

Governor Brown is in town, and I plan to talk with him after his meetings at the White House. I will offer him the services of the Alliance to Save Energy, a national organization whose purpose is to encourage greater efficiency in our use of energy.

Several years ago I went to Senator Humphrey with the idea that in order to address the energy problem we needed not just a Department of Energy, which our Governmental Affairs Committee had created, but that we also needed to marshal the forces of this Nation's private sector. In order to start the process of mobilizing the resources of the private sector to encourage energy conservation, I asked if he would join me in cofounding the Alliance to Save Energy.

I said to Hubert Humphrey at the time:

> No one should ask you to take on an additional burden. I would not ask you to do this, except that it is so vitally important.

We thought about it for a moment, and then he said:

> I accept; I will do it. It could be the most important single thing I will do in my lifetime because of the urgency of this problem.

Given the burdens upon him, and his health problem, Senator Humphrey's acceptance of this additional load—and he was a working cochairman of the Alliance throughout the remainder of his lifetime—emphasizes the importance of the problem.

So as chairman of the Alliance to Save Energy, I want to help California and any other State as chairman of the Alliance to Save Energy, in any way I can to use energy more efficiently.

In addition, I believe that we should all remember that other forms of fuel have a relationship to oil and gasoline, and that steps should be taken in those areas which will help to reduce the demand for oil.

If we are going to convert crude oil to heating oil, then we will not have as much refining capacity for gasoline. And if we depend on oil for our heating needs, and do not tap our Nation's vast resources of coal to the extent that we could, then we will be needlessly compounding our energy problems.

Again I wish to commend the distinguished majority leader for the leadership he has taken in encouraging the formation of a coal caucus here in the Senate, and in advising and meeting with the President, as a group of us did under his leadership recently, to talk about what needs to be done to encourage the use of coal.

But there are also other steps that can be taken to deal with our energy problems. I ask unanimous consent, Mr. President, to have printed in the RECORD at this point a list of suggestions drawn up by the Alliance to Save Energy which identify what individuals can do to improve the efficiency of their automobiles.

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

ON THE ROAD

We all can improve on our conservation efforts on the road. Here are some of the ways:

Use public transportation, a motorcycle, a moped, or a bicycle, or walk to work.

Share your ride. Join a carpool or a vanpool. About one-third of all private automobile mileage is for commuting to and from work.

Go shopping with a neighbor occasionally. If the average occupancy (currently 1.3 people per commuter car) were increased by just 1 person, each commuter would reduce his costs, energy consumption, and driving stress. And the nationwide gasoline savings—which would reduce our reliance on more expensive imports—would be more than 600,000 barrels per day.

Eliminate unnecessary trips. Can you find one driving trip per week that could be handled by telephone or combined with another trip?

Vacation at home this year. Discover nearby attractions. But, if you are going away, remember to turn off lights, lower heating temperatures in winter, and turn off air-conditioning in summer.

Choose a hotel or campground close to where you live. A nearby hotel or campground often can provide as complete and happy a change from routine as one that is hundreds of miles away.

Plan to stay in one place if you vacation away from home. "Hopping around" takes transportation energy.

Take a train or bus instead of the family car. Save gasoline and relax.

Rediscover the pleasures of walking, hiking, and bicycling during your vacation. They're the most energy-conserving means of transportation and the healthiest for most people.

Observe the 55-mph speed limit on the highway. Most automobiles get about 20 percent more miles per gallon on the highway at 55 mph than they do at 70 mph.

Accelerate smoothly and moderately. Achieve your desired speed quickly, and then keep a steady pressure on the accelerator, just enough to maintain speed.

Drive at a steady pace. Avoid stop-and-go traffic. Frequently check the traffic situation well ahead of you. Adjust your driving to avoid unnecessary, wasteful accelerations and decelerations.

Minimize braking. Anticipate speed changes. Take your foot off the accelerator as soon as you see a red light or slowed traffic ahead.

Don't let the motor idle for more than a minute. Turn off the engine. It takes less gasoline to restart the car than it takes to let it idle. Generally there is no need to press the accelerator down to restart the engine.

Don't overfill your tank. Remove the nozzle or ask the gas station attendant to remove it when the automatic valve closes. This will eliminate any chance of spillage.

Plan your trips carefully. Select routes that will allow you to consolidate errands and avoid congested areas.

Use your head before you drive. Plan your trips. Try to use these tips as you drive. Record your gasoline use, and try to get more miles per gallon out of your car.

Mr. PERCY. These ideas are comparable to ideas which have been advanced for every other type of energy use, whether it is in our homes, in the factories, or on the farms. Ideas such as these are needed in America today. What California must do is face up to the fact that it has a population of 22 million people who own 16 million automobiles. That incredible ratio of automobiles to people is a fact that would hardly be understandable to the people of many countries of the world. The problems it causes are especially clear in Los Angeles, in part because there is not the type of mass transit system there that many other cities have seen fit to build.

I am not familiar with and have not gone into all of the factors that have contributed to that situation, but it is a fact of life today that Los Angeles is very dependent upon the automobile.

Certainly I am sympathetic with that problem, which I intended to indicate in the comments I made before, and I hope that the Alliance to Save Energy can help to address it.

Two aspects of the problem, supply and conservation, must be worked on simultaneously. You cannot just work on supply; you must work on conservation at the same time. This is why I will offer to Governor Brown to do everything possible, through the Alliance to Save Energy, to help the people of California better understand that there are things that can be done to lessen the demand for energy.

With its increased consumption of gasoline this year over last year, an increase of 7 percent as against 4 percent for the rest of the country, California most of all must recognize that in these days of critical energy problems, we cannot increase our consumption and expect not to have upward pressure on prices and supply shortages. I say this to California, I say it to Illinois, I say it to the District of Columbia and to every part of this country: We must find a way to lessen our consumption of gasoline, just as we have been able to lessen our use of heating oil and our industrial usage of energy. Because of many factors, we have done a better job in almost every other segment of the economy than we have done in automotive transportation, and we must become far more efficient in this area in the future than in the past.

Mr. PROXMIRE. Mr. President, will the Senator yield? I have to interrupt the Senator, because I think he is speaking on morning hour time, which is limited.

Mr. PERCY. Mr. President, if I may inquire, I thought I was speaking on my own time that had been set aside.

The ACTING PRESIDENT pro tempore. The Senator is still speaking on morning business. There is only a short time remaining in morning business.

Mr. PERCY. I thought I was on my own time. I ask unanimous consent that my subsequent comments may be incorporated in the RECORD at this point, but I am glad to yield the floor now, during the morning hour, to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Go ahead and finish your remarks, then I will be happy to get whatever time I can get.

Mr. ROBERT C. BYRD. Mr. President, let me say that I think the Senator from Illinois was speaking on his own time, because I said—I asked that there be a period for morning business following his order, but that, however, if any Senator wanted to use some time out of that morning business, they could do so with the Senator from Illinois' permission. I think the RECORD will show that. So the Senator has been speaking on his own time, I hope; and if he wants to yield to the Senator from Wisconsin to speak on morning business, as I said earlier, that is for him to decide.

The ACTING PRESIDENT pro tempore. The Chair stands corrected; the Senator was speaking on his own time, and at the conclusion of that time he may yield to the Senator from Wisconsin.

Mr. PERCY. Mr. President, I could finish in 3 or 4 minutes, or could yield right now.

Mr. PROXMIRE. Go ahead.

Mr. PERCY. All right. In conclusion, the distinguished majority leader has raised one other avenue that I hope we can accelerate our research into, which is the use of gasohol. The Senate has, time after time now, indicated its enthusiasm for finding ways to stretch our petroleum resources. Many of us have used gasohol in our cars, and proved that it is effective, efficient, clean, and gives good mileage. There is no reason why we should not move ahead as rapidly as possible in this area. Other countries, such as Brazil, are moving ahead expeditously. Gasohol is a way of using up our surplus forestry products, our city waste products, and crops that are in surplus. So I hope the Department of Energy will move up in priority and accelerate what can be done to promote gasohol, and I am very gratified that more and more States now are turning to gasohol and encouraging its use.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. METZENBAUM). There will now be a period for the transaction of routine morning business. The Senator from Wisconsin is recognized.

THE GENOCIDE CONVENTION AND COMMUNISM

Mr. PROXMIRE. Mr. President, yesterday the distinguished Senator from Arizona (Mr. GOLDWATER) offered the Senate a very thoughtful analysis of the Genocide Convention. His views on this subject are critically important from a number of perspectives. First, he is an extremely articulate spokesman on issues of this type and his conclusions are respected throughout this country. Second, his speech should be appreciated for its intellectual content and clear analysis. And, third, it is a valuable contribution from the standpoint of raising a very important issue.

My friend from Arizona begins his speech with a number of troubling questions about the Genocide Convention and technical interpretations of its provisions. He asked what the definition of genocide was designed to mean in terms of the "in whole or part" qualification. He further questioned the definition and meaning of the "mental harm" clause. And he raised the issue of jurisdiction over the right to prosecute in cases of genocide under the convention.

Then Mr. GOLDWATER addressed the various understandings that have been proposed by the Foreign Relations Committee to the convention. From my reading of his speech, it appears that he is generally satisfied that these understandings have improved and clarified the convention and the circumstances under which it might be applied. "If approved," he stated, "they would go a long toward meeting many of the major objections which I and others have made to the convention." These understandings address the particular issues and problems outlined by the Senator and appear to resolve most if not all of the long-standing questions about "mental harm," "in whole or part" and jurisdiction.

Then, however, Senator GOLDWATER raised a most important question. After examining reports of genocide occurring in Tibet when that country was seized by the Peoples Republic of China, he asked would our State Department apply the same standards in defining and condemning genocide under the convention to Communist and non-Communist nations, or would we look the other way when some political or diplomatic expediency was present?

Now, Mr. President, in my opinion there is no question that the signatories to the convention cannot be separated and discriminated against by ideological distinctions. There is no provision in the convention for distinguishing between Communist or non-Communist nations. All parties to the convention must live by the terms of the convention, regardless of the type of political system under which they function.

But this does not completely answer the question. Obviously, there is no distinction in the convention itself. But would there be a difference in interpretation by our State Department between Communist and non-Communist nations? That is the issue raised by the Senator from Arizona.

For my part I can say that there should be no difference in application, that none is called for by the terms of the convention, that it would be abhorent to me if the convention were subject to such political winds. After all, genocide is genocide no matter if committed in a fascist, a Communist, or any, I repeat, any other society.

I do not expect this personal assessment to satisfy the Senator from Arizona. It would not satisfy me if the circumstances were reversed. Therefore I think the best thing to do is to have our Department of State address this head on. And to that end I have already asked for a legal interpretation by the State Department as to the application of the Genocide Convention to Communist versus non-Communist nations. Furthermore, I will make every effort to satisfy specific questions of the Senator from Arizona.

Mr. President, I welcome Senator GOLDWATER's probing analysis and his open minded approach. I pledge him my cooperation in seeking straightforward answers to his questions.

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

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

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it

stand in recess until the hour of 9 o'clock tomorrow morning.

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

Mr. ROBERT C. BYRD. Of course, the time can be changed, depending upon the progress made today.

CONCLUSION OF MORNING BUSINESS

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

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

VETERANS' HEALTH CARE AMENDMENTS OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 7, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 7) amending title 8, United States Code, to revise and improve certain health care programs of the Veteran's Administration to authorize the construction, alteration, and acquisition of certain medical facilities, and to expand certain benefits for disabled veterans.

Mr. ROBERT C. BYRD. 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. 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 to proceed on another matter or so for not to exceed 5 minutes and that the Pastore rule be waived.

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, all of which, I understand, have been cleared on the minority side.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. I reserve only for the purpose of advising the majority leader that on our calendar, all of the nominations are cleared from our point of view except those nominations placed on the Secretary's desk, which, according to my calendar, are not shown as cleared.

Mr. ROBERT C. BYRD. Mr. President, I eliminate those momentarily from my request.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to consider en bloc and to confirm en bloc all the nominations on the calendar, with the exception of those placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations referred to are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL COUNCIL ON THE HUMANITIES

Kay Howe, of Colorado, to be a member of the National Council on the Humanities.

Charles V. Hamilton, of New York, to be a member of the National Council on the Humanities.

Louis J. Hector, of Florida, to be a member of the National Council on the Humanities.

M. Carl Holman, of the District of Columbia, to be a member of the National Council on the Humanities.

Jacob Neusner, of Rhode Island, to be a member of the National Council on the Humanities.

Mary Beth Norton, of New York, to be a member of the National Council on the Humanities.

Sister Joel Read, of Wisconsin, to be a member of the National Council on the Humanities.

Leon Stein, of New York, to be a member of the National Council on the Humanities.

Harriet Morse Zimmerman, of Georgia, to be a member of the National Council on the Humanities.

Dave Warren, of New Mexico, to be a member of the National Council on the Humanities.

A. D. Frazier, Jr., of Georgia, to be a member of the National Council on the Humanities.

DEPARTMENT OF LABOR

Janet L. Norwood, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor.

NATIONAL MUSEUM SERVICES BOARD

Douglas Dillon, of New York, to be a member of the National Museum Services Board.

Neil Harris, of Illinois, to be a member of the National Museum Services Board.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Sister M. Isolina Ferre, of Puerto Rico, to be a member of the National Advisory Council on Women's Educational Programs.

Anna Doyle Levesque, of Rhode Island, to be a member of the National Advisory Council on Women's Educational Programs.

Susan Margaret Vance, of Illinois, to be a member of the National Advisory Council on Women's Educational Programs.

DEPARTMENT OF STATE

Philip Henry Alston, Jr., of Georgia, now Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia, to serve concurrently and without additional compensation, as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nauru.

Sally Angela Shelton, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Grenada and the Commonwealth of Dominica, and as Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Saint Lucia.

Walter Leon Cutler, of Virginia, Ambassador Extraordinary and Plenipotentiary of the United States of America to Iran.

Lawrence A. Pezzullo, of Maryland, Ambassador Extraordinary and Plenipotentiary of the United States of America to Nicaragua.

Alfred L. Atherton, Jr., of Florida, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the nominations were confirmed en bloc.

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 notified of the confirmation of the nominees.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator MUSKIE, I send a resolution, Senate Resolution 157, to the desk. This resolution provides a budget waiver for H.R. 1787, NASA authorization.

I ask consent, on behalf of Mr. MUSKIE, that the Senate proceed to its immediate consideration.

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

The resolution (S. Res. 157) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 1787, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 1787, a bill to authorize a supplemental appropriation to the National Aeronautics and Space Administration for research and development for fiscal year 1979. Such waiver is necessary to permit consideration of an additional fiscal year 1979 authorization of enactment of new budget authority for the National Aeronautics and Space Administration for the Space Shuttle program.

The shuttle program is funded in two streams: design, development, test, and evaluation (D.D.T. & E.) which supports system development and production which supports manufacture of the second, third, and fourth flight orbiters. This authorization is necessary to complete critical development tasks on the current schedule and thereby avoid restructuring both the D.D.T. & E. and production programs and incurring the substantial cost penalties associated therewith. The Space Shuttle program, a complex, high technology activity, is at a very intensive stage of development and at a very high spending rate; therefore, the transfer of funds from the production program to the D.D.T. & E. program, the most viable option in the absence of the supplemental funding, would necessitate some rebalancing of development work and deferral of the production program. It is estimated that the D.D.T. & E. program would be delayed four to six months and that the total cost would increase $300,000,000 to $400,000,000, and that the production program would be delayed six to twelve months with a cost increase of $100,000,000 to $200,000,000. Since the shuttle program is very labor intensive (85 per centum of shuttle funding is for personnel) the layoff of twenty thousand people is anticipated. A layoff also involves retraining

a technical work force, to the degree it is not possible to rehire former employees with appropriate skills, with attendant training costs, work force inefficiencies and the intangible concern for product quality.

Mr. ROBERT C. BYRD. 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.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator MUSKIE, I send a resolution, Senate Resolution 159 to the desk. This resolution provides a budget waiver for S. 584, security assistance. I ask unanimous consent that the Senate proceed to its immediate consideration.

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

The resolution (S. Res. 159) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 584, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 584, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes. Such waiver is necessary to allow the authorization of $100,000,000 in additional budget authority for fiscal year 1979 for United States participation in a multilateral program of economic relief for Turkey.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1978, deadline, because the resolve to undertake the multilateral program was not made until the Guadalupe Summit Meeting in January 1979. The Presidential request for this amount was transmitted to Congress on April 10, 1979.

The effect of defeating consideration of the supplemental authorization will be to delay matching contributions by other Western nations and reject the multiple appeals by Turkey, a North Alantic Treaty Organization ally, for emergency economic assistance in an amount adequate to enable the Turkish Government to undertake needed economic stabilization and reform measures. The urgency of this appeal is compounded by the recent turmoil in Iran that threatens to spill over into economically distressed neighboring regions of Turkey.

The desired authorization will not delay the regular appropriations process and can be provided in a supplemental authorization. This program was anticipated in the committee's March 15, 1979, Report to the Committee on the Budget and can be accommodated by the revised Second Budget Resolution for fiscal year 1979 as passed by the Senate.

Mr. ROBERT C. BYRD. 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.

NATIONAL MUSEUM DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 62, which has been favorably reported by the Judiciary Committee.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 62) to declare May 18, 1979, to be "National Museum Day."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration and, without objection, the joint resolution will be considered to have been read the second time at length.

Mr. THURMOND. Mr. President, I rise today as a cosponsor of Senate Joint Resolution 62 which declares May 18, 1979 to be National Museum Day.

The designation of May 18 as National Museum Day will serve to re-emphasize the important role which museums play. These institutions encourage curiosity and learning, and offer a life-long source of enjoyment and cultural enrichment. By teaching us about the past, museums help prepare us for the future. National Museum Day will allow museums the opportunity to celebrate their contributions to the preservation of man's natural and cultural heritage.

Mr. President, the people of South Carolina have always had a tremendous respect and appreciation for history. This appreciation, itself, is part of our heritage. The oldest public museum in the United States was founded in Charleston, S.C. on January 12, 1773. This museum continues to operate today, and offers collections in anthropology, natural history, the decorative arts, and silver and furniture. The museum also offers a collection in Civil War naval history which includes a replica of the C.S.S. *Hunley*, a Confederate submarine once depoyed in the Charleston harbor. The museum also has period rooms, with early drugstore and schoolhouse replicas. This fine institution also covers a wide range of research fields. A well-planned activity schedule allows the public full access to the wealth of knowledge available at the museum. Soon, the museum will move into a new $6 million facility. The Charleston museum represents a continued dedication to the preservation of our heritage. I encourage everyone to visit the Charleston Museum and all of the fine museums in South Carolina.

Mr. President, many Americans will visit museums on May 18. It is my hope that all Americans at least will take a few minutes to reflect on the major contributions that museums have made to the American experience. There is no better time for that reflection than National Museum Day.

NATIONAL MUSEUM DAY

● Mr. BAYH. Mr. President, it was my privilege earlier this year to join with Senator PELL in cosponsoring Senate Joint Resolution 62, a resolution designating May 18, 1979, as National Museum Day. Upon introduction this resolution was referred to the Judiciary Committee for consideration. Yesterday it was my pleasure to bring this measure before the full committee for approval. The resolution was unanimously reported from committee and sent to the Senate floor where it was unanimously approved today.

Museum Day provides us with an opportunity to recognize that museums are important for cultural enrichment and the development of mutual understanding, cooperation and peace among peoples. Observance of National Museum Day on May 18th is an important instrument for museums of all disciplines and sizes to increase the public awareness of the role and needs of museums. I well know from the many fine museums located in my home State of Indiana that museums serve as research centers for scholars as well as centers of education for the public. Museums of all types share the common bond of discovering, preserving and interpreting man's heritage while at the same time pointing toward our future. The contributions these institutions make toward improving and enriching our lives are indeed immeasurable.

Since the observance of this day has already been designated by the International Council of Museums, I think it is indeed fitting that Congress issue a similar proclamation. I join with my Senate colleagues in saluting our Nation's museums for the valuable services they provide all of us. I submit the text of this resolution for the RECORD.

The resolution follows:

S.J. RES. 62

Whereas museums hold in trust for future generations a substantial part of humankind's material patrimony produced and preserved by the skill of our ancestors and our contemporaries; and

Whereas museums encourage curiosity in the very young, offer enlightenment and education to the student, and provide a continuing source of enjoyment and cultural enrichment for all; and

Whereas museums are centers of research for scholars and contribute significantly to our knowledge of history, science, and the arts; and

Whereas museums enhance the quality of life in our communities and provide a sense of continuity and perspective which reinforces the cultural opportunities offered by schools, colleges, universities, libraries, and other institutions of learning; and

Whereas the museums of our Nation deserve recognition for their contribution to the preservation of the natural and cultural heritage of the United States and to the furtherance of understanding concerning the peoples of the United States and the peoples of other countries in the past, present, and future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 18, 1979, as "National Museum Day" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that day with appropriate ceremonies, activities, and programs.●

The PRESIDING OFFICER. Is there any further debate?

The joint resolution (S.J. Res. 62) was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

Whereas museums hold in trust for future generations a substantial part of humankind's material patrimony produced and preserved by the skill of our ancestors and our contemporaries; and

Whereas museums encourage curiosity in the very young, offer enlightenment and education to the student, and provide a continuing source of enjoyment and cultural enrichment for all; and

Whereas museums are centers of research for scholars and contribute significantly to our knowledge of history, science, and the arts; and

Whereas museums enhance the quality of life in our communities and provide a sense of continuity and perspective which reinforces the cultural opportunities offered by schools, colleges, universities, libraries, and other institutions of learning; and

Whereas the museums of our Nation deserve recognition for their contribution to the preservation of the natural and cultural heritage of the United States and to the furtherance of understanding concerning the peoples of the United States and the peoples of other countries in the past, present, and future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 18, 1979, as "National Museum Day" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that day with appropriate ceremonies, activities, and programs.

● Mr. PELL. Mr. President, I am pleased to have sponsored Senate Joint Resolution 62, which calls upon the President to proclaim May 18, 1979, as "National Museum Day," and I am also pleased to have had a number of colleagues join as cosponsors.

The resolution also calls upon the people of our country as well as governmental agencies and interested organizations to help observe the day with appropriate ceremonies, activities and programs.

Last year, I also sponsored a similar resolution, as I have long had an interest in the cultural institutions of our country, an interest predating my coming to the Senate.

Since that time, much has been done for the arts and the cultural achievements of our people and Nation. In this regard, I am proud to have sponsored the legislation which established the Endowments of the Arts and the Humanities, the National Museum Act and the National Museum Services Act. In addition, much has been done for the Smithsonian Institution.

But there is much more to be done, and it is not to be accomplished alone by more legislation or the spending of more funds. It is rather in great part to be done by cooperation, understanding, appreciation and the contribution of services and talents to the museums throughout our Nation by the great institutions, a number of them here in Washington, which have so much to give and to contribute.●

VETERANS' HEALTH CARE AMENDMENTS OF 1979

The Senate continued with the consideration of S. 7.

Mr. ROBERT C. BYRD. Mr. President, while awaiting the arrival on the floor of Senator CRANSTON, who is to manage the pending measure, 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. CRANSTON. 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. CRANSTON. Mr. President, is the bill now before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. CRANSTON. Mr. President, this measure is the first bill that the Committee on Veterans' Affairs has reported in this Congress and, thus, the first that the committee has reported since the very able Senator from Wyoming (Mr. SIMPSON) became the ranking minority member of the committee. I am very pleased to note that it has been a great pleasure to work with the Senator from Wyoming (Mr. SIMPSON) on this bill and other legislation that the committee has recently ordered reported. As a result of his diligent work and mastery of the subject matter of the measure now before the Senate, he has made a substantial contribution to its improvement. I look forward to a truly meaningful and cooperative relationship with him on the committee, and I am delighted that that is exactly what we have.

Mr. President, S. 7 as reported, the proposed "Veterans' Health Care amendments of 1979" would provide for important new and improved health care for our Nation's sick and disabled veterans—a long-needed new program of readjustment counseling for Vietnam-era veterans who need help in readjusting to civilian life; a 5-year pilot program providing for the treatment and rehabilitation of veterans with alcohol or drug dependence or abuse disabilities in community-based treatment facilities such as halfway houses, therapeutic communities, and psychiatric residential treatment centers; and a 4-year pilot program of preventive health-care services for certain veterans with service-connected disabilities. This legislation would also extend outpatient dental benefits to veterans who were former prisoners of war for at least 6 months or have 100-percent service-connected disabilities, and modify the circumstances under which contract medical and dental care may generally be provided.

The bill is also designed to improve the VA medical facilities construction program by requiring the Senate and House Veterans' Affairs Committees to approve major construction and acquisitions of VA medical care facilities before appropriations may be made for them. Finally, it contains other amendments to title 38 of the United States Code relating to other veterans' health-care benefits and to administrative and personnel matters.

Mr. President, S. 7 represents, in part, the culmination of a 7-year effort by the Committee on Veterans' Affairs and the Senate to establish programs for readjustment counseling for certain veterans and expanded services for the treatment and rehabilitation of veterans with drug or alcohol abuse disabilities. Legislation to establish such programs was passed by the Senate in the previous four Congresses (S. 2108—92d Congress; S. 284—93d Congress; S. 2908—94th Congress; and H.R. 5027—95th Congress). In addition, provisions to establish a pilot program of preventive health-care services—similar to those in S. 7—have been passed by the Senate in the previous two Congresses (S. 2908—94th Congress and H.R. 5027—95th Congress).

Each Congress that the Senate passed these provisions, however, the House failed to act on them. This year, there is good reason to expect we will be able to achieve enactment. The need for readjustment counseling, expanded alcohol and drug abuse programs, and preventive health-care services is now more widely and clearly recognized than ever before. The administration requested readjustment counseling and alcohol and drug treatment legislation in the 95th Congress. Again, in this Congress, it submitted readjustment counseling and alcohol and drug measures, which I introduced by request in the Senate on March 15, 1979, as S. 676 and S. 675, respectively; and the President included funding for these programs in his fiscal year 1980 budget. In addition, for the first time, in January 1979, the Veterans' Administration endorsed the concept of preventive health care.

Also, Mr. President, similar legislation is now moving rapidly through the House. H.R. 1608, a companion bill to S. 7, was introduced in the House by the chairman of the House Veterans' Affairs Committee's Subcommittee on Medical Facilities and Benefits (Mr. SATTERFIELD) on January 29, 1979, and was reported by that committee on May 11, 1979. House action is expected shortly. I am extremely gratified that the leadership of the House committee is now fully supportive of these programs.

Mr. President, these new programs are of vital importance to helping solve some of the most serious problems facing our Nation's veterans today and to making new advances in what is one of the most promising new concepts in medicine today—preventive health care.

The legislation we are considering provides us with an opportunity to renew our commitment to assist those who served in armed conflict on our behalf and now have significant health and readjustment problems. The need for such efforts has been highlighted recently in movies, television shows, newspaper editorials, and the like, particularly with respect to Vietnam-era veterans whose difficulties have been compounded by the unpopularity of the Vietnam war and the nature of service there.

NEW STAFF FOR READJUSTMENT COUNSELING AND DRUG AND ALCOHOL PROGRAMS

Mr. President, I also would like to highlight the administration's commitment to provide additional staffing for the new program of readjustment counseling for Vietnam-era veterans.

The President's and the VA's budget documents for fiscal year 1980 stated the intention to submit legislation to establish a readjustment counseling program

and to expand the VA's drug and alcohol program contract authority along the lines of the provisions of S. 7; and, with respect to staffing, the VA budget documents indicated that 346 new staff would be provided to implement the new medical care legislation.

At the January 25, 1979, hearings on S. 7, I inquired into these staffing issues and was advised that 346 additional full-time equivalent employees—FTEE's—would be provided for the new readjustment counseling program in fiscal year 1980 and that no additional FTEE's would be required, if this legislation were enacted, to administer the new drug and alcohol contract-care authorities. Also, I was assured that the President supports the requirements for an additional 346 employees for the readjustment counseling program proposed in S. 7, and that the total 346 FTEE's would be over and above the health-care staff that the administration plans to employ under the VA's medical care account in fiscal year 1980—180, 476 FTEE's. I have also been informed that the Office of Management and Budget has concurred in this understanding.

Mr. President, I and the other members of the Veterans' Affairs Committee are deeply concerned that the reductions made in staffing levels for VA medical facilities in fiscal year 1979 are causing serious problems in VA health-care services; and the further reductions that the administration plans to make in fiscal year 1980 would, if permitted, exacerbate those problems to an intolerable degree.

Therefore, Mr. President, I mention the administration's commitment to add new staffing in the readjustment counseling area for the purpose of assuring my colleagues in this body that the enactment of this legislation will not put added strains on VA personnel resources—which are already, in my view, stretched too thin—but will be carried out through the provision of additional personnel resources.

BACKGROUND OF LEGISLATION

Mr. President, with regard to the development of this legislation, as I noted earlier, a number of its provisions, including those relating to readjustment counseling, alcohol and drug treatment, and preventive health care, have been passed by the Senate in previous Congresses but the House failed to act on them. Thus, in an effort to achieve enactment before the close of the 95th Congress, I entered into extensive discussions with the chairman of the House Veterans' Affairs Committee's Subcommittee on Medical Facilities and Benefits (Mr. SATTERFIELD).

As a result, we fashioned an extensive package of veterans' health-care legislation that, I believe, represented a fair and reasonable compromise of the concerns of the two committees regarding health-care programs, and would be of tremendous value and benefit to our Nation's veterans.

In addition to provisions for the readjustment counseling, alcohol and drug treatment, and preventive health-care programs, the agreement incorporated, with modifications, the major provisions of H.R. 5025, the proposed "Veterans' Administration Medical Facilities Acquisition Act," as passed by the House in the 95th Congress, requiring approval by the House and Senate Veterans' Affairs Committees of the construction or acquisition of major VA health-care facilities.

It also contained amendments to title 38 of the United States Code relating to other veterans' health-care benefits and to administrative and personnel matters. Unfortunately, due to the parliamentary logjam in the House and Senate at the end of the last Congress, final action on this compromise measure could not be secured.

S. 7, which I introduced on January 15, 1979, contains the basic provisions of the agreement reached at the end of the 95th Congress with certain further refinements and revisions. The bill is cosponsored by all members of the committee save one and by the Senator from Colorado (Mr. HART).

The committee held hearings on this legislation on January 25, 1979, at which time it received testimony from Administrator of Veterans' Affairs Max Cleland, Chief Medical Director James C. Crutcher, other representatives of the Veterans' Administration, and representatives of the Veterans of Foreign Wars, Disabled American Veterans, Paralyzed Veterans of America, AMVETS, and the American Association of Minority Veterans Program Administrators. Written testimony was subsequently received from The American Legion and other interested organizations.

The committee considered S. 7 during meetings on February 7 and March 9, 1979. On March 9, the committee approved an amendment in the nature of a substitute and two amendments thereto, and ordered S. 7 as so amended favorably reported. I reported the bill on April 27, 1979—Senate Report No. 96-100.

SUMMARY OF PROVISIONS

Mr. President, the committee bill has five titles: Health services programs; contract-care programs; construction, alteration, lease, and acquisition of medical facilities; benefits payable to persons residing outside the United States; and miscellaneous provisions relating to administrative and personnel matters, as follows:

Title I: Health services programs.—This title would establish new health services programs for veterans and improve existing programs. Included in title I of the committee bill are provisions that would:

First, clarify the statutory hierarchy of outpatient treatment priorities in section 612(i) of title 38, United States Code, by expressly providing that medical examinations to determine the existence or rating of a service-connected disability—for the purpose of establishing eligibility for disability compensation and service-connected health-care services—be included in the third priority for outpatient care, along with non-service-connected care for veterans with service-connected disability ratings.

Second, limit VA expenditures—beginning in fiscal year 1980—for outpatient dental care and services provided by contract—so-called fee-basis care—to the amount expended for such care in fiscal year 1978 ($45.2 million).

Third, require the Administrator of Veterans' Affairs to prescribe regulations ensuring that, except where required by compelling medical or dental reasons, special priority in the provision of dental care in accordance with a specified priority generally emphasizing service-connected dental care.

Fourth, extend eligibility for outpatient dental-care benefits to veterans who were prisoners of war for at least 6 months or who have service-connected disabilities rated as total.

Fifth, establish a new program to provide outpatient readjustment counseling and followup mental-health services for Vietnam-era veterans (including family-member counseling where necessary) who request such counseling within 2 years from discharge or release or within 2 years after the enactment of the committee bill, whichever is later.

Sixth, provide for a pilot program for the treatment and rehabilitation of veterans with alcohol and drug dependence or abuse disabilities under which the VA would be authorized, for a period of 5 years, to contract for alcohol and drug treatment for veterans in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities and the Administrator would be required to cooperate with the Secretary of Labor and the Director of the Office of Personnel Management with respect to employment opportunities for veterans to whom the VA has provided services for such disabilities and who have been rehabilitated.

Seventh, establish a 4-year pilot program of preventive health-care services, as the Administrator may deem feasible and appropriate, for veterans with 50-percent-or-more service-connected disability ratings and for veterans receiving treatment involving a service-connected disability, using interdisciplinary health-care terms in providing such services and not exceeding maximum expenditures of $3.5 million in fiscal year 1980, $5 million in fiscal year 1981, $7 million in fiscal year 1982, and $9 million in fiscal year 1983.

Eighth, authorize the provision of hospital care, nursing home care, and medical services in the United States for the service-connected disabilities of certain Filipino veterans of service in the Philippine Commonwealth Army and New Philippine Scouts.

Title II: Contract-care programs.—This title would expand and clarify the circumstances under which the VA may furnish contract care in certain cases. Included in title II are provisions that would:

First, restore limited authority to expand the circumstances under which veterans would be eligible for contract outpatient treatment—so-called "fee-basis" care—for non-service-connected disabilities, by revising certain amendments to chapter 17 of title 38 made by Public Law 94-581, the Veterans Omnibus Health Care Act of 1976, to provide that, if the general conditions for the provision of contract care are satisfied—

that VA facilities are incapable of providing care economically because of geographical inaccessibility or are unable to provide the required care—veterans eligible for regular aid-and-attendance or housebound benefits may be provided fee-basis care if, on the basis of a physical examination, it is determined that the medical condition of such veteran precludes appropriate treatment in a VA-operated or other Government facility.

Second, authorize the Administrator to furnish on a contract basis in Alaska and Hawaii mental health services in connection with the new readjustment counseling program which would be established by title I.

Third, expressly provide authority for contract diagnostic services necessary to make determinations of eligibility for, or of the appropriate course of treatment in connection with, treatment of a non-service-connected disability at an independent VA outpatient clinic on the grounds that the treatment would obviate the need for hospital admission.

Fourth, authorize the Administrator to enter into contracts with certain organizations—those recognized by the VA under section 3402 of title 38—for providing emergency VA medical services at the national conventions of such organizations and to receive reimbursement for such services except to the extent that the recipients of such services are otherwise eligible therefor under chapter 17 of title 38.

Fifth, provide for full reports by the VA on its use of its contract-care authorities, to be submitted annually on February 1, beginning in 1980. This would include the authorities set forth in section 601(4)(C) of title 38, United States Code, and include both existing authorities and the new authorities authorized by this legislation.

Title III: Construction, alteration, lease, and acquisition of medical facilities.—This title would improve the planning and implementation of the VA's medical facilities construction program by providing for a substantial role for the House and Senate Veterans' Affairs Committees in the planning for and approval of funding for major VA medical facilities as part of the congressional authorization and appropriations processes. Included in title III are provisions that would:

First, provide that no appropriation shall be made for the construction, alteration, or acquisition of any VA medical facility costing more than $2 million, or for the lease of any medical facility to the VA at an annual rental of more than $500,000, without the House and Senate Veterans' Affairs Committees having first adopted resolutions approving the project.

Second, allow the Administrator to increase the estimated construction or acquisition cost over the amount specified in such approval resolutions by not more than 10 percent.

Third, require that the committees be notified, in advance, of any proposed reprograming of appropriated funds.

Fourth, establish, and authorize appropriations for, a revolving fund for garage and parking construction projects involving expenditures of $2 million or less at VA medical facilities.

Fifth, require the VA to submit two annual reports to the two Veterans' Affairs Committees, a June 30 report—containing a 5-year plan for construction, replacement, and alteration of the medical facilities that are most in need of construction, replacement or alteration, a priority listing of the 10 or more, hospitals most needed, and general plans for each medical facility—and a January status report of all approved medical facility projects that were not completed at the time of the previous status report.

Sixth, recodify and make various minor, technical, and conforming amendments to the provisions of title 38, United States Code, relating to the construction and acquisition of VA medical facilities.

Title IV: Benefits payable to persons residing outside the United States.—This title includes provisions that would:

First, require, in order for VA benefits to be paid to or on behalf of a child residing outside the United States, based on the adoption of such child by a veteran under the laws of a foreign country, that the adoptive child be under age 18 at the time of the adoption; be receiving one-half or more of such child's annual support from the veteran; be residing with the veteran, except in certain specified circumstances; and not be residing with the child's natural parent, unless the natural parent is the veteran's spouse. After the veteran's death, such an adoption would be recognized for VA benefits purposes only if the veteran was entitled to and did receive a dependent's allowance or similar benefit for the child at any time during the year before the veteran's death, or if the above requirements were met for at least 1 year prior to the veteran's death.

Second, require the VA to submit to the President and the Congress, by February 1, 1980, a report of a comprehensive study, together with the VA's recommendations, on various issues involved in the payment of VA benefits to persons residing outside the 50 States and the District of Columbia—including economic issues, issues related to adoptive relationships under foreign law, issues involved in the amount and method of payment of benefit payable to certain persons in the Philippines, issues relating to the continued operation of a VA regional office in the Philippines, the effects of the provisions described in first point above and estimates of the present and future costs of benefits payable to persons residing outside the 50 States and the District of Columbia and to certain Filipino veterans. This study would be required to be performed in conjunction with a similar study, mandated by section 308 of Public Law 95-588, the Veterans' and Survivors' Pension Improvement Act of 1978, regarding the payment of VA pension benefits overseas.

Title V: Miscellaneous provisions.—This title would make certain changes in title 38, United States Code, with respect to administrative and personnel matters. Included in title V are provisions that would:

First, authorize the Administrator of Veterans' Affairs to prescribe regulations permitting employees of the VA's Department of Medicine and Surgery who are nationally recognized principal investigators to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel expenses in connection with such employees' official duties in certain limited circumstances.

Second, provide for nomination by the President and confirmation by the Senate of the Deputy Administrator of Veterans' Affairs.

Third, repeal the outdated authority for a VA office in Europe (which does not exist and for which there are no plans) and provide certain benefits to VA employees working outside the United States—specifically, for VA employees in the Philippines, certain family visitation travel expenses, subsistence expenses upon return to the United States, and certain benefits relating to the sale or purchase of a residence or the settlement of an unexpired lease of an employee who is being transferred.

Fourth, amend the schedules of rates of basic pay appearing in present section 4107 for section 4103 employees—top Department of Medicine and Surgery employees at the VA's Central Office—and section 4104(1) employees—D.M. & S. physicians, dentists, nurses, podiatrists, optometrists, physician assistants, and expanded-function dental auxiliaries—to reflect the pay rates, effective October 7, 1978, set by Executive Order No. 12087.

Mr. President, in order that all Senators and the public may have a full understanding of the various provisions of this measure, I ask unanimous consent that there be printed in the RECORD at this point pertinent excerpts from Senate Report No. 96-100 accompanying this bill.

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

DISCUSSION

TITLE I: HEALTH SERVICES PROGRAMS

Title I of the Committee bill would clarify the priority for medical examinations for service-connected disabilities and expand outpatient dental benefits to veterans who were prisoners of war and were captive at least 6 months and to veterans with 100-percent service-connected disabilities. It would provide authority for three important new health-care programs: (1) Readjustment counseling for Vietnam-era veterans; (2) community-based treatment for alcohol and drug dependence and abuse disabilities; and (3) preventive health care for veterans with service-connected disabilities. Title I would also authorize care for certain Filipino veterans in VA medical facilities in the United States.

Priority for medical examinations for service-connected disabilities

This Committee has been concerned for some time with the inordinate delays involved in processing initial disability compensation claims. In its report on H.R. 5029, passed by the Senate in the 95th Congress, the Committee noted:

For the 12-month period ending October

31, 1977, the average length of time to process initial disability compensation claims from the date they were first received by the VA to the date the first check reached the veteran was 111 days. The length of time in processing a veteran's claim is, according to the VA, affected most by delays in obtaining evidence needed to reach a decision on the claim, which includes obtaining the report of the physical examination.

The Comptroller General, in a report dated December 27, 1978, also concluded that there are unnecessary delays in the VA claims processing system caused primarily by time lags in the completion and reporting of physical examinations. These delays are caused in large part because medical examinations, which are often required to establish eligibility for disability compensation are not given priority by medical facilities, which are generally committed by law to provide care first for the benefit of veterans with service-connected disabilities, and then, as funds and facilities are available, for other veterans in need of care.

In Public Law 94-581, the Veterans Omnibus Health Care Act of 1976, Congress enacted a statutory hierarchy of priorities for outpatient care eligibility as part of its efforts to control the rapid growth in outpatient care and to refocus existing resources for veterans suffering from service-connected disabilities. Thus, a new provision, section 612(i) of title 38, was added under which veterans seeking treatment for a service-connected disability are accorded the highest priority. The next priority is assigned to veterans with service-connected disabilities rated at 50 percent or more. Third priority is given to any veteran with a disability rated as service-connected; and fourth priority is given to veterans who require regular aid and attendance or are permanently housebound.

* * * * *

The establishment in 1976 of statutory priorities of outpatient care in new section 612(i) was designed to ensure that funds for outpatient care are spent first for the benefit of veterans with service-connected disabilities, and, then, as funds and facilities are available, for other veterans in need of such care. However, the demand for outpatient services coupled with the statutory priorities, has created significant delays in the physical examinations of veterans seeking eligibility for disability compensation or service-connected health care.

Section 101 of the Committee bill is intended to alleviate the problem by clarifying the statutory hierarchy of outpatient treatment priorities in section 612(i) to include medical examinations to determine service-connected disability compensation claims and eligibility for service-connected health care in the third priority for outpatient care along with non-service-connected care for veterans with service-connected disability ratings.

This provision is derived from section 302 of H.R. 5029 as passed by the Senate in the 95th Congress.

Dental services

Outpatient Eligibility for Veterans Who Are Former Prisoners of War or Have Total Service-Connected Disabilities

* * * * *

Section 102 of the Committee bill would extend all outpatient dental services to veterans with 100-percent service-connected disabilities and veterans who were former prisoners of war captive for at least 6 months. These provisions are derived from legislation introduced in the House in the 95th Congress, H.R. 898 and H.R. 12018.

The Committee notes that many individuals who were prisoners of war developed dental conditions as a result of the prolonged nutritional deprivation they suffered while interned. It is widely recognized by medical and nutritional experts that nutritional and vitamin deficiencies such as beri-beri, scurvy, protein deficiency, and pellagra were common problems of prisoners of war and that these same nutritional deficiencies produce gum diseases which have long-term effects on oral and dental health.

Therefore, to provide assurance that the VA has full authority to meet the dental needs of former prisoners of war resulting from the conditions of their internment, the Committee believes that certain veterans who were prisoners of war should be given comprehensive eligibility for outpatient dental care. However, because such nutritional deficiencies result from a prolonged state of deprivation, the Committee bill would restrict such benefits to those who were incarcerated for 6 months or longer. This approach is consistent with the 6-month incarceration period required for prisoners of war under section 312 of title 38 for the presumption of service connection for certain diseases.

The Committee also believes that outpatient dental care eligibility should be extended to veterans suffering from total service-connected disabilities. This group of veterans is clearly deserving of special, high-priority consideration in terms of the utilization of VA medical and dental resources. Under current law, although these severely disabled veterans have comprehensive VA hospital care and outpatient medical-care eligibility (including, under section 105 of the Committee bill, eligibility for certain preventive health-care services), they do not have full outpatient dental-care eligibility. In the Committee's view, these veterans are deserving of comprehensive health-care services, including dental care. Thus, the Committee bill would also extend outpatient benefits to veterans with 100-percent service-connected disabilities.

Focusing Dental-Care Services on Direct Care for Veterans With Service-Connected Disabilities

The Committee, in its deliberations on the foregoing provisions, observed that the level of VA spending on outpatient fee-basis dental care has been very high in recent years—$51.3 million in fiscal year 1977 and $45.2 million in fiscal year 1978, with $58.4 million projected for fiscal year 1980. Also, the Committee learned that it was the VA's intention to provide all of the new care authorized for former POW's and totally disabled veterans through private facilities on a fee basis. In justification of this approach, the VA submitted testimony for the record of the January 1979 hearings on S. 7 that its position has been that additional outpatient workload would have to be placed out to fee and [VA] cost estimates have been projected on this basis.

The Committee is very concerned about the inordinately high expenditures for fee-basis dental care and believes that the extensive use currently being made of the VA's own dental-care resources for the treatment of non-service-connected disabilities, generally of otherwise hospitalized veterans, should be directed instead for the newly authorized care for service-connected veterans (or in the case of POW's, care for presumptively service-connected conditions) in lieu of providing such care through private facilities. In addition, the Committee is concerned that the newly authorized care not lead to a large additional burden on the VA health-care budget. Rather, the Committee believes that the large proportion of such care should be provided through the reallocation of existing inhouse VA dental-care resources.

Thus, the Committee approved an amendment, proposed by Senator Simpson, designed to assure that the VA would generally use its own facilities to provide the newly authorized outpatient dental care for former POW's and totally disabled veterans. Such care may be furnished on a fee basis through private facilities, but only when the general conditions for fee-basis outpatient medical care as set forth in section 601(4)(C) of title 38, are satisfied, that is, when VA facilities are unable to provide care economically because of geographic inaccessibility or are unable to provide the type of care that is required. That the 601(4)(C) limitations on fee-basis care would apply to contract dental care (including care under both new and existing authorities) was confirmed at the March 9, 1979, Committee meeting by the VA Deputy General Counsel, who assured the Committee that the VA intends to apply these limitations rigorously before any fee-basis dental care is authorized.

In addition, in order to assure that this limitation does not result in inordinate increases in the amount of fee-basis dental care for other groups of veterans, a cap would be placed on the amount of fee-basis dental care that the VA may provide in any one fiscal year (beginning with fiscal year 1980). That cap would be based on the VA's level of actual expenditures for outpatient fee-basis dental care for fiscal year 1978—$45.2 million.

* * * * *

Finally, in order to assure that the VA adheres to appropriate priorities in the provision of dental care—both inpatient and outpatient—the Administrator would be required to prescribe regulations (within 90 days after the date of enactment of the Committee bill) requiring that, except where required by compelling medical or dental reasons, the VA accord special priority in the provision of dental services generally to service-connected disabilities and conditions. Specifically, the priority would be:

(1) care for a service-connected dental disability;

(2) the other types of dental care described in section 612(b) of title 38, that is,

(A) care for a condition that is associated with or is aggravating a disability from some other disease or injury incurred in or aggravated by active-duty service;

(B) necessary followup care for a non-service-connected dental condition for which treatment was begun while the veteran was a VA hospital patient;

(C) care for a dental condition of a Spanish-American War or Indian War veteran; and

(D) care for a dental condition of a veteran who is a former POW with more than 6 months of captivity or a 100-percent service-connected veteran; and

(3) care for a dental condition of any veteran having a service-connected disability.

Readjustment Counseling Program for Vietnam-Era Veterans

Section 103 of the Committee bill would add a new section 612A to title 38 to provide for the establishment of a new program of readjustment counseling and followup mental health services for veterans who served on active duty during the Vietnam era (August 5, 1964 through May 7, 1975) to assist such veterans with psychological problems in readjusting to civilian life. Counseling would be available to any Vietnam-era veteran who requests it within 2 years from discharge or release or within 2 years after the date of enactment, whichever is later. All examination, counseling, and treatment services under this program would be required to be provided directly by the VA except that, in the States where there are no VA hospitals, that is, Alaska and Hawaii such services could be provided through contractual arrangements under the same restrictions generally applicable to VA contract care (as set forth in section 601(4)(C) of title 38)

that is, only where VA-operated facilities are incapable of providing care in an economical fashion because of geographic inaccessibility or are incapable of furnishing the type of care required.

Legislation similar to these provisions was passed by the Senate in the previous four Congresses, most recently as section 301 of H.R. 5027 as passed by the Senate on September 9, 1977.

The Administration also submitted similar legislation, introduced (by request) on March 15, 1979, as S. 676 by Senator Cranston, to provide readjustment counseling to Vietnam-era veterans and their families.

Readjustment problems

The purposes of this readjustment counseling provisions is to make fully available—and to encourage and facilitate the full use of—the resources of the VA's health-care system to those Vietnam-era veterans who feel the need for counseling to help them in their readjustment to civilian life.

The Committee construes a "readjustment problem", as that term is used in section 103 of the Committee bill, to be a low-grade motivational or behavioral impairment which interferes with a veteran's normal interpersonal relationships, job or educational performance, or overall ability to cope reasonably effectively with his or her daily life problems. A readjustment problem does not usually amount to a definable psychiatric illness requiring extended professional services but could become such an illness in the absence of early detection and counseling and followup care where necessary.

According to testimony from psychiatrists and other physicians, psychologists, social workers, and counselors at hearings held in February 1976, June 1977, and January 1979, veterans of the Vietnam era have suffered significantly as the result of society's indifference and, in some cases, overt hostility to the sacrifices they made during their periods of military service. Those who served in Vietnam have also experienced anguish due to the unusual conditions of service in Vietnam—including the inability to differentiate between ally and enemy, the increased tension due to guerilla warfare, and the fact that, because service personnel often went to or returned from Vietnam singly rather than as part of entire combat units, they often lacked the mutual psychological support of long-known comrades during the critical periods of entering and leaving the conflict. Large numbers of returning Vietnam veterans have experienced guilt, bewilderment, alienation, pessimism, tension, restlessness, and other symptoms of low-grade readjustment problems. These problems frequently result in family difficulties, unemployment, alcohol or drug dependence or abuse, arrest records, and other forms of social and economic dislocation.

At the January 1979 hearings Administrator of Veterans' Affairs Max Cleland expressed his and the President's strong support for a readjustment counseling program. He stated:

I have long advocated and recognized the compelling need for a VA program of readjustment counseling . . . [A] great number of veterans suffer from low grade motivational or behavioral impairment which interferes with the veteran's job and educational performance and interpersonal relations, or overall ability to cope with problems encountered in daily life.

Chief Medical Director James Crutcher further emphasized the need for readjustment counseling as follows:

[W]e did not recognize originally that Vietnam veterans had specific psychological readjustment problems that are now being addressed in this bill. . . .

Those patients came to us because of problems that they perceived that dealt with difficulty in work, anxiety, and insomnia. We in the medical profession in the VA admitted these patients to the hospitals with diagnoses of situational maladjustment, free-floating anxiety, and some with depressive reactions.

During the evaluation period it was possible to determine that the real problem was not a mental illness, but was an adjustment back to society.

* * * * *

On October 10, 1978, in a message to Congress, the President reviewed the urgent need for readjustment counseling for certain veterans. He stated:

The frequent image of the Vietnam veteran as unbalanced, unstable and drug-dependent is simply not borne out by available information. . . . Nevertheless, there is evidence that suggests a significant minority of Vietnam veterans have experienced problems of readjustment which continue even today.

Vietnam-era veterans under age 34 have a suicide rate 23 percent higher than nonveterans of the same age group. The number of hospitalized Vietnam-era veterans identified as alcoholics or problem drinkers more than doubled from 13 percent in 1970 to 31 percent in 1977. And, although the drug abuse problem has declined, Vietnam-era veterans account for 39 percent of all inpatients and 55 percent of all outpatients being treated by the VA for drug dependence problems.

* * * * *

The experience of VA psychiatrists and other mental health professionals has been that veterans with readjustment problems and other mental health problems do not generally present themselves at VA hospitals or clinics for evaluation or treatment for upwards of 2 years and quite frequently 4 years after their discharge. . . .:

* * * * *

It is postulated by many VA psychiatrists that the discharged veteran is reluctant to seek readjustment counseling due to the stigma attached to so-called "mental illness" and due also to an unwillingness to admit that he, the veteran, has "problems he cannot solve by himself." The veteran frequently doubts that the VA can help him and is uncertain about his eligibility for treatment.

Thus, in the sensitive field of readjustment counseling, it is essential that services be available and accessible on an outpatient basis, and that all unnecessary barriers to help be removed. The Committee bill is designed to achieve this result. The provision is designed so that an eligible veteran will be made aware that such help is available, and that a request for readjustment counseling will be speedily honored, with a minimum of red tape. Most important, the veteran must understand that seeking readjustment counseling does not imply or result in a diagnosis of mental illness. As the Chief Medical Director said at the January 1979 hearings:

"With the passage of the bill . . . [the VA] would . . . be able to treat [veterans with readjustment problems] in the appropriate manner and not . . . within the confines of the psychiatric facilities. . . . [T]his bill would allow easy access for care and remove the stigma and maybe the reluctance of an individual suffering these problems to go through the route of a mental hygiene clinic or a psychiatric admission."

The Committee fully shares the point of view expressed by the Administrator of Veterans' Affairs at the January 1979 hearings that "we are not interested in contributing further to the problems of the Vietnam vet by labeling him with a psychiatric illness."

It is also imperative that the veteran know that prior hospitalization is not needed to qualify for readjustment counseling. Very few veterans who would receive readjustment counseling under this bill would require hospitalization due to their readjustment problems. (If the veteran does require hospitalization, however, he or she may be eligible for hospital care under the existing title 38 financial-need criteria. Significantly, many readjustment problems involve financial distress.) In fact, under most circumstances, hospitalization is generally less likely to be as effective as outpatient care and counseling; in many cases, hospitalization would probably be counterproductive treatment.

Although a veteran may not require hospitalization, however, prior hospitalization is in fact a requirement under present statutory criteria for the type of outpatient evaluation and counseling for readjustment problems proposed by the Committee bill unless—as is extremely unlikely under the present law—a condition is adjudicated to be service-connected, or outpatient care is deemed necessary "to obviate the need" for hospitalization. The Committee doubts that any fair application of the "obviate" criterion would lead to its use in a psychiatric context and certainly, as stated above not in the context of lowgrade readjustment problems which have not developed into any form of identifiable psychiatric illness. Therefore, the Committee bill makes specific provision for initial screening and mental health services, where needed, to be provided on an outpatient basis.

The Administrator of Veterans' Affairs concurred generally with the above analysis at the 1977 hearings, where he first officially endorsed a form of readjustment counseling.

Mental and Psychological Assessment and Followup Mental-Health Services

Readjustment counseling would include a general mental and psychological assessment to determine whether the veteran has readjustment problems. If, on the basis of the assessment, a VA physician (or in areas where no such physician is available, a physician under contract with the VA for this purpose) determines that the provision of mental-health services is necessary to facilitate the veteran's readjustment to civilian life, such services would be authorized to be provided on an outpatient basis, under the conditions specified in section 612(f)(1)(B) of title 38—posthospitalization. The provision of the initial counseling would be deemed by law to satisfy the requirement for a prior period of hospitalization under that statutory provision. Any hospital care or other medical services considered necessary on the basis of the initial counseling and assessment may be furnished only if the veteran meets the regular eligibility requirements—including inability to defray expenses, if applicable—set forth in chapter 17 of title 38, United States Code. A veteran seeking initial counseling would not have to demonstrate financial need.

As noted above, all readjustment counseling and following mental health services must be provided directly by the VA, except that such services may be provided on a contract basis in Alaska and Hawaii, where there are no VA hospitals, when the restrictions generally applicable to VA contract care, as set forth in section 601(4)(C) of title 38 and described above, are met. The Committee believes that readjustment counseling services should generally be provided directly by the VA rather than on a contract basis because the VA has developed an expertise in dealing with the psychological problems of veterans resulting from combat and wartime service. In addition the readjustment counseling program is establishing an entirely new area of eligibility and the Committee believes that proceeding with caution is fully warranted.

Veterans who, on the basis of the initial

counseling, are determined to be in need of hospital care or medical services, other than mental health services for a readjustment problem, would be eligible to receive the needed care in VA facilities only if otherwise meeting chapter 17 eligibility requirements; if not, the Committee bill requires that special effort be made to refer them to appropriate non-VA facilities.

The VA would also be authorized to provide to members of the family or household of an eligible veteran consultation, professional counseling, training, and mental-health services to the extent that the provision of such services to those persons is essential to the effective treatment and readjustment of the veteran. As noted earlier, many veterans with readjustment problems experience difficulties with family relationships. These difficulties may be caused by the psychological problems of the veteran resulting from his or her service, or they may be caused or aggravated by the family's lack of understanding of the veteran's problems or the inability of the family to adjust to the veteran's return. In any case, the veteran's relationships with his or her family or household members are often extremely important to his or her psychological well-being and their involvement in counseling and mental health services may be essential in treating the veteran effectively.

Counseling personnel

In providing for counseling services under this section, the Chief Medical Director would be expected to utilize the services of paraprofessionals and volunteer workers, as well as veteran GI Bill students under the work-study program, to assist in initial intake and screening activities.

The Committee believes that much of the initial intake and screening can be effectively—indeed most effectively—provided by trained paraprofessional personnel and volunteer workers who, as their experience accumulates, become especially sensitive to the readjustment needs and problems of returning and returned veterans. The vast majority of cases would not seem to require extensive use of highly trained psychiatric or psychological personnel.

This section would authorize the Chief Medical Director to provide for the training of professional, paraprofessional, and lay personnel necessary for this program.

Ineligible veterans

With respect to former service personnel who are not eligible for readjustment counseling services (because they were discharged or released from active-duty service under conditions other than honorable or would otherwise be ineligible), section 103 would require the VA to provide referral services to help them use non-VA mental health services and, if pertinent, would require the VA to advise such individuals of their right to apply for reviews of their discharges (both within the VA and through military discharge review boards) which might lead to eligibility for VA benefits.

Outreach

Under this section, the Administrator, acting in cooperation with the Secretary of Defense, would also be responsible for notifying all veterans eligible for readjustment professional counseling under the new section 612A of their eligibility for such services.

At the hearing on S. 7, the VA fully recognized the need for an extensive outreach program and subsequently submitted for the record an outline of its proposed efforts in this regard as follows:

Outreach efforts for the readjustment counseling program will include collaboration with existing community agencies and programs, including both organized groups (The American Legion, Urban League, Veterans of Foreign Wars, etc.) and informal self help groups (Swords to Plowshares, Flowers of the Dragon, etc.). Active liaison with these groups will facilitate contact with the troubled veterans who will most benefit from the readjustment counseling services. The professionals and nonprofessionals involved in the readjustment counseling program will also collaborate with the Veterans Benefits Counselors and other personnel in the Department of Veterans Benefits to establish and operate local programs.

* * * * *

With the activation of the readjustment counseling program, a national publicity campaign will be started to inform veterans of the program. The Veterans' Administration's Information Service will provide national news releases announcing the program and will slot local news releases to medical centers supporting the local programs. Public service spot announcements will be prepared for television and radio. However, we expect the best publicity will be provided by word of mouth at the local level.

The readjustment counseling programs will be located in the local communities with easy access for the Vietnam-era veteran population. They can operate from independent store fronts, college campuses, offices within community mental health centers and offices within other sympathetic organizations. The programs will be responsible to and receive support from local VA medical centers.

Need for readjustment counseling program in the event of future war

The Committee believes that it is highly desirable that the readjustment counseling program authorized by section 103 be available for veterans of any future periods of war without inordinate delay in order to ensure that readjustment counseling will be available when it will be most useful, that is, as soon as possible after substantial numbers of persons are discharged during or after United States involvement in a war. Therefore, this section would also require that, in the event of another declaration of war, the Administrator recommend to the Congress, within 6 months after such declaration, whether the readjustment counseling program should be extended to veterans of such war.

Cost

According to the Congressional Budget Office, the VA estimates that over 30 percent of Vietnam-era veterans face serious readjustment problems. CBO estimates that, of the 8.7 million separate Vietnam-era veterans eligible for readjustment counseling, 170,000 will actually seek counseling from the VA, and that approximately 15,000 Vietnam-era veterans discharged from active duty every year would apply for counseling. Complete treatment is estimated to require an average of 6 hours of counseling. The cost of each visit is estimated to be $35 the first year. The estimated annual costs for this program are $12.2 million for the first fiscal year and $45.3 million for 5 years.

It should be noted that the readjustment problems of veterans have already resulted and continued to result in great costs to the taxpayers in the form of VA pensions, unemployment benefits, welfare payments, and health care costs in the public sector where most veterans with readjustment problems have turned to receive counseling and mental health care, when in fact they have actually sought out help. Thus, it is probable that the provision of readjustment counseling and followup by the VA for these veterans would result in an overall tax savings to the public, both by reducing the cost of care in the public (non-VA) sector and by "rehabilitating" veterans so that they are able to function within the community, thus reducing the numbers of veterans receiving unemployment benefits and financial assistance of other sorts.

Drug and alcohol treatment and rehabilitation

Neither drug addiction nor alcoholism are new problems to the Veterans' Administration. For years, the VA has treated the medical consequences of both drug abuse and alcohol abuse in its hospitals, and the VA has long recognized alcoholism as a treatable condition. Alcoholism and its related disorders constitute the largest single diagnostic category that the Veterans' Administration sees.

The VA, according to its testimony in the January 1979 hearings, has about 92,000 inpatient admissions per year in its alcohol programs and about 900,000 outpatient visits a year. There are currently 93 VA alcohol dependence treatment programs, 15 of which were activated this fiscal year (1979). In fiscal year 1978, the VA treated more than 125,000 patients for alcoholism. The VA has tentatively planned to activate an additional 15 alcohol dependence treatment programs per year if resources become available. There are now 52 drug dependence treatment programs, with a capacity to treat approximately 29,000 patients annually.

Despite the recent growth of VA programs for treatment of drug and alcohol abuse, the VA is still limited in several ways from responding fully to the needs of veterans addicted to drugs or alcohol.

Section 104 of the Committee bill would improve the VA's ability to meet the needs of such veterans by authorizing the Administrator, under a special 5-year pilot program, to contract for alcohol and drug treatment for veterans in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities. The need for such authority was recognized and supported by the Administrator in the January 1979 hearings at which time he stated, "[t]he need for further help is present. We do need the authority to contract with community-based treatment facilities, particularly for nonservice-connected veterans."

In fact, the Administration has submitted legislative proposals to the 95th Congress and to this Congress—introduced by request on March 15, 1979, as S. 675 by the Chairman—to authorize an expansion of the VA's drug and alcohol abuse programs similar to that proposed in section 104 of the Committee bill.

Drug treatment needs

Although there seems to be a gradual decline in most parts of the country in the number of drug patients, the problems of drug dependence and abuse continue to exist. However, the nature of the drug abuse is changing. The VA reports that there now are fewer pure heroin addicts and more polydrug abusers. At the January 1979 hearings, the VA's Chief Psychiatrist testified:

"They take about everything they can smell, swallow, [or] inject . . . along with the heroin, and a great many are complicating it with alcohol as well. It is not a pretty picture."

The VA estimates that there are 200,000 veterans suffering from drug dependence. Admissions for drug dependence treatment decreased by 8.6 percent for fiscal year 1978 as compared to fiscal year 1977 and by 14 percent for fiscal year 1977 as compared to fiscal year 1976.

Alcoholism treatment needs

In a September 1975 report to Congress on the quality of the alcohol treatment programs provided in VA facilities, the Comptroller General of the United States found that the serious lack of Department of Medicine and Surgery staff and funds to operate alcoholism treatment and rehabilitation pro-

gram constituted a major problem. Other findings of the study were that some of the largest major metropolitan areas—where there are large numbers of veterans—lacked any VA alcohol treatment capacity. In addition, the study found that the availability of VA alcoholism services was not adequately publicized.

There is an extraordinary and increasing prevalence of alcohol-related admissions to the VA hospital system—officially estimated by the VA at 1 out of every 8 admissions in fiscal year 1978, making alcoholism the most common of all listed admission diagnoses. But even more revealing are the results of a comparison between a 1970 and a 1973 census in VA health care facilities which included a special question to determine which bed-occupant patients were defined alcoholics or problem drinkers. Here are the startling results:

1. The proportion of defined alcoholics and problem drinkers increased from 1 out of every 5 patients in 1970 to 1 out of every 4 patients in 1973. (The proportion of defined alcoholics and problem drinkers remained steady at 1 out of every 4 patients in fiscal years 1977 and 1978.)

2. Almost 25 percent of Vietnam-era veterans in the 1973 patient census were diagnosed as defined alcoholics or problem drinkers, as compared to 13 percent in the 1970 census.

3. Within the 35–44 age group, 35.2 percent of all hospitalized veterans were defined alcoholics or problem drinkers in 1973, as compared to 26 percent in 1970.

These patterns have not improved in more recent years. The October 1, 1977, VA hospital inpatient 1-day census showed that alcoholics or problem drinkers constituted 26 percent of the inpatient population; and in fiscal year 1978, 125,782 veterans were admitted to Veterans' Administration inpatient or outpatient facilities for treatment for alcoholism, a 4-percent increase over the previous year.

It must be noted that the disease of alcoholism is responsible for much of the total cost of administering VA hospitals and clinics. An extremely high volume of admissions to medical or surgical wards stems from alcoholism. This includes not only those patients admitted for detoxification (withdrawal) or "DT's" (delirium tremens) but also patients admitted for treatment of bleeding ulcers, liver failure, and inflammation of the pancreas, among other conditions. All too often the following cycle ensues. A veteran is treated and discharged without referral to an alcohol rehabilitation program. He returns to the community where he drinks again, redevelops bleeding ulcers (for example) and is readmitted to the hospital.

Clearly, whatever the exact statistics, the cost of alcoholism is high. Without adequate resources for alcohol treatment and rehabilitation, the alcoholic is doomed to continued readmissions due to recurring illness. The expenses of treating and rehabilitating the alcoholic in an effective manner are a worthwhile investment of VA resources and may, depending on the success rate of the program, lead to considerable savings in the long run.

In view of these data and the cruel hardship alcoholism can work on veterans and their family members, it is imperative, in the Committee's view, that VA programs be expanded so that the virtually epidemic proportions of alcoholism and alcohol-related problems among veterans may be treated in the most effective and economical way to secure the maximum possibility of recovery and rehabilitation of veterans suffering from this disability.

Treatment and rehabilitation programs

Section 104 of the Committee bill would authorize the Administrator to conduct a 5-year pilot program under which he may contract for care, treatment, and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans who are suffering from alcohol or drug dependence or abuse disabilities. The program would be designed so as to demonstrate any medical advantages and cost-effectiveness of care in such contract facilities as compared to facilities over which the VA has direct jurisdiction.

The Committee recognizes the value of offering different modes of treatment so that treatment may be tailored to an individual's special needs and circumstances so as to enhance his or her chances of recovery. Although inpatient treatment such as that currently provided by the VA is essential in certain cases, there are many cases in which alternative types of care, such as halfway-house care, would be more effective, less restrictive, and far less costly.

* * * * *

In addition, where inpatient hospital care is required for initial treatment, placement in a facility such as a half-way house, for example, following discharge from the hospital can be very useful in assuring that the benefits and progress which may have been achieved during the inpatient treatment phase of a program can be maintained under a partially supervised living environment.

This point was emphasized in a written statement on S. 7 by C. Thomas Wein, Executive Director, Ohio Association for Alcoholism Programs, who stated:

"It is common knowledge among those of us who have attempted to work with alcoholics who have been treated in Veterans' Administration hospitals, that the provision of aftercare at or near the veterans' hometown after discharge from the hospital is needed, to solidify the gains made in the hospital and enhance the chances of successful restructuring of the veterans' lives."

Thus, the Committee urges the VA to contract with a broad range of facilities to demonstrate the comparative effectiveness of treatment and rehabilitation in different community-based settings. In addition to halfway houses, therapeutic communities, and psychiatric residential treatment centers, which are specifically mentioned as eligible contract facilities in section 104, the VA would be authorized to contract with a variety of other community-based facilities which are capable of providing care and treatment and rehabilitation services to veterans with alcohol or drug dependence or abuse disabilities in the geographic vicinity of the veterans' usual residence. These would include, for example, residential facilities such as alcoholism hospitals and alcoholism facilities operated by general hospitals. The VA would not, however, be authorized by this legislation to contract for care in a hospital or other facility that is remote from the veteran's community.

Eligible contract facilities would also include nonresidential treatment facilities, including health maintenance organizations, offering outpatient care or day-care programs. The inclusion of nonresidential treatment settings in this pilot program is especially important in light of the facts that most of the treatment for alcohol and drug abuse in the United States is provided in nonresidential settings and that treatment in such settings is much less costly than that offered in residence. In addition nonresidential treatment enables an individual to receive treatment while seeking or maintaining employment and striving to be an active member of the community in which he or she resides or works. As discussed below employment is an absolutely critical problem for addicted veterans.

Treatment Together With Other Household Members in Community-Based Facilities

The Committee is aware that, in some cases, the problems of a veteran who suffers from alcoholism or drug addiction are aggravated when there is a close family or household member who suffers from the same addiction. In such cases, successful treatment can often be achieved only if treatment is provided to both the veteran and the family member in one setting. By providing for care of veterans in community-based facilities, the Committee bill would allow the veteran to be placed in a facility where the family member is enrolled and where both can be treated together. In such cases, of course, the VA would not cover any of the costs of treatment of the veteran's family members. This result—facilitating treatment together of an addicted veteran and other household members—is the same as would have been achieved expressly in the proposed section 620A(b) which would have been added to title 38 by section 303(a) of H.R. 5027 as passed by the Senate in the 95th Congress.

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Employment Opportunities for Rehabilitated Veterans

Success in treatment and rehabilitation of a person with an alcohol or drug disability can be heightened—or sometimes can only be achieved or maintained—if the veteran is in the work force and involved in a satisfying and fulfilling job. In order to assist recovered veteran addicts in finding productive employment, the Committee bill would authorize the Administrator, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, to take appropriate steps to promote employment and training opportunities by Federal and private and other public organizations for rehabilitated, employable veterans who were provided treatment and rehabilitative services under title 38, and to provide all possible assistance to the Secretary of Labor in placing such veterans in such opportunities. The Committee also would expect the Administrator to consult with the Directors of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse in developing employment and training opportunities for veterans. The Committee believes that this employment component is fundamental to a successful treatment and rehabilitation program for drug and alcohol abusers.

Ineligible veterans

With respect to former service personnel who are not eligible for VA drug and alcohol treatment and rehabilitation services (because they were discharged or released from active-duty service under conditions other than honorable or would otherwise be ineligible), section 104 would require the VA to provide referral services to help them use non-VA services and, if pertinent, to advise such individuals of their right to apply for reviews of their discharges (both within the VA and through military discharge review boards) which might lead to eligibility for VA benefits.

Eligibility of active military personnel

Section 104 of the Committee bill would provide procedures for the treatment of active-duty service personnel suffering from drug dependence in health care facilities where they would receive the VA-provided care if they voluntarily, in writing, request such treatment. This transfer from the Armed Forces to such a facility for VA-provided care would be limited to the last 30 days of a tour of duty. The purpose of requiring a written voluntary request is to preserve the fundamental voluntary basis of VA drug treatment programs. If a headstart can be achieved on the voluntary treatment of service personnel in a VA program, that

should be and would be permissible under this legislation.

Reporting requirement

To help assure that Congress will have adequate information to assess the value of the pilot program authorized by section 104 of the bill for purposes of considering an extension of the program, this section would require the Administrator to report to Congress, not later than March 31, 1983, on his findings and recommendations pertaining to the first 3 years of operation of the program. The Committee would expect the report to include a thorough assessment of the medical advantages, success rates, and cost-effectiveness of each of the various treatment settings employed in this program and comparisons with alcohol and drug programs directly operated by the VA.

Cost

According to the Congressional Budget Office, the VA anticipates placing an average of 5,700 patients per year in halfway houses during the 5-year period of the pilot program. The projected caseload is expected to fluctuate in the first 3 years as the program is phased in. Based on studies of existing programs conducted by the Alcohol, Drug Abuse, and Mental Health Administration, CBO estimates that each placement will require an average 60 days of care at an average cost of $25 in 1979. Thus, the projected costs for the pilot program are estimated to be $3.7 million in the first year and $53.8 million for 5 years. The Committee concurs with these projections.

Preventive Health-Care Services Pilot Program

One of the major new departures in VA health care proposed in the Committee bill is contained in section 105 of the Committee bill. The new subchapter VII which would be added to chapter 17 by that section would expand the scope of health care offered by the Veterans' Administration to certain veterans to include, on a 4-year pilot-program basis, the provision of preventive health-care services. These services would be available, as feasible and appropriate, for all veterans suffering from a service-connected disability rated at 50 percent or more, and to any veteran in connection with treatment for a service-connected disability (that is, as part of a hospitalization or an outpatient visit for that purpose).

Currently, health care in the Veterans' Administration is generally defined by statutory language as services to treat an already existing disease or disability (except for a specific program for sickle cell screening and counseling in subchapter VI of chapter 17). This definition follows the traditional practice in the medical community of treating identified disease and alleviating existing pain. However, within the past decade or so, more and more thought has been given to shifting the emphasis in medical care toward the prevention of illness or disease. Many public health experts believe that such an emphasis would significantly improve health in the long run, and might also, at the same time, result in significant long-term cost savings for individual patients and for the Nation as a whole.

The Committee was particularly pleased to hear the VA formally endorse the concept of preventive health care for the first time at the January 1979 hearings and express a desire to work with the Committee to develop a preventive health-care program. This endorsement is especially welcome because it represents a change in the VA's position.

The Committee acknowledges the VA's concern that the preventive health-care effort should focus on detection services of demonstrated effectiveness and major impact. It would point out, in this regard, that the Committee bill, by authorizing the VA to provide only such preventive health-care services as "are feasible and appropriate" vests discretion in the Administrator in establishing the nature and mix of services to be furnished in the program, the schedule for phasing in various services, and the identification of those facilities best equipped to provide them. Furthermore, the bill imposes a cap on maximum expenditures for this program—$3.5 million in fiscal year 1980, $5 million in fiscal year 1981, $7 million in fiscal year 1982, and $9 million in fiscal year 1983—and thus reflects the view that the program should start small and grow slowly as more knowledge and experience are gained.

The Committee bill also authorizes the VA to institute appropriate controls and carry out followup studies, which may include research, to demonstrate the medical advantages and cost-effectiveness of furnishing such preventive health-care services. Research would be a particularly important aspect of this new program because the VA is in an almost ideal situation to make a major contribution to knowledge in this field.

This need for such research was emphasized in written testimony on S. 7 by Dr. Charles B. Arnold, Immediate Past President of the American College of Preventive Medicine and current Director of the Health Maintenance Institute of the American Health Foundation. Dr. Arnold stated:

"What is needed . . . is a program, such as that embodied in S. 7, which can be tested to provide, with hard data, the cost-effectiveness of a specific preventive approach to health care. It is not unrealistic to assume in these days of fiscal belt tightening, that prevention will not be generally integrated into the health care system in the absence of such data. Even within our own field there are many who believe that much testing is required before our health care system can integrate the delivery of preventive services on a widespread basis. S. 7, by providing for a followup study, could contribute a great deal by answering many questions pertaining to this aspect of health care."

* * * * *

. . ., Dr. Arnold . . . expressed a cautionary note with respect to the services which would be provided under S. 7. He stated:

"Studies have indicated that the provisions of screening services without intensive followup intervention directed toward high risk findings would not be cost-effective if implemented on a major scale . . . Without specific linkage to intervention programs, the value of such [screening] programs would be highly questionable. Further, diseases or conditions do exist for which modes of intervention are not yet known. Screening programs to identify such diseases or conditions are therefore of questionable value."

Dr. Arnold also cautioned against providing services which have already been shown not to be cost-effective:

"Sufficient research has been conducted already which has shown certain preventive services not to be cost-effective. Where possible, those services should be identified and eliminated . . . so as not to prejudice the success of the program from the beginning."

The Committee shares the concerns expressed by Dr. Arnold and expects that the VA will heed his remarks in its exercise of discretion in the selection of preventive health-care services in the pilot program.

In testimony in January 1979, the Administrator of Veterans' Affairs expressed concern that the services provided be of demonstrated effectiveness. As noted above, the Administrator would have total discretion with respect to the types of services provided and, because of the caps on expenditures for the preventive health-care program, the program would be quite limited at first and grow as knowledge and experience are gained.

Utilization of interdisciplinary health-care teams

The reported bill directs that the use of interdisciplinary health-care teams be emphasized in providing preventive health-care services, and specifies that these teams should be composed of various professional and paraprofessional personnel. In a system as large as the VA's, which is generally not bound by the restrictions of State licensing laws regarding paraprofessionals, an opportunity exists to implement a major program of this nature, utilizing paraprofessionals in new roles and in ways which can reduce the demands made upon the more highly trained professional. Legislation enacted as Public Law 94-123, the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (codified in pertinent part in section 4107 of title 38, United States Code) enables the VA to hire physician assistants and expanded-function dental auxiliaries on a competitive basis with the community. The Committee expects such personnel to play a substantial role in the new preventive health-care programs.

The Committee also expects professionals and paraprofessionals such as nurses, pharmacists, psychologists, podiatrists, optometrists, and technicians to participate actively in these programs.

Use of similar techniques under current law

The Committee notes that the VA is already providing—under current authorities and as part of the medical treatment of specific disabilities—services that are the same as or similar to those that would be authorized by section 105 of the Committee bill. For example, thorough physical examinations are frequently provided as part of the diagnostic workups of veteran patients: veteran patients are often counseled about nutritional matters, especially where the nature of their disabilities indicates a particular need for such educational efforts to restore or maintain health; and drug use profiles, patient drug monitoring, and drug utilization education are techniques already in use at some VA facilities as part of medical treatment. Also, in the cases of veterans with spinal cord injuries which affect most parts and functions of the body, the loss of sensation make necessary, and the VA provides, relatively frequent examinations for the purpose of detecting ailments that could become very serious if not detected early. The Committee is not questioning the viability of these services and thus fully expects and intends the VA to continue to use such techniques in the treatment of known disabilities while establishing a special pilot program of preventive health-care services beyond those already in use in particular locations or under more limited circumstances and carrying out study and research activities to determine the medical advantages and cost-effectiveness of the services provided under the pilot program.

It is also the Committee's intention that only expenditures made directly for the pilot program and related studies and research be subject to the caps imposed by the Committee bill on expenditures for the pilot program. Expenditures for services that are the same as or similar to those authorized to be provided under the pilot program, but that are provided as part of current or evolving VA health-care services in conjunction with the treatment of specific disabilities, would not be subject to the cap.

Cost

As noted earlier, the Committee bill would limit expenditures for the preventive health-care services program to $3.5 million in fiscal year 180, $5 million in fiscal year 1981, $7 million in fiscal year 1982, and $9 million in fiscal year 1983. The Congressional Budget Office estimates that the costs of the pro-

gram will be equivalent to the maximum expenditures permitted by law, and bases its estimate on information provided by the VA with respect to the anticipated level of services that would be provided under this section and the cost of the research component to determine the cost-effectiveness and medical advantages of preventive health care for veterans.

The Committee believes that the costs involved in the preventive health-care program are a wise investment in terms of potential reduction in future debilitation of veterans and demands on VA resources.

Service-connected care for "Filipino veterans" in the United States

There are two basic categories of Filipinos who have served in or with the United States Armed Forces. First are those with active-duty service in the regular components of the United States Armed Forces—including approximately 50,000 Filipinos who served before and during World War II as Philippine Scouts, called Old Scouts. Also included in this first group are postwar Filipinos veterans of the United States Armed Forces.

Members of the other group, comprising about 452,000 persons, are eligible for certain specified benefits as a result of military service with (but not in or as members of) United States military forces during and immediately after World War II. These include approximately 110,000 Filipinos who served in the Philippine Commonwealth Army; approximately 312,000 who fought in recognized guerrilla units during World War II; and 30,000 Philippine Scouts, called New Philippine Scouts, who served after World War II. These veterans—referred to as "Filipino veterans"—are eligible for service-connected disability compensation and burial benefits.

Under current law, although "Filipino veterans" are eligible for VA-paid hospital and nursing home care and medical services in the Philippines for their service-connected disabilities and those who are unable to afford hospital care for a non-service-connected disability may receive such care at VA expense at the Veterans Memorial Medical Center in Manila, they are not eligible for any VA care in the United States, even if they have become citizens of this country. The Committee considers this an anomalous situation that should be corrected because of the commitment that the United States has to provide for the care of such veterans for their service-connected disabilities. In the Committee's view, the fact that a "Filipino veteran" has come to this country should not diminish that commitment.

Thus, section 106 of the Committee bill would add a new section 634 to title 38 making "Filipino" veterans in the United States eligible for VA hospital care, nursing home care, and medical services here for their service-connected disabilities. This provision would benefit approximately 200 "Filipino veterans" who are now living in the United States—165 who receive service-connected compensation and (according to VA estimates based on extrapolations from experience with American veterans) another 20 to 35 who have service-connected disabilities that are noncompensable (rated to 0 percent).

TITLE II: CONTRACT-CARE PROGRAMS

Title II of S. 7 would amend title 38, United States Code, to provide greater flexibility to the VA in furnishing medical services through private facilities under contractual arrangements.

Outpatient "fee basis" care under section 612(g)

Background

Veterans Omnibus Health Care Act of 1976 restrictions.—. . . , [I]n 1975 and 1976 the Congress became concerned with the extraordinary growth in expenditures for outpatient fee-basis care for veterans and the growing proportion of fee-basis funds being allocated to the treatment of non-service-connected disabilities. As a result, Congress enacted Public Law 94-581, the Veterans Omnibus Health Care Act of 1976, in part, to achieve two goals: First, to consolidate the tremendous growth in the size and diversity of the VA health care program during the Vietnam era by increasing the efficiency of existing programs; and second, to provide first priority in outpatient health-care expenditures to veterans with service-connected disabilities.

It did this in two ways: First, by providing a standard before the VA could pay for any fee-basis care—that is, where VA facilities cannot themselves furnish economical care because of geographical inaccessibility or because they cannot furnish the type of care required; and second, by also limiting the provision of fee-basis care for a non-service-connected condition of a veteran with a 50-percent or more rated service-connected disability, or of a veteran who, after a period of hospitalization, requires posthospital followup care on an outpatient basis.

One of the substantial sources of non-service-connected fee-basis outpatient care prior to the enactment of the 1976 Omnibus Act was the eligibility for such care given by the VA to so-called "section 612(g) veterans"—veterans who were eligible for such care solely by virtue of section 612(g) of title 38, United States Code, because they were eligible for aid and attendance or household benefits.[1]

The Act added to section 612(g) the same limiting language—"within the limits of Veterans' Administration facilities"—that appeared in subsection (a) of section 612, the authority for the outpatient treatment of service-connected disabilities. The effect of this change was to revoke the fee-basis care eligibility of those eligible solely by virtue of section 612(g), namely those veterans being treated for other than a service-connected disability, who do not have a service-connected disability rated at 50 percent or more, and who are not in a posthospital care status, but who are eligible for aid and attendance or household benefits.

Committee bill provisions

The Committee continues to support the concepts underlying the Omnibus Health Care Act of 1976—that health care expenditures should be directed to provide priority treatment to veterans with service-connected disabilities and that the full capacity of the VA's own facilities should be utilized; these concepts are essential to the future development of the VA health care system. However, the Committee recognizes that there are some situations which warrant a limited expansion of current authority for fee-basis care. This is particularly so with respect to fee-basis care for non-service-connected disabilities of veterans who are eligible for aid and attendance or household benefits. The Committee believes that, in light of the extreme severity of the disabilities of such veterans, prudence does not require foreclosing totally and absolutely their eligibility for outpatient fee-basis care, particularly in the cases of those veterans who, at the time of enactment of the Omnibus Act, were receiving outpatient care on a fee basis under section 612(g). The Committee has determined that in certain limited circumstances, due to the severity of the disabilities of the veterans concerned and the difficulty, in some cases, of providing health care services to them through the VA's own facilities because of the frequent difficulties in transporting them to such facilities, some authority should be restored.

On the other hand, the Committee does not believe that it is either prudent or necessary on the grounds of humane concerns to eliminate any and all restrictions on the provisions of fee-basis care even in these instances. Where the veteran's residence is convenient to a VA facility that is equipped and staffed to respond to that veteran's medical needs, the VA should make every effort to provide the necessary care directly. Moreover, the Committee does not believe it equitable or appropriate to authorize fee-basis care for the treatment of non-service-connected disabilities under section 612(g) without regard to the general preconditions to fee-basis care which exist by law for the treatment of service-connected disabilities—that VA-operated or other Government facilities be incapable of providing the required care or, because of geographic inaccessibility, of providing such care in an economical fashion.

Thus, section 201(a)(1) of the Committee bill would revise the amendments made by the Omnibus Act by providing that, if the general conditions on the provision of contract care are satisfied, veterans eligible for regular aid and attendance or housebound benefits may be provided care on a contract basis if, on the basis of a physical examination, it is determined that "the medical condition of such veteran precludes appropriate treatment in" a VA-operated or other Government facility.

The Committee notes that, in the cases of veterans eligible for aid and attendance or housebound benefits, many have developed important treatment relationships with their non-VA physicians and that, in other cases, these veterans and their families may have made substantial adjustments in their living situations in reliance upon the continuation of such arrangements. The Committee believes that factors such as these are relevant to the determination of what constitutes "appropriate treatment" and should be taken into account in making that determination.

This provision is derived from section 101 of H.R. 5027 as passed by the Senate in the 95th Congress.

Contract mental-health services

Section 201(a)(2) would add a new subclause (vi) to section 601(4)(C) of title 38 to authorize the VA to furnish followup mental health services in connection with readjustment counseling generally (authorized by section 103 of the Committee bill) in Alaska and Hawaii on a contract basis. The VA has no hospital facility of its own in Alaska or Hawaii, and provides outpatient care only through relatively small clinical facilities, and travel to and from those clinics in Alaska and Hawaii is extremely difficult for veterans in need of health-care services because of transportation difficulties arising out of the unique geographic characteristics of those States.

Contract diagnostic services

Amendments made by the 1976 Omnibus Act to chapter 17 contract care and treatment provisions have given rise to one further question which the Committee has determined requires legislative clarification. Section 202(b) of that law revoked the VA's authority to furnish outpatient treatment by contract ("fee-basis care") for non-serv-

[1] More precisely, section 612(g) authorizes outpatient care for veterans who are "in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound, or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance". In the interests of brevity, however, veterans thus eligible for outpatient care are referred to as those who are in need of (or eligible for) regular aid and attendance or are permanently housebound (or eligible for housebound benefits).

ice-connected disabilities where that treatment would obviate the need for hospital admission. The VA retains, of course, the authority to provide at its own facilities outpatient "obviate" care for the treatment of non-service-connected disabilities of eligible veterans.

In determining whether grounds for the provision of such out-patient services at VA facilities exist in particular cases, extensive diagnostic workups are frequently required, including, for example, X-rays, electrocardiograms, and various laboratory tests. Similarly, determining the appropriate course of treatment in connection with services being provided under the "obviate" authority may require diagnostic techniques beyond those which the physician alone can provide. Where outpatient care is provided at a clinic attached to a VA hospital, the hospital X-ray equipment and staff, clinical laboratories, and other diagnostic equipment, facilities, and staff provide the necessary back up services. But, when treatment is to be provided at independent VA outpatient clinics, these kinds of diagnostic services may be available only through private facilities with which the VA contracts.

In "obviate" care situations at these clinics, substantial doubt exists as to whether, because contract authority for "obviate" care no longer exists, the VA may purchase the diagnostic services necessary to determine the veteran's eligibility for "obviate" care at the VA facility and, in connection with the VA's provision of care in such a case, the proper course of treatment. It is clear to the Committee that contract authority to obtain such ancillary, diagnostic services must be provided in order for "obviate" care to be provided effectively and efficiently to eligible veterans at independent VA outpatient clinics. Thus, section 201(a)(2) of the Committee bill adds a new subclause (vii) to section 601(4)(C) of title 38 to provide specific authority for contract diagnostic services in such cases.

Of course, if an independent VA outpatient clinic is within a reasonable distance from a VA hospital capable of providing the required diagnostic services, such services would be required to be provided at the VA hospital and not by contract at a private facility. In such a case, the general precondition for contract health-care—inability to provide economical services because of geographic inaccessibility or inability to provide the services required—would not be met, and contract authority would thus not be available.

This provision is derived from section 101 of H.R. 5027 as passed by the Senate in the 95th Congress.

Periodic reviews

The Committee is concerned that at present the VA may not be reviewing with sufficient regularity those cases in which it has authorized long-term contract care arrangements, and that in a substantial number of cases a fee-basis authorization may continue long after the reasons which justified it in the first instance have ceased to exist.

Therefore, to encourage further optimal use of the VA's own facilities, section 201(a)(3) of the Committee bill requires that the VA periodically review the necessity for continuing arrangements for contract care. These reviews would, the Committee expects, encompass a review of the veteran-patient's records in all cases (including a check for any change of residence bringing the veteran-patient closer to a VA facility) and, where indicated, a physical examination. Anticipating responsible action under this provision and recognizing the value in leaving such a provision flexible to allow for administrative and medical discretion in the timing and details of such reviews, the Committee has not specified how frequently or how thoroughly such reviews must be conducted. This will be a matter that the Committee will be following closely in the continued exercise of its oversight responsibilities, utilizng the reports described below as they become available.

Reporting requirements

The Committee notes that there have been some instances in which specific relevant data regarding the provision of contract care and treatment have been difficult to obtain or unavailable under the VA's current record-keeping practices. Therefore, in order to ensure the availability of adequate data regarding the provision of such care and treatment, the Committee bill requires the Chief Medical Director to submit, through the Administrator, to the appropriate committees of the Congress by February 1, 1980, and annually thereafter, full reports on the provision of contract care, including a breakdown of the numbers of veterans provided contract treatment, together with the average cost and duration thereof, in each State, territory, possession, the Commonwealth of Puerto Rico, and the District of Columbia in the various categories described in title 38 provisions relating to contract care and treatment.

Emergency care at veterans' conventions

In 1973, Public Law 93-82 amended section 612(f) of title 38 to expand eligibility for medical services for the treatment of non-service-connected conditions to include outpatient care where such care was reasonably necessary to obviate the need for hospital admission. The VA interpreted that provision as authorizing it to provide such "obviate" care in a non-VA facility to eligible veterans. Under that authority, the VA, upon request, had provided emergency medical care at the national conventions of recognized veterans' service organizations. Usually, the nearest VA hospital would detail a physician and a nurse to be on duty at the convention site.

According to an opinion of the VA General Counsel on August 9, 1977, Public Law 94-581, the Veterans' Omnibus Health Care Act of 1976, revoked the authority to provide such care by requiring that outpatient medical services be provided "within the limits of Veterans' Administration facilities".

At large national gatherings of veterans' organizations, there are large numbers of veterans, including many with service-connected disabilities, who are eligible for VA outpatient medical services. The Committee believes that it may be beneficial to such veterans for VA health-care personnel to be close at hand at the conventions to deal with any emergency medical situations that may arise. In order to provide clear authority to provide such services, section 202 of the Committee bill authorizes the Administrator to enter into contracts with organizations recognized under section 3402 of title 38 to furnish emergency medical services at the national conventions of such organizations. The provision of such emergency medical services would be on a reimbursable basis as prescribed by the Administrator. However, no reimbursement would be required for services rendered to veterans entitled under law to such care. The Committee believes that this amendment strikes an equitable balance between the need for the emergency treatment of veterans and others who are attending the national conventions of veterans organizations and who may not be eligible for VA outpatient medical services and the fulfillment of the VA's primary commitment to the care of service-connected disabled veterans.

This provision is derived from section 307 of H.R. 5029 as passed by the Senate in the 95th Congress.

TITLE III: CONSTRUCTION, ALTERATION, LEASE AND ACQUISITION OF MEDICAL FACILITIES

Background

Chapter 81 of title 38, United States Code, sets forth the procedure by which VA medical facilities shall be provided for the benefit of eligible veterans. Under current law, the responsibility for provision of such facilities, including their location and nature, rests with the Administrator of Veterans' Affairs, subject to the approval of the President. The only other constraint on the discretion of the Administrator is the availability of funding for the construction and acquisition of such facilities, as determined by appropriations legislation. The Committee bill totally rewrites chapter 81 and makes a number of important changes as well as generally updating its provisions.

The Committee believes that better planning in the VA's medical facilities construction program will improve the availability of services to our Nation's veterans and result in more equitable and effective use of our limited resources for such purposes. The Committee has been concerned that, although the House and the Senate Veterans' Affairs Committees have legislative responsibility for the entire VA health-care system and are most familiar with the system's existing resources and future needs, neither Committee has any statutory role in determining what VA health-care facilities will be established.

Committee Approval of Major Construction and Acquisition of Major Medical Facilities

Title III of the Committee bill would remedy this situation by amending chapter 81 of title 38 to provide the House and Senate Committees on Veterans' Affairs with a substantial role in the planning for and approval of funding for major VA medical facilities as part of the Congressional authorization and appropriations processes. Thus, the bill would add a new section 5004 to provide that "no appropriation shall be made" for the construction, alteration, or acquisition of any VA medical facility costing more than $2 million, or for the lease of any medical facility at an annual rental of more than $500,000 without the House and Senate Veterans' Affairs Committees having adopted Committee resolutions approving the project and estimating the cost thereof. This process would apply to both Administration-requested projects and those initiated by the Congress. The House and Senate Committees could approve a project by adopting separate resolutions.

In order to obtain the Committees' approval for a particular Administration-proposed facility, the Administrator would submit to the Committees a "prospectus" for the facility, which would include a detailed description of the project, including a cost estimate.

The Committee bill would permit the Administrator to increase the estimated cost, as specified in the approval resolutions, of an approved project in the contract for such project by not more than 10 percent to reflect increases in costs from the date of approval by the Committee to the date of the contract. Any construction and acquisition cost increases of more than 10 percent over the amount specified in the Committee resolutions (or the lower amount so specified if the amounts vary) would require subsequent Committee resolutions to reapprove the project.

The Committee bill would also provide that, if funds were not appropriated for a facility within 1 year after approval by each Committee in a Committee resolution, either Committee would be able to rescind approval (by resolution) before an appropriation is made.

In addition, the bill would require that the Committee be notified, in advance, of any proposed reprograming of funds.

Precedents for the two-Committee approval procedure is found in the Public Buildings Act of 1959, as amended (40 U.S.C. 606), the Watershed Protection and Flood Prevention Act of 1954, as amended (16 U.S.C.

1002), and the Flood Control Act of 1965, as amended (42 U.S.C. 1962d-5(a)).

The Public Buildings Act provides that "no appropriation shall be made to construct, alter, purchase, or to acquire any building to be used as a public building which involves a total expenditure in excess of $500,000" unless the House and Senate Public Works Committee (in the Senate the Committee on Environment and Public Works) have first adopted resolutions approving such construction, alteration, or acquisition. Committee resolutions are also required before appropriations may be made for a lease of space at an average annual rental in excess of $500,000 for use for public purposes.

The Administrator of General Services is required to transmit to Congress a prospectus of the proposed facility, including an estimate of the maximum cost to the United States. The Administrator is further authorized to increase—up to 10 percent—the estimated maximum cost as set forth in the prospectus to reflect actual cost increases from the date of transmittal of the prospectus to Congress. In addition, if no appropriation for an approved project has been made within 1 year after the date of such approval, either the House or Senate Public Works Committee may rescind, by resolution, its approval before such appropriation is made.

The Watershed Protection and Flood Control Act requires House and Senate committee resolutions before an appropriation may be made for certain watershed projects. Specifically, the law provides that no appropriation may be made for any plan that involves an estimated Federal cost in excess of $250,000, or that includes any structure to provide more than 2500 acre-feet of total floodwater detention capacity, unless the appropriate Congressional committees approve such plan by committee resolutions. Smaller projects (that is, those involving a structure providing more than 400 acre-feet of total floodwater detention capacity) are required to be approved by the House and Senate Agriculture Committees, and larger projects must be approved by the House and Senate Public Works Committees.

The Flood Control Act of 1965 provides that the House and Senate Public Works Committees must adopt resolutions approving any water resources development project involving navigation, flood control, and shore protection, with an estimated Federal construction cost of less than $15 million, before an appropriation for such project may be made. The Secretary of the Army is required to transmit to Congress a report of the proposed project, including cost estimates.

The Committee believes that the "no appropriations" clause included in the Committee bill and in the three precedent acts discussed above is constitutional. Although no written Attorney General's opinion has been issued that addresses the constitutionality of requiring authorizing Committee approval before appropriations may be made for a particular project, Attorney General Herbert Brownell reportedly advised President Eisenhower that a "no appropriations" clause—similar to that in S. 7—that was included in Public Law 83-519, the Public Buildings Contract Purchase Act of 1954, was "within the power of Congress". *Harris, Joseph P., Congressional Control of Administration*, 230 (1964).

In addition, President Nixon addressed the issue of the constitutionality of the "no appropriations" clause in the Public Buildings Act of 1959 when he signed Public Law 92-306, the Second Supplemental Appropriations Act of 1972, on May 27, 1972. He stated:

Under the Public Buildings Act of 1959, no appropriations may be made for public buildings projects until the public works committees have approved GSA's prospectuses for such buildings. Congress regards this "no appropriation may be made" provision, I understand, as internal Congressional rulemaking not affecting the executive branch, and this Administration has acquiesced in that construction. 8 *Weekly Compilation of Presidential Documents*, 938, June 5, 1972.

The Committee, in its exercise of this provision in the Committee bill, intends to consult very closely with the Senate Appropriations Committee and the House Veterans' Affairs Committee before making any final decisions with respect to construction or acquisition projects for the VA medical programs. The Committee believes that this close working relationship will facilitate prompt consideration of construction proposals, and does not share the Administration's apprehension, as expressed in its testimony and agency report on S. 7, that the Committee approval requirement will create undue delays and therefore greater and undue costs in the VA's medical facilities construction program. In addition, the Committee is very much aware of the need for fiscal constraints and fully intends to scrutinize very carefully all construction funding proposals, mindful of the total amount proposed in the President's budget each year.

Finally, the Committee notes that the $2,000,000 cut-off figure was selected to correspond to the VA's proposal (accepted by the House but not the Senate Appropriations Committee in fiscal year 1979) to raise the definition of major construction projects from $1,000,000 to $2,000,000 for purposes of determining whether a particular project would be funded under the VA's major construction appropriations accounts. Projects funded under that account must be specifically approved by the Appropriations Committees in the appropriations process. This specific approval requirement does not apply to projects funded under the minor construction account. Had the Committee bill's $2-million "no appropriation" provision been in place for fiscal years 1979 and 1980, the authorizing Committees would have been required to consider 15 or 20 projects proposed by the Administration for funding in each of those years, respectively.

Advisory committee on structural safety of VA facilities

Under current law, the Administrator is required to appoint an Advisory Committee on Structural Safety of Veterans' Administration Facilities to advise him on all matters of structural safety in VA facilities and to approve regulations relating thereto.

The Committee bill would revise the functions of this Advisory Committee by providing that such committee would review and make recommendations to the Administrator with respect to regulations, but would no longer be required to approve such regulations.

Construction contracts

Under current law (section 5002 of title 38), the President is charged with the responsibility of determining the manner in which construction and repair of buildings is to be conducted. The Committee believes that it is more appropriate and practical for the Administrator to undertake this responsibility. Therefore, section 301 of the Committee bill would establish a new section 5006 of title 38 to set forth the responsibilities and authority of the Administrator with respect to construction contracts. This provision would authorize the Administrator to enter into contracts for the construction and alteration of facilities, and to obtain, by contract or otherwise, the services of architects and engineers on a temporary basis.

Leasing arrangements

To help assure the timely completion of leasing arrangements for VA medical facilities, section 301 of the Committee bill contains a new provision (in new section 5003 (a)(3)) to require the Administrator to execute a lease for an outpatient medical facility for which it is proposed to lease space and for which a qualified lessor and an appropriate leasing arrangement are available, within 12 months after funds are made available for such purpose. This provision is designed to facilitate compliance with the requirement, set forth in new section 5010 (a)(2) of title 38 and in existing section 5001(a)(2), that the Administrator maintain adequate VA bed and treatment capacities "to insure the immediate acceptance and timely and complete care of patients. . . ."

The Committee notes that the completion of approved leasing arrangements for which funds are made available has at times required inordinate amounts of time as a result, in part, of the mandatory involvement in the procurement process of the General Services Administration, which is authorized under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490 (e) and (h)), to lease for and assign space to executive agencies. Extensive delays in finalizing leasing arrangements occur even when suitable space is available and satisfactory lease arrangements appear to be attainable. The Committee bill is intended to authorize and require the Administrator to take all necessary steps to expedite the process to ensure the culmination of a lease arrangement within 12 months after funds are made available for it so that the health-care requirements that justified the appropriation of funds by the Congress may begin to be met on a reasonably timely basis.

Reports to Congress

To promote needed improvements in planning, particularly long-term planning, for the construction, acquisition, and alteration of VA medical facilities, section 301 of the Committee bill would require the VA to submit two annual reports to the House and Senate Veterans' Affairs Committees. One report, due on September 1, 1979, and annually thereafter on June 30, would contain a 5-year plan for the construction, replacement, or alteration of the most needed new or replacement medical facilities, a priority listing of the 10, or more, hospitals most in need of construction or replacement, and general plans for each such medical facility. The second report, due annually on January 31, beginning in 1981, would describe the status of each approved, but uncompleted facility.

Garage and parking projects

To assist in the construction of garages and parking facilities in connection with VA medical facilities, section 301 of the Committee bill would set forth a new section 5008(c) to establish, and authorize appropriations for, a revolving fund for garage and parking construction projects involving expenditures of $2 million or less at VA medical facilities.

This provision would also require that all income from parking and garage fees be deposited in the revolving fund together with the appropriated funds. On April 5, 1979, the President announced that, to assist in the conservation of energy, the Administration will take steps "to eliminate free parking for Government employees in order to reduce the waste of gasoline in commuting to work". The President has already directed the Office of Management and Budget to begin phasing out subsidized parking for Federal employees, which costs the general taxpayer an estimated $35 to $40 million each year. Employee parking fees will be phased in over a period of time, beginning on October 1, 1979, and will apply to those parking spaces where the current value of the space exceeds $10 per month.

Clearly, numbers of VA employees will be subject to parking fees at VA facilities; and the revenue collected from such fees will benefit the proposed parking-facility revolving fund. At this time, however, it is impossible to estimate accurately the anticipated revenues from employee parking because the

value of each parking space has yet to be determined.

Recodification of chapter 81

In addition to the amendments already discussed, the Committee bill would recodify and make various minor, technical, and conforming amendments to the provisions of subchapter I of chapter 81 of title 38, relating to the construction and acquisition of VA medical facilities.

Title III of the Committee bill is derived from H.R. 5025, the proposed "Veterans' Administration Medical Facilities Acquisition Act of 1977", which was passed by the House in the 95th Congress.

TITLE IV: BENEFITS PAYABLE TO PERSONS RESIDING OUTSIDE THE UNITED STATES

Background

The levels of benefits paid to veterans of service in the U.S. Armed Forces and to their dependents and survivors under title 38, United States Code, has historically been derived from data regarding economic conditions in this country. For example, service-connected disability compensation payments (chapter 11) to veterans who have suffered an injury or illness in the line of duty are based on the average impairment of earning capacity in the United States. Educational assistance payments (GI Bill benefits) (chapter 34) to veterans enrolled as full-time students are based on educational costs and the cost of living in the United States. Cost-of-living increases periodically enacted by Congress for those programs and other VA benefit programs, such as dependency and indemnity compensation (chapter 13), and the automatic cost-of-living adjustments provided for in the VA pension program (chapter 15) are based on the rate of inflation in the United States.

When payments are made to veterans residing in countries where median per capita income and living standards are markedly lower than in the United States, it may be questioned whether the basic purposes of the benefits are being served. In addition, substantial incentives for abuse seem to arise when the benefits are extremely lucrative in relationship to those economic conditions.

GAO report on VA programs in the Philippines

Issues such as those described above clearly emerged in the General Accounting Office's January 18, 1978, report (HRD-78-26) on benefit programs in the Philippines, entitled "Veterans Administration Benefits Programs in the Philippines Need Reassessment." As mentioned in the earlier discussion of the provisions of title II of the Committee bill authorizing the VA to provide health-care services for the treatment of the service-connected disabilities of certain so-called "Filipino veterans", there are in the Republic of the Philippines, two groups of veterans eligible for VA benefits—"U.S. veterans", who are veterans of service in the U.S. Armed Forces, and "Filipino veterans", who are veterans of service in the Philippine Commonwealth Army during World War II or in the New Philippine Scouts immediately following World War II. The GAO's report found that in 1976 the average annual compensation payment to a "Filipino veteran" was $1,080, while the average annual wage in the Philippines was $455. A 100-percent service-connected-disabled "Filipino veteran" with a wife and two children was receiving $4,794 per year—7.5 times the Philippine median income. If compensation benefits payable at that time to a similarly situated American veteran living in the United States had borne the same ratio to median in the United States, the American veteran would have been receiving $102,750 per year.

Apparently, the method by which Filipino veterans are paid has also contributed to the disparity in the relative value of benefits to Filipino and American veterans living in the United States. Benefits for Filipino veterans are paid in pesos at the rate of 50 cents on the dollar. The GAO in its report pointed out that devaluation of the peso had caused the exchange rate to rise from 3.9 pesos per dollar in 1966 to 7.4 pesos per dollar in 1976. As a result, according to the GAO, devaluations of the peso, coupled with benefit rate increases enacted over the same period, had caused payments to a 100-percent service-connected-disabled "Filipino veteran" with a wife and two children to rise from 694 pesos per month in December 1966, to 2,960 pesos per month in December 1976—a 427-percent increase. Benefits paid to an American veteran in the same circumstances had risen from $355 per month to $799 per month over the same period—an increase of only 125 percent.

As the GAO noted, compensation benefits to "U.S. veterans" in the Philippines (veterans of service in the U.S. Armed Forces, who receive benefits at full value) are, obviously, even further out of line with the Philippine economy; and pension benefits paid to "U.S. veterans" in the Philippines are also disproportionately high relative to that economy. The average annual compensation benefit paid to "U.S. veterans" in that country was $2,700 in 1976 and the average pension payment to "U.S. veterans" was $1,615. Such veterans thereby receive in benefits far more than they would receive even in some highly skilled and professional occupations, as shown by the following table, which appeared on page 11 of the GAO report:

TABLE 2.—*Average annual salaries of selected occupations in the Philippines*

Carpenter	$698
Medical technician	809
X-ray technican	814
Clerk	823
Mechanic	829
Nurse	863
Pharmacist	924
Clinical physician	2,267

Source: 1976 Salary and Wage Survey in the Philippines, Philippine Budget Commission.

The GAO also found that educational assistance payments to "U.S. veterans" in the Philippines and certain dependents and survivors of U.S. and Filipino veterans are far higher, in relation to the costs of education, than in the United States, and far higher than the average monthly salaries paid to their instructors.

GAO findings and recommendations

The GAO asserted that the lucrativeness of VA benefits in the Philippines has led to numerous abuses, including among others:

Benefits being paid on behalf of adopted children where the veteran had not assumed a parental role;

Benefits being paid on behalf of numerous illegitimate children of some veterans;

Wide-spread enrollment in school solely to receive income from GI Bill benefits;

Existence of numerous "claims fixers," individuals who encourage and help Filipinos to file spurious claims; and

Wide-spread submission of false documentation to support claims.

In order to curtail programs abuses in the Philippines and to bring benefit payments more in line with the prevailing income level in the Philippines, the GAO recommended exploration of the following alternatives:

Retaining the present level of benefits but not increasing them in the future.

Moving VA functions to the United States.

Changing the basis used to compute benefits.

Setting up a trust fund or negotiating a lump-sum settlement to cover costs of all remaining benefits.

* * * * *

VA response to GAO report

In a letter from the Deputy Administrator of Veterans' Affairs to the Chairman, dated April 28, 1978, the VA provided its views with respect to the GAO recommendations. The VA conceded that the 50-percent-payment rate is overly generous to Filipino veterans and proposed as one approach to this problem a "freeze" on cost-of-living increases in those benefits until the benefits payable are more nearly compatible with the Philippine economy. However, the VA stated that such a freeze should not apply to service-connected disability compensation benefits payable to "U.S. veterans" in that country.

The VA also agreed that the level of educational benefits in the Philippines does encourage enrollment under the GI Bill in order to receive the income provided rather than the benefit of training. In the April 28 letter, the VA suggested consideration of a freeze on future cost-of-living increases in these benefits—without regard to whether the beneficiary was a "U.S. veteran" or dependent or a "Filipino veteran" or dependent—until an equitable ratio to Philippine median income has been achieved. In the VA's view, this would lessen abuses but would also permit a gradual adjustment without inflicting undue hardship.

With respect to the alleged procreation of illegitimate children in order to receive increased benefits, the VA considered the abuse to be reprehensible, but opposed the notion of disqualifying children solely on grounds of illegitimacy. In its view, the only step that should be taken to counter this abuse would be to decrease gradually, through a freeze on cost-of-living increases, the extremely high value of the benefits in relationship to the Philippine economy.

With respect to Philippine adoptions, the VA stated its intention to recommend legislation to preclude the recognition of adoptions under foreign law unless the child is living in the household of the adopting parent, is not in the custody of the natural parent or parents, receives the major portion of his or her support from the adopting parent, and is under age 18 at the time of the adoption. (Such legislation was submitted by the Administration on March 6, 1979, and was introduced (by request) by Senator Alan Cranston as S. 674 on March 15, 1979.)

* * * * *

Committee position—95th Congress

During the 95th Congress, the many difficult issues raised in the GAO report were carefully examined by the Committee, and the VA's responses and recommendations as well as those of the GAO were thoroughly explored. At the March 16, 1978, hearing to consider those issues, the Committee also heard testimony on H.R. 5029, a measure to provide for the extension of the VA authorities to maintain a regional office in the Philippines and to provide grants to the Republic of the Philippines for the provision of certain non-service-connected health care for "Filipino veterans" at the Veterans Memorial Medical Center in Manila. The VA testified favorably on the extension of its authority to maintain a regional office in the country, but opposed the extension of its authority to provide grants for health care of Filipino veterans. In light of the testimony received at the hearing, the Committee determined that many of the issues with regard to the Philippines also might have applicability to other countries with similar economic conditions and that, therefore, these questions regarding the payment of VA benefits to persons residing outside the United States required much detailed study. However, the Committee also determined that legislation to correct certain serious and unconscionable abuses of the VA programs, without harm to the legitimate interests of veterans and survivors living outside the United States—was necessary and de-

sirable. Thus, the Committee, on May 15, 1978, reported favorably H.R. 5029 (S. Rept. No. 95-825) with an amendment in the nature of a substitute that included provisions that would require equitable standards to be met with respect to adoptions under foreign laws and establish a cutoff date for the reopening of certain types of claims in the Philippines. In addition, the measure would have mandated the VA to conduct a comprehensive study of the issues raised by the GAO report and other related matters. H.R. 5029, as reported, was passed by the Senate on May 26, 1978. Subsequently, during negotiations by the Committee with members of the House Veterans' Affairs Committee, it was agreed that those provisions would be dropped in order to expedite final passage of the measure. As amended by the House, H.R. 5029, the Veterans' Administration Programs Extension Act of 1978, was agreed to by the Senate, and the measure was signed by the President on October 26, 1978, as Public Law 95-520. Thus, Public Law 95-520 provides for a 3-year extension of the VA's authority to maintain a regional office in the Philippines, as well as an extension of the VA's authority to continue funding for the VA Memorial Medical Center in that country, but does not otherwise affect the provisions of veterans' benefits and services in that country.

Committee Bill Provisions

During the Senate-House discussions on H.R. 5029, the Committee stressed its continuing concern about abuses of VA programs in the Philippines, especially with respect to adoptions, and the need for further study of the issues arising from the GAO report and the VA's recommendations. Thus, it was agreed that, during the first session of the 96th Congress, legislation would be introduced to provide for certain standards with regard to foreign adoptions and to mandate a study, to be conducted by the VA in consultation with the State Department, similar to the study that would have been required by H.R. 5029 as passed by the Senate.

The provisions in the Committee bill relating to standards for adoption under the laws of foreign countries and a VA study of benefit payments outside the United States were thus derived from legislation developed by the Committee and passed by the Senate during the 95th Congress.

Adoptions under foreign laws

The definition of the term "child" in section 101(4) of title 38, United States Code, provides the ground rules for determining whether a person is to be considered a child of a veteran for various purposes under that title. For example, when the definition is satisfied, a dependent's allowance may be paid a veteran receiving compensation or GI Bill benefits and a veteran receiving pension may receive an increased monthly payment for the child. Also, the children of permanently and totally disabled veterans are entitled to certain educational assistance benefits under chapter 35 of title 38.

By virtue of the definition in section 101(4), legally adopted children of veterans are afforded exactly the same treatment as veterans' natural children. In addition, the term "legally adopted" is broadly construed to include certain situations prior to the completion of the procedures required in a legal adoption, such as when an interlocutory (preliminary) decree of adoption has been issued and the child is in the veteran's custody.

In the Committee's view, the equal treatment of adopted children accords with sound public policy and clearly is in the best interests of the children involved. Moreover, the Committee believes that in this country the equal treatment afforded adopted children under child-support, inheritance, and various other laws, together with appropriateness of the relationship between veterans' benefits and economic conditions in this country, provide adequate assurance that adoptions here do not result in any significant abuses of veterans' benefits programs.

However, as indicated by the 1978 GAO report on VA benefit programs in the Philippines, the same safeguards may not always prevail in other countries, and the disproportionate value of VA benefits in some countries may provide powerful incentives for abuse.

With respect to the Philippines, the GAO report stated:

Since 1972 VA's Manila office has recommended to VA's central office that a more stringent statutory requirement be instituted for Philippine adoptions. The Manila office reported to the central office instances of aged and disabled veterans adopting children for the sole purpose of qualifying them for benefits. Several examples reported by the Manila office are shown below:

A 70-year-old single veteran adopted his 6-year-old great grandnephew, even though the natural parents were still alive and living with the veteran.

A 69-year-old single veteran adopted two great grandnieces, 4 years and 8 months, respectively. The children remained in their natural parents' custody.

A 68-year-old married veteran adopted four great grandnieces and grandnephews, even though two of the children never lived with the veteran.

Since the adoptions were granted by Philippine courts, VA recognized them as valid and awarded increased benefits. Often the children can continue to receive benefits through age 23, and in some cases, can receive education benefits thereafter. A VA official in Manila informed us that the Manila office processes about 50 adoption cases each year, but because of recently liberalized adoption laws—permitting persons with natural children to adopt—this number could increase in the future.

In March 1976 a VA committee commenting on recommendations made as a result of a 1973 internal audit of the programs stated that it concurred with an internal audit recommendation that a more stringent statutory requirement was needed for Philippine adoptions and recommended that VA's general counsel formulate appropriate guidelines for a change in legislation. According to VA officials, a legislative proposal to limit the recognition and definition of adopted children was submitted to the Office of Management and Budget in September 1976. As of December 1977 this proposal has not been submitted to the Congress.

According to a former director of VA's Manila office, the practice of allowing veterans who receive sizable VA benefits to adopt children of relatives solely for the purpose of providing financial support for these children and their natural parents defeats the philosophy of providing benefits to children legitimately adopted by veterans.

In order to discourage such abuses, the Committee believes that the same standards generally inhering in adoptions in the United States should be satisfied in the cases of foreign adoptions. Also, the Committee agrees that the standards outlined in the Administrator's April 28, 1978, letter to the Chairman, discussed earlier, are generally appropriate. Thus, section 401 of the Committee bill amends the definition of "child" in section 101(4) of title 38, so that, while the veteran is living and the child is residing outside the United States, a veteran's adoption of a child under foreign laws will be recognized for purposes of VA benefits only if the child—

(1) is under age 18 at the time of the adoption;

(2) is receiving annually one-half or more of his or her support from the veteran;

(3) is not in the custody of a natural parent, unless the natural parent is the veteran's spouse; and

(4) is residing with the veteran (or in the case of divorce following adoption, with the divorced spouse who is also an adoptive or natural parent) except for periods during which the child is residing apart from the adoptive parent for the purposes of full-time attendance at an educational institution or the veteran (or such divorced spouse) or child is confined, in a hospital, nursing home, other health-care facility, or other institution.

If the veteran is deceased, the amendment made by the Committee bill would require that the veteran must have been receiving a VA dependent's allowance for the child within 1 year of the veteran's death, or the child must have met the above four requirements for a perfiod of at least 1 year during the veteran's lifetime.

The Committee emphasizes its belief that, while protecting against abuse, this provision will not affect genuine adoptive relationships. This very complex problem would also be required to be addressed in the comprehensive study, required by section 402 of the Committee bill, which would evaluate the implementation of this provision.

VA position

At the hearing on January 25, 1979, the VA, although generally agreeing that there is a need for legislation to provide for standards in adoptions under foreign laws in order to prevent abuses, opposed this provision of the Committee bill. The VA noted that the standards recommended by the Committee are more restrictive than those to be included in a forthcoming VA proposal (subsequently submitted on March 6, 1979, and introduced (by request) by the Chairman on March 15, 1979, as S. 674) and pointed out that the Committee bill would require that the child continue to receive one-half of his or her annual support from the veteran and to reside with the veteran (with certain exceptions) after the adoption has taken place. With regard to support and residence requirements, the VA-proposed standards require only that, at the time of the adoption, the child be residing with the veteran and receive more than one-half its annual support from the veteran. Thus, unlike those provided under the Committee bill, the VA-proposed standards do not provide a means to forestall abuses that may occur after such threshold standards have been met. The VA regarded the Committee bill standards as "virtually impossible" to police in the Philippines and not cost-effective.

The VA's opposition to the standards provided for under the Committee bill, on the grounds that such standards would prove "virtually impossible" to police in the Philippines, is difficult to understand. The Administrator's transmittal letter, dated March 6, 1979, accompanying the draft legislation introduced as S. 689, stated that "numerous cases have come to [the VA's] attention wherein disabled and aged veterans have legally adopted minor children who were not, either at the time of the adoption or at any time thereafter, actual members of the veterans' household". It seems evident that, without provisions to preclude the payment of benefits in such situations both at the time of adoption and thereafter, these abuses will continue.

The VA also stated in its March 6, 1979, letter that the cost savings to be anticipated from the enactment of its proposal would be minimal each year but would be significant over the long term because "the children involved could be on benefits rolls for

many years". In the Committee's view, the importance of achieving significant long-term savings must be weighed in determining the extent to which the Committee bill's continued support and residence requirements are cost-effective. Such significant cost savings would not be achieved if the same kinds of abuses as now prevail were permitted to continue in slightly different form under standards that do not go far enough; and, in the Committee's view, it would not be adequate to require a showing only that support and residence standards are or were met at the time of adoption.

The Committee strongly believes that there are appropriate, cost-effective means available to the VA in monitoring veterans' and survivors' compliance with the standards in the Committee bill. For example, veterans and survivors with adoptive children could be required to provide periodic reports on their compliance, with VA review of all such reports and auditing as deemed necessary. Such reports need not be elaborate or impose an undue burden on VA beneficiaries. However, such reports could, in the view of the Committee, be required as a condition of the continued receipt of benefits under the Administrator's authority, under section 210(c) of title 38, United States Code, to "prescribe regulations with respect to the nature and extent of proofs and evidence" that may be required for benefits purposes.

Study of benefit payments outside the United States

During 1978, approximately 160,000 VA beneficiaries were residing outside the 50 States and the District of Columbia. As previously discussed, the payment of veterans' benefits outside the United States raises questions regarding the appropriate levels for such payments and the potential for abuse of VA benefit programs. In attempting to deal with those issues during the 95th Congress, the Committee found that, generally, there was a need for much more data and analysis of numerous questions before it would be appropriate to consider whether any legislative modifications should be made.

Therefore, the Committee bill includes in section 402 a requirement that the VA, in consultation with the Department of State, conduct a comprehensive study of the issues involved in the payment of VA benefits to persons residing outside the 50 States and the District of Columbia, with a report to be submitted to the President and the Congress by February 1, 1980. . . .

* * * * *

VA position

At the January 25, 1979, hearing, the VA suggested postponement of the study until the study mandated by Public Law 95-588 is completed and analyzed, in order to determine whether the findings of the Public Law 95-588 study indicate whether the issue of foreign beneficiaries need be further examined. Although the VA's implict concern is that the number of studies dealing, generally, with similar problems not be unduly multiplied, the Committee believes that the requirement that the studies be carried out conjointly and submitted as a combined report will reduce the burden on the VA's limited resources. The Committee urges the VA, as it undertakes both studies, to pay special attention to the issues raised in the GAO report described above with a view toward determining the extent to which abuses exist in the administration of veterans' benefits to recipients residing outside the 50 States and the District of Columbia.

TITLE V: MISCELLANEOUS PROVISIONS

Acceptance of payment for certain employee travel

Section 501 of the Committee bill would amend present section 4108, relating to personnel administration in the Department of Medicine and Surgery (DM&S), to authorize the Administrator of Veterans' Affairs to prescribe regulations establishing conditions under which officers and employees of DM&S who are nationally recognized principal investigators in medical research may be permitted, under certain limited circumstances, to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel and reasonable subsistence expenses. Such payment could be accepted only in connection with such officers' and employees' attendance at meetings or performance of advisory services concerned with VA functions or activities, or in connection with the acceptance of significant awards or with activity related thereto concerned with VA functions or activities.

The VA currently has authority to send its employees on official travel orders to attend meetings of this kind, but travel funds are limited. Therefore, at times it may be advantageous to the Government for the inviting organization to pay the employees' expenses.

Under current law, a DM&S employee (1) may receive cash payment for travel and subsistence expenses in connection with such meetings only from tax-exempt (under section 501(c)(3) of the Internal Revenue Code) organizations, and (2) may receive payment "in kind"—that is, the actual provision of tickets for transportation and of rooms and meals, but not cash, from a non-U.S. Government, non-tax-exempt organization. These restrictions may place these VA employees at a disadvantage, particularly when compared with Public Health Service employees who are not so restricted and may receive, under section 3506 of title 42 of the United States Code, cash reimbursement (including per diem) from non-U.S. Government, non-tax-exempt organizations.

Section 501 would make it possible for the Administrator to remedy the difficulties experienced by outstanding VA researchers who receive invitations to meetings that relate to their official duties but are not federally sponsored.

Confirmation of Deputy Administrator of Veterans' Affairs

Last year, in Public Law 95-452, the "Inspector General Act of 1978", Congress created the Office of Inspector General within the VA. The law provides for Presidential appointment and Senate confirmation of the Inspector General, who is to be under the general supervision of only the Administrator or the Deputy Administrator. In light of the fact that the Deputy Administrator assumes the responsibilities of the Administrator in the Administrator's absence and has general supervisory authority over the Inspector General, the Committee believes that the Deputy Administrator should also be required to be nominated by the President and confirmed by the Senate.

Section 502 of the reported bill would amend section 210(d) of title 38 to require Presidential appointment and Senate confirmation of the Deputy Administrator of Veterans' Affairs.

This provision would not require—but would allow—the incumbent Deputy Administrator to be nominated by the President and confirmed by the Senate in order to remain in office.

Overseas authorities

Section 230(c) of title 38 authorizes the VA to establish and maintain an office in Europe. There is no such office at present, nor are there plans to open one. Section 503 of the reported bill would thus repeal this outdated authority in 230(c).

Section 503 would also amend section 235 of title 38, United States Code, relating to benefits to VA employees at overseas offices who are United States citizens, to provide certain benefits to VA employees stationed outside the United States (in the Philippines); specifically, certain benefits presently available to other Federal employees stationed overseas—family visitation travel expenses and subsistence expenses upon return to the United States—and benefits relating to the sale or purchase of a residence or settlement of an unexpired lease of an employee being transferred, which are presently available to VA employees transferred within the United States.

Salary schedules

Section 504 of the reported bill is a technical amendment to conform the salary schedules for employees of the Department of Medicine and Surgery (DM&S) to reflect previous adjustments made by the President. Specifically, it would amend the schedules of rates of basic pay appearing in present section 4107 for section 4103 employees (top DM&S employees at VA Central Office) and section 4104(1) employees (DM&S physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries) to reflect the pay rates (effective October 7, 1978) set by Executive Order 12087.

COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-150, 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 $27.1 million in fiscal year 1980; $51.5 million in fiscal year 1981; $42.7 million in fiscal year 1982; $43.7 million in fiscal year 1983; and $39.1 million in fiscal year 1984. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE

Cost estimate

1. Bill number: S. 7.
2. Bill title: Veterans' Health Care Amendments of 1979.
3. Bill status: As ordered reported by the Senate Veterans' Affairs Committee on March 9, 1979.
4. Bill purpose:

Section 101: Provides that those veterans seeking physical examinations required in application for service-connected compensation be placed third in the statutory hierarchy of priorities for outpatient care eligibility.

Section 102: Extends outpatient dental services to veterans held 6 months or more as prisoner of war, and veterans with service-connected disabilities rated at 100 percent.

Section 103: Provides counseling for Vietnam-era veterans with mental or psychological problems related to adjustment from military to civilian life.

Section 104: Gives VA authority to conduct a 5-year pilot program for the treatment of alcohol or drug dependence disabilities in halfway houses and other community-based facilities.

Section 105: Gives VA authority to conduct a 4-year pilot program of preventive health care for veterans with service-connected disabilities rated at 50 percent or more and for certain veterans being furnished treatment involving a service-connected disability.

Section 106: Extends authority to the VA to provide hospital and nursing home care within the limits of VA facilities to eligible Commonwealth Army veterans and New Philippine Scouts residing in the United States.

Section 201: Would restore contract care for veterans eligible under section 612(g) of title 38, on a limited basis.

Section 202: Allows the VA to provide an emergency medical team for the national conventions of VA recognized veterans organizations.

Section 301: Revises VA authority and

planning guidelines for health care facility construction and alteration. Would require House and Senate Veterans' Affairs Committees' approval for projects exceeding $2 million in cost, or leased medical facilities exceeding $500,000 per year.

Section 401: Places restrictions on who may receive benefits as an adopted child for persons residing outside the United States.

Section 402: Requires the VA to conduct a comprehensive study of benefits payable under title 38, United States Code, to persons residing outside the United States.

Section 501: Allows VA employees who are nationally recognized investigators in medical research to accept travel allowances from non-Federal agencies, organizations, and individuals to attend meetings, perform advisory services, or accept significant awards.

Section 502: Requires the Deputy Administrator of Veterans' Affairs to be approved by the Senate.

Section 503: Eliminates authority for VA European office, and adds certain travel and readjustment fringe benefits for VA personnel in the Philippines.

Section 504: Updates the base salary schedules for the VA Department of Medicine and Surgery of title 38, United States Code.

5. Cost estimate:

[By fiscal years; in millions of dollars]

	1980	1981	1982	1983	1984
Estimated authorization/estimated outlays:					
Sec. 102	0	0	0	0	0
Sec. 103	12.2	19.3	8.1	2.9	2.8
Sec. 104	3.7	13.7	11.2	12.2	13.0
Sec. 105	3.5	5.0	7.0	9.0	0
Sec. 201	7.7	13.5	16.4	19.6	23.3
Total	27.1	51.5	42.7	43.7	39.1

The costs of this bill fall within budget function 700.

6. Basis for estimate:

Section 101: This section only changes the priority schedule for medical examination service to those already eligible for this service. It is estimated to have no cost.

Section 102: In a cost estimate prepared February 1, 1979, CBO estimated 5-year costs of $82.1 million for this section. This estimate reflected the cost of providing dental services to an additional group of eligible veterans while maintaining the current level of service to veterans presently receiving care.

The amendments offered to this section make clear the Committee's intent to accommodate the additional dental services to former POW's and 100-percent disabled veterans within existing capacity. The amendments would limit expenditures for contract dental care to fiscal year 1978 levels, and would require the VA to establish a hierarchy for care in VA facilities that would allow veterans mentioned in this section and certain other veterans to be treated before veterans with non-service-connected disabilities.

CBO estimates that as amended this section would add no additional costs to the Federal budget.

Section 103: The VA estimates that over 30 percent of Vietnam-era veterans face serious problems related to readjustment to civilian life. CBO assumes that of the 8.7 million separated Vietnam-era veterans eligible under this program, 170,000 veterans will actually seek counseling from the VA during the first 2 years following enactment. Of the average 150,000 Vietnam-era veterans discharged from active duty every year, CBO estimates about 10 percent will apply for readjustment counseling. The VA anticipates each veteran will require an average 6 hours of counseling to complete treatment. CBO estimates the cost of each visit to be $35 and projects this cost to rise at an average rate of 7 percent a year.

Section 104: The VA anticipates placing an average 5,700 patients a year in halfway houses during the 5-year period of the pilot program. The projected caseload fluctuates in the first 3 years as the program is phased in. CBO assumes that each placement will require an average 60 days of care at an average cost of $25 (in 1979 dollars). These assumptions are based on studies conducted by the Alcohol, Drug Abuse, and Mental Health Administration of existing programs.

Section 105: In a cost estimate prepared February 1, 1979, CBO estimated the 5-year costs of this provision to be $125 million. This estimate reflected the maximum amount allowable under the original authorization language, and was based on information provided by the VA as to the anticipated level of services that would be provided under the section.

The amendments to this section would change the period of the pilot program from 5 to 4 years, and would lower the authorization ceiling. The CBO reestimate of the cost of this section reflects both changes.

Section 201: Costs were estimated by assuming that approvals for 612(g) contract care would increase at an annual rate of 5 percent above current levels. A surge in applications is expected in the first 2 years. Costs are inflated by CBO assumptions of price increases in the general economy.

Section 401: This section establishes certain criteria which adoptions transacted outside of the United States must meet in order for the adopted child to be eligible for dependents' or survivors' benefits. There should be some savings resulting from this provision as the adoption requirements in many foreign countries are considerably more lenient than those proposed here. The resultant savings, however, should be less than $500,000 a year.

Section 402: This section directs the Administrator to conduct a study of the issues involved in the payment of veterans' benefits to persons residing outside of the United States. It is expected that this study could be performed within the limits of the President's current budget request.

Section 501: Since VA employees are currently not reimbursed for such travel expenses, no net savings or costs are expected.

Section 502: This provision is assumed to involve no new Federal costs.

Section 503: The VA no longer maintains a European office. Travel and readjustment fringe benefits for VA personnel in the Philippines would effect an average of two employees per year, resulting in insignificant costs.

7. Estimate comparison: None.

8. Previous CBO estimate: On February 1, 1979, CBO transmitted a cost estimate of S. 7 as introduced by the Committee on Veterans' Affairs on January 15, 1979.

9. Estimate prepared by: Steven Crane and Nina Shepherd (225-7766).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

* * * * *

SECTION-BY-SECTION ANALYSIS OF S. 7 AS REPORTED

Section 1.

Subsection (a) of section 1 provides that this Act may be cited as the "Veterans' Health Care Amendments of 1979".

Subsection (b) of section 1 provides that, except when otherwise expressly provided, reference to a section or other provision shall be considered to be made to a section or other provision of title 38, United States Code, relating to veterans' benefits.

TITLE I—HEALTH SERVICES PROGRAMS

Section 101.

Amends clause (3) of present section 612 (i) of title 38, United States Code, relating to priority for Veterans' Administration medical services, by providing that medical examinations for a service-connected disability—for the purpose of establishing eligibility for disability compensation or service-connected health-care services—be included in the third priority for outpatient care along with non-service-connected care for veterans with service-connected disability ratings.

A similar provision was passed by the Senate as section 302 of H.R. 5029 in the 95th Congress.

Section 101—Cost: Enactment of this provision would entail no costs.

Section 102.

Subsection (a) of section 102 is a technical amendment to present section 601(6)(A)(i), title 38, United States Code, defining the term "medical services", which includes in the definition of that term "dental services and appliances *as authorized* in section 612 (b), (c), (d), and (e)". [Emphasis added.] Subsections (b), (c), (d), and (e) of section 612, however, do not provide the VA's authority to provide dental services and appliances; that authority is provided in more general provisions, such as those authorizing hospital care (section 610) and medical treatment (section 610 (a) and (f)). Thus, this subsection of the Committee bill would change the reference to dental services and appliances in current section 601(6)(A)(i) from those "authorized in section 612 (b), (c), (d), and (e)" to those "described in section 612 (b), (c), (d), and (e)".

Clauses (1) (2) and (3) of subsection (b) of section 102 amend present section 612(b) of title 38, relating to outpatient dental services and treatment by adding a new clause (7) to provide for eligibility for outpatient dental services and treatment for veterans with 100 percent service-connected disabilities and (in conjunction with the amendments to present section 612(f) made by subsection (c) of this section of the Committee bill) veterans who were prisoners of war captive for more than 6 months. This provision is derived from H.R. 898 and H.R. 12018 which were introduced in the House in the 95th Congress.

Clause (4) of subsection (b) of section 102 further amends subsection (b) of present section 612 by inserting at the end thereof a provision to limit VA expenditures for outpatient dental care and services provided by contract—so-called "fee-basis" care—under this section to the amount expended for such care in fiscal year 1978 ($45.2 million), and to require the Administrator, not later than 90 days after the enactment of this Act, to prescribe regulations ensuring that, except where required by compelling medical or dental reasons, special priority in the provision of dental care shall be accorded in the following order:

(1) dental care for a service-connected dental disability;

(2) the other types of dental care described in section 612(b) of title 38, that is,

(A) care for a condition that is associated with or is aggravating a disability from some other disease or injury incurred in or aggravated by active-duty service;

(B) necessary followup care for a non-service-connected dental condition for which treatment was begun while the veteran was a VA hospital patient;

(C) care for a dental condition of Spanish-American War or Indian War veterans; and

(D) care for dental conditions of former prisoners of war captive for at least 6 months and 100-percent service-connected disabled veterans; and

(3) care for a dental condition of any veteran having a service-connected disability.

Subsection (c) of section 102 amends subsection (f) of present section 612, relating to authority to provide outpatient care for the treatment of non-service-connected disabilities, by adding a new clause (ii) to provide for eligibility for outpatient dental services and treatment, and related dental appliances, for veterans described in new clause (7)(A) of present section 612(b) (as added by subsection (b) of this section of the Committee bill)—those who were prisoners of war for more than 6 months.

Section 102—Cost: This section would entail no additional costs since no additional dental resources will be needed. Instead, care to the newly eligible veterans will be made available as a result of the restructuring of priorities, to stress priority for service-connected care.

Section 103.

Amends subchapter II of chapter 17 of title 38, United States Code, relating to hospital, nursing home, or domiciliary care and medical treatment, by adding a new section 612A to establish a new program of readjustment counseling and related mental health services for Vietnam-era veterans and certain members of their families or households under specified circumstances to assist such veterans in readjusting to civilian life. Substantially similar programs were passed by the Senate in S. 2108 (92d Congress), S. 284 (93d Congress), S. 2908 (94th Congress), and H.R. 5027 (95th Congress).

Paragraph (1) of subsection (a) of section 103 adds a new section 612A to subchapter II of chapter 17, as follows:

New section 612A.—Eligibility for readjustment counseling and related mental health services: Subsection (a) requires the Administrator to furnish, within the limits of the VA's facilities, readjustment counseling to any veteran who served on active duty during the Vietnam era, that is, from August 4, 1964, through May 7, 1975, and who requests such counseling within 2 years of discharge or release from active-duty service or 2 years after the effective date of the new section 612A, whichever is later. Readjustment counseling provided under this section includes a general mental and psychological assessment to ascertain whether the veteran has mental or psychological problems associated with readjustment to civilian life.

Paragraph (1) of subsection (b) provides that if, on the basis of the assessment furnished subsection (a) of new section 612A, it is determined by a VA physician (or in areas where no such physician is available, by a physician under a contract or fee arrangement with the VA for this purpose) that mental health services are necessary to facilitate the successful readjustment of the veteran, such services may be furnished within the limits of VA facilities, on an outpatient basis, provided the veteran has met all eligibility requirements for posthospital care under present section 612(f)(1)(B) of title 38, except that the counseling provided under subsection (a) of new section 612A is deemed to satisfy the requirement of prior hospitalization. Veterans who, on the basis of initial counseling, are determined to be in need of hospital care or medical services other than mental health services for a readjustment problem, would be eligible to receive the needed care in VA facilities only if otherwise meeting chapter 17 eligibility requirements; if not, they would be referred to non-VA facilities.

Paragraph (2) of subsection (b) authorizes, as part of the mental health services furnished under paragraph (1) of new section 612A(b), the provision of the consultation, counseling, training, mental health services, and travel expenses described in present section 601(6)(B) for members of the veteran's family or household if the provision thereof is determined to be essential to the effective treatment and readjustment of the veteran.

Subsection (c) requires the Administrator in the cases of former active-duty servicepersons who apply but are not eligible for readjustment counseling and mental health services, to provide referral services to assist such individuals to the maximum extent practicable in obtaining mental health care and services from sources outside the VA and, if pertinent, to advise such individuals of their right to apply for reviews of their discharges which might lead to eligibility for VA benefits.

Subsection (d) authorizes the Chief Medical Director (1) to provide for the training of professional, paraprofessional, and lay personnel to prepare them to carry out the readjustment counseling program, and (2) to utilize these paraprofessional personnel, volunteer workers, and veteran-students in the initial intake and screening activities under this program.

Subsection (e) directs the Administrator, in cooperation with the Secretary of Defense, to take such action as the Administrator considers appropriate to notify veterans who may be eligible for readjustment counseling of their potential eligibility.

Paragraph (2) of subsection (a) of section 103 amends the table of sections at the beginning of chapter 17 to reflect the addition of the new section 612A made by paragraph (1) of subsection (a) of this section of the Committee bill.

Subsection (b) of section 103 requires, in the event of a future declaration of war by Congress, the Administrator to determine, not later than 6 months after the date of such declaration, whether eligibility for readjustment counseling and related mental health services under new section 612A should be extended to veterans of such war.

Section 103—Cost: Enactment of the provisions of section 103 of the Committee bill is estimated to cost $12.2 million in fiscal year 1980.

Section 104.

Amends subchapter II of chapter 17 of title 38 by adding a new section 620A to authorize a 5-year pilot program for the treatment and rehabilitation of veterans suffering from alcohol or drug dependence or abuse disabilities in community-based contract facilities. Substantially similar provisions were passed by the Senate in S. 2108 (92d Congress), S. 284 (93d Congress), S. 2908 (94th Congress), and H.R. 5027 (95th Congress).

Subsection (a) of section 104 adds a new section 620A to subchapter II of chapter 17, as follows:

New section 620A.—Treatment and rehabilitation for alcohol and drug dependence or abuse disabilities; pilot program: Paragraph (1) of subsection (a) authorizes the Administrator to conduct a pilot program under which he may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for veterans with alcohol or drug dependence or abuse disabilities. The pilot program authorized under this section is to be planned, designed, and conducted by the Chief Medical Director, with the approval of the Administrator, so as to demonstrate the medical advantages and cost effectiveness that may result from furnishing such care in contact facilities rather than facilities over which the Administrator has direct jurisdiction.

Paragraph (2) of subsection (a) requires the Administrator to approve the quality and effectiveness of the program of each contract facility through which services are to be provided veterans under paragraph (1) of subsection (a).

Subsection (b) authorizes the Administrator, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, to take appropriate steps to promote employment and training opportunities by Federal agencies and private and public firms, organizations, agencies, and persons for rehabilitated, employable veterans who were provided treatment and rehabilitative services under title 38, and to provide all possible assistance to the Secretary of Labor in placing such veterans in such opportunities.

Subsection (c) provides that, if former service personnel are not eligible for alcohol and drug treatment under title 38, the Administrator is required to provide referral services to assist such individuals, to the maximum extent practicable, in obtaining such care and services from sources outside the VA and, if pertinent, to advise such individuals of their right to apply for reviews of their discharges which might lead to eligibility for VA benefits.

Subsection (d) establishes procedures for and limitations on the transfer of active-duty service personnel to health-care facilities for the purpose of receiving care or treatment and rehabilitative services from the VA for an alcohol or drug dependence or abuse disability, as follows:

Paragraph (1) of subsection (d) provides that transfer of a member of the active military, naval, or air service with an alcohol or drug dependency or abuse disability to a facility for the purpose of the VA providing care or treatment and rehabilitative services for that disability may occur only within the last 30 days of an enlistment or tour of duty. After such a transfer, such individual would receive treatment and rehabilitative services on the same terms and conditions as prescribed for a veteran. This paragraph also provides that such transfers shall be made pursuant to mutually agreed upon terms between the Secretary of the military department concerned and the Administrator and subject to reimbursement by such department.

Paragraph (2) of subsection (d) prohibits transfers under new section 620A unless the individual specifically requests transfer for a specified period of time within the last 30 days of the individual's enlistment or tour of duty and does so in writing, and further prohibits the extension of treatment beyond such specified period of time unless the individual specifically requests a specified extension in writing and such request is approved by the Administrator.

Subsection (e) provides for the expiration of the authority for the pilot program at the end of the fifth fiscal year following the fiscal year in which the pilot program is initiated.

Subsection (f) requires the Administrator to report to the House and Senate Veterans' Affairs Committees not later than March 31, 1983, on the Administrator's recommendations and findings with respect to the operation through September 30, 1982, of the pilot program authorized by this new section.

Subsection (b) of section 104 amends the table of sections at the beginning of chapter 17 to reflect the addition of the new section 620A made by the amendments in subsection (a) of this section of the Committee bill.

Section 104—Cost: Enactment of this section is estimated to cost $3.7 million in fiscal year 1980.

Section 105.

Amends chapter 17 of title 38 by adding a new subchapter VII establishing a pilot program of preventive health-care services for eligible veterans. Substantially similar provisions were passed by the Senate in S. 2908 (94th Congress) and H.R. 5027 (95th Congress).

Subsection (a) of section 105 amends chapter 17 by adding a new subchapter VII to provide for a pilot program of preventive

health-care services for certain veterans with service-connected disabilities and to authorize the Administrator to institute controls and carry out study and research activities to determine the medical advantages and cost-effectiveness of such services. Under the amendment, four new sections are added to chapter 17, as follows:

New section 661.—Purpose: Describes the purpose of the new subchapter.

New section 662.—Definition: Defines "preventive health-care services" which may be included in such programs. Such services may include, but are not limited to, periodic medical and dental examinations; patient health education (including nutrition education); maintenance of drug use profiles, patient drug monitoring, and drug utilization education; mental health preventive services; substance abuse prevention measures; immunizations against infectious disease; prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature; genetic counseling concerning inheritance of genetically determined diseases; routine vision testing and eye care services; periodic reexamination of members of likely target populations (high-risk groups) for selected diseases and for functional decline of sensory organs, together with attendant appropriate remedial intervention; and such other health-care services as may be necessary for providing effective and economical preventive health care.

New section 663.—Preventive health-care services: Paragraph (1) of subsection (a) authorizes the Administrator, pursuant to regulations that the Administrator shall prescribe, to furnish, within the limits of the VA's facilities, such preventive health-care services as are feasible and appropriate to any veteran with a service-connected disability rated at 50 percent or more and to any veteran receiving care and treatment for a service-connected disability.

Paragraph (2) of subsection (a) authorizes the Administrator to institute controls and conduct followup studies (including research) to demonstrate the medical advantages and cost-effectiveness of the preventive health-care services furnished under paragraph (1) of this subsection.

Subsection (b) provides that preventive health-care services under the new pilot program may not be furnished after September 30, 1983.

Section (c) directs the Administrator to emphasize the utilization of interdisciplinary health-care teams composed of various professional and paraprofessional personnel in carrying out the preventive health-care program.

Section (d) provides that the maximum expenditures authorized for the preventive health-care pilot program are $3.5 million in fiscal year 1980, $5 million in fiscal year 1981, $7 million in fiscal year 1982, and $9 million in fiscal year 1983.

New section 664.—Reports: Directs the Administrator to include in the VA's annual report to Congress, a comprehensive report on the administration of new subchapter VII, including any recommendations for additional legislation that the Administrator considers necessary.

Subsection (b) of section 105 amends the table of sections at the beginning of chapter 17 to reflect the addition of the new subchapter VII to chapter 17 of title 38 made by subsection (a) of this section of the Committee bill.

Section 105—Cost: Enactment of the pilot program for preventive health-care services authorized in section 105 of the Committee bill is estimated to cost $3.5 million in fiscal year 1980.

Section 106.

Subsection (a) of section 106 amends subchapter IV of chapter 17 of title 38, United States Code, relating to hospital and medical care for Philippine Commonwealth Army veterans, by redesignating section 634 as 635 and adding a new section 634, as follows:

New section 634.—Hospital and nursing home care and medical services in the United States: Authorizes the provision within the United States of hospital and nursing home care and medical services to Commonwealth Army veterans or new Philippine Scouts for the treatment of their service-connected disabilities.

This provision is derived from section 303 of H.R. 5029 as passed by the Senate in the 95th Congress.

Subsection (b) of section 106 amends the table of sections at the beginning of chapter 17 to reflect the addition of the new section 634 made by the amendment in subsection (a) of this section of the Committee bill.

Section 106—Cost: Enactment of the provisions of section 106 is estimated to entail no significant cost.

Section 107.

Provides that the effective date of the amendments made by title I shall be October 1, 1979.

TITLE II—CONTRACT-CARE PROGRAMS

Section 201.

Amends clause (C) of paragraph (4) of present section 601 of title 38, United States Code, which defines "Veterans' Administration facilities" to include, under the circumstances described in such clause (C), private facilities and, thus, in conjunction with certain other provisions of such chapter 17, provides authority for the furnishing of contract hospital care and medical services (so-called "fee" care or "fee-basis" care) under those same circumstances.

Clause (1) of subsection (a) amends subclause (ii) of clause (C) of present section 601(4) to expand the definition of "Veterans' Administration facilities" to include private facilities for which the Administrator contracts—when the VA's own facilities or other Government facilities are not capable of furnishing economical care because of geographic inaccessibility or of furnishing the care or services required—to provide medical services for the treatment of a veteran eligible for regular aid and attendance or housebound benefits where the Administrator has determined, on the basis of a physical examination which must be made by a VA physician or, in areas where no such physician is available, by a physician under a contract or fee arrangement with the VA, that the veteran's medical condition precludes appropriate treatment in the VA's own facilities or other available Government facilities. The new definition, thus, changes existing law by authorizing the VA to provide outpatient "fee-basis" care through private physicians or facilities when the ordinary conditions for the provision of contract outpatient care for service-connected disabilities are met and it is determined that private care is required by the veteran's medical condition. Such private care may be determined to be required under this standard where the veteran-patient has a long-standing relationship with a particular private physician and it would be harmful to the patient's condition to require a severance of that relationship.

This provision is derived from 101(1) of H.R. 5027 as passed by the Senate in the 95th Congress.

Clause (2) of subsection (a) amends clause (C) of present section 601(4) of title 38 by adding a new subclause (vi) to authorize the VA to furnish mental health services, in connection with the new readjustment counseling program established by section 103 of the Committee bill, on a contract basis in Alaska and Hawaii, and by adding a new subclause (vii) to clause (C) to authorize the provision, on a contract basis, of diagnostic services necessary to determine the eligibility for, or the appropriate course of treatment in connection with, the provision of medical services at independent VA outpatient clinics to obviate the need for hospital admission. The latter provision, authorizing contract diagnostic services, derives from section 101(2) of H.R. 5027 as passed by the Senate in the 95th Congress.

Clause (3) of subsection (a) adds a new sentence to present section 601(4) of title 38 to direct the Administrator to review periodically the necessity for continuing contract care in individual cases under section 601(4).

This provision derives from section 101(3) of H.R. 5027 as passed by the Senate in the 95th Congress.

Subsection (b) of section 201 requires an annual VA report to the appropriate committees of the Congress, beginning on February 1, 1980, on the implementation of section 601(4)(C)(v), relating to contract care outside the 48 contiguous States and the District of Columbia, and the contract care authorities provided in the amendment made by section 201 of the Committee bill, and on the numbers of veterans provided contract care (and the average cost and duration thereof) under chapter 17 in each State, territory, and possession of the United States, the District of Columbia, and Puerto Rico.

This provision derives from section 102(c) of H.R. 5027 as passed by the Senate in the 95th Congress.

Section 201—Cost: Enactment of the provisions of section 201 is estimated to cost $7.7 million in fiscal year 1980.

Section 202.

Amends present section 611 of title 38, United States Code, relating to the authority to furnish care incident to physical examinations necessary in carrying out other laws and the authority to furnish care in emergencies, to authorize the VA to enter into contracts with organizations recognized under section 3402 of title 38 to provide emergency VA medical services at national conventions of such organizations on a reimbursable basis, as prescribed by the Administrator, except that reimbursement will not be required for the treatment of veterans eligible for the care so provided.

This provision is derived from section 307 of H.R. 5029 as passed by the Senate in the 95th Congress.

Section 202—Cost: Enactment of the provision in section 202 is estimated to entail no cost.

TITLE III—CONSTRUCTION, ALTERATION, LEASE, AND ACQUISITION OF MEDICAL FACILITIES

Section 301.

Amends, by modifying and recodifying, subchapter I of chapter 81 of title 38, United States Code, relating to the acquisition and operation of VA facilities. This section is derived from H.R. 5025, the proposed "Veterans' Administration Medical Facilities Acquisition Act of 1977", passed by the House in the 95th Congress.

Subsection (a) of section 301 amends chapter 81 by modifying and recodifying subchapter I thereof, as follows:

The new title of the subchapter is "Acquisition and Operation of Medical Facilities".

New section 5001.—Definitions: Defines four terms for purposes of subchapter I, as follows:

(1) The term "alter" means to repair, remodel, improve, or extend any medical facility.

(2) The terms "construct" and "alter" include such engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions as are necessary for the construction or alteration, as the case may be, of any medical facility and are carried out after the completion of the advanced planning for such facilities.

(3) The term "medical facility" means any facility, or part thereof, which is, or will be, under the jurisdiction of the Administrator for the provision of health services (including, but not limited to, hospital, nursing home, or domiciliary care, or medical services), and includes necessary building and auxiliary structures, garages and parking facilities, mechanical equipment, trackage facilities leading thereto, abutting sidewalks, accommodations for attending personnel, and recreation facilities associated therewith.

(4) The term "committee" means the Committee on Veterans' Affairs of the House of Representatives or the Committee on Veterans' Affairs of the Senate, and the term "committees" means both such committees.

New section 5002.—Acquisition of medical facilities; Subsection (a) requires the Administrator to provide medical facilities for veterans entitled to hospital, nursing home, domiciliary, and medical services under title 38. This provision is derived from present section 5001(a)(1) and deletes the express condition that, in so providing such facilities, the Administrator must have the President's approval.

Subsection (b) prohibits a medical facility from being constructed, acquired, or altered except in accordance with the provisions of this subchapter.

Clause (1) of subsection (c) requires the Administrator to provide for the construction and acquisition of medical facilities in a manner that results in their equitable distribution throughout the United States, taking into consideration the comparative urgency of need for the services to be provided in each facility.

Clause (2) of subsection (c) requires the Administrator to give due consideration to excellence of architecture and design.

New section 5003.—Authority to construct and alter, and to acquire sites for, medical facilities: Authorizes or requires the Administrator, subject to new section 5004, to take certain actions, as follows:

Clauses (1) and (2) of subsection (a) authorize the Administrator to construct or alter any medical facility and to acquire land or interests in land by purchase, lease, condemnation, donation, exchange, or otherwise for use as the site for such construction or alternation; and authorize the Administrator to acquire, by lease, condemnation, donation, exchange or otherwise, any facility for use as a medical facility, including its site. These provisions derive from similar authorizations in present section 5001(a)(1) for the Administrator, subject to the approval of the President, to purchase, construct, and alter medical facilities, but delete the express requirement of Presidential approval, give the Administrator explicit authority to acquire medical facilities (in addition to sites) by condemnation, authorize the Administrator to acquire such facilities by exchange, and make explicit the Administrator's authority to acquire sites by exchange.

Clause (3) of subsection (a) requires the Administrator, in order to assure compliance with section 5010(a)(2) of title 38, relating to the requirement for the Administrator to maintain adequate VA bed and treatment capacities, to execute a lease for an outpatient medical facility for which it is proposed to lease space and for which a qualified lessor and an appropriate leasing arrangement are available, within 12 months after funds are made available for such purpose.

Subsection (b), authorizes the Administrator, when the Administrator considers it to be in the interest of the United States to construct a new medical facility to replace an existing one, (1) to demolish the existing facility and use the site on which it is located for the replacement facility or (2) if it is more advantageous to construct the replacement facility on a different site in the same locality, to exchange the existing facility and its site for the different site.

Subsection (c) authorizes the Administrator to exchange or sell a site acquired for the construction of a medical facility if the Administrator determines that such site is not suitable for that purpose.

New section 5004.—Congressional approval of certain medical facility acquisitions:

Clause (1) of subsection (a) provides that no appropriations may be made for the construction, alteration or acquisition (not including exchanges) of any medical facility involving a total expenditure of more than $2 million unless the House and Senate Veterans' Affairs Committees have each first adopted a resolution approving such action and setting forth the estimated cost thereof.

Clause (2) of subsection (a) provides that no appropriation may be made for the lease of any space for use as a medical facility at an average annual rental of more than $500,000 unless the House and Senate Veterans' Affairs Committees have each first adopted a resolution approving such lease and setting forth the estimated cost thereof.

Subsection (b) requires, in the case of an Administration-proposed facility to which subsection (a) applies, that the Administrator submit to the House and Senate Veterans' Affairs Committees, on the same day, a prospectus of the proposed facility, including a detailed description of the estimated cost to the United States of the construction, alteration, lease, or other acquisition of such facility, and the estimated cost to the United States of the equipment required for the operation of such facility.

Subsection (c) provides that the estimated cost of a medical facility, as set forth in the pertinent resolutions required under subsection (a) of this section, may be increased by the Administrator in the contract by an amount equal to the percentage increase, if any, as determined by the Administrator, up to 10 percent, in the costs from the date of the Committee approval to the date of the contract.

Subsection (d) provides for rescission of Committee approval for any medical facility for which funds have not been appropriated within 1 year after the date of such approval.

Subsection (e) requires the Administrator to notify the House and Senate Veterans' Affairs Committees in writing of any proposed reprograming of appropriated funds and of the particulars involved and the reasons why the funds were not used for the purpose for which appropriated.

Subsection (f) authorizes the Administrator to accept gifts or donations for any of the purposes of subchapter I. Substantially the same authority currently exists in section 5001(d) of title 38.

New section 5005.—Structural requirements: Recodifies and amends existing section 5001(b).

Subsection (a) requires facilities to meet structural safety standards prescribed by the Administrator on a State or regional basis. This provision currently exists in section 5001(b).

Subsection (b) provides for an Advisory Committee on Structural Safety of Veterans' Administration Facilities, as follows:

Paragraph (1) of subsection (b) restates current law, set forth in present section 5001(b), which requires the Administrator to appoint such a committee to include at least one architect and one structural engineer who are experts in structural safety and not Federal employees.

Paragraph (2) of subsection (b) sets forth the duties of the committee, which include review of and recommendations on the regulations promulgated by the Administrator under this section. This provision is substantially the same as existing law, set forth in present section 5001(b), except that existing law requires committee approval of the regulations.

Paragraph (3) of subsection (b) provides that the Associate Deputy Administrator, the Chief Medical Director or his designee, and the VA official responsible for construction, shall be ex officio members. This provision is also in existing law, in present section 5001(b).

New section 5006.—Construction contracts: Replaces existing section 5002, relating to construction and repair of building.

Subsection (a) authorizes the Administrator to contract for construction or acquisition of medical facilities if he considers it advantageous to do so. Under current law, in present section 5002, the construction, replacement, extension, alteration, and repair of such facilities shall be done in such manner as the President may determine.

Subsection (b) authorizes the Administrator to obtain, by contract or otherwise, the services of architects or engineers if needed, but prohibits the permanent employment of such architects and engineers. Under current law, in present section 5002, authority is given the President to employ private individuals and agencies if, in the opinion of the President, it is desirable to do, at compensation that the President considers reasonable, including the interpretation of construction contracts, the approval of materials and workmanship, approval of changes in such contracts, certification of vouchers for payment due construction contractors, and final settlement of such contracts.

Subsection (c) provides that the Administrator shall be responsible for all construction authorized under subchapter I.

New section 5007.—Reports to congressional committees: Requires two annual reports on the VA's construction program.

Subsection (a) requires a report, due on September 1, 1979, and annually thereafter on June 30, including (1) a 5-year plan for those facilities most in need of construction, replacement, or alteration; (2) a priority listing of 10 or more, hospitals most in need of construction or replacement; and (3) general plans for each such medical facility.

Subsection (b) requires the VA to submit to the House and Senate Veterans' Affairs Committees a report, due annually on January 31, beginning in 1981, describing the status of each facility approved under new section 5004(a), but uncompleted.

New section 5008.—Contributions to local authorities: Recodifies the provision in present section 5001(g).

New section 5009.—Garages and parking facilities: Recodifies and amends present section 5004.

Subsection (a) is the same as present section 5004(b)(1).

Paragraph (1) of subsection (b) contains the provisions of present section 5004(b)(2) and the last sentence of present section 5004(a).

Paragraph (2) of subsection (b) is the same as present section 5004 (b)(3).

Subsection (c) establishes, and authorizes appropriations for, a revolving fund for the construction, alteration, operation, and maintenance of garages and parking facilities costing less than $2 million and replaces present section 5004(c).

Paragraph (1) of subsection (c) authorizes appropriations of "such amounts as are necessary" for this purpose and provides that funds appropriated and all income from parking and garage fees shall be administered as a revolving fund.

Paragraph (2) of subsection (c) requires the revolving fund to be deposited in a checking account with the United States Treasurer, except for such amounts as the Administrator determines are necessary to establish and maintain operating accounts

for the various garages and parking facilities. Amounts so withheld by the Administrator may be placed in depositories selected by the Administrator.

New section 5010.—Operation of medical facilities: Subsection (a) recodifies present section 5001(a)(2), relating to the number of hospital beds and treatment capacities of VA medical facilities.

Subsection (b) recodifies present section 5001(a)(3), setting forth the minimum number of nursing home beds to be established and operated by the VA. Existing law, which provides for a minimum of 10,000 such beds, is amended to provide for a minimum of 12,000 such beds.

Subsection (c) is identical to present section 5001(h), relating to facilities which serve a substantial number of veterans with limited English-speaking ability.

New section 5011.—Use of Armed Forces facilities: Recodifies present section 5003.

New section 5012.—Partial relinquishment of legislative jurisdiction: Recodifies present section 5007.

New section 5013.—Property formerly owned by National Home for Disabled Volunteer Soldiers: Recodifies present section 5006.

New section 5014.—Use of federally owned facilities, use of personnel: Recodifies present section 5001(e) and the second sentence of present section 5002.

New section 5015.—Acceptance of certain property: Recodifies section 5005.

Subsection (b) of section 301 makes technical and minor amendments to subchapter II of chapter 81, relating to VA procurement and supply authorities.

Paragraph (1) of subsection (b) redesignates present sections 5011, 5012, 5013, and 5014 as sections 5021, 5022, 5023, and 5024, respectively.

Paragraph (2) of subsection (b) amends present section 5022(b) (as so redesignated by paragraph (1)) by deleting the Administrator's authority under this subsection to procure necessary space for clinical, medical, and outpatient treatment purposes. Such authority is included in new section 5003 as provided for in subsection (a) of this section of the Committee bill.

Subsection (c) of section 301 amends the table of sections at the beginning of chapter 81 to reflect the changes made by this section.

Section 302.

Sets forth the effective dates of the provisions of section 301.

Subsection (a) of section 302 provides that, except as provided in subsection (b) of this section, the amendments made by title III of the Committee bill will take effect on October 1, 1979.

Subsection (b) of section 302 provides that the amendments made by this of the Committee bill shall not apply to the proposed construction, acquisition, or alteration of any medical facility approved by the President before October 1, 1979, and that the provisions of new section 5007(a) requiring an annual report on medical facilities construction needs and plans, will become effective upon enactment.

Title III—Costs: Enactment of the provisions of title III is estimated to entail no cost.

TITLE IV—BENEFITS PAYABLE TO PERSONS RESIDING OUTSIDE THE UNITED STATES

Section 401.

Amends paragraph (4) of section 101, title 38, United States Code, relating to the definition of "child".

Clause (1) of section 401 redesignates paragraph (4) of present section 101 as subparagraph (A) of paragraph (4), and redesignates clauses (A), (B), and (C) within such subparagraph as clauses (i), (ii), and (iii), respectfully

Clause (2) of section 401 further amends such paragraph (4) by adding a new subparagraph (B), as follows:

New subparagraph (B): Provides that, for purposes of subparagraph (A) (as redesignated by clause (1) of this section), which defines "child" for most purposes under title 38, certain standards, as set forth in clauses (i) and (ii) of new subparagraph (B), must be met before a person residing in a foreign country who has been adopted under the laws of a foreign country may be recognized as a child of a veteran (including a Commonwealth Army veteran or "New" Philippine Scout, as defined in section 1766 of title 38).

Clause (i) of new subparagraph (B) provides that, for such a person to be considered the child of a veteran, he or she must be receiving one-half or more of his or her annual support from the veteran; may not be in the custody of the natural parent unless the natural parent is the veteran's spouse; and must be residing with the veteran (or, in the case of a divorce following the adoption, with the divorced spouse who is also an adoptive or natural parent) except for periods during which the legally adopted child is attending school full-time or during which either the veteran (or such divorced spouse) or the child is institutionalized.

Clause (ii) of new subparagraph (B) provides that, for a person to be considered the child of a deceased veteran, the veteran must have been entitled to and must have received, at any time during the year immediately preceding the veterans' death, a dependent's allowance or similar monetary benefit for the child under title 38, or the requirements of clause (i) of new subparagraph (B) of present section 101(4) must have been met for a period of at least 1 year prior to the veteran's death.

This provision was passed as section 201 of H.R. 5029 by the Senate in the 95th Congress.

Section 401—Cost: Enactment of this provision is estimated to entail no cost.

Section 402.

Subsection (a) of section 402 requires the VA to carry out a comprehensive study of benefits payable under title 38, United States Code, to persons residing outside the 50 States and the District of Columbia, including—

(1) an analysis of the issues involved in the payment of benefits to persons who reside outside the 50 States and the District of Columbia, together with analyses of those aspects of the economy of each foreign country and each territory, possession, and Commonwealth of the United States in which a substantial number of persons receiving benefits resides which are relevant to such issues (such as the rate of inflation, the standard of living, and health care, educational, housing, and burial costs);

(2) an analysis of the issues involved in the payment of benefits as the result of adoptions under laws of a political entity other than any of the 50 States or the District of Columbia;

(3) an analysis of the amounts and method of payment of benefits payable to persons entitled to benefits under chapters 11 (compensation), 13 (dependency and indemnity compensation), and 35 (educational assistance) of title 38 on the basis of the service of a Commonwealth Army veteran or new Philippine Scout;

(4) estimates of the present and future costs of paying VA benefits to persons described in clauses (1) and (3) of subsection (a) of this section;

(5) an evaluation of the desirability of continuing to maintain the VA Regional Office in the Republic of the Philippines, taking into consideration (A) the current and expected future workloads of such office, (B) the estimated cost in fiscal years 1981 through 1985 of continuing to maintain that office, (C) the feasibility and desirability of transfering appropriate functions of that office to tne U.S. Embassy in the Republic of the Philippines, and (D) a tentative plan, which the Administrator shall develop, for the closing of that office and so transferring those functions, together with cost estimates for fiscal years 1981 through 1985 for the implementation of such a plan assuming that the office is closed prior to October 1, 1981; and

(6) an evaluation of the effects of the amendments to title 38 made by section 401 of the Committee bill.

Subsection (b) of section 402 requires the VA to report to the Congress and the President, not later than February 1, 1980, the results of the study required by subsection (a) of section 402 together with recommendations for resolving the issues to be analyzed and evaluated in the study.

The provisions of subsections (a) and (b) are derived from section 203 of H.R. 5029 as passed by the Senate in the 95th Congress.

Subsection (c) of section 402 requires the study mandated by subsection (a) of this section to be carried out in conjunction with a similar study required under section 308 (a) of Public Law 94-588 the Veterans' and Survivors' Pension Improvement Act of 1978. This subsection also provides for submission of the reports of such studies as a combined report.

Section 402—Costs: Enactment of the provisions of section 402 is estimated to entail no cost.

TITLE V—MISCELLANEOUS PROVISIONS

Amends section 4108 of title 38, United States Code, to authorize the Administrator to prescribe regulations establishing conditions under which Department of Medicine and Surgery officers and employees who are nationally recognized principal investigators in medical research would be permitted to accept reimbursement for travel expenses from non-Federal agencies, organizations, and individuals in connection with their attendance at meetings or in performing advisory services concerned with VA functions or activities, or in connection with acceptance of significant awards or with activity related thereto concerned with VA functions or activities.

Section 501—Cost: Enactment of the provisions of section 501 is estimated to entail no cost.

Section 502.

Subsection (a) of section 502 provides for Presidential nomination and Senate confirmation of the Deputy Administrator of Veterans' Affairs.

Subsection (b) of section 502 makes clear that the incumbent Deputy Administrator may be, but is not required to be, subjected to Presidential nomination and Senate confirmation.

Section 502—Cost: Enactment of the provisions of section 502 is estimated to entail no cost.

Section 503.

Subsection (a) of section 503 amends present section 230 of title 38, United States Code, relating to VA administrative offices, by striking out subsection (c) in order to repeal the outdated authority for the nonexisting VA regional office in Europe.

Subsection (b) of section 503 amends present section 235 of title 38, United States Code, relating to benefits to VA employees at overseas offices who are United States citizens, to provide certain benefits to VA employees stationed outside the United States (in the Philippines); specifically, certain benefits presently available to other Federal employees stationed overseas—family visitation travel expenses and subsistence expenses

upon return to the United States—and benefits relating to the sale or purchase of a residence or settlement of an unexpired lease of an employee being transferred, which are presently available to VA employees transferred within the United States.

Subsection (c) of section 503 makes technical amendments in section 235 of title 38.

Section 503—Cost: Enactment of the provisions of section 503 are estimated to entail no cost.

Section 504.

Updates section 4107 of title 38, United States Code with respect to the salary schedules of the Department of Medicine and Surgery to reflect the October 7, 1978, Federal pay raise contained in Executive Order No. 12087. Specifically, it would amend the schedules of rates of basic pay appearing in title 38 for section 4103 employees (top Department of Medicine and Surgery employees at VA Central Office), for physicians, dentists, nurses, and clinical podiatrists, optometrists, physician assistants and expanded-function dental auxiliaries to reflect this cost-of-living increase.

Section 504—Cost: Enactment of the provisions of section 504 are estimated to entail no cost.

CONCLUSION

Mr. CRANSTON. Mr. President, in closing, I want to express my particular appreciation to the ranking minority member of the committee, the Senator from Wyoming (Mr. SIMPSON), who is also a cosponsor of this bill, for his excellent contributions and spirit of cooperation in the development of this measure and to his staff member, Ken Bergquist, for his help. I also want to express my gratitude to the other cosponsors of S. 7, Senator RANDOLPH—a particularly forceful and effective spokesman for veterans' needs who has been a cosponsor of this legislation throughout our 8 years of efforts—and Senators TALMADGE, STONE, DURKIN, MATSUNAGA, THURMOND, STAFFORD, and HART. I would also like to thank for their diligent efforts, committee minority staff members Garner Shriver, Gary Crawford, and John Pressly, and for their hard and effective work on this bill and the committee report, committee staff members Ellen Akst, Ed Scott, Jon Steinberg, and Harold Carter. They were extremely ably assisted by Janice Orr, Molly Milligan, Terri Morgan, Becky Walker, Mikki Day, James MacRae, and Walter Klingner.

Mr. President, I urge my colleagues to support this very important measure.

I now yield to my friend and colleague, the Senator from Wyoming (Mr. SIMPSON), who is managing his first bill in the Senate.

Mr. SIMPSON. Mr. President, I thank the Senator from California very much for his kind remarks. I am very pleased to support passage of this legislation with him.

I sought him out when I was advised of my status as ranking minority member of this committee. He was most courteous and attentive to me. He shared with me his time, his counsel, his experience, and his remarkable patience, as well as his great legislative skills.

His staff and the committee staff have been exceedingly helpful and productive in assisting me in my responsibilities, without the prejudices associated with the distinctions of majority and minority being present.

Chief Counsel Jon Steinberg has been overly generous of his time and skill in providing me with background on issues that have confronted this committee in the past, as has minority counsel Garner Shriver. I am deeply appreciative of their assistance. Such assistance and support has enabled me, I hope, to be productive and to "light running," as we say in the West.

Senator CRANSTON has worked with this similar legislation for many years. He has shepherded it through the Senate, only to see it fail in the House. Evidence of a new awareness there gives every indication that we will avoid that fate in this session. I believe we will.

I am pleased to have made a contribution to the efforts of Senator CRANSTON. It has been a fine privilege and honor. Besides, two guys named "ALAN," spelled in the same clear and concise manner, cannot help but be a positive influence.

Mr. President, S. 7 is a comprehensive measure to revise and improve Veterans' Administration health care programs, to authorize the construction, alteration, and acquisition of medical facilities, and to expand medical care benefits for disabled veterans. The bill is intended to improve health services to our Nation's veterans. It is the result of careful consideration and considerable compromise on the part of members of the committee sponsoring the bill. It has been well discussed and well considered. We of the Senate Veterans' Affairs Committee now bring to Congress this greatly improved bill, the Veterans' Health Care Amendments of 1979.

The bill as reported by the committee would establish important new programs within the Veterans' Administration health care system primarily for the treatment of veterans with service-connected or related disabilities.

These include readjustment counseling for Vietnam-era veterans who are suffering from problems in readjusting to civilian life; a 5-year pilot program providing for contractual treatment and rehabilitation of veterans with alcohol or drug dependency, in community-based treatment facilities, and a 4-year pilot program of preventive health care services for veterans with service-connected disabilities.

The bill under consideration would also extend outpatient dental benefits to veterans who are former prisoners of war and held captive for at least 6 months and to 100 percent service-connected disabled veterans.

I do not intend to discuss fully all features of S. 7. The committee report submitted by our distinguished chairman covers all titles and details of the bill most carefully and completely. Yet I feel compelled to summarize briefly some of this bill's important provisions.

Title I includes a number of health services programs. It provides that medical examinations to determine the existence of or extent of service-connected disability be included in the third priority for outpatient care—along with non-service-connected care for veterans who have service-connected disability ratings. It is our understanding that, often, service-connected veterans are required to wait far too long in VA outpatient clinics before being examined. We believe that establishing a new priority in compensation examinations, as contained in this measure, not only will eliminate excessive waiting time for veterans in the outpatient clinic but also will result in more comprehensive and thorough examination.

Our committee believes that outpatient dental care eligibility should be extended to veterans suffering from total service-connected disabilities.

We feel that this group of veterans is deserving of special high priority consideration in utilizing VA medical and dental resources. In the bill before the Senate there is an extension of outpatient benefits, including dental care to veterans with 100 percent service-connected disabilities and to veterans who were imprisoned as prisoners of war for 6 months or longer.

We have become very alarmed that VA spending on outpatient fee-basis dental care has been very high in recent years: More than $51 million in fiscal year 1977; more than $58 million projected for fiscal year 1980. As a member of the committee, I offered an amendment to S. 7 which would insure that the Veterans' Administration would generally use its own facilities and dental staff to provide the newly authorized outpatient dental care for former POW's and totally disabled veterans. Such care can be furnished on a fee basis through private facilities, but logically should only be offered when the usual general conditions for fee-basis outpatient medical care are satisfied. These conditions are historically, one, when VA facilities are unable to provide care economically because of geographic inaccessibility or, two, when VA facilities are unable to provide the type of care required.

In addition, a cap or lid will be placed on the amount of fee-basis dental care that the VA may provide in any one fiscal year beginning with fiscal year 1980.

This cap, of course, will be based on the VA's present level of actual expenditures for fee-basis care for fiscal year 1978, that figure being $45.2 million.

We believe that most VA dental care can and should be provided by the VA's own dental care personnel, rather than by a private dentist on a fee basis. This bill also requires the Administrator of Veterans' Affairs to prescribe regulations insuring that, except where required by compelling medical or dental reasons, priority in providing dental care will be in accordance with the specified priority a prescribed standard that generally emphasizes cure for veterans with service-connected disabilities.

It was my privilege to offer and to have accepted by my committee colleagues, including those of the other faith, another cost-saving amendment which was affirmed by the committee. I refer to the 4-year pilot program of preventive health care services for veterans with 50 percent or more service-connected disability. Under my committee amendment expenditures are now limited to $3.5 mil-

lion in fiscal year 1980, $5 million in fiscal year 1981, $7 million in fiscal year 1982, and $9 million in fiscal year 1983. Such a limitation on expenditures and the associated sunset provision will give our committee and the Senate the time to evaluate the effectiveness of the program and its ability to reduce the incidence of future medical conditions before expanding the scope and extending the life of the program.

Currently, health care in the Veterans' Administration is defined by statute as those services necessary to treat an already existing disease or disability. In the past few years, more and more thought and attention has been directed toward the prevention of illness or disease. Many experts in the field believe that preventive health care will improve the welfare of our veterans in the long term, and additionally result in long-term cost savings for patients and, of course, for the Government.

The VA has also endorsed the concept of preventive health care. Our bill clearly sets the course of starting the program modestly and allowing it to mature under careful observation in order that the necessary knowledge and experience can be gained before making a decision concerning the future scope of the program. The committee report sets out in considerable detail the controls, the research recommended, and the desires of the committee in providing for this pilot program.

Another most important feature of S. 7 is the establishment of a program of readjustment counseling and follow-up mental health services for veterans who served on active duty during the Vietnam war, in order to assist these veterans with psychological problems in readjusting to civilian life. That is a most topical subject which is being treated in rather poignant fashion in the film world at the present time.

The purpose of this readjustment counseling provision is to make fully available the resources of the VA's health-care system to Vietnam veterans who feel they require such services. It will, of course, be a voluntary, self-help approach.

Readjustment counseling would include a general mental and psychological assessment to determine whether the veteran has readjustment problems and whether mental health services may be necessary. Such counseling and the follow-up mental health services should and must be provided directly by the VA, except, of course, in Alaska and Hawaii, where there are no VA hospitals, and contract care is the only alternative.

Another of the more significant provisions of S. 7 is a pilot program for the treatment and rehabilitation of veterans with alcohol and drug dependence. The VA would be authorized, for a 5-year period, to contract for such services in private, community-based facilities. I think that is an important distinction. Drug addiction and alcoholism are not new problems to the Veterans' Administration. For many years the VA has recognized alcoholism as a treatable condition. Testimony before our committee indicates that alcoholism and the disorders related to it constitute the largest diagnostic category that the VA observes in the entire health care field.

The Veterans' Administration has been doing extensive and solid work in connection with the treatment of alcoholism and drug abuse. We are providing the additional tools and assistance to enable the VA to offer greater and expanded services to veterans needing this important assistance.

This legislation would authorize the Administrator to conduct a 5-year pilot program in which he could contract for care, treatment, and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities as near as possible to the veterans place of residence, if at all possible. Such care would be for eligible veterans suffering from alcohol or drug dependence or disabilities occasioned by abuse of either of these two drugs.

S. 7 also provides for an expanded role for House and Senate Veterans' Affairs Committees in the planning and implementation of VA medical facilities construction programs. Under present law, the responsibility for providing such facilities, including their location and nature, is with the Administrator of Veterans' Affairs, subject to the approval of the President. The only part played by Congress has been in appropriations legislation.

The committee believes that better planning in the VA's medical facilities construction program will improve availability of services to our Nation's veterans. The House and Senate Veterans' Affairs Committees—with legislative responsibility for the VA health care system—are most familiar with the VA's resources and needs and should have a statutory role in the authorization of its health care facilities to insure the best of care and yet avoid an unnecessary duplication or overbuilding of facilities.

Consequently, S. 7 provides that no appropriation shall be made for construction, alteration, or acquisition of any VA medical facility costing more than $2 million or for leasing any such facility with annual rental over $500,000 without the two committees first adopting resolutions of approval.

There are other provisions of the bill before the Senate which would expand and clarify circumstances under which the VA may furnish contract care; which will insure the proper disbursement and eligibility criteria with respect to benefits to be paid to or on behalf of children residing outside the United States; which will authorize the Administrator to prescribe regulations permitting VA's health care employees who are nationally recognized in their fields to accept payments from non-Federal agencies for travel in connection with officially sanction conferences; which provides for nomination by the President and confirmation by the Senate of the Deputy VA Administrator; and finally for other miscellaneous purposes.

In conclusion, Mr. President, S. 7 represents an investment of considerable work and effort during this and prior Congresses. We continue always to seek improvement in our laws relating to veterans, their dependents and survivors. They are people who have given much at a time when the country expected much of them, and they responded and so should we continue to respond to them.

The members of the Veterans' Affairs Committee earnestly request the continuing support of the Senate as we continue to, hopefully, fulfill our responsibilities and obligations in behalf of the Nation's veterans.

I believe this is a good piece of legislation. I have very much enjoyed my participation in it with Senator CRANSTON and the entire committee, and I trust it will merit the Senate's support.

Thank you very much.

Mr. CRANSTON. Mr. President, I thank my colleague very much for his generous statements and again for his cooperation and for his clear spelling out of the significance and the terms of this legislation.

Mr. President, I ask unanimous consent that the following staff of our committee members have the privilege of the floor throughout the consideration of S. 7: Ned Massee, Maureen O'Neill, and Bobby Avary.

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

Mr. CRANSTON. Mr. President, I believe there are two amendments to the bill. I hope we can now proceed to deal with the first amendment, that of the Senator from Wisconsin, Senator PROXMIRE.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, first, I commend my friend from California and my friend from Wyoming for the excellent bill. It is a very fine bill in many respects. I have an amendment which I hope they can accept or, if not, I hope the Senate will help them accept.

I think they have done a fine job, particularly in the area of preventive health care and measures which have been overlooked generally.

I do not know anyone in the Senate and I know few people in the country who could have been more vigorous in advancing preventive health care than the Senator from California who has been way out in front of it and has been doing a fine job. It is something I think that has been overlooked.

Many people have said if we are going to have any real progress in American health in the next few years, it probably will not come generally out of a test tube. Some advances will. It will come out of improving lifestyles in this country, persuading people to have the proper diet and be more moderate in drinking and smoking, and adopting such health care measures as the distinguished Senator from California proposes in this bill.

AMENDMENT NO. 199

(Purpose: To delete the requirement of Veterans' Affairs Committees' resolutions approving major Veterans' Administration medical facility construction or acquisition projects before appropriations may be made therefor)

Mr. President, I call up my amendment No. 199 to S. 7 and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), for himself and Mr. MAGNUSON, proposes an amendment numbered 199.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I will explain it.

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

The amendment is as follows:

Strike out all on page 65, line 6, through page 67, line 18.

On pages 67 through 77, renumber sections 5005 through 5015 as sections 5014, respectively.

On page 71, strike out all on lines 1 through 3 and insert in lieu thereof "medical facility construction, alteration, lease, or other acquisition project for which appropriation has been made and which were uncompleted as of January 1, 1979, and, in the case of the second and each".

On page 72, on lines 15 through 17, strike out "(other than the construction or alteration of any garage or parking facility involving the expenditure of more than $2,000,000)".

On page 78, between lines 7 and 8, strike out

"5004. Congressional approval of medical facility acquisitions.",

and renumber the items relating to sections 5005 through 5015 as sections 5004 through 5014, respectively.

Mr. PROXMIRE. Mr. President, my amendment would delete language in S. 7, as reported, which would give the House and Senate Veterans' Affairs Committees the right to approve Veterans' Administration medical facility projects costing more than $2 million overall and medical facility leases costing more than $500,000 a year. No appropriations for such projects would be possible, even if they were contained in an administration budget request, unless the projects received the prior approval of the two congressional Veterans' Committees.

Specifically the pending legislation would add a new section 5004 to title 38 of the United States Code requiring committee approval of the aforementioned projects as a prerequisite to any appropriations action. My amendment would strike this section and make certain other conforming changes to the bill currently before us. Why do I do this?

There are two basic reasons why I believe my amendment should be adopted. First, the proposed procedure could open up a Pandora's box by creating a vehicle for the addition of costly medical facility construction projects of dubious merit to the list of priorities put together by the Veterans' Administration and transmitted to the Congress each January as a part of the President's budget for the upcoming year.

I am convinced this will not be the case in this body as long as the distinguished senior Senator from California chairs the Senate Veterans' Affairs Committee, with the able assistance of the junior Senator from Wyoming.

But this proposal would create a permanent change. Given different leadership and a less rigorous economic climate it is not only possible but quite likely that the Veterans' Affairs Committee will authorize a great number of medical facility construction and renovation projects that simply do not meet the tough test that we must begin to apply to all Federal spending.

It would be ironic if we were to approve a procedure which is bound to increase pressures for Federal spending at a time when the Congress is trying to tighten the reins on such spending. It seems to me that all of us who are making a good fair effort to battle inflation by reducing Federal outlays have to oppose this proposed procedure, which has such great potential for increasing medical facility construction within the Federal sector.

In voting my proposal up or down my colleagues should also be aware that the Veterans' Administration has been criticized for building too many acute care beds by the National Academy of Sciences, the General Accounting Office and the Congressional Budget Office. By increasing pressures for the construction of acute bed facilities, section 5004 of S. 7 would cut against the grain of such criticisms of the National Academy of Sciences, the General Accounting Office, and the Congressional Budget Office. We would disregard their advice, in effect. It would also indirectly contribute to spiralling health care costs by creating the potential for the production of excess acute care beds, thus reducing the bed utilization rate and increasing health care overhead costs. Consequently it would strike a blow at the administration's hospital cost containment effort.

It might be argued that the Appropriations Committees of the two Houses will have the final word on hospital construction projects and that they need not approve questionable construction projects just because they have been authorized by the two Veterans' Affairs Committees. It is true that the House and Senate Appropriations Committees have been able over the years to do a pretty good job of resisting efforts to add medical care construction projects to the administration's list of proposals. But if a project were once authorized in Maine or Mississippi and were included in a wish list of priorities, all of us know that it would just be a matter of time before the project was funded. The inclusion of a project on such a list would unleash pressures from a State's congressional delegation, from the Nation's fine veterans organizations, and from communities within the favored State that we might be able to resist for 1 year, or maybe even 2 or 3 years, but which would finally prevail.

So, Mr. President, what I am pleading for is that we maintain our present procedures which, although far from perfect, have enabled us to resist what many, many thoughtful people feel would be great pressure for, in effect, more pork. I am pleading with my colleagues to follow the lead of the chairman of the Appropriations Committee, Senator MAGNUSON, and agree that the present system is one which is going to hold down spending and confirm spending for veterans hospitals to those which are really justified.

There is one other reason for opposing this proposal to require the Veterans' Committees to authorize construction projects before the Congress can appropriate funds for the initiation of such projects. It is the major reason given by the administration for opposing this procedure.

The administration opposes this provision in the bill and supports my amendment. My colleagues should know that the administration does strongly oppose section 5004. Simply put, this proposed legislation would add one more delaying step to the current system for approving medical construction proposals endorsed by the Veterans' Administration and the White House.

As I indicated earlier in my statement. projects that have the administration's endorsement may now be approved simply through a decision of the Congress to appropriate construction funds. A new section 5004 would require the Veterans' Committees to sign off on such projects before we could act to appropriate funds in the future, thus imposing "cumbersome, cost-escalating procedures," in the words of the Administrator of Veterans' Affairs, on the present systematic construction planning process pursued under OMB circular A-109.

Of course, in the kind of world we live in, in view of the inflation we suffer, particularly in construction, those delays mean higher costs, and higher costs that can be substantial. They can be in the millions, in the hundreds of millions of dollars.

To repeat, in the words of the Administrator of Veterans' Affairs, they are "cumbersome, cost-escalating procedures." VA Administrator Cleland went on to say, in a letter to the Senate Veterans' Affairs Committee opposing prior authorization of medical construction projects—this is what Administrator Cleland said, and I think we all respect and admire Max Cleland; I think he has done an outstanding job as the head of the Veterans' Administration. He is one of the very best we have had, one of the most thoughtful and compassionate, as well as one of the most economy-minded. He said:

We are fearful that enactment of this proposal would seriously impair—if not disrupt—the orderly system of administrative planning which has proven effective for many years.

I agree with Administrator Cleland and I hope my colleagues will also agree by voting to strike section 5004 from the bill before us today.

To sum up my arguments, the procedure the pending bill attempts to create, and which my amendment would strike from the bill, would substitute a time-consuming congressional priority setting process for the VA's orderly system of determining when and where medical facilities should be constructed and would greatly increase the cost of the VA's medical construction program in the process. This is unwise both from the standpoint of good planning and in the context of congressional efforts to hold down excessive Federal spending. I urge my colleagues to join with me in voting against this misguided attempt to complicate and politicize the provision of care to the Nation's veterans.

Mr. President, I must say that I have

great admiration for both Senators who are managing this bill, and I think the remarks by the Senator from Wyoming were particularly apt, and it was a fine statement, particularly when he referred to the fact that this is being managed by two fellows whose names are "ALAN," and I just hope that by accepting this amendment they will prove that that is just not another four-letter word.

At any rate, I hope they will be as economical and as terse in their acceptance of this amendment as they are in their fine first names.

Mr. CRANSTON. Mr. President, I thank my good friend from Wisconsin for his generous remarks.

I admire his own personal approach to preventive health care and his understanding of that aspect of this legislation, and I welcome his support for the main thrust of this bill.

I am sorry that I cannot agree on the nature of the amendment that he has offered, but fully understand the concerns that motivate him to take the position that he has taken.

I believe that the approach in the Senator's amendment goes too far. His amendment would totally eradicate the basic thrust of title III of the committee bill, which is designed to involve the House and Senate Veterans' Affairs committees in planning and approving funding for major VA medical facility construction and acquisition projects as part of the congressional authorization and appropriations processes, by requiring committee approval of major projects before appropriations may be made for them.

Under current law, the responsibility for provision of such facilities, including determining their location and nature, is expressly bestowed upon the Administrator of Veterans' Affairs, subject to the approval of the President. This responsibility may be exercised, of course, only insofar as appropriations are made available to the VA for specific projects.

The Veterans' Affairs Committees in both Houses have been concerned that, although they have legislative responsibility for the entire VA health-care system and are most familiar with the system's existing resources and future needs, neither committee has any statutory role in determining what VA health-care facilities will be established. They believe that providing for an authorization process, in addition to the appropriations process, is the appropriate and accepted way to provide for that role. This approach, in company with other provisions in title III of the bill, would bring about better planning in the VA's medical facilities construction program, improvements in the availability of services to our Nation's veterans, and more equitable and effective use of limited national resources for those purposes.

We do appreciate, however, Mr. President, the concerns that some have with respect to delegating sole responsibility for approving major VA medical facility projects to the Veterans' Affairs Committees. In fact, our committee has never sought such unilateral authority; the reported bill contains this provision only as part of a package agreement reached last Congress with the leadership of the House Veterans' Affairs Committee. However, we believe that the Proxmire amendment goes too far in totally rejecting what we believe is a legitimate concern that these authorizing committees—like many other congressional committees—have a significant role in the review and approval of large VA construction projects.

UP AMENDMENT NO. 150

(Purpose: To require a concurrent resolution reported from Committee by March 15, instead of Veterans' Affairs Committees' resolutions, to approve major VA medical facility construction or acquisition projects before appropriations may be made therefor)

Mr. CRANSTON. Therefore, Mr. President, Senator SIMPSON and I are offering an amendment that would change the authorizing committee approval process to one requiring adoption by each House of a concurrent resolution—like the budget resolution—approving particular projects before appropriations could be made for them. These concurrent resolutions would originate in the authorizing committees, thereby still giving them a significant, but not the exclusive, role in an authorizing process. Joining us in proposing this amendment, which would, in effect, be a substitute for the Proxmire amendment since it proposes to strike and insert in lieu of language that he proposes to strike out entirely, are Senators TALMADGE, RANDOLPH, STONE, THURMOND, and STAFFORD.

There is abundant precedent for an approval or authorization requirement before appropriations may be made for Federal construction projects as well as for a significant role for the authorizing committees in that process. Other congressional committees have committee-resolution approval authority under at least three other laws—the Public Buildings Act of 1959, as amended (40 U.S.C. 606), the Watershed Protection and Flood Prevention Act of 1954, as amended (16 U.S.C. 1002), and the Flood Control Act of 1965, as amended (42 U.S.C. 1962–5(a)). In addition, authorizing committees perform much the same function with respect to annual military construction authorization acts and larger water resource development project authorization acts as the Veterans' Affairs Committees would perform under our amendment. Since our amendment proposes to establish an internal rule governing when it is in order to consider an appropriation, we believe a concurrent resolution rather than a law requiring Presidential involvement, is sufficient.

Mr. President, to assure that the approval process would not delay planning and funding for major VA medical facility projects, our amendment would also require that the authorizing committees report an annual concurrent resolution by March 15 each year and that a failure to do so by either committee would remove, for that year, the prohibition against appropriations for construction projects not approved by concurrent resolution. This timing requirement would fit smoothly into the present annual cycle for proposing and funding VA construction projects—between the January submission of the President's budget and the post-May 15 action on the appropriations bill. It would also fit in with the two authorizing committees' responsibilities for submitting funding recommendations to the Budget Committees under the Congressional Budget Act of 1974.

Mr. President, we are confident that the Committees on Veterans' Affairs will carry out such an authorizing role in a fully responsible and fiscally prudent manner. In this regard, the committee stated in its report on S. 7 (Senate Report No. 96–100), pages 57 and 58:

> The committee, in its exercise of this provision in the committee bill, intends to consult very closely with the Senate Appropriations Committee and the House Veterans' Affairs Committee before making any final decisions with respect to construction or acquisition projects for the V.A. medical programs. The committee believes that this close working relationship will facilitate prompt consideration of construction proposals. . . . In addition, the committee is very much aware of the need for fiscal constraints and fully intends to scrutinize very carefully construction funding proposals, mindful of the total amount proposed in the President's budget each year.

We would also note that the requirement of approval by concurrent resolution would not result in mandating any spending. Rather, it would set parameters for appropriations, and approved projects would still have to pass muster in the appropriations process. Indeed, Mr. President, we fail to understand the allegations that this authorization process would proliferate construction projects. "Pork," that process is called—as though when the appropriations process produces a project it is prime filet. Rather, we believe that an authorization process would provide even greater assurance that approved and funded projects are clearly justified.

Mr. President, I call to the attention of my colleagues two letters that I have received from national veterans' organizations in support of our amendment. Favoring this amendment are the Veterans of Foreign Wars, representing 1.85 million veterans, and the Disabled Veterans of America, representing 615,000 veterans.

Mr. President, I ask unanimous consent that these letters be printed in the RECORD at this point.

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

VETERANS OF FOREIGN WARS,
Washington, D.C., May 14, 1979.

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

DEAR MR. CHAIRMAN: The Veterans of Foreign Wars of the United States has historically maintained a cautious position with respect to the contracting out of medical care by the Veterans Administration. Obviously, the proliferation of more costly contracting out would only lead to both the reduced use of VA facilities and, as would follow, the reduced ability of the VA to furnish broad spectrum care and, consequently, a reduced need for the vast hospital and medical care system we now enjoy. Therefore, we would view with considerable concern any amendment to S. 7, the "Vet-

erans Health Care Amendments of 1979", which would significantly expand the authority now contained in section 601(4)(C), Title 38 USC.

In addition to the foregoing, we would oppose in the strongest possible terms any amendment alien to the concept of veterans benefits, such as restricting psychological readjustment counseling only to those who served in Vietnam or contiguous waters.

The V.F.W. is supportive of so much of Title III of S. 7 as requires approval of the Senate and House Veterans' Affairs Committees in the planning and the approval of funding for construction and acquisition of major medical facilities by the VA. However, and as a compromise to the proposed amendment of the Honorable William Proxmire to delete this provision from the bill, we support your proposed substitute amendment requiring adoption by each House of a concurrent resolution approving particular projects before appropriations could be made for them.

With best wishes and kindest personal regards, I am

Sincerely,

DONALD H. SCHWAB,
Director, National Legislative Service.

DISABLED AMERICAN VETERANS,
Washington, D.C., May 15, 1979.

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

DEAR CHAIRMAN CRANSTON: This letter is in reference to the proposed Proxmire Amendment to S. 7, the Veterans Health Care Amendments Act of 1979, and to the proposed Cranston Amendment which, I understand, will be offered in the nature of a substitute (to the Proxmire Amendment).

S. 7, as reported to the floor of the Senate, contains a provision that would require approval by the House and Senate Veterans' Affairs Committees before Congressional appropriations could be made for the purpose of funding major VA medical facility construction/acquisition projects.

The purpose of this provision is to more directly involve the two Veterans' Affairs Committees in the planning and development process of new and replacement medical facilities in our VA Hospital system.

The Proxmire Amendment would delete this provision from the bill.

The Cranston substitute amendment, as I understand it, would retain the VA medical facility "Congressional control" aspect of S. 7. However, it would replace the Veterans' Committees' approval mechanism with one that would require approval by both Houses of Congress in the form of an adopted concurrent resolution.

As you are well aware, Senator Cranston, when S. 7 was the subject of Congressional hearings earlier this year, the Disabled American Veterans strongly supported the extension of greater authority to the House and Senate Veterans' Affairs Committees for the purposes of promoting a more orderly, a more prudent system of construction, alteration and acquisition of VA medical facilities.

Our position on this matter has not changed.

If, as we believe, the Congress should have a definitive, statutory role in the process governing the development of our VA Hospital system, who is better qualified to exercise that authority and responsibility than the two authorizing Committees most familiar with the system itself?

Notwithstanding our desire that the VA medical facility construction/acquisition provision of S. 7 be retained as reported by your Committee, if the only alternatives lay between acceptance of the Proxmire Amendment or the Cranston Amendment, for obvious reasons, the Disabled American Veterans would urge Senate approval of the latter.

Sincerely,

JOHN F. HEILMAN,
National Legislative Director.

Mr. CRANSTON. In conclusion, Mr. President, I would state my strong belief that our amendment responds appropriately to all major concerns with respect to this aspect of the bill as reported, and I urge my colleagues to support the amendment which I now send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself, Mr. SIMPSON, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. THURMOND, and Mr. STAFFORD, proposes an unprinted amendment numbered 150.

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

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

The amendment is as follows:

In lieu of the material proposed to be stricken by Mr. Proxmire on page 65, line 6, through page 67, line 18, insert the following: "§ 5004. Congressional approval of medical facility acquisitions.

"(a)(1) In order to ensure the equitable distribution of medical facilities throughout the United States, taking into consideration the comparative urgency of the need for the services to be provided in the case of each particular facility—

"(A) no appropriation may be made, except as provided in paragraph (2) of this subsection, for the construction, alteration, or acquisition (not including exchanges) of any medical facility which involves a total expenditure of more than $2,000,000 unless a concurrent resolution has first been agreed to approving such construction, alteration, or acquisition and setting forth the estimated cost thereof; and

"(B) no appropriation may be made, except as provided in paragraph (2) of this subsection, for the lease of any space for use as a medical facility at an average annual rental of more than $500,000 unless a concurrent resolution has first been agreed to approving such lease and setting forth the estimated cost thereof.

"(2) The prohibition of appropriations set forth in paragraph (1) of this subsection shall not apply in any calendar year unless, not later than March 15 of such year, each committee has reported to the House of Representatives and the Senate, respectively, a concurrent resolution approving construction, alteration, lease, or other acquisition projects described in paragraph (1) of this subsection for the purpose of appropriations to be made in such calendar year.

"(b) In the event that the President or the Administrator proposes to the Congress the funding of any construction, alteration, lease, or other acquisition to which subsection (a) of this section is applicable, the Administrator shall submit to each committee, on the same day, a prospectus of the proposed medical facility. Such prospectus shall include—

"(1) a detailed description of the medical facility to be constructed, altered, or otherwise acquired under this subchapter, including a description of the location of such facility;

"(2) an estimate of the cost to the United States of the construction, alteration, lease, or other acquisition of such facility (including site costs, if applicable); and

"(3) an estimate of the cost to the United States of the equipment required for the operation of such facility.

"(c) The estimated cost of any construction, alteration, lease, or other acquisition that is approved under this section, as set forth in the pertinent concurrent resolution described in subsection (a) of this section, may be increased by the Administrator in the contract for such construction, alteration, lease, or other acquisition by an amount equal to the percentage increase, if any, as determined by the Administrator, in construction, alteration, lease, or other acquisition costs, as the case may be, from the date of such approval to the date of contract, but in no event may the amount of such increase exceed 10 per centum of such estimated cost.

"(d) In the case of any medical facility approved for construction, alteration, lease, or other acquisition under subsection (a) of this section for which funds have not been appropriated within one year after the date of such approval, the Congress may by concurrent resolution rescind its approval at any time thereafter before such funds are appropriated.

"(e) In any case in which the Administrator proposes that funds be used for a purpose other than the purpose for which such funds were appropriated, the Administrator shall promptly notify each committee, in writing, of the particulars involved and the reasons why such funds were not used for the purpose for which appropriated.

"(f) The Administrator may accept gifts or donations for any of the purposes of this subchapter.".

Mr. SIMPSON. Mr. President, I would simply add that I certainly urge the Senate to adopt the amendment submitted by Senator CRANSTON and others.

I think the important thing to note is that the Veterans' Administration will continue to propose and, of course, the Congress will continue to authorize. I believe this to be a proper exercise of congressional authority. I share the concerns of the distinguished Senator from Wisconsin, but I commend to his attention a segment of the House Report 96-140 on this issue where it is stated, on page 28:

Although there are many factors to be considered, the Committee is of the opinion that for too many years there has been inadequate planning, particularly long-range planning, of the Veterans' Administration health facilities construction program. To a large degree, lack of such planning has resulted in high cost overruns. The most recent example is the Bronx VA Hospital where original estimated construction costs totaled $65 million. The construction of the hospital has recently been completed and the final cost is expected to exceed $115 million.

In addition, the Committee is very concerned about the tremendous unobligated balance in VA's construction account. The unobligated balance has now reached more $900 million. . . .

The Committee feels that the committee charged with the responsibility for determining the nature and scope of Federal benefits including medical care to be provided for the Nation's veterans, should have a role in determining where and in what quantity VA health care facilities shall be constructed.

I can assure the Senators present that the purpose of this amendment is to avoid a pork barrel situation. I certainly join the Senator from Wisconsin in his

efforts to abolish such practices. If abuses have existed in the past, it can well be because our committee has not been afforded a proper role in the authorization process. In my brief experience with this remarkable body, I have observed that the Senate Veterans Affairs Committee gathered unto itself the expertise. and information necessary to properly exercise such an authorization responsibility. I am confident that both the Senate and House committees will exercise this responsibility to the advantage of the veteran and the taxpayer and that the Senate and House will endorse such actions by an appropriate resolution in each instance. I also believe that the committees can do a better job in overseeing the tremendous unobligated balances that exist in the VA's construction account.

Mr. MAGNUSON. Mr. President, will the Senator from California yield for a question?

Mr. CRANSTON. Of course. I have yielded the floor.

Mr. MAGNUSON. What is wrong with the procedure that has been going on? What has been wrong with it? Why the change? Is it to give more power to your committee?

Mr. CRANSTON. No.

Mr. MAGNUSON. Oh, sure; that is what it is.

Mr. CRANSTON. I certainly am not power hungry about this committee. As the Senator knows, I did not start this; it began on the House side and is a result of an effort between my committee and the House committee to work out a problem that was of concern to House members.

I think the basic concern is simply that the Veterans' Affairs Committee in the Senate, and more so in the House, where the concern originated, believe that, although these committees have legislative responsibility for the entire VA health care system and are most familiar with that system, neither committee has any statutory role in determining what and where facilities shall be developed.

That is an area where we seemingly have some responsibility, but we do not have it in fact under the existing procedure. As I outlined earlier, other committees under other laws do have an analogous authority to that which we are proposing.

Mr. MAGNUSON. I remember when we established the Veterans' Committee. I have not had time to go back and look into the CONGRESSIONAL RECORD, but I remember people pleading, "We do not want this authority, we do not want this."

It is the same old story of getting your foot in the door and trying to get more and more authority.

Mr. CRANSTON. May I correct——

Mr. MAGNUSON. I am referring to legislative authority. I think at one time the Veterans' Committee said they did not want the legislative authority at all.

I do not see what is wrong with the system now. I appreciate the fact that the House started this. I know the tenor of the House Members. They want to get more authority in their committees, and so on. But I do not see that it is necessary to make the change.

I do not know about the Senator from Wisconsin. If this amendment carries, we might suggest that it is a good thing, that it saves us a lot of trouble. But we have been pretty good about this.

The reason there is an unobligated balance, and you will run into the same thing if you get this authority, is due to the fact that there is always an argument about where are you going to build a veterans' hospital, here or there, and there is only so much money. You people authorize everything. You authorize them here and there, and then we have to pick them out. I do not think we want that authority, and I do not think we need it.

I do not think this amendment should be agreed to. I do not understand why it has been brought up now. When everything is going fine, leave things alone. That is a good axiom, is it not?

Mr. CRANSTON. I like Bert Lance's way of putting that on one occasion, "If it ain't broke, don't fix it."

Mr. MAGNUSON. Yes.

Mr. CRANSTON. I would like to say to the Senator that I was not one of those who advocated creating a veterans' committee in the first place. As a matter of fact, I did not favor it when it was before the Senate. So I have not been one advocating any great concentration of authority.

Mr. MAGNUSON. I know the Senator did not. But I remember being convinced that, "We are just going to be a veterans' committee. We do not need legislative authority." Now here you go again.

Mr. CRANSTON. I can not agree on that. The advocates of the committee at that time were advocating legislative authority.

I greatly respect the way the Senator from Washington has handled the tremendous burden in the Appropriations Committee. I do not know how he has the time to sit as long as he does listening to as many witnesses and dealing with as many aspects of the Government's expenditures and programs as he does. I am constantly amazed by his patience, his endurance, and his abilities. We are just trying to help share that burden a little bit.

I am ready to vote.

Mr. PROXMIRE. Mr. President, the Senator's amendment, and I do not think we have a clear picture of it, would simply provide for a concurrent resolution, is that correct?

Mr. CRANSTON. Yes.

Mr. PROXMIRE. In other words, it would not only have the Veterans' Committee authorize, which they do not now, but also have the Senate vote on the concurrent resolution.

Mr. CRANSTON. And the House also.

Mr. PROXMIRE. It would not change the pork barrel aspects of this. We would still have a lot of pressure on the Veterans' Committee. I believe the Senator is an expert on that now. The veterans organizations always ask for more. They have been pushing it hard. Then when it reaches the floor, those of us not on the Veterans' Committee would say, for our constituents and organizations, "Why do you not have a hospital in Wisconsin, in my State?"

We get that kind of pressure, and Members of the Senate on the floor, and Members of the House on the floor, would have the same kind of pressure that they do not have to the same degree now.

Mr. CRANSTON. May I say on that point that that same process of pressure can be and is brought to bear on the Appropriations Committee and on that process. They will still be vulnerable to that, to the degree they are now. We are providing two hurdles that a project has to get over, not just one.

Mr. PROXMIRE. Hurdles or two more areas where the pressure can be focused and the pork pushed hard. As Senator MAGNUSON said, we have a situation that has worked pretty well over the years. There has not been an indictment of the present situation. It would seem to open up, or be an invitation to open up, more pressure for more hospitals, and more than we need. Furthermore, under the procedures the Congress, and mainly the Veterans' Committee, would be substituting its judgment for the judgment of the VA. The Appropriations Committee relies heavily on the VA experts. While we can criticize them in many respects, I think they have a somewhat more objective view of where hospitals ought to be built, where they are needed, and so forth, than Members of Congress. After all, we do represent States and districts and will fight like tigers to get projects in our particular States. That is why the administration has taken such a clear and emphatic position in favor of my amendment and against the amendment the Senator is now offering.

Finally, the Senator's substitute would not allow for a Presidential veto because it provides for a concurrent resolution. So the President would not be able to stop what he considered as something that was just unacceptable. That is a power that the President has at the present time that would be taken away, in effect, because once we pass the concurrent resolution that would be the ball game.

I hope under these circumstances the Senate will not vote in favor of this amendment.

Mr. President, I think this is a sufficiently critical issue that we should have a rollcall vote.

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

The PRESIDING OFFICER (Mr. DECONCINI). Is there a sufficient second? There is not a sufficient second.

Mr. PROXMIRE. Then I suggest the absence of a quorum.

Mr. CRANSTON. May I say one thing before the Senator does that?

Mr. PROXMIRE. Yes.

Mr. CRANSTON. First, I would say we are following a standard procedure here which operates, in effect, in the construction of public buildings. The reason there is not a Presidential veto process is that what we are proposing would be an internal rule of the Senate. The President would still have the authority to veto the Appropriations Act.

Mr. PROXMIRE. But once we have acted on the concurrent resolution and have spoken our mind it makes it much

more difficult for the President to veto the appropriation. Furthermore, in the appropriation he has to veto everything in the appropriation. We do not have an item appropriation, as the Senator knows. The President may feel strongly about a particular hospital, but there is nothing he can do about it.

Mr. CRANSTON. That is analogous to when the President did choose to exercise the veto on the public works appropriation for water projects.

Let me also say that I am sure the Senator is not suggesting that the only projects that have been built have been those requested by the President in his budget. The Appropriations Committee has seen fit to decide that here, there, or elsewhere, beyond what the administration has wanted, there should be some projects undertaken.

Mr. PROXMIRE. Yes, I believe the Congress has been reasonably moderate and reasonable about this, and I think it has worked pretty well. But once we open it up this way, the pressure on the members of the Veterans' Committee and the pressure on the Members of the Congress to get theirs in their district or their State is going to be much more intense.

Mr. CRANSTON. I agree the Appropriations Committee has been reasonable and moderate, and we on the Veterans' Affairs Committee would do our best to behave in the same way.

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

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

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska, (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The PRESIDING OFFICER (Mr. BRADLEY). Are there any Senators in the Chamber wishing to vote who have not done so?

The result was announced—yeas 45, nays 47, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—45

Armstrong	Cranston	Glenn
Baker	Danforth	Hart
Boren	DeConcini	Hatch
Boschwitz	Dole	Heflin
Bradley	Domenici	Humphrey
Church	Durenberger	Javits
Cochran	Ford	Jepsen
Cohen	Garn	Laxalt
Lugar	Pryor	Stone
Matsunaga	Randolph	Talmadge
McClure	Riegle	Thurmond
Nunn	Roth	Tower
Packwood	Schweiker	Wallop
Pell	Simpson	Warner
Percy	Stewart	Zorinsky

NAYS—47

Baucus	Goldwater	Morgan
Bayh	Hatfield	Moynihan
Bellmon	Heinz	Muskie
Bentsen	Helms	Nelson
Biden	Hollings	Pressler
Bumpers	Huddleston	Proxmire
Burdick	Inouye	Ribicoff
Byrd, Harry F., Jr.	Jackson	Sarbanes
	Kennedy	Sasser
Byrd, Robert C.	Leahy	Schmitt
Cannon	Levin	Stennis
Chafee	Long	Stevens
Chiles	Magnuson	Stevenson
Culver	Mathias	Tsongas
Eagleton	Melcher	Williams
Exon	Metzenbaum	Young

NOT VOTING—8

Durkin	Johnston	Stafford
Gravel	Kassebaum	Weicker
Hayakawa	McGovern	

So Mr. CRANSTON's amendment (UP amendment No. 150) was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

UP AMENDMENT NO. 151

(Purpose: Relating to specially adapted housing for disabled veterans, to remove requirement that blind veterans must also suffer loss of lower extremities)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment. This amendment is submitted on behalf of myself, Senator HEINZ, and Senator PRESSLER.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and others, proposes an unprinted amendment numbered 151.

Mr. DOMENICI. 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 83, between lines 18 and 19, insert the following new Title V and renumber subsequent Titles accordingly.

TITLE V—BLIND VETERANS DISABILITY HOUSING

SEC. 501. Clause (2) of section 801 of title 38, United States Code, is amended to read as follows:

"(2) which includes blindness in both eyes, having only light perception, or".

SEC. 502. Section 802 of title 38, United States Code, is amended by striking out "Shall not exceed $30,000 in any one case—" in the material preceding clause (1) and inserting in lieu thereof "shall not exceed, in any one case, $15,000 in the case of any veteran with a disability described in section 801(1) of this title or $25,000 in the case of any veteran with a disability described in clause (1) or (3) of this title—".

Mr. DOMENICI. 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. CRANSTON. 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. CRANSTON. Mr. President Senator RANDOLPH wishes to speak briefly on the bill while we are working on the proposal of the Senator from New Mexico.

Mr. DOMENICI. I have no objection.

Mr. CRANSTON. I yield to Senator RANDOLPH.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I thank the able Senator, the chairman of the Committee on Veterans' Affairs, and my colleagues.

Mr. President, I look upon it as a privilege and also a responsibility to cosponsor S. 7, the Veterans Health Care Amendments of 1979. These amendments will improve the health services to the veterans of the United States.

The members of the Veterans' Affairs Committee, Chairman CRANSTON, TALMADGE, STONE, DURKIN, MATSUNAGA, SIMPSON, STAFFORD, THURMOND, and HUMPHREY are committed to the veteran and his needs.

Many provisions in S. 7 are similar to those introduced and passed in the Senate during four previous Congresses. Among those are: First, a program of readjustment counseling for Vietnam-era veterans who are suffering from problems in readjusting to civilian life; second, a 5-year pilot program providing for the treatment and rehabilitation of veterans with alcohol or drug dependence or abuse disabilities; and third, a 4-year pilot program of preventive health care services for veterans with service-connected disabilities.

Included is a provision requiring the Senate and House Veterans' Affairs Committees to approve major construction and acquisitions of VA medical care facilities before appropriations may be provided.

Many of our Vietnam-era veterans have problems in returning to normal civilian life. These men and women participated in what is recognized as a very unpopular conflict. Their particular problems are different from those veterans returning from World War I, World War II, or Korea. The Vietnam veteran is more likely to have a permanent disfiguring and disabling injury and to survive it than his predecessors.

The need for readjustment counseling for Vietnam-era veterans is clearly recognized.

I express a tribute to our VA Administrator, Max Cleland. Max is a veteran of the Vietnam war. I do not want to talk too much about Max, because he would not want it said, but think of this man—both legs off, an arm off, and yet a man who is able to carry on with thousands and thousands of those within the Veterans' Administration who need the guidance, who need the counseling, who need the administrative ability of a man

who was there and comes home, and a man through it all who is cheerful and helpful.

I think if there is an inspiration award which could be given in the year of 1979 to any American, it should go to Max Cleland.

We know that he has advocated counseling programs of which I speak.

Our VA Administrator, Max Cleland, has advocated this counseling since the days he was a member of the Senate Veterans' Affairs Committee staff. He is strongly, and I use the word advisedly, very strongly in support of the program that we consider this afternoon.

The program would provide readjustment counseling to any veteran who served on active duty during the Vietnam era who requests such counseling within 2 years from discharge or release or within 2 years after the date of enactment.

The VA would be generally required to provide these services through its own facilities and personnel. Who is more in a position to understand the veterans unique problems than the VA? Who is better prepared and equipped to provide the readjustment services than the 8,000 psychological and social workers who are on the staff?

There are approximately, I think, 350 new employees who will be trained and will be ready to carry forward these new programs for our veterans.

Recognizing that not all veterans will be able to utilize VA facilities for their counseling, I have cosponsored a committee amendment which will offer the same authority for contract services in providing readjustment counseling and followup services in mental disorders. This is now provided for other contract health services for totally disabled veterans with 100 percent service-connected disabilities. This would make the counseling available to all Vietnam-era veterans no matter where they live. This is the best approach, we believe, in providing counseling for these men and women.

The growing problem of alcoholism and drug abuse among our veterans cannot be overlooked. It cannot be placed in a corner. We must face it. Alcoholism and drug abuse are the two most frequently diagnosed conditions that we find in veterans who are in our medical facilities in the veterans hospitals.

Testimony shows the VA has 92,000 inpatient admissions per year in its alcohol programs and about 900,000 outpatient visits a year. The alcohol problem is frankly the biggest problem. But this should be written into the record. The Veterans' Administration estimates that 200,000 veterans suffer from dependence upon drugs. This is alarming but it is a correct statistic.

S. 7, would improve the VA's ability to meet the special needs of veterans requiring attention for their alcohol and drug dependence.

The Administrator would be authorized under a special 5-year pilot program to contract for alcohol and drug treatment for veterans in halfway houses, therapeutic community psychiatric residential treatment centers, and other community-based treatment facilities.

This provision allows treatment to be tailored to an individual's special needs and circumstances so as to enhance chances of recovery.

Currently health care in the Veterans' Administration is generally to treat already existing diseases or disabilities. S. 7 departs from this custom by establishing a 4-year pilot program of preventive health care services. These services would be available, where feasible, to all veterans suffering from a service-connected disability of 50 percent or more, and to any veteran in connection with treatment for a service-connected disability. The program would provide for: Periodic medical and dental examinations; patient health education; maintenance of drug use profiles; routine vision testing and eye care services, and other preventive health care services.

Today we are in a period of fiscal restraint. Preventive health care programs can lead to lower health care costs to the veteran and the taxpayer.

I hope my colleagues vote for S. 7. Our 30 million veterans deserve the services to be provided by these health care amendments. We are faced with many difficult choices. There are many legitimate demands made on our limited resources.

We must not forget the debt we owe to those men and women who have served to keep us a nation of free people.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico.

UP AMENDMENT NO. 151 (AS MODIFIED)

Mr. DOMENICI. Mr. President, the amendment which I sent to the desk is in need of a modification. The second line from the bottom the dollar figure of $25,000 should be changed to $30,000, and I send a modification to the desk. I ask that my amendment be so modified.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 83, between lines 18 and 19 insert the following new Title V and renumber subsequent Titles accordingly.

TITLE V—BLIND VETERANS DISABILITY HOUSING

SEC. 501. Clause (2) of section 801 of title 38, United States Code, is amended to read as follows:

"(2) which includes blindness in both eyes, having only light perception, or".

SEC. 502. Section 802 of title 38, United States Code, is amended by striking out "shall not exceed $30,000 in any one case—" in the material preceding clause (1) and inserting in lieu thereof "shall not exceed, in any one case, $15,000 in the case of any veteran with a disability described in section 801(1) of this title or $30,000 in the case of any veteran with a disability described in clause (1) or (3) of this title—".

Mr. DOMENICI. Mr. President, I am attempting to work something out with the managers. While we are doing that let me just state what I was trying to do with this amendment. As we all know, if we have a service-connected disability that involves the legs, a veteran is entitled to make modifications to his home up to $30,000 in cost so as to accommodate and provide for ease of movement and the like for a veteran who is so disabled.

The problem we have, and which has come to the attention of the Senator from New Mexico, is that if you are a totally blind veteran you do not have that kind of assistance unless you are totally blind and one or both of your legs is or are also totally disabled.

It just appears to the Senator from New Mexico that this is not fair. So my amendment would have provided, as modified would have provided, housing adaptation allowances for the totally blind veteran of up to $15,000.

(Mr. PRYOR assumed the chair.)

But after conferring with the manager and ranking Republican I am disposed to defer my amendment, because I am told that we have a section of the law that allows up to $2,500 as a grant for totally blind veterans, and for some reason that is not being utilized, at least not being utilized very much. There is some lack of information as to how much would be adequate for a home modification for the totally blind veteran.

So what we are attempting to do here is to prepare mandatory report language which would require that the Veterans' Administration by a date certain determine two things: One, what would be adequate for such home modifications for a totally blind veteran; and, two, if the $2,500 grant program is adequate, tell us why. If it is not being used extensively or as much as perhaps it should be to inform the appropriate committees of the Senate and House as to why.

I believe we will have that language ready shortly, in which event, if acceptable to both the manager and ranking Republican, I would then withdraw my amendment and offer the other one I have just described in lieu of it.

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

Mr. DOMENICI. I am pleased to yield.

Mr. PRESSLER. I commend the Senator from New Mexico for this effort on behalf of the blind. This does sound like a bureaucratic quirk which needs correcting, and I think the Senator's raising it and offering his amendment, although now he will probably withdraw it, indicates the type of bureaucratic quirks that many of our veterans find themselves involved with.

I served in the Army in Vietnam and had conversations with several of my colleagues who were less fortunate than I, and who received an injury of one sort or another. It seems to me that these programs are so inconsistently administered that it is rather unfortunate that they have to reach the Senate floor in this fashion. But I do commend the Senator from New Mexico for his fine effort on behalf of blind veterans.

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

Mr. DOMENICI. I will be pleased to yield.

Mr. HEINZ. I want to thank the Senator from New Mexico for allowing me to cosponsor this amendment. I think

the Senator from New Mexico is especially to be commended for having identified what undoubtedly is a real catch-22—not the only one our veterans, particularly our Vietnam veterans, have encountered, but an important one—and I think all the veterans who would be affected by the Senator's amendment, I am sure, join all of us in our gratitude to the Senator from New Mexico.

Senator PRESSLER is a recent veteran, as I am, too, and I know that as members of the Senate Vietnam Veterans Caucus the Vietnam veterans, in particular, would be well-served, and have been well-served, by the advocacy of the Senator from New Mexico. I thank the Senator.

Mr. DOMENICI. Mr. President, I am offering my amendment which is designed to help correct the inequity suffered by the disabled veteran whose sole disability is blindness.

Under the present law, to be eligible for specially adapted housing for disabled veterans, a blind veteran must, in addition to being blind in both eyes, also be unable to use one of his lower extremities.

This present language neglects the fact that blindness itself is an extreme disability. I honestly do not believe that any other qualifications are necessary in order to achieve such status.

The needs of the blind are different from those who have lost the use of one or both of their legs. To deny assistance for specially adapted housing to the veteran who has had the misfortune of losing his sight, but fortunate enough to retain the use of his legs, would not only be inconsistent and impractical, but an injustice to those who have suffered such misfortune.

The need for adaptive housing for those who have no sight is no less than that of those who suffer the loss of one or both lower extremities. Among the many special features needed by the blind, but not those with vision, include: Safety rails on steps, pushbutton ovens, formica tops on ranges for cleaning up spills, smoke alarms, braille on medicine bottles, door locks fitted to one key, and braille washers and dryers. In short, a host of safety features that those with sight either take for granted or find unnecessary.

Mr. President, I believe this amendment will do much toward assisting blinded veterans in attaining the goal of rehabilitation and becoming productive members of society so they may take their rightful place in their communities.

This amendment will allow the blinded veteran, who has not lost the use of his lower extremities, as required under present law, to be eligible for housing assistance. At present, the blinded veteran who has lost the use of his lower extremities is eligible for up to $30,000 in housing assistance. Under this amendment, the veteran who has lost his sight in both eyes may now be eligible to receive up to $15,000 in housing assistance.

The number of blinded veterans is relatively small. However, the problems of the individual blind veteran and his family in adjusting to blindness can be great. My amendment would help ease that task. I think this is not too much to ask from a grateful society who owes those who have served their country so well.

I urge my colleagues to favorably consider this amendment.

I will say to the Senate I believe it will just be a matter of a couple of moments and then we will have some substitute language. I do want to say a few words about this issue.

It has come to my attention because representatives of Blinded Veterans of America are genuinely concerned about those veterans who happen to have the disability called blindness. It does appear at first blush that Senator PRESSLER has indicated the problem correctly, that they should have been taken care of in much the same way as a veteran who is suffering disability from his lower extremities, one or both being totally disabled.

However, I am convinced after talking to the managing Senator, Senator CRANSTON, whose dedication is well known, and to our new Senator from Wyoming, who is equally dedicated, Senator SIMPSON, that probably what we ought to do at this point is find out why the $2,500 grant program is not working and to get an authentic report as to what might be needed in a home by a blind veteran, and what its approximate cost is. It certainly is probable that it is different from what a veteran who is crippled needs.

So I will withdraw my amendment, as modified, and offer an unprinted amendment that I send to the desk at this point.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 152

Mr. DOMENICI. I ask the clerk to report the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 152.

Mr. DOMENICI. 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:

Add at the end of the bill the following new section:

SEC. 505. The Administrator of Veterans' Affairs shall report to the Senate and House Committees on Veterans Affairs, not later than October 1, 1979, on the need of totally blinded service-connected veterans for home modifications the cost of which exceed the amount allowable for such purposes under section 612(a) of title 38, United States Code, and on the reasons why such veterans have not applied for home health services under such section 612(a).

Mr. DOMENICI. I believe I have explained the amendment. I think the Senator from California and the Senator from Wyoming are willing to accept it, and if they are I am ready to yield the floor and have the Senate vote.

Might I ask the Senator from California if he is ready to accept the amendment?

Mr. CRANSTON. I thank the Senator very much for his cooperative approach on this matter. He is dealing with a subject of great sensitivity, one that we have been looking into, and I am delighted that he was willing to change his approach until we do clearly ascertain the facts.

I am delighted to accept his modified amendment. I would also like to suggest that we are having hearings in the Veterans' Affairs Committee on service-connected compensation on June 12, and I would like to suggest that the Senator take the amendment he originally offered to this bill and introduce it as a bill, and we can include it on the agenda of the hearings at that time. Of course, we welcome the Senator to come and testify. I think the committee is the place to deal with this subject.

Mr. DOMENICI. I will say to my good friend from California that the amendment I have withdrawn is before the Senate in the form of an original bill. I ask you as chairman, if you would list that bill as part of your hearings, so that then we can get the veterans organizations, the Veterans' Administration to tell you and the members of the committee why it is that the bill should not be made part of the law or conversely that it is needed in whole or in part.

Mr. CRANSTON. We will be glad to do that.

Mr. DOMENICI. Mr. President, I want to say to the Senator from Wyoming (Mr. SIMPSON) that I know that this is a new responsibility for him on your committee, Senator CRANSTON, and I am sure he will be as dedicated as you on matters of veterans' affairs. I commend him for the job he has done to this point, just starting his career here in the Senate, and I am sure he will be a splendid representative for the veterans of America and for his State.

Mr. CRANSTON. He is that. It is a pleasure to work with him on the committee. He is a very effective leader and contributor in the work of the committee.

Incidentally, before he left the floor for a few moments I advised him of the revised approach of the Senator from New Mexico, and he joins with pleasure in accepting the amendment.

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

The PRESIDING OFFICER. There is no time limitation.

Mr. CRANSTON. We are ready for a vote on the amendment.

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

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 191

Mr. PRESSLER. Mr. President, I have an amendment.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk? The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an amendment numbered 191.

The amendment is as follows:

On page 61, after section 202, insert a new section 203 as follows:

CHOICE OF HEALTH CARE FACILITIES

SEC. 203. (a) Subchapter III of chapter 17 is amended by adding at the end thereof the following new section:

"§ 629. Choice of facilities for certain mental health care for Southeast Asia veterans

"(a) (1) Any person whose active military, naval, or air service during the Vietnam era was the basis for the awarding of a Southeast Asia campaign ribbon and who is eligible for care and treatment under section 612A of this title or under section 620A of this title may, at the election of such person, receive such care and treatment through a community mental health center providing mental health services under the Community Mental Health Centers Act (42 U.S.C. 2689 et seq.).

"(2) The Administrator shall reimburse each community mental health center for the reasonable value of any care and treatment provided by it to a person which such person could have received from the Veterans' Administration and shall reimburse a person for any amount paid by such person to a community mental health center for such care and treatment.

"(b) (1) To assure that mental health care is available to persons whose active military, naval, or air service during the Vietnam era was the basis for the awarding of a Southeast Asia campaign ribbon, the Administrator shall contract for the provision of mental health care to such persons under such plans as the Administrator considers appropriate. The types of mental health care which may be provided under such plans are the types of care and treatment authorized to be provided under sections 612A and 620A of this title.

"(2) In contracting for plans under paragraph (1) of this subsection, the Administrator shall provide that no mental health care shall be available under such a plan in an area designated by the Administrator as having adequate mental health care available through community mental health centers operating under the Community Mental Health Centers Act and through which an eligible person may receive such care under subsection (a).

"(3) Any plan contracted for under this subsection shall include provision for payment by the Administrator for any service of the least of the following amounts:

"(A) 100 per centum of the actual charge for such service.

"(B) 100 per centum of the usual charge for such service of the physician providing the service.

"(C) 100 per centum of the reasonable charge for such service.

"(4) No benefit shall be payable under any plan contracted for under this subsection in the case of any person enrolled in any other insurance, medical service, or health plan provided by law or through employment unless the person certifies that the particular benefit being claimed is not payable under such other plan.".

(b) The table of sections at the beginning of chapter 17 is amended by adding after the item relating to section 628 the following new item:

"629. Choice of facilities for certain mental health care for Southeast Asia veterans.".

Mr. PRESSLER. Mr. President, I rise today to offer an amendment to the Veterans' Health Care Amendments of 1979. This amendment would allow veterans who need readjustment counseling and other mental health services to obtain them from community mental health centers under the Community Mental Health Center Act.

The Vietnam war was, by all standards, an unpopular war. In the 1960's and early 1970's, we saw continuous protest riots against the war. As a result of this unpopularity, the young men and women that served during this war did not come home as heroes, as veterans had done in past wars.

And let me say, Mr. President, as a Member of the Senate who served in Vietnam as a member of the Army during the Vietnam war, that I have witnessed at first hand many who suffered and still suffer from matters that can be well treated in community mental health centers.

Over the past few years, research has revealed that this has had a profound effect on psychological and readjustment problems in Vietnam veterans. S. 7 will provide a program of readjustment counseling for Vietnam-era veterans. However, as drafted, this bill provides that only Veterans' Administration facilities may provide counseling to affected veterans.

It does not affect those veterans that live too far from veterans hospitals or those that need help at hospitals not equipped to help them. The amendment that I have introduced today would remedy that problem. This program is identical to one contained in S. 3596 introduced in the last Congress and H.R. 3102 introduced this year by the Vietnam veterans in Congress. It will open up this program to an additional 6,000 veterans in the first year who would not get readjustment counseling otherwise.

Mr. President, Vietnam veterans have given their share to help our country. It is time that we show them our appreciation. I ask that my colleagues give this amendment their favorable consideration.

UP AMENDMENT NO. 153

(Purpose: To allow the Administrator of the Veterans' Administration to contract outside the Veterans' Administration for readjustment conseling)

Mr. HEINZ. 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 Pennsylvania (Mr. HEINZ), for himself and Mr. MCGOVERN, proposes an unprinted amendment numbered 153:

On page 2, line 4, strike out all after the word "era" through the word "plan" on page 3, line 25, and insert in lieu thereof the following:

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

Mr. CRANSTON. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue.

The legislative clerk read as follows:

On page 2, line 4 of Amendment No. 191 by Mr. PRESSLER, strike out all after the word, "era" through the word, "plan" on page 3, line 25, and insert in lieu thereof the following:

". . . qualifies him for psychiatric, psychological, preventive mental health care, and counseling services under Section 612(A) of this title, is authorized to be provided such services at the Administrator's discretion, from public and private sources outside Veterans' Administration facilities, under the circumstances described in paragraph (2) of this subsection; if he has been determined under subsection (b) of Section 612(A) of this title to be in need of mental health services. Such services may be obtained by the Administrator by contract, on a fee-for-service basis, or by such other methods as the Administrator considers appropriate.

"(2) The Administrator may, in his discretion, provide mental health services to a veteran outside Veterans' Administration facilities, as described in paragraph (1) of this subsection, if—

"(A) such services are not available or are inadequate at a Veterans' Administration facility;

"(B) obtaining such services from a Veterans' Administration facility would place an undue hardship on the veteran because of the distance the veteran would have to travel to the nearest Veterans' Adminisration facility providing such services;

"(C) the hours at which such services are available at a Veterans' Administration facility are incompatible with the times available to the veteran for treatment and obtaining such services through the Veterans' Administration facility would cause a financial or other hardship to the veteran; or

"(D) either the provision of such services outside Veterans' Administration facilities would be more beneficial to the successful treatment, rehabilitation, or readjustment of the veteran than the provision of such services wihin Veterans' Administration facilities or the provision of such services outside Veterans' Administration facilities would be beneficial to the Veterans' Administration and would not detract from the availability, effectiveness, or quality of treatment available to the veteran.

"(3) The Administrator shall prescribe regulations to carry out this subsection.

"(4) The authority to enter into contracts under this subsection is effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Act."

The PRESIDING OFFICER. Does the Senator from Pennsylvania intend this to be an amendment to the amendment offered by the Senator from South Dakota?

Mr. HEINZ. That is correct.

The PRESIDING OFFICER. It is not identified as an amendment to the amendment.

Mr. HEINZ. Excuse me.

The PRESIDING OFFICER. It is not identified as such.

Mr. HEINZ. Mr. President, I simply cannot hear the Chair.

The PRESIDING OFFICER. The amendment is not identified as an amendment to the amendment by the Senator from South Dakota.

Mr. HEINZ. It is an amendment to that amendment.

The PRESIDING OFFICER. It will be so identified.

Mr. CRANSTON. Mr. President, what is the nature of the amendment?

Mr. HEINZ. A perfecting amendment.

The PRESIDING OFFICER. It is a perfecting amendment to the amendment of the Senator from South Dakota.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. HEINZ. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The second assistant legislative clerk continued to call the roll.

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

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

UP AMENDMENT NO. 154

(Purpose: To make available to the VA in furnishing Vietnam-era veterans with readjustment counseling and related services the same authority to do so through contracts with private facilities as is available in furnishing treatment for veterans with 100-percent service-connected disabilities incurred in combat)

Mr. MATSUNAGA. Mr. President, I have an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an unprinted amendment numbered 154.

Mr. MATSUNAGA. 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 44, after line 19, add the following new section:

SEC. 505. After section 628 of title 38, United States Code, add the following new section:

"SEC. 629. In furnishing counseling and related mental health services to Vietnam-era veterans under subsections (a) and (b) of section 612A of this title, the Administrator shall have available to enter into contracts with private facilities the same authority that is available to the Administrator (under sections 612(f)(2) and 601(4)(C)(ii) of this title) in furnishing medical services to veterans suffering from service-connected disabilities rated 100-percent disabling incurred in combat in the line of duty."

UP AMENDMENT NO. 155

(Purpose: To make available to the VA in furnishing Vietnam-era veterans with readjustment counseling and related services the same authority to do so through contracts with private facilities as is available in furnishing treatment for veterans with 100-percent service-connected disabilities incurred in combat)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. SIMPSON, Mr. TALMADGE, Mr. RANDOLPH, Mr. MATSUNAGA, Mr. THURMOND, Mr. STAFFORD, and Mr. HART, proposes an unprinted amendment numbered 155 to UP amendment No. 154.

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

The PRESIDING OFFICER. The Senator does not have the floor? An amendment is being read.

The assistant legislative clerk continued to read as follows:

In lieu of the matter proposed to be inserted by Mr. MATSUNAGA, insert the following:

SEC. 505. After section 628 of title 38, United States Code, add the following new section:

"SEC. 629. In furnishing counseling and related mental health services to Vietnam-era veterans under subsections (a) and (b) of section 612A of this title, the Administrator shall have available to enter into contracts with private facilities the same authority that is available to the Administrator (under sections 612(f)(2) and 601(4)(C)(ii) of this title) in furnishing medical services to veterans suffering from service-connected disabilities rated 100-percent disabling incurred in combat in the line of duty. Before furnishing such counseling and related mental health service to a veteran through a contract facility as authorized by this subsection, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such counseling or services.

Mr. CRANSTON. Mr. President, I appreciate the concerns of the Senator from Pennsylvania and the Senator from South Dakota for an effective readjustment counseling program for Vietnam-era veterans. Like the two Senators, I wish to make readjustment counseling available to all eligible Vietnam-era veterans in need of such assistance. I have advocated readjustment counseling programs for some 10 years now, and I have introduced legislation in this regard that was passed by the Senate in the previous four Congresses.

But I firmly believe that, in structuring these programs, we must take care to make sure that veterans will receive quality services, geared to their particular readjustment problems, and in conjunction with other needed services. Readjustment counseling is not the type of service that can be easily packaged, marketed, and sold by just anyone. It is important for us to consider carefully how and by whom this service will be provided.

Mr. President, the committee bill, in establishing the program of readjustment counseling and related mental health services, has been designed so that the services would generally be provided by the VA through its own facilities and personnel. The program has been consciously structured in this way, with one overriding purpose in mind—to produce the most effective programs for Vietnam-era veterans. This is, after all, the central question: What is best for the veteran who needs these services? There are a number of reasons why we believe that focusing principal responsibility on the VA for providing the services directly is the best course to follow.

First, the VA has long experience in dealing with psychological problems of veterans, including those which had their onset in combat, and is well-prepared and equipped to provide the readjustment services needed through its 8,000 psychological social work staff plus the 346 new employees to be hired specifically for the readjustment counseling program. This experience should not be wasted; we should put it to work for Vietnam-era veterans with readjustment difficulties.

Second, there is a tremendous need to help many of these troubled veterans through the very extensive VA system of not only health care, but education, job training and guidance, vocational rehabilitation, income maintenance, and housing assistance. The VA is truly a multi-service provider. Many veterans with readjustment problems will be most effectively helped by being guided into one of these other programs, using benefits Congress provided for them. This result is most likely if the veteran's contact with the VA is maintained.

Third, concentration on the VA of responsibility for providing counseling services should produce generally more expert and sensitive services within the program through acquired experience and sharing of information than would occur if the programs were diffused over many organizations. Moreover, since group counseling and follow-up sessions would often be the best mode of service for particular veterans, focusing the program in the VA facilities would provide the best opportunities for such group-oriented programs.

Fourth, the VA exists to respond on a priority basis to the service-related needs of veterans; and readjustment counseling is a significant need of Vietnam-era veterans. The committee does not believe that this pirority can be assured by the VA becoming an insurance carrier, like Blue Cross, making payments for services. That approach runs totally contrary to the firmly established national policy of maintaining an independent system of veterans health care facilities to assure quality care for service-related disabilities.

Finally, Max Cleland, Administrator of Veterans' Affairs and a Vietnam combat veteran, is fully committed to this program, which he has also advocated for 10 years. We are confident that the VA, under Max Cleland's leadership, will establish and implement an effective, quality program responsive to the needs of Vietnam-era veterans. I might add that the VA is already making plans for establishing these services and has submitted to the committee an outline of its proposed outreach efforts, which would include collaboration with community agencies and organizations such as the national service organizations and self-help groups.

Thus, we strongly believe that the major thrust of the readjustment counseling program should be focused within the VA. We do, however, recognize and appreciate the concern that, without some authority to contract with private providers for readjustment counseling and related mental health services, there may be places where there would be veterans needing readjustment counseling, but where no VA facilities are close enough to provide the services economically or where it would be impractical

for the VA to do so. For example, there might be too few veterans needing services in a particular community to justify mounting a VA program. In such situations, we agree that the VA should have clearly-defined authority to contract with approved community providers for the needed services. In fact, prior versions of this legislation which passed the Senate in previous Congresses would have allowed such contract services. The more limited approach in S. 7 emerged this year only because of agreements reached last Congress with House committee leaders.

But we just do not believe that wide-open contract authority of the kind the two Senators propose. Would be advisable or in the best interests of veterans at this time. Let us on the committee, and in the Senate, and those at the VA acquire experience with this new programmatic area before we consider a radical departure for contracting out the care responsibilities.

In addition, we believe that the contract authority proposed here would be terribly inequitable. It would be far broader than the VA's existing contract authorities with respect to veterans suffering from service-connected disabilities that are rated 100-percent disabling. This means that, if the Heinz amendment is adopted, veterans needing readjustment help would be eligible for far wider opportunities for contract services than veterans with total disabilities incurred in Vietnam or elsewhere, who are the VA's No. 1 priority. Let me add quickly that we think VA contracting should be closely circumscribed—even for totally service-connected disabled veterans. We spend more than $5 billion a year to run the extensive VA health care system, with its 172 hospitals, 228 outpatient clinics, and 92 nursing homes, to provide just this kind of priority care to disabled veterans.

Furthermore, the conditions under which the Heinz amendment would provide contract authority are vague as well as novel. It would provide for contract services, for example, where VA services are "inadequate"; where the hours during which VA services are available are "incompatible" with the veteran's other activities; or where the use of non-VA facilities would be "more beneficial to the successful * * * readjustment of the veteran" or "beneficial to the Veterans' Administration." Good faith application, on a case-by-case basis, of these totally new criteria would create one more unjustifiably costly and bureaucratic tangle. Moreover, adoption of such broad, imprecise new standards for use of non-VA facilities would convey to far too many VA health-care personnel a clear congressional message that there are doubts about their abilities or inclinations to bear primary responsibility for this new program. We believe that such a message and such doubts are unwarranted.

In fact, Mr. President, I would hope that the two Senators will enlighten us specifically as to the meaning of "beneficial to the VA" as a criterion for contracting out these services and explain to us the circumstances under which, and the extent to which, it is intended to be used. I am especially interested to learn why such a weak consideration as being simply "beneficial to the VA" should be proposed as enough of a criterion for contract services and why the benefit to the Government should be one of the controlling considerations in this matter of importance to veterans. This program is supposed to benefit veterans, Mr. President, the veterans who sacrificed so much for the Nation and are still experiencing serious difficulties from that bitter experience—not a Government agency.

Instead, therefore, Senator SIMPSON and I are offering a substitute amendment to provide the VA with a clearly defined contract authority without, at the same time, inviting—as we believe the Heinz-Pressler amendment would—a dispersion of primary responsibility for providing the services and without diluting the effort to mount and sustain effective programs. We are joined in this amendment by Senators TALMADGE, RANDOLPH, MATSUNAGA, THURMOND, STAFFORD, and HART.

Mr. President, our amendment would provide the same authority—but no more authority—for contract services for readjustment counseling and followup mental health services as is now provided for other contract health services for disabled veterans with total, service-connected disabilities. Specifically, contract care for readjustment problems would be made available when the general condition for contract outpatient medical care—as set forth in section 601(4)(C) of title 38, United States Code—are satisfied, that is, when VA facilities are unable to provide care economically because of geographic inaccessibility or are unable to provide the type of care that the veteran needs.

Thus, under our amendment readjustment counseling would be available to all Vietnam-era veterans, regardless of where they live, with the VA charged by Congress to assume its proper responsibility of using its own vast resource and nationwide facilities to provide the needed services directly, except where that would be uneconomical and then to contract for them in those cases.

Mr. President, for all of these reasons, I strongly urge my colleagues to support our substitute amendment.

Mr. SIMPSON and Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, let me just add my remarks to those of the chairman of our committee. I certainly have come to respect the fiscally responsible and sane approach of my colleagues from both Pennsylvania and South Dakota in numerous other issues before this body. For that reason I am surprised that their amendments are in conflict with their usual philosophies.

Their amendments avoid the use of the extensive facilities and qualified personnel of the Veterans' Administration, and that seems curiously odd to me. But here we are speaking of using community health centers, private facilities, and other such services without addressing the impact of such a decision on the care that is available to the veteran from the VA. The Cranston amendment also allows such contracting, but the Cranston amendment avoids unnecessary duplication of services and uses existing resources most efficiently.

I also believe that there is no one more skilled to deal with the veteran, his fears and his traumas, than the Veterans' Administration's psychiatric and psychological professionals. They are trained to handle the veteran who has suffered grievous mental injury from conditions of combat or in learning to live with a service-connected disability.

I believe that open-end contracting must be reasonably limited. We have already addressed that problem in regard to dental care in this bill, and, therefore, should address it in regard to counseling and mental health services. My committee amendments avoided this problem in fee basis dental care; and if the Cranston amendment is adopted this same problem will be avoided here.

In my mind, commonsense and fiscal restraint have been sacrificed in the Heinz-Pressler amendments. I think it would really open the door to inefficiency and abuse. I am concerned that the care needs of veterans must be met, and they must be met under the very specific language of section 601(4)(c), existing and workable conditions under which veterans can avail themselves of contract care services when necessary. These conditions simply state that contract care will be authorized when VA facilities are unable to provide the necessary care economically or are unable to provide the type of care that the veteran requires. These conditions are both reasonable and at the same time consistent with existing practices.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I certainly commend both Senators, the senior Senator from California and the Senator from Wyoming, on their hard work on this in this area and on their responsibilities that they have taken, and I really commend them.

However, I must very respectfully disagree with the remarks of the Senator from Wyoming in part, and perhaps I could become better informed on this matter, but in terms of options for veterans, Vietnam veterans, I have talked to several of my contemporaries who served with me in Vietnam in the Army, and there were others who served in other services, and they are of the opinion that frequently the readjustment counseling and other mental health services are not available in the same sense in certain facilities as they are where they can have some options.

Also, the nature of this particular type of counseling and this particular type of mental health services is such that the full confidence of the patient is required. I think this is such an important matter and with the recent increased awareness in our society of the psychological and mental readjustment problems that some veterans had, and I can attest personally to having observed some of them, this would be very good to give our veterans broader options in seeking care.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, first, let us review the fascinating parliamentary situation.

The parliamentary situation is that Senator CRANSTON has just offered a perfecting amendment which the committee favors to Senator MATSUNAGA's amendment to the stricken part of the bill.

Also pending is the committee amendment to the bill which effectively substitutes for the text that is now stricken of the bill.

Pending to that is an amendment offered by Senator PRESSLER, a motion to strike and insert, to which there is pending an amendment that I offered to perfect Senator PRESSLER's amendment.

What is the point of this rather complicated exercise?

The answer very simply is there is a disagreement among the committee members.

I join Senator PRESSLER in complimenting our distinguished chairman of the committee, Senator CRANSTON, our very distinguished ranking minority member, Senator SIMPSON, on their great attentiveness to the needs of veterans generally, but on this issue I have to say that Senator PRESSLER and I, and I hope the majority of Senators, have a disagreement. The disagreement is: What kind of contracting authority is necessary for the VA in order to serve the needs of Vietnam era veterans, particularly with respect to readjustment counseling?

As I understand the amendment of the Senator from California he does add to the original committee bill, S. 7, a provision for readjustment counseling under the general contracting authority that exists in title 38 of the act.

As I understand the criteria which govern existing contract authority it is severely limited. It is limited as I understand it to one test, namely, geographic inaccessibility, if it is economically unfeasible to pay travel costs, that is to say, that the VA makes this single solitary determination and only if they make that determination can they contract out, and that determination is a dual test, geographic inaccessibility and if economically unfeasible for the veteran to pay the travel cost.

Senator PRESSLER and I have a different approach to this problem. Senator PRESSLER and I are trying to do the same thing. We have slightly different language in accomplishing this.

The Heinz perfecting amendment says that the test of geographic inaccessibility if economically unfeasible to pay travel costs is simply too narrow for the test of contracting authority and that there should be other criteria to permit the Administrator of the VA in his discretion to help the Vietnam veteran.

The differences between Heinz and Cranston amendments are that we believe that, first, yes, there should be a test of accessibility based on distance and in that we agree.

On that we agree. But we would suggest that there should be three other differences:

First, that contracting should be allowed if it is determined that the services at the perhaps nearby Veterans' Administration facility, the services available there, simply are not adequate, that they do not have the kind of program, that is, readjustment counseling, for example, that is in question.

Another difference: Under existing contract authority, the VA will pay a veteran to travel from somewhere in northern Pennsylvania or northern California to a VA facility, and that is fine. But what is it going to do for the veteran if he has to give up his job, assuming he is lucky enough to have worked, to travel for 2 or 3 hours from Punxsutawney down to Pittsburgh, and 3 hours back from Pittsburgh to Punxsutawney, if he is lucky enough to get gas? They have got a worse problem on that I am told in California than they have got in Pennsylvania.

So the second difference is that we have to take into account the financial hardship that such travel will visit upon a veteran whom we are trying to help.

The other difference between the contracting authority and what Senator PRESSLER and I are trying to do, and Senator CRANSTON is trying to do, is that we also believe there are instances where it may be more beneficial for the veteran to do his readjustment counseling in some other program than the VA program, again in the discretion of the Administrator.

I will give you an example: What happens if a veteran right now is paying for his own readjustment counseling in Punxsutawney, to take a hypothetical example, and he has presumably been making some progress? Yet under the committee approach advocated by the Senator from California that veteran would have to quit right then and there if he wanted to take advantage of this program that everybody seems to be so much for, and he is dealt, in effect, a pig in a poke. Now that does not make any sense to this Senator. That is the essential difference between what the committee wants to do and what I think Senator PRESSLER and I want to do.

The committee sent out a "Dear Colleague" letter the other day. It was not the best written "Dear Colleague" letter I ever saw, but it said that this was vague.

One thing, Mr. President, our approach is not as vague. It is specific. It is the present program of the VA that is vague.

I am told that the VA until this year never asked for this authority, and in 1979 they finally got around to asking for some new authority involving readjustment counseling. Count them, 5 years since the Vietnam war ended in 1974, when we withdrew all our troops from Vietnam.

Now, I do not know about all my colleagues, Mr. President, but 5 years would strike me as a relatively long time for the Administrator of the VA to wait to recognize a problem.

It, therefore, seems to me that where the VA is concerned they are starting truly at ground zero with a problem that has not been just 5 years in the making, but has been 10 or 15 years in the making. The first Vietnam era veteran probably was discharged sometime in 1965 or 1966 after the Gulf of Tonkin resolution, 10 to 12, 13 years later the Veterans' Administration says, "Hey, we are not dealing with this problem. Give us a shot."

Mr. President, it may very well be that the VA, in spite of their inability to deal with this problem for the past 5 years, their inability to recognize this problem for the last 5 years, is capable and competent nonetheless of starting from ground zero, starting to hire, sometime after this legislation is enacted, the necessary people to put it into practice. Then again, maybe they are not.

What we do know is that if they are fully competent and capable of doing it, and if no veterans have any particular problems that they do not want to recognize, they can do it all by themselves. But I think we need to set down a broader authority for the VA to utilize if the Administrator determines it is something he wants to do.

I have to tell you, Mr. President, that I am at a loss to understand why the committee does not adopt our amendment. I really do not understand that. I can only assume they have good and sufficient reasons. But they simply have not answered the questions that I posed a moment ago, notwithstanding their "Dear Colleague" letter which just does not address those issues.

That is why I hope we get to an unprejudiced, up-or-down vote on the Heinz-Pressler amendment.

Senator CRANSTON is offering his amendment to the bill. I am going to support Senator CRANSTON's amendment to the bill. I am not going to vote against a marginal improvement in the bill. I am for veterans just the same as Senator CRANSTON is.

But that does not mean—and I do not want anyone to get the idea—that because I support Senator CRANSTON's amendment to the bill, from which I am precluded from offering a perfecting amendment or a substitute, that I think that approach goes as far as we need to go.

It is my hope that after we adopt the Cranston amendment, which then perfects the Matsunaga amendment, and then we adopt the Matsunaga amendment to the stricken part of that bill, that we will then proceed to a vote on the Heinz amendment to the Pressler amendment, that will carry before the Pressler amendment, which will go in the substitute, the committee substitute, to the bill, and that that will be the law of the land.

So, Mr. President, I do not wish to prolong this discussion. I am perfectly willing to agree to Senator CRANSTON's amendment. I am willing to agree to the Matsunaga amendment, and then we can get to the real issue.

Not whether Senator CRANSTON's amendment is a bad amendment—it certainly is an improvement over what is in the bill—but whether it goes far enough. I think that is a very adequate, good question that we will put when we get to the Heinz amendment. So I certainly would like to see you succeed, Mr. Chair-

man of the committee, and I urge the adoption of your amendment without prejudice to the Heinz-Pressler amendment.

Mr. CRANSTON. I thank the Senator for his support, if it is agreed that we have his support.

I would like to point out that I first introduced a bill relating to readjustment counseling in 1971. We did not have the support of the Veterans' Administration at that time, when it was headed by someone appointed by a President of the party of the Senator from Pennsylvania and the Senator from South Dakota. We finally got that support when Max Cleland became VA Administrator in early 1977.

I do not believe that the Senator from Pennsylvania offered any bills or amendments relating to readjustment counseling in the other body during the years that I have been trying to enact and the Senate has been passing legislation on this subject. I would just like to point out one problem with the Senator's amendment, but perhaps it would be more appropriate to do it when it is up; so I suggest that perhaps we should now proceed with a vote on the pending amendment.

I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HEINZ. Mr. President, will the Senator withhold a minute?

Mr. CRANSTON. Certainly.

Mr. HEINZ. The Senator may wish to correct a statement that he made——

The PRESIDING OFFICER. There is not a sufficient second for the yeas and nays. The Senator from California has the floor.

Mr. CRANSTON. I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, will the Senator from California bear with me for a minute?

Mr. CRANSTON. Of course.

Mr. HEINZ. The Senator may wish to correct a statement that he made; namely, that he does not know of anything that the Senator from Pennsylvania has done on this matter before. I think if the Senator from California had paid some attention to the legislation I introduced last year, the Vietnam Veterans' Readjustment Assistance Act, a comprehensive—I want to readjust the title, but we introduced that in the last Congress.

Mr. CRANSTON. What I was really alluding to was that there have been so many times when bills passed the Senate, went over to the House, and nothing happened in the House. The Senator, during a substantial part of that time, was a Member of the House, and I do not recall getting any substantial help from him in moving this legislation along, or protecting it over there.

Mr. HEINZ. Did not the bill to which I have referred come up right at the end of the Senate session last year, in that incredible rush?

Mr. CRANSTON. No; it was passed fairly early—on September 9, 1977— and then languished in the House.

Mr. HEINZ. And languished in the House?

Mr. CRANSTON. Yes.

Mr. HEINZ. I appreciate the Senator's thinking I have a lot of influence in the House as a Member of the Senate. The Senator has been in conferences, and knows how that works. What does the Senator suggest that I, as a Senator, should have done to expedite its passage by the House?

Mr. CRANSTON. There could have been some help—from 1972 on—from those on the House side in getting readjustment counseling through the House during the long period of years—7 actually—when the Senate passed readjustment counseling bills repeatedly and got no assistance from anyone in the House.

Mr. HEINZ. And the Senator supposes somehow that I could have helped in that?

Mr. CRANSTON. Yes; the Senator has been so very determined here today; he could have been of some help over there long ago, and perhaps produced some action.

Mr. HEINZ. May I say to the Senator that silence on my part may have been consent to the Senate position. I think it is a rather specious and unnecessary point the Senator makes, inasmuch as I was not on the Veterans' Affairs Committee. I think if the Senator looked at my voting record he would be pleased with it.

Mr. CRANSTON. I often am pleased with the Senators' voting record. Not always, but often.

Mr. HEINZ. I thank the Senator. I think the point is that we should focus not so much on ad hominem arguments, but ad rem arguments. I would still support the Senator's amendment, notwithstanding that.

Mr. CRANSTON. I appreciate that.

Mr. HEINZ. But with the understanding that it just does not go far enough.

Mr. CRANSTON. Understood, from the point of view of the Senator from Pennsylvania.

Mr. SIMPSON. Mr. President, may I just add a word, if I may? I think that anyone who has reviewed the history of the Veterans' Affairs Committee of the Senate can conclude that this committee has generously responded to the needs of the veteran on every issue. To believe otherwise is indeed unjustifiable. I might remind the Senate that the last Congress could well have been entitled "The Veterans' Congress," in the light of the legislative initiatives that were enacted into law.

Let me just state in summary that the Budget Office estimates on Senator HEINZ' proposal disclose an additional estimated cost to the taxpayers of America in fiscal year 1980 of $6.9 million, in 1981 of $12.6 million, in 1982 of $9.9 million, in 1983 of $9.0 million, and in 1984 of $9.7 million. Such estimates cannot be ignored.

I do not believe it is responsible, in view of the fiscal restraint that we are mandated to exercise, to initiate open-ended programs without reasonable limits. This committee has met the needs of the veterans in a most extraordinary manner, and surely will continue to do so in a fiscally responsible manner.

Mr. CRANSTON. Mr. President, I desire to seek the yeas and nays. Plainly there are not enough Senators on the floor now, so I suggest the absence of a quorum.

Mr. HEINZ. Mr. President, will the Senator withhold?

Mr. CRANSTON. Surely.

Mr. HEINZ. I want to make just one point that I am sure will not be lost on the assistant majority leader, namely, that if there has been a reason for inaction on the part of the House of Representatives, surely the Republicans are not responsible for it, because the House Veterans' Affairs Committee has been chaired by a Democrat, the Speaker is a Democrat, the majority of the members of the Rules Committee, who are the people who determine what is voted on, how quickly, and when, are Democrats; and all I can say to the Senator from California is that if he is not satisfied with the House of Representatives, he should be blaming the Democratic Party in the House for that, because they have been running it for the last 40 some years. Every bit of the criticism of the House may be entirely justified; in fact the more I think about it the more I am inclined to agree. But I think we ought to have that on record, because as I understand the Senator from California, he is criticizing the Democratic leadership in the House, and so be it.

● Mr. DOLE. Mr. President, the provision contained in S. 7, the Veterans Health Care Amendments of 1979, which authorizes the VA to provide a readjustment counseling program, is a timely and meaningful response to the needs of the Vietnam-era veteran. It is my understanding that this bill would provide for psychological readjustment counseling to any veteran who served on active duty during the Vietnam-era who requests such assistance within 2 years after the effective date of this provision.

THE HEINZ AMENDMENT

Mr. President, the amendment offered by my colleague from Pennsylvania, Senator HEINZ, is an amendment which truly reflects a genuine concern in attempting to respond to the medical needs of our Vietnam-era veteran. While the Senator from Kansas applauds the good intentions of this amendment, I have some very serious reservations about the methodology proposed in providing readjustment counseling and related services to our Vietnam-era veterans.

Mr. President, I do not believe that by giving the VA Administrator broad contract authority, as the Heinz amendment provides, we will be helping the needy veteran any more effectively or efficiently then under the provision contained in S. 7, or the substitute offered by my colleagues, Senator's CRANSTON and SIMPSON.

VA DESIGNED TO ASSIST VETERANS

Mr. President, the Veterans' Administration has a direct influence on the lives of millions of veterans. When wives and children of these veterans immediate families are included, it is apparent that the activities of the Veterans' Administration affect nearly one-half of our population of over 2 million-plus Americans. It is a well known fact that

the Veterans' Administration is the second largest Federal agency in employment, truly a vast reservoir of resources.

Mr. President, these simple facts are an indication of the tremendous importance of the Veterans' Administration in our Government. It seems to me that instead of seeking alternative medical service delivery systems, we should concentrate on utilizing the tremendous amount of resources existing within the VA.

Mr. President, the diversification of services within the VA are paralleled by almost no other Federal agency. VA services range from education and training to housing, business and farm loans to disability compensation and pension to life insurance and many other services. The VA is truly a multiservice provider.

CONTRACT AUTHORITY WHEN VA SERVICES UNAVAILABLE

Mr. President, I recognize and appreciate the concern that without some contract authority there may be places where there will be veterans needing readjustment counseling but no VA facilities available to provide the services or where there would be too few veterans needing services to justify mounting a VA program. In these particular situations, I agree that the VA should clearly define authority to contract with approved community providers for the needed services.

Mr. President, the substitute amendment before us, offers an equitable and useful solution to this problem by providing the same authority for contract services in providing readjustment counseling and follow-up mental health services as is now provided for other contract health services for totally disabled veterans with 100 percent service-connected disabilities. Furthermore, under this amendment readjustment counseling would be available to all Vietnam-era veterans, regardless of where they lived, with the VA charged by Congress to assume its proper responsibilities of using its own vast resources and nationwide facilities to provide the needed services directly, except where that would be uneconomical and to contract for them in those particular cases.

Mr. President, I urge my colleagues to join me in supporting the Cranston/Simpson substitute amendment.●

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

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 amendment of the Senator from California to the amendment of the Senator from Hawaii. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCLURE. Mr. President, 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 "aye." I have voted "nay." I therefore withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The PRESIDING OFFICER (Mr. BAUCUS). Are there any Senators remaining in the Chamber who have not yet voted but wish to do so?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—93

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

NAYS—0

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClure, against.

NOT VOTING—6

Bayh	Hayakawa	Stafford
Cannon	Johnston	Thurmond

So Mr. CRANSTON's amendment (UP No. 155) was agreed to.

The PRESIDING OFFICER. If there is no further debate, the question now is on agreeing to the amendment by the Senator from Hawaii (Mr. MATSUNAGA), as amended.

The amendment (UP No. 154), as amended, was agreed to.

Several Senators addressed the Chair.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MATSUNAGA. Mr. President, I heartily commend the Senate for having cast a unanimous vote in support of the Cranston-Matsunaga amendment.

We next will be voting upon the Heinz-Pressler amendment, which would nullify, in effect, what we just did. So I urge my colleagues to vote down the Heinz-Pressler amendment.

I am in full accord with the concern expressed by Senator PRESSLER and Senator HEINZ. I feel that all possible efforts should be made to improve the mental health of Vietnam-era veterans. However, I must depart from them where an effort is being made to take away from the Veterans' Administration the primary authority it now has and grant to the Vietnam-era veterans those benefits which are not even accorded 100 percent disabled veterans of other wars.

If the Veterans' Administration were not already providing necessary medical services to veterans, I would say, "Yes, support the Heinz-Pressler amendment." But the Veterans' Administration is able to provide the service which the Heinz-Pressler amendment would provide.

By adoption of the Cranston-Matsunaga amendment, the Veterans' Administration would now be authorized to enter into contracts with certified providers of mental health service. This should fully satisfy all those who are concerned with—and I am sure we are all concerned with—the mental health of Vietnam-era veterans.

The original provision for readjustment counseling benefits for Vietnam-era veterans in the pending bill would have authorized the Veterans' Administration exclusively to provide these benefits. This provision was entirely consistent with the VA's mission and primary responsibility of providing health care to our Nation's veterans and recognizes the fact that the Veterans' Administration has the staffing and expertise to respond to the specific health care needs of all veterans. The Veterans' Administration also has the staff and expertise to respond to any other needs of veterans, such as education, job training, vocational guidance and rehabilitation, income maintenance, and housing assistance, which often are associated with the need for readjustment counseling.

Most private sector mental health care providers currently do not provide this range of related benefits to their patients.

The Veterans' Administration has already submitted to the Senate Committee on Veterans' Affairs an outline of its proposed outreach efforts to inform all Vietnam-era veterans of this new readjustment counseling benefit. The outline includes extensive collaboration with community agencies and organizations, such as the national service organizations and self-help groups. However, since ordering S. 7 reported, the committee has recognized instances in which the Veterans' Administration, for reasons of economics or geographic isolation of the veteran, may not be able to provide all the Vietnam-era veterans necessary access to readjustment counseling benefits.

The Cranston-Matsunaga amendment, just adopted, would provide the necessary contract care authority to approved private sector mental health care providers to deliver readjustment counseling services in these special, specific in-

stances, without eliminating the Veterans' Administration's primary responsibility to provide such benefits wherever it is necessary and economically feasible.

Mr. President, since the readjustment counseling program in the pending measure is a new authority, it is not at all clear that adoption of the Heinz-Pressler amendment actually would benefit Vietnam-era veterans. However, it is clear that the adoption of the Heinz-Pressler amendment would remove much of the primary responsibility of the Veterans' Administration to provide direct, appropriate health care services to these and other veterans as well.

I believe that the scope of contract care authority proposed in the Heinz-Pressler amendment is premature and that the concerns of enhancing the accessibility of readjustment counseling services to Vietnam veterans, which form the basis of the Heinz-Pressler amendment, are clearly and most appropriately addressed by the Cranston-Matsunaga amendment, which was just adopted.

Therefore, I strongly urge my colleagues to reject the Heinz-Pressler amendment and to continue to support the amendment just adopted, an amendment which would be gutted by adoption of the Heinz-Pressler amendment.

Mr. HEINZ. Mr. President, I just wish to speak very briefly, because I think the Senate wants to vote on this issue.

I supported the adoption of the Cranston-Simpson-Matsunaga amendment because it is a help. It goes further than we have gone before. It is to a different part of the bill. However, the Heinz-Pressler-McGovern amendment, which is to the committee substitute, the unstricken part of the text, is better. I will explain why in a moment.

One thing I do want to clear up is a statement by the Senator from Hawaii, that in some way our amendment lessens the responsibility of the VA for Vietnam veterans. That simply is not true.

Our amendment is totally discretionary. Anything the VA does is at its discretion, at the discretion of the Administrator; and anybody who reads the amendment or talks to committee counsel will come to exactly the same conclusion.

Our amendment would cost practically nothing—less than a million dollars, even in the peak year. Thus, in terms of comparative cost, our amendment is preferable to the one that has just been adopted. And, I think anyone would agree that that is good news.

Now, what is the difference between the proposal which was adopted and ours? The difference is as follows: The Cranston amendment, in effect, would allow the VA to contract out if a veteran lives more than a 100 miles away. That is OK. But if the veteran lives 99 miles away and cannot get gas, in California, he is stuck. There might be no authority to contract out, because the VA definition of geographic inaccessibility might be a 100 miles. I have news for you: There is a gas shortage, and, if that shortage worsens, 99 miles could become a tremendous obstacle. In fact, under certain circumstances, it is now.

A second example: The VA never has had any readjustment program. Here it is 5 years after the Vietnam war. I assume that the VA counseling service is only going to operate on some kind of 9-to-5 basis. That is a reasonable assumption. They do not want to hire 200 or 300 people for the program. Suppose a veteran has a 9-to-5 job.

Again, unless we pass the Heinz-Pressler-McGovern amendment the VA will have no authority, none whatsoever, to contract out, for special counseling services in addition to the usual services available between 9 and 5. The lack of special counseling services may prevent a Vietnam veteran from getting a better job. We do not want to force veterans who hold a job to miss substantial portions of their working day traveling long distances to secure counseling. That is a hard way to hold a job.

Finally, there is really some question as to whether there is an inadequate program at a VA facility, the VA would be free even in that community to contract out to someone that might provide a superior program at less cost.

The thing I emphasize is that the VA is starting from scratch. They are starting 5 to 10 years late.

Notwithstanding the excellent efforts of Senator CRANSTON and the Veterans' Committee to establish a veterans' counseling program, the Democratic leadership in the House of Representatives have messed it up consistently. Nonetheless, the VA has not asked for this authority until this year. It has no experience in this area. It does not know how it is going to run the program, and the VA needs this flexibility, and that is all it is.

There is nothing wrong with having voted for the Cranston-Matsunaga amendment. I voted for it myself. But we have an opportunity to go on record not just in favor of that small step forward but the other small step that the amendment of Senator PRESSLER, Senator McGOVERN, and I take.

So, Mr. President, I urge the adoption of our amendment, and I hope it will not only be adopted by an——

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

Mr. HEINZ. As soon as I finish this sentence I will yield. I hope the Pressler-Heinz-McGovern amendment will not only be adopted, but will be adopted by the same overwhelming vote by which the Cranston-Matsunaga amendment was adopted.

Mr. MATSUNAGA. I know that the Senator had no intention of misleading his colleagues when he talked about 100 miles being the standard set by the Veterans' Administration for geographic inaccessibility. If a veteran happened perchance to live 99 miles away, he would have the medical care available to him from a private facility under current VA contract care authority.

I ask the Senator from Pennsylvania where did he get this 100-mile figure? In checking with the Veterans' Administration there is no such standard of geographic inaccessibility.

Mr. PRESSLER. Mr. President, if the Senator will yield, there is such a place. There are points in South Dakota that are that far, I believe.

Mr. MATSUNAGA. No; the Senator from South Dakota misunderstands.

The Senator from Pennsylvania gave an example of a veteran living 99 miles away and being denied private medical care under the VA contract care authority because he said there is a 100-mile standard of geographic inaccessibility. There is no such standard. Heavens, in every instance, the individual case is considered by the Veterans' Administration. Besides, the amendment which we just adopted, the Cranston-Matsunaga amendment, provides, and I read from the text of the amendment:

> Before furnishing such counseling and related mental health service to a veteran through a contract facility as authorized by this subsection, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such counseling or services.

There is nothing in the amendment which would set 100-mile minimum distance for eligibility.

Mr. HEINZ. Mr. President, if the Senator will yield, actually I have the floor.

Mr. MATSUNAGA. Yes.

Mr. HEINZ. I will try to respond to the Senator.

Mr. MATSUNAGA. That is the question. Where did the Senator get the 100 miles?

Mr. HEINZ. The Senator I think knows the standard that is actually in the statute. The statute is that of geographic inaccessibility. If the VA decides that something is geographically inaccessible, now what happens? Then they are authorized to pay for transportation beyond that.

It is true that in certain parts of the country there is a difference in terms of that definition.

It is my understanding that it averages out in the neighborhood of 100 miles. But in a sense that is irrelevant because they are paying you to drive for 150 miles, 200 miles, 250 miles, whatever the case may be. The problem is that if there is no——

Mr. MATSUNAGA. Mr. President, if the Senator will yield, he answered my question.

Mr. HEINZ. I do not yield.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. HEINZ. The problem is that if the veteran is being paid to drive 150, 200, 250 miles, that does not help him a lot if I have in any way misled the Senator from Hawaii or the Senate, I hope that clears it up.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield the floor?

Mr. HEINZ. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I do believe that this debate overlooks a bit the nature of the Vietnam veteran. I think many Vietnam veterans have had a very hard time accepting service in some of the traditional institutions, and I

think that the nature of the Vietnam veteran was a bit different and, perhaps we are applying a World War II standard here.

I believe, and I stand corrected, that I am the only Member of the Senate who served in the military in Vietnam. I am sure there are others who served at the same time. But my observations and my friendships have been that frequently the VA does not have the capability to deal with some of the psychological problems that Vietnam veterans face.

In South Dakota, my State, there are great distances, and such a trip requires staying overnight and such treatment requires returning frequently and leaving a job, and so forth, and greater flexibility is needed.

I think many Vietnam veterans have felt that they have received worse treatment than the veterans of other wars, and I would say that one can document that very easily.

But this psychological thing, to those who have suffered psychological and mental problems and are in need of treatment and desire treatment, is added to by this onerous burden, and I believe that the Heinz-Pressler-McGovern amendment would recognize Vietnam veterans and recognize a very important problem that exists.

I yield back the remainder of my time to Senator HEINZ if he wishes to have it.

Mr. HEINZ. I am sorry.

Mr. PRESSLER. I yield back the remainder of my time, if I have any unused.

Mr. HEINZ. The Senator has unlimited time.

Mr. CRANSTON. Yield the floor.

The PRESIDING OFFICER. The Senator has the floor.

Mr. PRESSLER. I yield my time.

The PRESIDING OFFICER. The Senator from South Dakota has no time limit. He has as much time as he wishes to use. The Senator may yield when he wishes.

Mr. PRESSLER. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota yields the floor.

The Senator from California.

Mr. CRANSTON. Mr. President, I appreciate the concerns of the two Senators, the Senator from Pennsylvania and the Senator from South Dakota, for an effective readjustment counseling program for Vietnam-era veterans.

I have been very concerned about that matter for a long time. I have gotten four bills through four Congresses on this subject only to have them die on the House side.

I think we are now on our way to passage of the bill that will, however, be moved also by the House of Representatives.

Let me reiterate a few of the points that I made earlier. I do firmly believe that in structuring these programs, we have to make sure that veterans will receive quality services, geared to their particular readjustment problems, and in conjunction with other needed services. Readjustment counseling is not the type of service that can be easily packaged, marketed, and sold by just anyone. It is important for us to consider carefully how and by whom this service will be provided.

Mr. President, the committee bill, in establishing the program of readjustment counseling and related mental health services, has been designed so that the services would generally be provided by the VA through its own facilities and personnel. The program has been consciously structured in this way, with one overriding purpose in mind—to produce the most effective programs for Vietnam-era veterans. So the basic question is what is best for the veteran who needs these services? There are a number of reasons why the committee believes that focusing main responsibility on the VA is the best course to follow.

First, the VA has long experience in dealing with psychological problems of veterans, including those which had their onset in combat, and is well prepared and equipped to provide the readjustment services needed through its 8,000 psychological/social work staff plus the 346 new employees who are to be hired specifically for the readjustment counseling program. This experience should not be wasted; we should put it to work for Vietnam-era veterans who have readjustment difficulties.

Second, there is a tremendous need to help many of these troubled veterans through the very extensive VA system of not only health care, but education, job training and guidance, vocational rehabilitation, income maintenance, and housing assistance. The VA is truly a multiservice provider. Many veterans with readjustment problems will be most effectively helped by being guided into one of these other programs, using benefits Congress provided for them. This result is most likely if the veteran's contact with the VA is maintained.

Third, concentration on the VA of responsibility for providing counseling services should produce generally more expert and sensitive services within the program through acquired experience and sharing of information than would occur if the programs were diffused over many organizations. Moreover, since group counseling and follow-up sessions would often be the best mode of service for particular veterans, focusing the program in the VA facilities would provide the best opportunities for such group-oriented programs.

Fourth, the VA exists to respond on a priority basis to the service-related needs of veterans; and readjustment counseling is a significant need of Vietnam-era veterans. The committee does not believe that this priority can be assured by the VA becoming an insurance carrier, like Blue Cross, making payments for services. That approach runs totally contrary to the firmly established national policy of maintaining an independent system of veterans health care facilities to assure quality care for service-related disabilities.

And, finally, let me say that Max Cleland, Administrator of Veterans' Affairs and a Vietnam combat veteran, is fully committed to this program, which he has also advocated for 10 years. We are confident that the VA, under Max Cleland's leadership, will establish and implement an effective, quality program responsive to the needs of Vietnam-era veterans. I might add that the VA is already making plans for establishing these services and has submitted to the committee an outline of its proposed outreach efforts, which would include collaboration with community agencies and organizations such as the national service organizations and self-help groups.

Thus, we strongly believe that the major thrust of the readjustment counseling program should be focused within the VA. We recognize and appreciate the concern that, without some authority to contract with private providers for readjustment counseling and related mental health services, there may be places where there would be veterans needing readjustment counseling, but where no VA facilities are close enough to provide the services economically or where it would be impractical for the VA to do so.

Our approach permits service to veterans under those circumstances, and beyond the 100-mile area there is plenty of opportunity on a case-by-case, individual basis to help a veteran who has to travel further than that to get the services.

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

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I would hope the Senate might resist the Heinz amendment. I think there is one issue we have not addressed and that is the high cost of simple psychotherapy, if there is such a thing, in the private sector. But we are talking about psychiatric and psycological care, the cost of which can be in excess of $120 to $125 per hour. On an open-ended basis such care should be reasonably limited.

I think we must also remember that the VA already provides to veterans of the Vietnam war, 172 hospitals, 16 domiciliary care units, and 220 outpatient clinics.

It seems to me that we often forget the extent of the services that are available. No facilities in America are better able to care for the veterans of this Nation than VA facilities. I think the VA is remarkable in providing the services that they do.

In my State of Wyoming, in the land of high altitude and low multitude, we have VA care at all levels, which is often provided by facilities in Miles City, Mont.—your home State, Mr. President—and in Cheyenne, Wyo. If there is any fault in the care that these facilities offer, it can only be that they may be somewhat overzealous in seeking out eligible veterans to encourage their travel to such facilities for even elective care.

So I hope we will recall what we should be trying to accomplish in terms of reasonable care for the veterans of this country. In pursuit of that objective we should reject the Heinz amendment and adopt the Cranston amendment. This will assure a workable and efficient means to provide care for those who have personal hardship in seeking VA counseling services.

It is much more appropriate to weigh these considerations under section

601(4)(c) of title 38 where the needs have always been responsibly and adequately met on a contract basis when geographic inaccessibility or lack of the required care in a VA facility is encountered.

I thank the Chair.

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

Mr. SIMPSON. I yield indeed.

Mr. MATSUNAGA. I wish to commend the Senator from Wyoming. His position against the Heinz-Pressler amendment indicates that the opposition to the Heinz-Pressler amendment is not a partisan matter. Bipartisan support of the Cranston-Matsunaga amendment was unanimous among the Members of the Senate, unanimous, I repeat. To get unanimous consent of all Members of the Senate, as my colleagues well know, is not an easy task.

But here is a case where the Senate voted unanimously in favor of the Cranston-Matsunaga amendment.

I do not need to reiterate what has already been said as to the excellent benefits which the veterans of World War II, World War I, and others wars, including the Vietnam veterans, now enjoy. The Heinz-Pressler amendment seeks to improve mental health care benefits to the Vietnam-era veterans above those accorded to the veterans of World War II, World War I, and other wars.

I fully support this effort. I fully support giving all necessary benefits to veterans of the Vietnam era. After all, I am a veteran of World War II myself. This is why I supported the Cranston-Matsunaga amendment. Furthermore, I feel that if the Vietnam-era veterans were going to be denied those benefits which the Veterans' Administration would be unable to provide, and they could obtain such benefits or services only on the outside, then I would say, yes, let us support the Heinz-Pressler amendment.

However, readjustment counseling services to Vietnam-era veterans under the Cranston-Matsunaga amendment will be provided under contract where the VA deems it necessary. So we are not denying any veteran, including Vietnam-era veterans, the right to such necessary services for mental health care as they deserve. The services would be provided under the same rights as with veterans of World War II, World War I, and other wars.

For this reason, Mr. President, I urge the defeat of the Heinz-Pressler amendment.

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

Mr. President, let me commend the distinguished Senator from Hawaii for his fine words and his fine work in this area.

In terms of treatment of veterans of different eras, I think the Vietnam war was a particularly unpopular war, unlike World War II or the Korean war, and veterans of the Vietnam era have suffered greater psychological problems and greater mental problems, in retrospect, than have veterans of other wars, generally speaking.

I think for that reason, and by reason of the turmoil that was caused, not only in the country but in the minds and in the memories of many who served there, that the approach advocated by my colleagues Senator HEINZ and Senator MCGOVERN and I would be more appropriate. But my question to the Senator from Hawaii is, is it not a consideration that Vietnam veterans, because of the turmoil and indecision within the country in connection with that war, have suffered from a higher rate of mental and psychological problems subsequent to their service?

Mr. MATSUNAGA. If the amendment that was adopted by the Senate would deny such mental care as the Vietnam veterans would require, I would fully agree with the Senator from South Dakota. But, as provided under the Cranston-Matsunaga amendment, they would not be denied any such needed care.

The Veterans' Administration has had long experience in dealing with psychological problems of veterans, and it is well prepared and equipped to provide the readjustment counseling services needed through its 8,000 psychological and social work staff, plus 346 new employees to be hired specifically for the readjustment counseling program.

As I stated earlier, as was stated by the Senator from Wyoming, the ranking minority member of the Veterans' Affairs Committee (Mr. SIMPSON), and as was stated by the chairman of the Veterans' Affairs Committee (Mr. CRANSTON), the Veterans' Administration has the staff and the expertise to respond to any of the needs of veterans, be they Vietnam-era veterans, World War I veterans, or World War II veterans, such as education, job training, vocational guidance and rehabilitation, income maintenance, and housing assistance, which are often associated with the need for readjustment counseling. Where the readjustment counseling services cannot be provided economically or geographically to the veteran by the VA, as in Hawaii, where we have no Veterans' Administration facilities, the veteran will have the care provided by the Veterans' Administration under contract by a qualified private facility. Under our amendment as adopted, every Vietnam-era veteran in need of readjustment counseling will be provided such care by contract, as they are in Hawaii and Alaska, if the VA is unable to provide the care directly through its medical facilities.

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

Mr. CRANSTON. The Senator from South Dakota has the floor.

The PRESIDING OFFICER. The Senator from Hawaii has the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MATSUNAGA. I yield.

Mr. ROBERT C. BYRD. I wonder if we could agree to vote no later than 5 p.m. on this amendment. I make that unanimous-consent request: No later than 5 p.m. today.

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

Mr. STENNIS. That would not in any way give up our right to have a vote on subsequent amendments?

Mr. ROBERT C. BYRD. No, no.

Mr. STENNIS. I have no objection.

Mr. LEVIN. Mr. President, will the Senator from Hawaii yield for a question?

Mr. MATSUNAGA. I yield.

Mr. LEVIN. With the ability of the VA to handle the problems we are discussing, with all the debate as to whether or not we should make a special provision for the veterans of the Vietnam war, I am wondering whether we should not debate the question as to whether or not this particular amendment does not leave the question of contracting out to the Veterans' Administration. Is it not clear to the Senator from Hawaii, as it appears to be clear to me from reading this amendment, that whether or not the special services would be provided is still left to the Veterans' Administration under this amendment?

Mr. MATSUNAGA. Is the Senator referring to the Cranston-Matsunaga amendment?

Mr. LEVIN. No, I am referring to the Heinz-Pressler-McGovern amendment.

Mr. MATSUNAGA. Well, if you will read it carefully, the Pressler-Heinz amendment would provide that the veteran himself could go to a private mental health clinic and then the Veterans' Administration would be required to reimburse the veteran for such expenses as he would have incurred. But under the Cranston-Matsunaga amendment, the veteran would need to first go to the Veterans' Administration, and then go to a certified private provider of mental health care. This would be, of course, for the protection of the veteran himself.

Mr. LEVIN. But if I could follow that up with another question——

Mr. CRANSTON. Could I add a response to the first question? If the criteria that we set forth appear in any particular case, the Administrator would not be able just to say no—arbitrarily. Under the amendment adopted 93 to 0 earlier today, he would have to provide this opportunity for private counseling if the need could not be met in another way, if the criteria set forth in the bill were there. It would not simply be the free choice of the Administrator.

Mr. HEINZ. Will the Senator yield?

Mr. LEVIN. I wonder what the meaning of those words "at the discretion of the administrator" is, if in fact there is no discretion. I am just looking at those words, "at the administrator's discretion."

Mr. MATSUNAGA. I did not quite get the question of the Senator from Michigan. Are you saying that the Veterans' Administration would be arbitrary to the point of not allowing any service from the private sector to a veteran who may be in need of such service if he could not obtain it at a Veterans' Administration facility?

Mr. LEVIN. No, I am no more suggesting that than, of course, you were; but I wonder if this question could be put to the Senator from Pennsylvania, if he is willing to answer the question. What is

the meaning of the words "at the Administrator's discretion?"

Mr. CRANSTON. Under chapter 17 of title 38 as interpreted by the VA, the word "may" has generally been interpreted by the Veterans' Administration to provide an entitlement to health-care benefits, and if the services cannot be provided under the Veterans' Administration——

Mr. HEINZ. Through a small drafting oversight, the argument that the Senator from California is making—if the Senator will yield——

Mr. CRANSTON. I am happy to yield to the Senator from Pennsylvania.

Mr. HEINZ. I would be happy to know why the Veterans' Administration, if indeed it does, thinks the word "may" means "shall." I do not know. But I do know that this amendment meets a VA request to the Senator from California.

The amendment says, "The Administrator may, at his discretion." Why is it drafted that way? Because they called the Senator from California up 3 years ago and made the same argument as today, that the word "may," for some arbitrary reason known only to the VA, means "shall."

We asked them, "How can we make it discretionary?" And the folks down there suggested, "Why not just put in the words 'at his discretion'?"

So the amendment was drafted that way: "The Administrator may, at his discretion," to make it the way they told the Senator from California would be discretionary when he talked to them on the phone.

I do not know where these interpretations are coming from, but the fault does not lie here. I do not think anyone means to mislead in any way, shape, or form, but those are the facts.

Mr. MATSUNAGA. Mr. President, let me say to the Senator from Michigan that his concern for veterans of the Vietnam era is shared by the Senator from Hawaii, and I am sure the Senator from California. We would like to do what is best for the veteran, regardless of what war he may have served in.

We feel that the amendment which was adopted unanimously by the Senate within the hour would provide that the readjustment counseling services which we are putting into the hands of the Veterans' Administration, will be entirely consistent with the care which the Veterans' Administration has been able to provide over the years in an undisputably good form, in the sense that the VA takes into consideration all of the aspects involved in dealing with mental illness.

I believe that it would be a grave error to take this authority away from the Veterans' Administration.

As was pointed out earlier, and I do not know whether the Senator was in the Chamber at that time, the Cranston-Matsunaga amendment was supported unanimously, on both sides of the aisle. That is not easy to do. In concept, the Heinz amendment was, therefore, opposed unanimously by the Senate.

The Senator from Pennsylvania laughs.

Mr. HEINZ. That is not my recollection of the facts, if the Senator will yield.

Mr. MATSUNAGA. I have not gone into the "facts" as stated by the Senator from Pennsylvania.

We are trying to do what is best. We are convinced that the Heinz amendment would do mischief.

Mr. FORD. Will the Senator from Hawaii yield 30 seconds?

Mr. MATSUNAGA. I am happy to yield 1 minute.

Mr. FORD. I want to do whatever is necessary to help veterans, and particularly disabled veterans. I get somewhat ashamed of the position we have gotten into as it relates to our help for veterans. I can give example after example of men who are living from day to day who are disabled, who were wounded more than one time in World War II. They have now closed down the facilities at Army bases to them. They have put them into the private sector under CHAMPUS, and whatever. What they must pay is the overwhelming percentage.

Whatever I can do today, and whatever my vote means, to give the veteran more help today, that is the way I am going to vote. I am somewhat disappointed at the course which I see medical help for the disabled veteran is taking. I am talking about a veteran who is retired, who is doing the best he can under the circumstances, and is still not receiving what I think is due to him.

If this Heinz amendment will give that veteran a greater opportunity for medical care if we take it out from under the Veterans' Administration, so be it, as long as that veteran gets better help than he is getting today. I do not think he is getting proper medical care.

Mr. MATSUNAGA. If that is in the form of a question, I will say to the Senator from Kentucky the Cranston-Matsunaga amendment already provides that.

Mr. FORD. The Heinz amendment expands it to give them more, as I understand it.

Mr. MATSUNAGA. The Cranston-Matsunaga amendment already does that, it expands it.

Mr. FORD. The Heinz amendment expands upon your amendment, does it not? It goes beyond that? It gives them a little bit more than you give them?

Mr. MATSUNAGA. No. It will create mischief.

Mr. FORD. It will create mischief?

Mr. MATSUNAGA. Yes, it will create mischief. While on the surface it may seem as though it is providing extra benefits to Vietnam-era veterans, in the long run it will be to their detriment. I will tell the Senator why.

The Senator was not present in the Chamber earlier.

Mr. FORD. I listened on the intercom.

Mr. MATSUNAGA. When the Veterans' Administration provides mental health care, it provides all other services associated with mental illness, such as employment, income maintenance, education, pension benefits, housing, and so forth. All of these social services would be involved in the provision of readjustment counseling benefits. If there is a special need for clinical services of a private physician, the Veterans' Administration, under the present Cranston-Matsunaga amendment, may contract for such services. As was stated by the chairman of the Veterans' Affairs Committee, they must provide that service if it is deemed that it is necessary.

Mr. FORD. The Senator makes use of one word, and that is "when" they provide it. When are they going to provide it? This is when they provide it. I think that is the problem in my mind and the problem I face, though not necessarily in the mental health area. I say when they live with some of these things they do have some problems, and I believe they deserve the best treatment we can give them.

But the Senator sums up my problem when he says, "When they provide it." I am of the opinion that whatever we can do, there are not many of us who have 20–20 foresight, who know what will happen next month, next year, or 5 years from now. If we did have 20–20 foresight, we sure would not be here, probably.

Mr. MATSUNAGA. I share the Senator's concern. I am on his side to provide as much care to veterans as we can possibly provide. I think that the amendment which the Senate adopted unanimously just within the hour would provide the extra service the Senator and I are thinking about.

Mr. FORD. I will say to the Senator, I am not going to take any chances.

Mr. MATSUNAGA. I will yield to the chairman.

Mr. CRANSTON. I would like to say to the Senator from Kentucky the reason the VA has not been providing these services is that the VA has in the past lacked and today still lacks the statutory authority to provide this kind of outpatient services that S. 7 would authorize. Under current law, the VA has only limited authorities to provide outpatient services.

Generally, they are available for outpatient treatment for a service-connected disability, for any disability of a veteran with a disability rated as 50 percent or more disabling, for prehospital and posthospital care, or where outpatient treatment would "obviate" the need for hospitalization. Veterans with difficulties in readjusting to civilian life seldom fit within one of these categories. Their problem is typically a low-grade impairment that may not be definable as a "disability," which it must be for VA care to be provided and, even where there is a diagnosed disability, there is likely to be no indication of the psychological disorder in the veteran's service record. This makes it very difficult to establish service connection, even where the problem seems to be service related in the sense that the military experience has made it difficult for the veteran to function well in civilian life.

When the fact of service connection cannot be established, the remaining authorities for outpatient nonservice-connected care for veterans who are not so seriously disabled as to require hospitalization relate to pre- and post-

hospital care and treatment to "obviate" the need for hospitalization. Since hospitalization is not a generally prescribed mode of treatment for such low-grade disorders, all of these authorities are generally unavailable.

Mr. President, S. 7 would give the VA authority it presently lacks to provide readjustment counseling and followup mental health services on an outpatient basis for these veterans.

The Senate has passed bills in previous Congresses to give them the authority. The bills languished in the House. Now we are going to give the VA the authority and we want them to give veterans the best possible care, not simply to pass the job to someone else. But they will do it with experienced people and in places and in ways where other problems beyond the specific mental health and rehabilitation problems can be dealt with. The environment of the VA we feel is the best in general and we feel that better treatment can be given there.

I would repeat that such authority has been advocated for some 10 years by Max Cleland, Administrator of Veterans' Affairs, and he has every intention of providing the best possible services.

In addition, other top officials in the VA's Department of Medicine and Surgery who appeared before our committee spoke of the urgency of establishing this program now and described their plans for mounting these needed programs; and I am pleased to note that the administration has stated its clear intention to provide the additional 346 employees needed to mount these programs.

Mr. FORD. Let me ask the Senator from California, does CHAMPUS become involved in any way as it relates to this piece of legislation?

Mr. CRANSTON. No.

Mr. FORD. When can we get to the structuring of so-called medical treatment for veterans called CHAMPUS?

Mr. CRANSTON. I cannot tell the Senator that because that is under the authority of the Armed Services Committee.

Mr. FORD. I thought the Senator's committee might have some interest in it since it was for veterans.

Mr. CRANSTON. I cannot answer the question, because that is not in our committee.

Mr. MATSUNAGA. I might say to the Senator from Kentucky that part of the question he raised is the question which we have been trying to resolve by S. 7. This is the whole purpose of S. 7, to provide those necessary health services which are not currently authorized. We are merely talking about the amendment which Senator CRANSTON and I offered to make it even more effective.

We are saying that the Heinz amendment, if adopted, will do mischief.

Mr. FORD. I wish the Senator would not use the word "mischief." Use "damage" or something like that rather than mischief. Somehow or other I get a different connotation from "mischief" in my definition of it than "damage" to the program or something like that.

Mr. MATSUNAGA. I will say that it would seriously damage the program. I used the word mischief, because that is the term we associate with it in Hawaii. In Kentucky, it is damage. We will make it synonymous.

Mr. FORD. The Senator calls it mischief in Hawaii and we call it damage in Kentucky.

Mr. MATSUNAGA. Mr. President, I believe it is 5 o'clock.

Mr. HEINZ. Will the Senator yield the floor so the minority can have some time?

Mr. MATSUNAGA. Yes. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I do not mind a time agreement, but I think there is an obligation to be fair in the sharing of time. We entered into a time agreement at about 20 minutes to 5. The proponents of the amendment have about 2 minutes left. I saw Senator PRESSLER seeking recognition a few moments ago and I think that, in fairness to him and anybody else in favor of the amendment, we ought to allow a few minutes.

The PRESIDING OFFICER. Under the previous order, the hour of 5 p.m. having arrived——

Mr. ROBERT C. BYRD. Mr. President, how much time did the Senator want?

Mr. PRESSLER. About 1 minute.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator be permitted to proceed for about a minute.

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

Mr. PRESSLER. Mr. President, I close by making one point: Many Vietnam veterans do not feel that they are getting adequate mental health service from the institutions. This has been a common complaint of all the Vietnam veterans groups. It has been a complaint of individuals. It is one of the broadest problems among Vietnam veterans. It is not addressed in the bill unless the amendments by Senator HEINZ and myself are added to it.

COUNSELING FOR VIETNAM VETERANS

Mr. McGOVERN. Mr. President, I wish to commend the distinguished chairman of the Veterans' Affairs Committee for his efforts in reporting out the much-needed veterans health care amendments. And I am pleased that we have had the debate here today on the provisions for psychological readjustment for Vietnam veterans. I know Senator CRANSTON has shared my interest in this important program for many years. He has been supportive of the legislation I have introduced in previous Congresses—legislation similar to the Heinz-Pressler-McGovern amendment offered here today.

I do not believe there are any of us here who doubt the need for this service for our Vietnam veterans; it is a question of the approach. I believe that for the counseling program to succeed, it must be directed more toward interaction with the community. If we are to successfully readjust the veteran to the community and society, it is necessary to bring those resources into the program. The Heinz-Pressler-McGovern amendment makes this possible, in a somewhat limited way, and it is the approach I favor.

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

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

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

The PRESIDING OFFICER (Mr. TSONGAS). Are there any Senators who have not voted who wish to do so?

The result was announced—yeas 42, nays 53, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—42

Armstrong	Hatch	Muskie
Baker	Hatfield	Nelson
Bellmon	Heinz	Packwood
Biden	Helms	Pressler
Boren	Javits	Riegle
Bradley	Kassebaum	Sarbanes
Bumpers	Laxalt	Schmitt
Chafee	Levin	Schweiker
Cochran	Lugar	Stevens
Cohen	Mathias	Stone
Culver	McClure	Tower
Danforth	McGovern	Tsongas
Domenici	Melcher	Wallop
Exon	Moynihan	Weicker

NAYS—53

Baucus	Goldwater	Nunn
Bentsen	Gravel	Pell
Boschwitz	Hart	Percy
Burdick	Hayakawa	Proxmire
Byrd, Harry F., Jr.	Heflin	Pryor
	Hollings	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Chiles	Humphrey	Roth
Church	Inouye	Sasser
Cranston	Jackson	Simpson
DeConcini	Jepsen	Stennis
Dole	Kennedy	Stevenson
Durenberger	Leahy	Stewart
Durkin	Long	Talmadge
Eagleton	Magnuson	Warner
Ford	Matsunaga	Williams
Garn	Metzenbaum	Young
Glenn	Morgan	Zorinsky

NOT VOTING—5

Bayh	Johnston	Thurmond
Cannon	Stafford	

So the amendment of the Senator from Pennsylvania (UP No. 153) was rejected.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 156

(Purpose: To make available to the VA in furnishing Vietnam-era veterans with readjustment counseling and related services the same authority to do so through contracts with private facilities as is available in furnishing treatment for veterans with 100-percent service-connected disabilities incurred in combat)

Mr. CRANSTON. Mr. President, I send an amendment to the desk. This is a perfecting amendment to the Pressler amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. SIMPSON, Mr. TALMADGE, Mr. RANDOLPH, Mr. MATSUNAGA, Mr. THURMOND, Mr. STAFFORD, and Mr. HART, proposes an unprinted amendment numbered 156 as a perfecting amendment to the Pressler amendment.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the amendment of Mr. Pressler, insert the following:

SEC. 203. After section 628 of title 38, United States Code, insert the following new section:

SEC. 629. In furnishing counseling and related mental health services to Vietnam-era veterans under subsections (a) and (b) of this section 672A of this title, the Administrator shall have available to enter into contracts with private facilities the same authority that is available to the Administrator (under sections 612(f)(2) and 601(4)(C)(ii) of this title) in furnishing medical services to veterans suffering from service-connected disabilities rated 100-percent disabling incurred in combat in the line of duty. Before furnishing such counseling and related mental health service to a veteran through a contract facility as authorized by this subsection, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such counseling or services.

Mr. CRANSTON. Mr. President, this amendment perfects the Pressler amendment, which was underlying the Heinz amendment and had the same thrust as the Heinz amendment, although I think it was even less desirable. This amendment would substitute the language adopted as an amendment to the underlying bill by the Senate on a 93 to 0 rollcall vote earlier this afternoon, and that would complete action on this matter, by reaffirming what we previously did, instead of going through another rollcall vote on what was just dealt with in the defeat of the Heinz amendment.

Mr. PRESSLER. Mr. President, we have been trying to get a vote on the amendment I have offered, which would allow Vietnam veterans the right to make some choices in this matter.

One of the key problems of the Vietnam-era veterans has been in the psychological and mental area, and they have not responded well to treatment in those institutions.

The PRESIDING OFFICER. The Senate will be in order. The Senator deserves to be heard.

Mr. PRESSLER. All afternoon, we have been frustrated in an effort to get a vote, and we have had to offer perfecting amendments and so forth. I am very disappointed that we have not been able to get a vote on my amendment. We almost had it, and we would have had it in a few minutes, except that now a substitute has been offered.

The point is that those persons who have served in Vietnam have suffered unusual psychological and mental problems, and this has been brought forth in literature and movies and reality. Many of them do not respond to treatment in some of the traditional institutions.

Indeed, it was pointed out earlier this afternoon—and I shall not go through it again—that many of those Veterans' Administration treatment facilities are not adequate, and they have not been adequate.

There is a feeling among Vietnam veterans that they do not get good treatment under our laws because the benefits that are given to them are extended to other members of society.

The Vietnam veteran is in a peculiar position. There was a great deal of turmoil in that war. It was a war about which our country had a great deal of indecision. Many who served in that war have suffered psychological and mental problems for which they have sought help, and they have been unable to receive adequate assistance.

I am very sorry that the leadership has chosen to frustrate our efforts to get a vote on this important amendment. I oppose the amendment that has been offered. I do not know if it is appropriate for me to ask for the yeas and nays; if so, I would like to do so.

The PRESIDING OFFICER. It takes unanimous consent to order the yeas and nays on the underlying amendment to the amendment of the Senator from South Dakota.

Mr. CRANSTON. Mr. President, the Senator from South Dakota, in effect, already has had a vote on the issues of which he just spoke. That vote came on a very similar amendment that was offered by the Senator from Pennsylvania.

It was necessary for me to take the action I have taken because the amendment adopted earlier by a vote of 93 to zero would have been wiped out when the committee amendment is agreed to. The slate would have been wiped clean, because my amendment was to the original text not the committee amendment. Therefore, we now have the necessity of further action to reverify what the Senate did by a vote of 93 to zero. There is no point in going through the exercise once again of defeating the Pressler amendment, because it is very similar to the Heinz amendment, although less desirable in a few respects.

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

Mr. CRANSTON. I yield.

Mr. PRESSLER. This whole exercise we have gone through this afternoon of perfecting amendments and the amendment of the Senator from California was in fact a parliamentary maneuver designed to thwart a vote on my amendment, and that is what frustrates me.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I support the amendment offered by the Senator from South Dakota (Mr. PRESSLER). While it attempts to achieve the same objective as the Heinz amendment, it is a different amendment and deserves to be voted on up or down. I think the Senator from South Dakota should get a vote on it. I know I am going to support him.

This amendment is simply another effort to try to help the Vietnam-era veteran, and we should not kid ourselves. There have been some serious problems with the VA. I have here a publication, the APA Monitor, the publication of the American Psychological Association, dated April 1979. It talks about the ability of the VA to meet the needs of the Vietnam veteran. I quote:

Oftentimes, the Vietnam veteran has been caught up in an almost Catch-22 scenario. In seeking mental health services from the VA, many Vietnam vets are told that their symptoms do not add up to any officially-sanctioned diagnostic label. The end result has been that these vets are denied treatment, often with the message that they're not really in need of help. In other instances, vets have been assigned a common diagnostic label like "anxiety reaction." But because of the difficulties involved in tying the disorder to the vet's combat experience, many times it is considered a condition which cropped up after the war, or one which existed prior to the vet's military experience. The end result is the same: since it can't be proven as service connected, the vet has been turned away.

That is part of the situation with which we are now dealing. The fact is that there are a lot of people who are psychiatrists and psychologists who are at VA facilities and who do not find working with the Vietnam veteran a particularly lucrative line of work, either from the standpoint of research or from the standpoint of money.

I do not wish to prolong this exercise, but I think there is a very real issue here; and I urge the support of Senator PRESSLER's amendment and the rejection of Senator CRANSTON's amendment.

Mr. MATSUNAGA. Mr. President, this is an exercise in futility, it seems. Senator PRESSLER and Senator HEINZ both are sponsors of the amendment which was just defeated, and it was the will of the Senate that the amendment be defeated. This is just wasting the time of the Senate.

I wish the Senator from South Dakota would withdraw his request for a record vote, because it will save at least 15 minutes. However, if he insists on it, well and good. We just voted upon his amendment as he was a cosponsor of the Heinz-Pressler amendment.

Mr. HEINZ. Mr. President, if the Senator will yield, the Senator asked for a record vote on the Cranston amendment, to which there was no opposition. How can the Senator, in good conscience, make that argument—to have a vote on an amendment to which there was no opposition?

Mr. MATSUNAGA. I will not yield to the Senator from Pennsylvania if he is going to engage in personal vilification.

I know the Senator is above that. He just lost his temper. I forgive him. [Laughter.]

I just plead with the Senator from South Dakota, because we already had a vote. In good conscience, the Senator knows that. But, if he wants a vote on it, I will go along with him.

Mr. PRESSLER. Mr. President, if the Senator will yield, there are differences between the two amendments. The fact is that we have spent nearly 3 hours trying to avoid a vote on my amendment. It is not I who have taken up 3 hours with parliamentary maneuvers to avoid a vote.

On the question of Vietnam veterans, it is important enough, and with the type of problems that Vietnam veterans experience in this area, and in view of the small amount of money involved, I think we should have a vote. It is not I who have engaged in parliamentary maneuvers for 3 hours to avoid a vote in the interest of Vietnam veterans.

Mr. CRANSTON. If the parliamentary maneuvers that were launched and engaged in by the Senator from South Dakota had worked, there never would have been a vote on the Senator's amendment, because it would have been replaced by the amendment of the Senator from Pennsylvania. We have voted on that text. If the Senator had won, that would have prevailed, and that amendment would have been wiped out.

I ask the Chair what the pending matter is. Is it not the amendment I have offered?

The PRESIDING OFFICER. The pending matter is the amendment offered by the Senator from California.

Mr. CRANSTON. I suggest that we proceed to vote on it.

Mr. SIMPSON. Mr. President, I should like to comment as one of the floor managers of this particular measure. I am still looking for an opportunity to eat lunch sometime before the supper hour arrives. An emaciated fellow like myself and Senator CRANSTON find it most difficult to survive so long between meals.

Let me just say that I support the Cranston amendment. It is the same amendment that passed this body by a vote of 93 to zero, and Senator PRESSLER's amendment is virtually the same as the Heinz amendment which we have just disposed of.

I must say that as a new boy on the block the frustrations in my first exposure as a floor manager have been rather significant. I might add that the difficulties all started with some rather unique parliamentary maneuvers by the sponsors of the amendments initially proposed on this issue. We would have been willing to seek a single resolution to this issue on the basis of two simple votes had not we been forced into this rather convoluted process.

The only difference between this body and the Wyoming Legislature is that when we kill them there they stay killed.

Thank you.

The PRESIDING OFFICER. Is there any further discussion?

Mr. MATHIAS. Mr. President, I have an inquiry.

Will the Senator from California tell us what the effect of his amendment would be? As I understand it, it is a perfecting amendment to the Pressler amendment. But what will be left of the Pressler amendment after the adoption of the Cranston amendment?

Mr. CRANSTON. Nothing.

Mr. SIMPSON. Nothing.

Mr. CRANSTON. What we will have is the amendment approved by the Senate 93 to zero earlier today which mandates——

Mr. MATHIAS. Now we are talking about saving time. Why do we have to vote on again something we already voted on 93 to zero?

Mr. CRANSTON. The committee amendment would wipe out that action because the original action taken was to the underlying bill. The committee amendment replaces the underlying bill. So it is necessary to get it before the body once again.

Mr. MATHIAS. I ask the Senator from California a further question: If that is the concern, why not let us vote on the Pressler amendment unadorned and in its original pristine form? And then by voice vote we could in 30 seconds do what we would otherwise do, what we have already done by a vote of 93 to zero, a record vote, and then we could deal with that. What would be wrong with that procedure?

Mr. CRANSTON. We have already voted in effect on the Pressler amendment by voting on the Heinz amendment. We are just trying to get back to what is plainly the will of the Senate—by a 93 to zero vote.

Mr. MATHIAS. That is the judgment of the Senator from California. That is not the judgment of the Senator from Pennsylvania nor is it the judgment of the Senator from South Dakota. In the meantime, we are spending more time trying to find out what we are doing than if we go ahead and do it.

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

Mr. MATHIAS. I am happy to yield.

Mr. PRESSLER. The fact of the matter is we have spent over 3 hours avoiding a vote on this issue where the Vietnam veterans can choose their own place to get mental assistance and counseling, and the original amendment has not been voted on. The committee has used parliamentary tactics to avoid a vote on my amendment.

I ask the Senate if I could have a vote on my amendment. I was asked a few minutes ago to withdraw my amendment. I ask that the perfecting amendment be withdrawn so we can proceed to a vote on my amendment, and if it is voted down, fine. I am not afraid to lose. But I wish to get a vote on this matter which is of importance to all the Vietnam veterans groups. It is part of the reason the Vietnam veterans are so alienated and it is part of the reason that many of them have not joined our society.

And what has occurred here in this Chamber this afternoon has been we spent nearly 3 hours wasting time to avoid a vote because I suppose the leadership is afraid to vote against it.

Now if my amendment is bad, vote it down. My amendment has not been voted on, and this is the Senate. Please let me have a vote on my amendment.

Mr. MATSUNAGA. Mr. President, if the Senator from South Dakota will yield, the Senator in good conscience knows that he did have a vote. The Heinz-Pressler amendment was voted down.

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

Mr. MATSUNAGA. The Senator also knows that he offered his earlier amendment initially as a parliamentary procedure to prevent the Senator from California from offering his amendment as a substitute. That is the way the whole thing started.

Mr. PRESSLER. So I offered my amendment.

Mr. MATSUNAGA. If the Senator had not gotten together with the Senator from Pennsylvania to offer this parliamentary trickery, and I commend him for that—it was excellent; it was a brilliant trickery—but if it had not been for that we would have gotten rid of this bill hours ago.

Mr. HEINZ. Mr. President, will the Senator yield for one small request?

Mr. MATSUNAGA. Yes. The Senator from South Dakota has the floor.

Mr. HEINZ. If the Senator will yield, I am wondering——

Mr. MATSUNAGA. I wanted to make it clear to the Senate that what the Senator from South Dakota says, that he had not had a vote on his amendment, is not absolutely true. It is absolutely not true, because he did have a vote on his amendment as perfected by the amendment of the Senator from Pennsylvania.

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

The PRESIDING OFFICER. The Senator from South Dakota has the floor.

Mr. PRESSLER. I really object to that because I have not had a vote on my amendment. I have not engaged in any tricks. I have just tried to get a vote on my amendment, which is very important to Vietnam veterans and very important to Vietnam veterans groups, and the leadership has been avoiding that all afternoon, and in good conscience all I am asking for is a vote on my amendment.

We may speak about good conscience, et cetera, et cetera, but in good conscience I want to vote on this issue that is important to every Vietnam veteran. It is also of great importance to those who are suffering from mental and psychological problems who wish to choose their place of rehabilitation and also those who have jobs or have to travel a great distance and have been treated after 5 o'clock. There are many complaints that in veterans' centers and hospitals you do not get there during working hours, you wait for hours, and so forth. All I am asking for is a vote on my basic amendment which I offered in very good faith at the beginning of this afternoon, and I have not engaged in any delays or anything else. But the Senator from Oregon asked for some time for me to yield for a unanimous-consent request.

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

Mr. PRESSLER. I yield.

Mr. HATFIELD. Mr. President, I ask unanimous consent that Victory Gilliam, of my staff, be accorded the privilege of the floor.

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

Mr. HATFIELD. I thank the Senator.

Mr. CRANSTON. Mr. President, I have in my hand a Dear Colleague letter dated May 14 which refers to "our amendment" and is signed by LARRY PRESSLER and JOHN HEINZ, and describes the Heinz amendment which the Senate has just rejected.

So plainly it was an amendment that was fulfilling the goals of Senator PRESSLER. The Senator from South Dakota and the Senator from Pennsylvania had their choice of which one they wanted to have voted on. The way it worked out they arranged it so that the basic vote was on the Heinz amendment, and they were defeated.

I have now moved to get solidly into the measure which will be passed by the Senate the action that was approved 93 to nothing.

When I had intended to offer that as a substitute for the Heinz amendment, a maneuver by the two Senators was undertaken designed to preclude me from having a vote on our committee amendment. We have now simply resorted to the same approach to preclude repeated votes on the issue that the two Senators have put before the Senate.

The matter now pending before the Senate is a matter that was already voted upon 93 to nothing.

The PRESIDING OFFICER. Is there further discussion?

Mr. MATSUNAGA. Mr. President, one point should be made perfectly clear to the Senate, and that is that the Cranston-Matsunaga amendment does authorize contract care for Vietnam-era veterans in instances where the VA is unable to provide such care.

We are not neglecting the health care needs of Vietnam-era veterans in this bill. S. 7 extends important mental health care services to Vietnam-era veterans. So we are not in any way denying Vietnam-era veterans the services which the Heinz-Pressler amendment would have afforded to them.

Moreover, the bill, as amended by the Cranston-Matsunaga amendment, does provide contract care authority for that service to Vietnam-era veterans whenever the VA is unable to provide the services directly.

Mr. CRANSTON. I would like to point out finally that our amendment is superior even in terms of the concerns expressed by the two Senators because ours makes it mandatory that services be offered to veterans. It is entirely discretionary under the Heinz amendment and that amendment does not, in any event, authorize any contracting for the readjustment counseling itself, only for the very expensive followup mental health services.

Thus, Mr. President, his amendment actually requires the VA to provide the initial readjustment counseling itself. In this connection, it must be noted that the new program would consist of two parts: First, under subsection (a) of the new program, a counseling program during which the veteran is given a mental and psychological assessment; and, second, if the individual is found to be in need of mental health services to facilitate successful readjustment to civilian life, a program of followup, outpatient mental health services. The Heinz amendment provides for contracting out only the followup mental health services; and the VA's own ability to provide such mental health care is, I believe, unquestioned.

Thus, in the Heinz-Pressler approach, the proposed contract authority is expressly and specifically limited, to mental health services, including psychiatric, psychological, preventive mental health care and counseling services for veterans who, under subsection (b) of the new section 612A have been determined to be in need of mental health services. Those mental health services under subsection (b) of the new section are to be provided only after the general mental and psychological assessment has been made as part of the initial counseling stage. The Heinz amendment thus does not include the initial, counseling phase itself.

Mr. President, in this respect, therefore, our substitute amendment provides greater authority to the VA in contracting out for needed services for both the readjustment counseling as well as the followup mental health services when the VA cannot directly furnish these services in an economical fashion or a particular VA facility is unable to provide them.

Therefore, I find it difficult to understand how the Senator from Pennsylvania and the Senator from South Dakota, who would require the VA in all cases to provide the initial counseling services, find it consistent with their approach to question the VA's ability to provide quality readjustment counseling services or to make those services available when and where they may be needed.

The PRESIDING OFFICER. Is there further discussion?

Mr. MATHIAS. Mr. President, I make a point of order that a quorum is not present.

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.

Mr. MATHIAS. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. The Senator cannot reserve his right. He will have to object.

Mr. MATHIAS. I have to object, with all due respect to the majority leader. If he will be patient——

Mr. ROBERT C. BYRD. I merely want to make a statement.

Mr. MATHIAS. Then I do not object.

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

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

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, Senators are inquiring as to what the outlook is for the rest of the day. It is my hope that we can complete action on the pending bill and then take up the small business bill yet today and dispose of it yet today.

Senators will recall that in the letter which I wrote, which I sent around, on May 1, I indicated that the Senate will continue to be out on Fridays but that Senators could expect long sessions on Tuesdays, Wednesdays, and Thursdays. So I am keeping my commitment, we are not coming in on Fridays.

There is another very important bill that I would like to dispose of tomorrow. It is important that we do small business here today, alleviate some disaster emergency problems. So I would like Senators to cooperate as much as they can to complete action on this bill today and then the small business bill today.

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

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. The Senator had understood there had been some fortunate concession made or the withdrawal of amendments, which makes the bill much simpler and will probably not take very long.

Mr. ROBERT C. BYRD. Yes. Mr. HUDDLESTON, the majority manager of the the bill, indicated a moment ago that he felt it would be possible to dispose of the small business bill in about an hour. He is here, if he would like to elaborate on that or comment on it.

Mr. HUDDLESTON. It is just a judgment at this point, Mr. Leader. I do not know how many amendments might be offered to the bill. I do know of one or two. Hopefully we can dispose of those rather quickly, and we will do everything we can to conclude the bill within an hour.

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

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

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

Mr. PRESSLER. Mr. President, very reluctantly I believe I will have to concede that we will not be able to get a vote on this important matter to the Vietnam veterans. The parliamentary situation is such that we can continue to go in circles, as we have done for 3 hours, trying to get a vote on my amendment. I do not wish to tie up the Senate into the evening hours.

I do think, however, it is a very sad thing that this important amendment was not voted on in the Senate. We hear a great deal about Vietnam veterans and

their disillusionment with the system and their disillusionment with the treatment they have received, but I think the Senate of the United States this afternoon by refusing to vote on whether a Vietnam veteran can choose to get mental and psychological treatment at a place of his own choosing—and this is really not a very extensive bill—has done a very sad thing.

I thank the Chair.

The PRESIDING OFFICER. Is there further discussion? If not, the question is on agreeing to the amendment offered by the Senator from California.

Mr. CRANSTON. Mr. President, what is the parliamentary situation now?

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 156) offered by the Senator from California as a perfecting amendment to the Pressler-Heinz amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I have a technical amendment making conforming changes——

The PRESIDING OFFICER. If the Senator will withhold, the question now is on agreeing to the amendment (No. 191) of the Senator from South Dakota (Mr. PRESSLER), as amended by the amendment of the Senator from California.

Mr. PRESSLER. Mr. President, on that I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. PRESSLER. I then suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CRANSTON. Mr. President, if the Senator wishes the yeas and nays, we might as well grant them. I appreciate the Senator's concern with the shortage of time, and his help in meeting our time situation. I will be glad to join in the request for the yeas and nays.

The PRESIDING OFFICER. There is now a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from South Dakota withdraw his request for a quorum call?

Mr. PRESSLER. I withdraw it.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 191), as amended, of the Senator from South Dakota (Mr. PRESSLER). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCLURE [when his name was called]. Mr. President, on this vote I have a live pair with the Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The PRESIDING OFFICER (Mr. LEVIN). Does any other Senator in the Chamber wish to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—94

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

NAYS—0

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClure, against.

NOT VOTING—5

Bayh	Johnston	Thurmond
Cannon	Stafford	

So Mr. PRESSLER'S amendment (No. 191), as amended, was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that immediately upon passage of this bill, the Senator from Illinois (Mr. PERCY) be recognized briefly for a unanimous-consent request.

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

UP AMENDMENT NO. 157

(Purpose: To make conforming changes necessitated by the action of the Senate on the prior amendments to S. 7)

Mr. CRANSTON. Mr. President, I send to the desk an amendment making conforming changes necessitated by the action of the Senate on the prior amendments, and ask for its immediate consideration.

This amendment is entirely noncontroversial and technical in nature.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 157.

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

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

The amendment is as follows:

On page 59, line 24, insert "counseling and" after "(vi)".

On page 60, line 25, insert "612(f)(ii)," after "612(f)(2),".

On page 63, strike out all on lines 24 and 25 and insert in lieu thereof "'(a) The Administrator—".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. THURMOND. Mr. President, I support S. 7, the Veterans' Health Care Amendments of 1979 as reported by the Senate Committee on Veterans' Affairs on March 9, 1979.

The basic purpose of S. 7 is to improve the quality, efficiency, and scope of health services provided to our Nation's veterans through the Veterans' Administration's health-care system. This bill would establish several important programs primarily for the treatment of veterans with service-connected or service-related disabilities.

First, a program of readjustment counseling for Vietnam-era veterans who are suffering from problems in readjusting to civilian life would be established. In testimony before the Senate Committee on Veterans' Affairs, the Veterans' Administration testified that many Vietnam-era veterans suffer from low-grade behavioral impairments which interfere with their jobs, education, and personal lives. Currently, there is no mechanism available for the VA to provide the type of counseling that is necessary to assist these veterans. The VA estimates that only a limited number of veterans would require hospitalization under this program. It is hoped that this early counseling would detect and resolve any problems, thereby eliminating the future need for expensive hospital care.

Second, a 5-year pilot program providing for the treatment and rehabilitation of veterans with alcohol or drug dependence or abuse disabilities in community-based treatment facilities through contractual arrangements with the VA would be established. Mr. President, neither drug addiction nor alcoholism is a new problem to the VA. For years, the VA has treated the medical consequences of both drug abuse and alcohol abuse in its hospitals, and the VA has long recognized alcoholism as a treatable condition. Alcoholism and its related disorders constitute the largest single diagnostic category that the VA sees.

This 5-year pilot program would permit the VA to contract for alcohol and drug treatment for veterans in halfway houses, psychiatric residential treatment centers, and other community based treatment facilities. The need for this authority was recognized and supported by the Administrator in hearings before the Senate Committee on Veterans' Affairs when he stated:

(t)he need for further help is present. We do need the authority to contract with community-based treatment facilities, particularly for non-service-connected veterans.

Third, a 4-year pilot program of preventive health-care services for veterans with service-connected disabilities of 50-percent or more would be authorized. Currently, health care in the VA is gen-

erally defined by statutory language as services to treat an already existing disease or disability. This definition is consistent with the traditional practice in the medical community of treating an identified disease and alleviating existing pain. However, within the past decade or so, more and more thought has been given to shifting the emphasis in medical care toward the prevention of illness or disease. Many health experts, therefore, believe that such shift would result in improved health and, at the same time, result in significant long-term cost savings.

Fourth, S. 7 would extend outpatient dental benefits to veterans who are former prisoners of war and were captive for at least 6 months. In addition, these benefits would be extended to 100-percent service-connected disabled veterans.

Mr. President, many individuals who were prisoners of war developed dental conditions as a result of the prolonged nutritional deprivation they suffered while interned. Also, outpatient dental care eligibility should be extended to veterans suffering from total service-connected disabilities. This group of veterans is clearly deserving of special, high-priority consideration by the VA medical and dental officials.

Fifth, veterans eligible for regular aid-and-attendance or housebound benefits may be provided "fee-basis" care if, on the basis of a physical examination, it is determined that the medical conditions of such veterans preclude appropriate treatment in VA-operated or other Government facilities.

Sixth, in an effort to improve the planning and implementation of the VA's medical facilities' construction program, a provision requiring the approval of funding for any major VA facility by the House and Senate Veterans' Affairs Committees has been included in S. 7. Under current law, the responsibility for the provision of such facilities, including their location and nature, rests with the Administrator of Veterans' Affairs, subject to the approval of the President. Since the House and Senate Veterans' Affairs Committees are charged with the legislative responsibility for the entire VA health-care system and are most familiar with the existing resources and future needs, I believe that these committees should have a role in determining where these medical facilities will be located.

Mr. President, S. 7 is the first piece of major legislation that has been reported out of the Senate Committee on Veterans' Affairs during this Congress. I support this measure and believe it will contribute immeasurably to the health care of our Nation's veterans. I urge my colleagues to join me in advancing S. 7, the Veterans' Health Care Amendments of 1979.

● Mr. TALMADGE. Mr. President, I rise to speak in support of S. 7, the "Veterans' Health Care Amendments." I am honored to be a cosponsor of this legislation which is the result of some 7 years of efforts by the Senate Veterans' Affairs Committee and the Senate to effectively improve veterans' health services.

This legislation especially addresses the needs of many Vietnam-era veterans. As we are all so well aware, numerous Vietnam-era veterans, upon their return home, have encountered various readjustment problems, some of which are related to drug and/or alcohol abuse. In addition, employment opportunities for these veterans are scarce.

I am pleased that S. 7 establishes a program of readjustment counseling for Vietnam-era veterans. This is an area of particular interest to VA Administrator Max Cleland, and I certainly hope that once the program has operated for several years, many inroads will have been made in assisting these deserving Americans.

However, as we all know, drug and particularly alcohol abuse are not simply problems associated with Vietnam-era veterans. Alcohol abuse is very prevalent among many veterans of other war campaigns.

The statistics are startling, and by enhancing the VA's drug and alcohol treatment and rehabilitation programs, we will now be able to tackle forthrightly these problems that face all veterans. Thorough followup is necessary and cooperation with the Secretary of Labor in securing employment opportunities for rehabilitated former addict veterans is essential to the success of this program.

A new program of preventive health-care services for veterans with service-connected disabilities is also established in S. 7. In addition, not only do many of those veterans who were prisoners of war for an extended period of time suffer from readjustment problems, but they are in dire need of dental care. Dental service for these veterans is provided in this bill.

In conclusion, Mr. President, I appreciate this opportunity to speak in favor of S. 7. I commend the staff of the Senate and House Veterans' Affairs Committees, VA Administrator Max Cleland, and the service organizations for their comments and diligent work in developing this legislation. With our efforts in readjustment counseling and drug and alcohol abuse rehabilitation, I truly believe we have responded to some of the special needs of many of our Nation's veterans and their families.●

Mr. CRANSTON. Mr. President, we are ready for third reading.

The PRESIDING OFFICER. The bill is open to further amendments. If there are no further amendments to be proposed, 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, was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the committee amendment in the nature of a substitute, as amended, was agreed to.

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

The motion to lay on the table was 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, was read the third time, and passed, as follows:

S. 7

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Health Care Amendments of 1979".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH SERVICES PROGRAMS

PRIORITY FOR MEDICAL EXAMINATIONS FOR SERVICE-CONNECTED DISABILITIES

SEC. 101. Clause (3) of section 612(i) is amended by inserting "(including any veteran being examined to determine the existence or rating of a service-connected disability)" before the period.

DENTAL SERVICES AND TREATMENT FOR CERTAIN VETERANS

SEC. 102. (a) Section 601 is amended—

(1) by amending subclause (ii) of clause (C) of paragraph (4)—

(A) by striking out "or" and inserting in lieu thereof a comma; and

(B) by adding a comma and "or (ii)" after "(2)"; and

(2) by striking out "authorized" in subclause (i) of clause (A) of paragraph (6) and inserting in lieu thereof "described".

(b) Subsection (b) of section 612 is amended—

(1) by striking out "or" at the end of clause (5);

(2) by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon and "or";

(3) by adding at the end thereof the following new clause:

"(7)(A) from which a veteran of World War I, World War II, the Korean conflict, or the Vietnam era who was held as a prisoner of war for a period of not less than six months is suffering, or (B) from which a veteran who has a service-connected disability rated as total is suffering."; and

(4) by adding below clause (7) (as added by clause (3) of this subsection) the following new sentences:

"In no event may expenditures in any fiscal year after the fiscal year ending September 30, 1979, for dental services, treatment, and related appliances furnished through contracts with private facilities under this section exceed the amount expended for dental services, treatment, and related appliances so furnished under this section in the fiscal year ending September 30, 1978. Not later than ninety days after the date of enactment of the Veterans' Health Care Amendments of 1979, the Administrator shall prescribe regulations to ensure that, notwithstanding the provisions of subsection (i) of this section, special priority in the furnishing of outpatient dental services, treatment, and related appliances under this section and of dental treatment, services, and related appliances as a part of hospital care and medical services under this chapter shall be accorded in the following order, unless compelling medical or dental reasons require that such care be provided more expeditiously:

"(A) To any veteran for a service-connected dental disability.

"(B) To any other veteran described in the numbered clauses of this subsection.

"(C) To any veteran with a disability rated as service-connected.".

(c) The second sentence of subsection (f) of section 612 is amended—

(1) by inserting "(i)" before "to any such veteran"; and

(2) by inserting before the period a comma and "and (ii) outpatient dental services and treatment, and related dental appliances, to any veteran described in section 612(b)(7)(A)".

READJUSTMENT COUNSELING PROGRAM FOR VETERANS OF THE VIETNAM ERA

SEC. 103. (a)(1) Subchapter II of chapter 17 is amended by inserting after section 612 the following new section:

"§ 612A. Eligibility for readjustment counseling and related mental health services

"(a) Upon the request of any veteran who served on active duty during the Vietnam era, the Administrator shall, within the limits of Veterans' Administration facilities, furnish counseling to such veteran to assist such veteran in readjusting to civilian life if such veteran requests such counseling within two years after the date of such veteran's discharge or release from active duty or two years after the effective date of this section, whichever is later. Such counseling shall include a general mental and psychological assessment to ascertain whether such veteran has mental or psychological problems associated with readjustment to civilian life.

"(b)(1) If, on the basis of the assessment furnished under subsection (a) of this section, a physician employed by the Veterans' Administration (or, in areas where no such physician is available, a physician carrying out such function under a contract or fee arrangement with the Administrator) determines that the provision of mental health services to such veteran is necessary to facilitate the successful readjustment of the veteran to civilian life, such veteran shall, within the limits of Veterans' Administration facilities as defined in section 601(4), (A), (B), and (C)(vi) of this title, be furnished such services on an outpatient basis under the conditions specified in clause (1)(B) of section 612(f) of this title. For the purposes of furnishing such mental health services, the counseling furnished under subsection (a) of this section shall be considered to have been furnished by the Veterans' Administration as a part of hospital care. Any hospital care and other medical services considered necessary on the basis of the assessment furnished under subsection (a) of this section shall be furnished only in accordance with the eligibility criteria otherwise set forth in this chapter (including the eligibility criteria set forth in section 611(b) of this title).

"(2) Mental health services furnished under paragraph (1) of this subsection may, if determined to be essential to the effective treatment and readjustment of the veteran, include such consultation, counseling, training, services, and expenses as are described in section 601(6)(B) of this title.

"(c) Upon receipt of a request for counseling under this section from any individual who has been discharged or released from active military, naval, or air service but who is not eligible for such counseling, the Administrator shall—

"(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining mental health care and services from sources outside the Veterans' Administration; and

"(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval, or air service and the Veterans' Administration for review of such individual's discharge or release from such service.

"(d) The Chief Medical Director may provide for such training of professional, paraprofessional, and lay personnel as is necessary to carry out this section effectively, and, in carrying out this section, may utilize the services of paraprofessionals, individuals who are volunteers working without compensation, and individuals who are veteran-students (as described in section 1685 of this title), in initial intake and screening activities.

"(e) The Administrator, in cooperation with the Secretary of Defense, shall take such action as the Administrator considers appropriate to notify veterans who may be eligible for assistance under this section of such potential eligibility.".

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 612 the following new item:

"612A. Eligibility for readjustment counseling and related mental health services.".

(b) In the event of a declaration of war by the Congress after the date of the enactment of this Act, the Administrator of Veterans' Affairs, not later than 6 months after the date of such declaration, shall determine and recommend to the Congress whether eligibility for the readjustment counseling and related mental health services provided for in section 612A of title 38, United States Code (as added by subsection (a) of this section) should be extended to the veterans of such war.

PILOT PROGRAM FOR TREATMENT AND REHABILITATION OF VETERANS WITH ALCOHOL OR DRUG DEPENDENCE OR ABUSE DISABILITIES

SEC. 104. (a) Subchapter II of chapter 17 is amended by adding at the end thereof the following new section:

"§ 620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities; pilot program

"(a)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may conduct a pilot program under which the Administrator may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities of eligible veterans suffering from alcohol or drug dependence or abuse disabilities. Such pilot program shall be planned, designed, and conducted by the Chief Medical Director, with the approval of the Administrator, so as to demonstrate any medical advantages and cost effectiveness that may result from furnishing such care and services to veterans with such disabilities in contract facilities as authorized by this section, rather than in facilities over which the Administrator has direct jurisdiction.

"(2) Before furnishing such care and services to any veteran through a contract facility as authorized by paragraph (1) of this subsection, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

"(b) The Administrator, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, may take appropriate steps to (1) urge all Federal agencies and appropriate private and public firms, organizations, agencies, and persons to provide appropriate employment and training opportunities for veterans who have been provided treatment and rehabilitative services under this title for alcohol or drug dependence or abuse disabilities and have been determined by competent medical authority to be sufficiently rehabilitated to be employable, and (2) provide all possible assistance to the Secretary of Labor in placing such veterans in such opportunities.

"(c) Upon receipt of an application for treatment and rehabilitative services under this title for an alcohol or drug dependence or abuse disability from any individual who has been discharged or released from active military, naval, or air service but who is not eligible for such treatment and services, the Administrator shall—

"(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining treatment and rehabilitative services from sources outside the Veterans' Administration; and

"(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval, or air service and the Veterans' Administration for review of such individual's discharge or release from such service.

"(d)(1) Any person serving in the active military, naval, or air service who is determined by the Secretary concerned to have an alcohol or drug dependence or abuse disability may not be transferred to any facility in order for the Administrator to furnish care or treatment and rehabilitative services for such disability unless such transfer is during the last thirty days of such member's enlistment period or tour of duty, in which case such care and services provided to such member shall be provided as if such member were a veteran. Any transfer of any such member for such care and services shall be made pursuant to such terms as may be agreed upon by the Secretary concerned and the Administrator, subject to the provisions of the Act of March 4, 1915 (31 U.S.C. 686).

"(2) No person serving in the active military, naval, or air service may be transferred pursuant to an agreement made under paragraph (1) of this subsection unless such person requests such transfer in writing for a specified period of time during the last thirty days of such person's enlistment period or tour of duty. No such person transferred pursuant to such a request may be furnished such care and services by the Administrator beyond the period of time specified in such request, unless such person requests in writing an extension for a further specified period of time and such request is approved by the Administrator.

"(e) The Administrator may not furnish care and treatment and rehabilitative services under subsection (a) of this section after the last day of the fifth fiscal year following the fiscal year in which the pilot program authorized by such subsection is initiated.

"(f) Not later than March 31, 1983, the Administrator shall report to the Committees on Veterans' Affairs of the Senate and House of Representatives on the findings and recommendations of the Administrator pertraining to the operation through September 30, 1982, of the pilot program authorized by this section.".

(b) The table of sections at the beginning of chapter 17 is amended by adding after the item relating to section 620 the following new item:

"620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities; pilot program.".

PILOT PROGRAM OF PREVENTIVE HEALTH-CARE SERVICES

SEC. 105. (a) Chapter 17 is amended by adding at the end thereof the following new subchapter:

"Subchapter VII—Preventive Health-Care Services Pilot Program

"§ 661. Purpose

"The purpose of this subchapter is to provide for a preventive health-care services

pilot program under which the Administrator may attempt to (1) ensure the best possible health care for certain veterans with service-connected disabilities rated at 50 per centum or more and for certain veterans being furnished treatment involving a service-connected disability under this chapter, by furnishing to such veterans feasible and appropriate preventive health-care services, and (2) determine the cost-effectiveness and medical advantages of furnishing such preventive health-care services.

"§ 662. Definition

"For the purposes of this subchapter, the term 'preventive health-care services' means—

"(1) periodic medical and dental examinations;

"(2) patient health education (including nutrition education);

"(3) maintenance of drug use profiles, patient drug monitoring, and drug utilization education;

"(4) mental health preventive services;

"(5) substance abuse prevention measures;

"(6) immunizations against infectious diseases;

"(7) prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature;

"(8) genetic counseling concerning inheritance of genetically determined diseases;

"(9) routine vision testing and eye care services;

"(10) periodic reexamination of members of likely target populations (high-risk groups) for selected diseases and for functional decline of sensory organs, together with attendant appropriate remedial intervention; and

"(11) such other health-care services as the Administrator may determine to be necessary to provide effective and economical preventive health care.

"§ 663. Preventive health-care services

"(a)(1) In order to carry out the purpose of this subchapter, the Administrator, within the limits of Veterans' Administration facilities and in accordance with regulations which the Administrator shall prescribe, may furnish to any veteran described in section 612(f)(2) of this title, and to any veteran receiving care and treatment under this chapter involving a service-connected disability, such preventive health-care services as the Administrator determines are feasible and appropriate.

"(2) In connection with preventive health-care services furnished under paragraph (1) of this subsection, the Administrator, in accordance with regulations which the Administrator shall prescribe, may institute appropriate controls and carry out followup studies (including research) to determine the medical advantages and cost-effectiveness of furnishing such preventive health-care services.

"(b) In carrying out the pilot program provided for by this subchapter, the Administrator may not furnish preventive health-care services after September 30, 1983.

"(c) In carrying out this subchapter, the Administrator shall emphasize the utilization of interdisciplinary health-care teams composed of various professional and paraprofessional personnel.

"(d) The Administrator may not expend to carry out the program provided for in this subchapter more than $3,500,000 in the fiscal year ending September 30, 1980, more than $5,000,000 in the fiscal year ending September 30, 1981, more than $7,000,000 in the fiscal year ending September 30, 1982, or more than $9,000,000 in the fiscal year ending September 30, 1983.

"§ 664. Reports

"The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator considers necessary.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"Subchapter VII—Preventive Health-Care Services Pilot Program

"661. Purpose.
"662. Definition.
"663. Preventive health-care services.
"664. Reports.".

HOSPITAL AND NURSING HOME CARE AND MEDICAL SERVICES WITHIN THE UNITED STATES FOR COMMONWEALTH ARMY VETERANS AND NEW PHILIPPINE SCOUTS

SEC. 106. (a) Subchapter IV of chapter 17 is amended by redesignating section 634 as section 635 and by inserting after section 633 the following new section:

"§ 634. Hospital and nursing home care and medical services in the United States

"The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital and nursing home care and medical services to Commonwealth Army veterans and new Philippine Scouts for the treatment of the service-connected disabilities of such veterans and scouts.".

(b) The table of sections at the beginning of chapter 17 is amended by striking out the item relating to section 634 and inserting in lieu thereof the following new items:

"634. Hospital and nursing home care and medical services in the United States.
"635. Definitions.".

EFFECTIVE DATE OF CERTAIN PROVISIONS

SEC. 107. The amendments made to title 38, United States Code, by sections 102, 103, 104, 105, and 106 of this Act shall be effective on October 1, 1979.

TITLE II—CONTRACT-CARE PROGRAMS

DEFINITION OF "VETERANS' ADMINISTRATION FACILITIES"

SEC. 201. (a) Paragraph (4) of section 601 is amended—

(1) by inserting "or of a veteran described in section 612(g) of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in facilities described in clauses (A) and (B) of this paragraph" before the semicolon at the end of subclause (ii) of clause (C);

(2) by striking out "or" after the semicolon at the end of subclause (iv) of clause (C), and striking out the period at the end of such clause and inserting in lieu thereof a semicolon and the following new subclauses: "(vi) counseling and mental health services described in section 612A of this title for a veteran in Alaska or Hawaii; or (vii) diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, the provision of medical services at independent Veterans' Administration outpatient clinics to obviate the need for hospital admission."; and

(3) by adding below clause (C) the following new sentence:

"In the case of any veteran for whom the Administrator contracts to provide treatment in a private facility pursuant to the provisions of this paragraph, the Administrator shall periodically review the necessity for continuing such contractual arrangement pursuant to such provision.".

(b) Not later than February 1, 1980, and annually thereafter, the Chief Medical Director of the Veterans' Administration shall submit to the appropriate committees of the Congress, through the Administrator of Veterans' Affairs, a full report on the implementation of section 601(4)(C)(v) of title 38, United States Code, and the amendments made by this section, and on the numbers of veterans provided contract treatment (and the average cost and duration thereof) in each State (as defined in section 101(20) of title 38, United States Code) in the categories described in the following provisions of such title: sections 601(4)(C), 610(a), 612(a), 612(f)(1)(A), 612(f)(1)(B), 612(f)(2), 612(f)(ii), 612(g), 612A (as added by section 103(a)(1) of this Act), and section 620A (as added by section 104(a) of this Act).

EMERGENCY MEDICAL SERVICES AT NATIONAL CONVENTIONS OF RECOGNIZED VETERANS' SERVICE ORGANIZATIONS

SEC. 202. Section 611 is amended by adding at the end thereof the following new subsection:

"(c) The Administrator may contract with any organization recognized by the Administrator for the purposes of section 3402 of this title to provide for the furnishing by the Administrator, on a reimbursable basis (as prescribed by the Administrator), of emergency medical services to individuals attending any national convention of such organization, except that reimbursement shall not be required for services furnished under this subsection to the extent that the individual receiving such services would otherwise be eligible under this chapter for medical services.".

COUNSELING AND RELATED MENTAL HEALTH SERVICES TO VIETNAM-ERA VETERANS

SEC. 203. After section 628 of title 38, United States Code, insert the following new section:

"SEC. 629. In furnishing counseling and related mental health services to Vietnam-era veterans under subsections (a) and (b) of section 612A of this title, the Administrator shall have available to enter into contracts with private facilities the same authority that is available to the Administrator (under sections 612(f)(2) and 601(4)(C)(ii) of this title) in furnishing medical services to veterans suffering from service-connected disabilities rated 100 percent disabling incurred in combat in the line of duty. Before furnishing such counseling and related mental health service to a veteran through a contract facility as authorized by this section, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such counselling or services."

TITLE III—CONSTRUCTION, ALTERATION, LEASE, AND ACQUISITION OF MEDICAL FACILITIES

REVISION OF AUTHORITY FOR CONSTRUCTION, ALTERATION, LEASE, AND ACQUISITION OF MEDICAL FACILITIES

SEC. 301. (a) Subchapter I of chapter 81 is amended to read as follows:

"Subchapter I—Acquisition and Operation of Medical Facilities

"§ 5001. Definitions

"For the purposes of this subchapter:

"(1) The term 'alter', with respect to a medical facility, means to repair, remodel, improve, or extend such medical facility.

"(2) The term 'construct' and 'alter', with respect to a medical facility, include such engineering, architectural, legal, fiscal, and economic investigations and studies and such surveys, designs, plans, working drawings, specifications, procedures, and other similar actions as are necessary for the construction or alteration, as the case may be, of such medical facility and as are carried

out after the completion of the advanced planning (including the development of project requirements and preliminary plans) for such facility.

"(3) The term 'medical facility' means any facility or part thereof which is, or will be, under the jurisdiction of the Administrator for the provision of health-care services (including hospital, nursing home, or domiciliary care or medical services), including any necessary building and auxiliary structure, garage, parking facility, mechanical equipment, trackage facilities leading thereto, abutting sidewalks, accommodations for attending personnel, and recreation facilities associated therewith.

"(4) The term 'committee' means the Committee on Veterans' Affairs of the House of Representatives or the Committee on Veterans' Affairs of the Senate, and the term 'committees' means both such committees.

"§ 5002. Acquisition of medical facilities

"(a) The Administrator shall provide medical facilities for veterans entitled to hospital, nursing home, or domiciliary care or medical services under this title.

"(b) No medical facility may be constructed or otherwise acquired or altered except in accordance with the provisions of this subchapter.

"(c) In carrying out this subchapter, the Administrator—

"(1) shall provide for the construction and acquisition of medical facilities in a manner that results in the equitable distribution of such facilities throughout the United States, taking into consideration the comparative urgency of the need for the services to be provided in the case of each particular facility; and

"(2) shall give due consideration to excellence of architecture and design.

"§ 5003. Authority to construct and alter, and to acquire sites for, medical facilities

"(a) The Administrator—

"(1) may construct or alter any medical facility and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise such land or interests in land as the Administrator considers necessary for use as the site for such construction or alteration;

"(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility (including the site of such facility) that the Administrator considers necessary for use as a medical facility; and

"(3) in order to assure compliance with section 5009(a)(2) of this title, in the case of any outpatient medical facility for which it is proposed to lease space and for which a qualified lessor and an appropriate leasing arrangement are available, shall execute a lease for such facility within 12 months after funds are made available for such purchase.

"(b) Whenever the Administrator considers it to be in the interest of the United States to construct a new medical facility to replace an existing medical facility, the Administrator (1) may demolish the existing facility and use the site on which it is located for the site of the new medical facility, or (2) if in the judgment of the Administrator it is more advantageous to construct such medical facility on a different site in the same locality, may exchange such existing facility and the site of such existing facility for the different site.

"(c) Whenever the Administrator determines that any site acquired for the construction of a medical facility is not suitable for that purpose, the Administrator may exchange such site for another site to be used for that purpose or may sell such site.

"§ 500.4 Structural requirements

"(a) Each medical facility (including each nursing home facility for which the Administrator contracts under section 620 of this title and each State home facility constructed or altered under section 5031 of this title) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing structure is acquired for use as a medical facility, it shall be altered to comply with such standards.

"(b)(1) In order to carry out this section the Administrator shall appoint an advisory committee to be known as the 'Advisory Committee on Structural Safety of Veterans' Administration Facilities', on which shall serve at least one architect and one structural engineer who are experts in structural resistance to fire, earthquake, and other natural disasters and who are not employees of the Federal Government.

"(2) Such advisory committee shall advise the Administrator on all matters of structural safety in the construction and altering of medical facilities in accordance with the requirements of this section and shall review and make recommendations to the Administrator on the regulations prescribed under this section.

"(3) The Associate Deputy Administrator, the Chief Medical Director or the designee of the Chief Medical Director, and the Veterans' Administration official charged with the responsibility for construction shall be ex officio members of such advisory committee.

"§ 5005. Construction contracts

"(a) The Administrator may carry out any construction or alteration authorized under this subchapter by contract if the Administrator considers it to be advantageous to the United States to do so.

"(b)(1) The Administrator may obtain, by contract or otherwise, the services of individuals who are architects or engineers and of architectural and engineering corporations and firms, to the extent that the Administrator may require such services for any medical facility authorized to be constructed or altered under this subchapter.

"(2) No corporation, firm, or individual may be employed under the authority of paragraph (1) of this subsection on a permanent basis.

"(c) Notwithstanding any other provision of this section, the Administrator shall be responsible for all construction authorized under this subchapter, including the interpretation of construction contracts, the approval of materials and workmanship supplied pursuant to a construction contract, approval of changes in the construction contract, certification of vouchers for payments due the contractor, and final settlement of the contract.

"§ 5006. Reports to congressional committees

"(a) In order to promote effective planning for the orderly construction, replacement, and alteration of medical facilities in accordance with the comparative urgency of the need for the services to be provided by such facilities, the Administrator shall submit to each committee an annual report on the construction, replacement, and alteration of medical facilities. Such report shall be submitted to the committees on the same day each year and shall contain—

"(1) a five-year plan for the construction, replacement, or alteration of those medical facilities that, in the judgment of the Administrator, are most in need of construction, replacement, or alteration;

"(2) a list, in order of priority, of not less than ten hospitals that, in the judgment of the Administrator, are most in need of construction or replacement; and

"(3) general plans (including projected costs, site location, and, if appropriate, necessary land acquisition) for each medical facility included in the five-year plan required under clause (1) of this subsection or the list required under clause (2) of this subsection.

The first such report shall be submitted not later than September 1, 1979, and each succeeding report shall be submitted not later than June 30 of each year.

"(b) The Administrator shall submit to each committee not later than January 31 of each year (beginning in 1981) a report showing the location, space, cost, and status of each medical facility construction, alteration, lease, or other acquisition project for which appropriation has been made and which was uncompleted as of January 1, 1979, and, in the case of the second and each succeeding report made under this subsection, which was uncompleted as of the date of the last preceding report made under this subsection.

"§ 5007. Contributions to local authorities

"The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to a medical facility if considered necessary for safe ingress or egress.

"§ 5008. Garages and parking facilities

"(a) The Administrator may construct, alter, operate, and maintain, on reservations of medical facilities, garages and parking facilities for the accommodation of privately owned vehicles of employees of such facilities and vehicles of visitors and other individuals having business at such facilities.

"(b)(1) The Administrator may establish and collect (or provide for the collection of) fees for the use of such garages and parking facilities at such rate or rates which the Administrator determines would be reasonable under the particular circumstances; but no fee may be charged for the accommodation of any publicly or privately owned vehicle used in connection with the transportation of a veteran to or from any medical facility for the purposes of examination or treatment or in connection with any visit to any patient in such facility. Employees using such garages shall make such reimbursement therefor as the Administrator may deem reasonable.

"(2) The Administrator may contract, by lease or otherwise, with responsible persons, firms, or corporations for the operation of such parking facilities, under such terms and conditions as the Administrator shall prescribe, and without regard to the laws concerning advertising for competitive bids.

"(c)(1) There are authorized to be appropriated such amounts as are necessary to finance in part the construction, alteration, operation, and maintenance of garages and parking facilities. Amounts appropriated under the authority of this section, and all income from fees collected for the use of such garages and parking facilities, shall be administered as a revolving fund to effectuate the provisions of this section, but only to the extent provided for in appropriation Acts.

"(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States, except that such amounts thereof as the Administrator may determine to be necessary to establish and maintain operating accounts for the various garages and parking facilities may be placed in depositories selected by the Administrator.

"§ 5009. Operation of medical facilities

"(a)(1) The Administrator, subject to the approval of the President, is authorized to establish and operate not less than one hundred and twenty-five thousand hospital beds in medical facilities over which the Administrator has direct jurisdiction for the care and treatment of eligible veterans. The Administrator shall staff and maintain, in such a manner as to ensure the immediate ac-

ceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services.

"(2) The Administrator shall maintain the bed and treatment capacities of all Veterans' Administration medical facilities so as to ensure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of hospital, nursing home, and domiciliary care, and of medical services furnished pursuant to section 612 of this title.

"(3) The Chief Medical Director shall periodically analyze agencywide admission policies and the records of those eligible veterans who apply for hospital care and medical services but are rejected or not immediately admitted or provided such care or services, and the Aministrator shall annually advise each committee of the results of such analysis and the number of any additional beds and treatment capacities and the appropriate staffing and funds therefor found necessary to meet the needs of such veterans for such necessary care and services.

"(b) The Administrator, subject to the approval of the President, is authorized to establish and operate not less than twelve thousand beds during fiscal year 1980, and during each fiscal year thereafter, for the furnishing of nursing home care to eligible veterans in facilities over which the Administrator has direct jurisdiction. The beds authorized by this subsection shall be in addition to the beds provided for in subsection (a) of this section.

"(c) When the Administrator determines, in accordance with regulations which the Administrator shall prescribe, that a Veterans' Administration facility serves a substantial number of veterans with limited English-speaking ability, the Administrator shall establish and implement procedures, upon the recommendation of the Chief Medical Director, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Veterans' Administration staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

"§ 5010. Use of Armed Forces facilities

"The Administrator and the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Navy may enter into agreements and contracts for the mutual use or exchange of use of hospitals and domiciliary facilities, and such supplies, equipment, and material as may be needed to operate such facilities properly, or for the transfer, without reimbursement of appropriations, of facilities, supplies, equipment, or material necessary and proper for authorized care for veterans, except that at no time shall the Administrator enter into any agreement which will result in a permanent reduction of Veterans' Administration hospital and domiciliary beds below the number established or approved on June 22, 1944, plus the estimated number required to meet the load of eligibles under this title, or in any way subordinate or transfer the operation of the Veterans' Administration to any other agency of the Government.

"§ 5011. Partial relinquishment of legislative jurisdiction

"The Administrator, on behalf of the United States, may relinquish to the State in which any lands or interests therein under the supervision or control of the Administrator are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State.

"§ 5012. Property formerly owned by National Home for Disabled Volunteer Soldiers

"If by reason of any defeasance or conditional clause or clauses contained in any deed of conveyance of property to the National Home for Disabled Volunteer Soldiers, which property is owned by the United States, the full and complete enjoyment and use of such property is threatened, the Attorney General, upon request of the President, shall institute in the United States district court for the district in which the property is located such proceedings as may be proper to extinguish all outstanding adverse interests. The Attorney General may procure and accept, on behalf of the United States, by gift, purchase, cession, or otherwise absolute title to, and complete jurisdiction over, all such property.

"§ 5013. Use of federally owned facilities; use of personnel

"(a) The Administrator, subject to the approval of the President, may use as medical facilities such suitable buildings, structures, and grounds owned by the United States on March 3, 1925, as may be available for such purposes, and the President may by Executive order transfer any such buildings, structures, and grounds to the control and jurisdiction of the Veterans' Administration upon the request of the Administrator.

"(b) The President may require the architectural, engineering, constructing, or other forces of any of the departments of the Government to do or assist in the construction and alteration of medical facilities, and the President may employ for such purposes individuals and agencies not connected with the Government, if in the opinion of the President such is desirable, at such compensation as the President may consider reasonable.

"§ 5014. Acceptance of certain property

"The President may accept from any State or other political subdivision, or from any person, any building, structure, equipment, or grounds suitable for the care of disabled persons, with due regard to fire or other hazards, state of repair, and all other pertinent considerations. The President may designate which agency of the Federal Government shall have the control and management of any property so accepted.".

(b)(1) Subchapter II of chapter 81 is amended by redesignating sections 5011, 5012, 5013, and 5014 as sections 5021, 5022, 5023, and 5024, respectively.

(2) Section 5022(b) (as so redesignated) is amended by striking out the comma and "clinical, medical, and outpatient treatment" after "administrative".

(c) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to subchapter I and all that follows through the item relating to section 5014 and inserting in lieu thereof the following:

"Subchapter I—Acquisition and Operation of Medical Facilities

"Sec.
"5001. Definitions.
"5002. Acquisition of medical facilities.
"5003. Authority to construct and alter, and to acquire sites for, medical facilities.
"5004. Structural requirements.
"5005. Construction contracts.
"5006. Reports to congressional committees.
"5007. Contributions to local authorities.
"5008. Garages and parking facilities.
"5009. Operation of medical facilities.
"5010. Use of Armed Forces facilities.
"5011. Partial relinquishment of legislative jurisdiction.
"5012. Property formerly owned by National Home for Disabled Volunteer Soldiers.
"5013. Use of federally owned facilities; use of personnel.
"5014. Acceptance of certain property.

"Subchapter II—Procurement and Supply

"5021. Revolving supply fund.
"5022. Authority to procure and dispose of property and to negotiate for common services.
"5023. Procurement of prosthetic appliances.
"5024. Grant of easements in Government-owned lands.".

EFFECTIVE DATES

SEC. 302. (a) Except as provided in subsection (b) of this section, the amendments made by this title shall take effect on October 1, 1979.

(b)(1) The amendments made by this title shall not apply with respect to the acquisition, construction, or alteration of any medical facility (as defined in section 5001(3), as added by section 301(a) of this Act) if such acquisition, construction, or alteration (not including exchange) was approved before October 1, 1979, by the President.

(2) The provisions of section 5006(a), as added by section 301(a) of this Act, shall take effect on the date of the enactment of this Act.

TITLE IV—BENEFITS PAYABLE TO PERSONS RESIDING OUTSIDE THE UNITED STATES

CHILDREN ADOPTED UNDER LAWS OF FOREIGN COUNTRIES

SEC. 401. Paragraph (4) of section 101 is amended—

(1) by inserting "(A)" before "The" and redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(2) by adding at the end of such paragraph the following new subparagraph:

"(B) For the purposes of subparagraph (A) of this paragraph, in the case of an adoption under the laws of any jurisdiction other than a State (as defined in section 101 (20) of this title and including the Commonwealth of the Northern Mariana Islands)—

"(i) a person residing outside any of the States shall not be considered to be a legally adopted child of a veteran during the lifetime of such veteran (including for purposes of this subparagraph a Commonwealth Army veteran or new Philippine Scout, as defined in section 1766 of this title) unless such person—

"(I) was less than eighteen years of age at the time of adoption;

"(II) is receiving one-half or more of such person's annual support from such veteran;

"(III) is not in the custody of such person's natural parent, unless such natural parent is such veteran's spouse; and

"(IV) is residing with such veteran (or in the case of divorce following adoption, with the divorced spouse who is also an adoptive or natural parent) except for periods during which such person is residing apart from such veteran (or such divorced spouse) for purposes of full-time attendance at an educational institution or during which such person or such veteran (or such divorced spouse) is confined in a hospital, nursing home, other health-care facility, or other institution; and

"(ii) a person shall not be considered to have been a legally adopted child of a veteran as of the date of such veteran's death and thereafter unless—

"(I) at any time within the one-year period immediately preceding such veteran's death, such veteran was entitled to and was

receiving a dependent's allowance or similar monetary benefit under this title for such person; or

"(II) for a period of at least one year prior to such veteran's death, such person met the requirements of clause (i) of this subparagraph.".

STUDY OF BENEFITS PAYABLE TO PERSONS RESIDING OUTSIDE THE UNITED STATES

SEC. 402. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of State, shall carry out a comprehensive study of benefits payable under the provisions of title 38, United States Code, to persons who reside outside the fifty States and the District of Columbia. The Administrator shall include in such study—

(1) an analysis of the issues involved in the payment of such benefits to persons who reside outside the fifty States and the District of Columbia, together with analyses of such aspects of the economy of each foreign country and each territory, possession, and Commonwealth of the United States in which a substantial number of persons receiving such benefits reside as are relevant to such issues (such as the rate of inflation, the standard of living, and health care, educational, housing, and burial costs);

(2) an analysis of the issues involved in the payment of such benefits as the result of adoptions under laws other than the laws of any of the fifty States or the District of Columbia;

(3) an analysis of the amounts and method of payment of benefits payable to persons entitled, by virtue of sections 107 and 1765 of such title, to benefits under chapters 11, 13, and 35 of such title;

(4) estimates of the present and future costs of paying monetary benefits under such title to persons described in clauses (1) and (3);

(5) an evaluation of the desirability of continuing to maintain the Veterans' Administration Regional Office in the Republic of the Philippines, taking into consideration (A) the current and expected future workloads of such office, (B) the estimated cost in fiscal years 1981 through 1985 of continuing to maintain such regional office, (C) the feasibility and desirability of transferring appropriate functions of such regional office to the United States Embassy in the Republic of the Philippines, and (D) a provisional plan, which the Administrator shall develop, for the closing of such office and so transferring such functions, together with cost estimates for fiscal years 1981 through 1985 for the implementation of such plan assuming that such office is closed before October 1, 1981; and

(6) an evaluation of the effects of the amendments to such title made by section 401 of this Act.

(b) Not later than February 1, 1980, the Administrator shall report to the Congress and to the President on the results of such study together with the Administrator's recommendations for resolving the issues to be analyzed and evaluated in such study.

(c) The Administrator shall (1) carry out the study required under subsection (a) of this section in conjunction with the study required under section 308(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), and (2) submit the reports of such studies as a combined report.

TITLE V—MISCELLANEOUS PROVISIONS

ACCEPTANCE OF PAYMENT FOR TRAVEL OF EMPLOYEES

SEC. 501. Section 4108 is amended by adding after subsection (c) the following new subsection:

"(d) Notwithstanding any other provision of law, the Administrator may prescribe regulations establishing conditions under which officers and employees of the Department of Medicine and Surgery who are nationally recognized principal investigators in medical research may be permitted, in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Veterans' Administration, or in connection with acceptance of significant awards or with activity related thereto concerned with functions or activities of the Veterans' Administration, to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals, for travel and such reasonable subsistence expenses as are approved by the Administrator pursuant to such regulations, to be retained by such of expenses is paid, as may be provided in such expenses or deposited to the credit of the appropriation from which the cost of such expenses is paid, as may be provided in such regulations.".

CONFIRMATION OF DEPUTY ADMINISTRATOR OF VETERAN'S AFFAIRS

SEC. 502. (a) The first sentence of section 210(d) is amended by striking out "by the Administrator" and inserting in lieu thereof "by the President, by and with the advice and consent of the Senate".

(b)(1) The amendment made by subsection (a) shall take effect (A) on the date on which a vacancy first occurs in the office of Deputy Administrator of Veterans' Affairs after the date of the enactment of this Act or on such earlier date as the President submits to the Senate, for the advice and consent of the Senate, the nomination of any individual for appointment to such office, or (B) on the date of the enactment of this Act if such office is vacant on such date.

(2) The Administrator of Veterans' Affairs may designate the individual holding the office of Deputy Administrator of Veterans' Affairs on the date of enactment of this Act, or any other individual, to serve in such office in an acting capacity pending the first appointment of an individual to such office as provided for in the amendment made by subsection (a).

OVERSEAS AUTHORITIES

SEC. 503. (a) Section 230 is amended by striking out subsection (c).

(b) Section 235 is amended—

(1) in the matter preceding clause (1), by striking out "or to the Veterans' Administration office in Europe, established pursuant to section 230(c) of this title,";

(2) in clause (2), by striking out "and (7)" and inserting in lieu thereof "(7), and (11)"; and

(3) by inserting after clause (5) the following new clauses:

"(6) Section 5724a(a)(3) of title 5 (relating to subsistence expenses for 30 days in connection with the return to the United States of the employee and such employee's immediate family).

"(7) Section 5724a(a)(4) of title 5 (relating to the sale and purchase of the residence or settlement of an unexpired lease of the employee when transferred from one station to another station and both stations are in the United States, its territories or possessions, or the Commonwealth of Puerto Rico).".

(c)(1) The section heading of section 235 is amended by striking out "oversea" and inserting in lieu thereof "overseas".

(2) The item relating to section 235 in the table of sections at the beginning of chapter 3 is amended by striking out "oversea" and inserting in lieu thereof "overseas".

CONFORMING AMENDMENTS TO REFLECT PREVIOUS ADJUSTMENTS MADE IN DEPARTMENT OF MEDICINE AND SURGERY SALARY SCHEDULES

SEC. 504. (a) Subsection (a) of section 4107 is amended to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be as follows:

"SECTION 4103 SCHEDULE

"Chief Medical Director, $68,909.

"Deputy Chief Medical Director, $66,104.

"Associate Deputy Chief Medical Director, $63,315.

"Assistant Chief Medical Director, $61,449.

"Medical Director, $52,429 minimum to $59,421 maximum.

"Director of Nursing Service, $52,429 minimum to $59,421 maximum.

"Director of Podiatric Service, $44,756 minimum to $56,692 maximum.

"Director of Chaplain Service, $44,756 minimum to $56,692 maximum.

"Director of Pharmacy Service, $44,756 minimum to $56,692 maximum.

"Director of Dietetic Service, $44,756 minimum to $56,692 maximum.

"Director of Optometric Service, $44,756 minimum to $56,692 maximum.".

(b) Paragraph (1) of subsection (b) of such section is amended to read as follows:

"(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade, $44,756 minimum to $56,692 maximum.

"Executive grade, $41,327 minimum to $53,729 maximum.

"Chief grade, $38,160 minimum to $49,608 maximum.

"Senior grade, $32,442 minimum to $42,171 maximum.

"Intermediate grade, $27,453 minimum to $35,688 maximum.

"Full grade, $23,087 minimum to $30,017 maximum.

"Associate grade, $19,263 minimum to $25,041 maximum.

"NURSE SCHEDULE

"Director grade, $38,160 minimum to $49,608 maximum.

"Assistant Director grade, $32,442 minimum to $42,171 maximum.

"Chief grade, $27,453 minimum to $35,688 maximum.

"Senior grade, $23,087 minimum to $30,017 maximum.

"Intermediate grade, $19,263 minimum to $25,041 maximum.

"Full grade, $15,920 minimum to $20,699 maximum.

"Associate grade, $13,700 minimum to $17,813 maximum.

"Junior grade, $11,712 minimum to $15,222 maximum.

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade, $38,160 minimum to $49,608 maximum.

"Senior grade, $32,442 minimum to $42,171 maximum.

"Intermediate grade, $27,453 minimum to $35,688 maximum.

"Full grade, $23,087 minimum to $30,017 maximum.

"Associate grade, $19,263 minimum to $25,041 maximum.".

HOME MODIFICATIONS FOR TOTALLY BLINDED SERVICE-CONNECTED VETERANS

SEC. 505. The Administrator of Veterans' Affairs shall report to the Senate and House Committees on Veterans' Affairs, not later than October 1, 1979, on the need of totally blinded service-connected veterans for home modifications the cost of which exceed the amount allowable for such purposes under section 612(a) of title 38, United States Code, and on the reasons why such veterans have not applied for home health services under such section 612(a).

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate's amendment to S. 7.

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

Under the previous order, the Senator from Illinois is recognized.

ILLINOIS STATE LEGISLATURE REAFFIRMS 55 MPH SPEED LIMIT

Mr. PERCY. Mr. President, I take this opportunity to commend the Illinois State Legislature for voting down an attempt to eliminate the 55-mile-per-hour speed limit in the State of Illinois. This action by Illinois legislators is an example of leadership and courage that should be followed by other legislatures grappling with the same question.

Established by Congress in 1974 as an energy-saving measure, the 55-mile-per-hour speed limit has saved this Nation billions of gallons of much needed gasoline. If full compliance were to be achieved, our Nation's consumption of gasoline would decrease by 5 billion gallons annually—a 5-percent reduction in demand. With spot shortages of unleaded gasoline occurring, gas station closings on weekends, and the recurrence of long waiting lines in some areas, the gasoline savings resulting from the 55-mile-per-hour speed limit are needed now more than ever.

The energy-saving aspects of the 55-mile-per-hour speed limit are important—indeed, the limit was imposed for that purpose—yet "55" has become one of the greatest highway safety measures ever instituted. The Department of Transportation estimates that there are 35,000 Americans alive today who would otherwise have died on our Nation's highways. Opponents of the 55-mile-per-hour limit claim that this reduction in highway deaths is due to new safety features found in our automobiles. While these safety features have undoubtedly helped, the 55-mile-per-hour speed limit is a major factor in the reduced fatality rate since 1973. A recent report has been issued by the National Highway Traffic Safety Administration and shows that traffic deaths are increasing again in many regions of the country. But the most interesting aspect of this study is that there was no increase in traffic-related deaths in the Northeast between 1974 and 1978, while traffic fatalities have risen by 28 percent in the speed-oriented Southwest and West in the same period. We drive similar cars with similar safety features in all regions of the country, so this discrepancy in traffic deaths must result from the difference in compliance with the 55-mile-per-hour speed limit.

Gasoline grows more precious by the day but nothing is more precious than a life. For these reasons, we must continue to support this tremendous energy-saving and life-saving measure, the 55-mile-per-hour speed limit.

EFFECTIVE WAYS TO STAY IN TOUCH

Mr. PERCY. Mr. President, during the course of a visit to northern Illinois last week, I stayed overnight in Dixon, Ill., at the home of Betty and George Lindquist. George has served on the city council and has just won reelection as mayor of Dixon.

Inasmuch as the media had announced that Mrs. Percy and I would be staying overnight with the Lindquists, we received a number of letters at their home on our arrival. I was so impressed by one of the letters that I telephoned Mrs. Walter Schmidt—a farmer's wife from Polo, Ill.—for her permission to read the letter during my opening comments at the community-wide dutch treat "listen-in" brunch the next morning. This would give me the opportunity to respond to her questions, and to stimulate other equally thoughtful questions. She not only agreed, but she and her husband came to the brunch. I ask unanimous consent to have a copy of Mrs. Walter Schmidt's letter printed in the RECORD at the completion of my remarks.

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

(See exhibit 1.)

Mr. PERCY. The local newspaper in Dixon, the Evening Telegraph, also ran an editorial which outlined ways to best communicate with me at the brunch and the listen-in. I think it could serve as a model for the media in every congressional district and State in the Nation. Following this advice would greatly strengthen the relationship between constituents and their elected representatives.

I ask unanimous consent to have the editorial, dated May 5, 1979, printed in the RECORD also.

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

MEET YOUR SENATOR

"Mr. Percy, you are nothing but a Socialist and you have done a great deal of harm to this country!"

"Keep up the good work, Chuck, we need more people in Washington like you."

"It's tough for women to get into management positions, Mr. Percy, and anything you can do to help this situation would sure help you get my vote!"

"Our country is on the brink of economic disaster, and the only way we are going to get out of trouble is to produce our way out. We need serious revisions in the tax and incentive structures in America today, Mr. Percy; and, you have just got to be voting for the revisions that will encourage renewed national production and voting against bills that stifle growth."

These and other comments have been heard by the senator as he has traveled among constituents.

Sen. Charles H. Percy will be at the Brandywine Inn, Sunday, at a brunch open to the public. Percy will be there to meet with the public and find out what they are thinking and listen to ideas.

Sen. Percy is an influential legislator, and this is a real opportunity to let him know how we in the Rock River Valley feel about him and what he can do to help solve problems facing all of us.

We would encourage anyone who is concerned and involved with this great country of ours to come to brunch (you pay for your own meal), shake hands with the senator and let your thoughts be known.

And, we would like to list a couple of pointers to help you get your ideas across better. Remember that every legislator is sensitive to grass-roots opinion. Thoughtful, sincere comments on the issues will get the most attention.

You want your thoughts to be persuasive, so:

Do address your senator properly.

Do be brief and to the point; discuss only one issue per visit; identify a bill by number and title if possible.

Do be courteous and reasonable.

Do let your legislator know if you approve of any of his actions. Legislators hear mostly from constituents who are against something; this gives them a one-sided picture of their constituency.

And, there are a couple of things we should not do:

Do not begin on the righteous note of "As a citizen and taxpayer"; he assumes that you are not an alien and he knows that we all pay taxes.

Do not apologize for taking his time by talking to him. If you are brief and express your opinion, Sen. Percy will be glad to give you a hearing.

Do not be rude or threatening. It will get you nowhere.

Do not be vague. If there is a chance you may be able to sway or change a certain position he holds, remember that chance favors the prepared mind.

Sen. Percy will be available for you from 12:30 to 2:30 p.m. If you don't take the time to let the senator know how you feel about an issue, then don't come crying on our shoulder when another dollar or another freedom is voted away from you.

EXHIBIT 1

Polo, Ill.
May 4, 1979.

DEAR SENATOR PERCY: Having learned yesterday that you are to be in Dixon this week end, I have decided to sit down and express to you some things that are troubling my husband and me, as well as many other citizens. These thoughts, believe me, are those of others as well as myself.

This will not be a polished and rewritten letter, as I have a demanding day ahead of me and am sitting down between jobs to write this, but I hope to convey some deep and real concerns.

For too many years, our President and others tell us we must control inflation. As I listen to their speeches, I have the feeling that "this is where I came in before." Inflation is ruining us, and my mother (among many others) is on a fixed pension and a little Social Security. We must help her. We are farm people and our taxes, machinery, repairs, fuel, feed, fertilizer prices have soared, yet I know you are aware of the prices for corn, soybeans and other farm products.

The continual take-over of good, productive farm land for shopping centers, housing developments and super highways is frightening. When this good land is gone, it is gone, lost. What shall we say to our children and grandchildren?

This brings me to the matter of estate taxes. Since my husband's heart attack four years ago, we are trying to get our affairs in good order. The land we worked so hard to pay for and did without so many other things, we want to keep for our children. We have paid income and property taxes all our lives, and in essence, when we die, our son and the other two children will have (almost) to buy our farm back from the government. I submit to you that this is not right.

We hear over and over again on radio and TV that we must save for retirement that "Social Security is not enough". True. But what happens when we save and invest: we are taxed for being thrifty by trying to set

aside money for retirement and possible nursing home expenses. We wish to be independent and pay our own way, but saving— we are penalized by having to report interest on our income tax. The government should encourage people to save, not penalize them for it.

The matter of deceit, corruption, deals, kickbacks, bribery, invasion of privacy and lying to the people is sickening. What has happened to honor and integrity, plus old-fashioned morality and decency? I can remember as a younger woman when a government official or "The White House has announced," that I believed that to be the truth. No longer. We have been lied to so many times that we are thoroughly disillusioned. The coverups in the western test areas and the nerve gas episode are dismaying and an insult to the intelligence of the American citizen and taxpayer.

We are frightened about the nuclear mishaps, and we feel we are not being told the truth. No matter how Washington sees us, we are not stupid. We are terribly concerned for our grandchildren and the generations to come. What kind of a country are they going to have?

There are many things I have not mentioned and will think of when I seal this letter, but I am certain that you are aware that the people are angry, frightened and confused. Why shouldn't they be?

The energy and fuel crisis(?) is also on our minds. We cannot help but feel it is either non-existent or contrived. No one has really leveled with us, and if it really exists, the President should set the example and stop traveling so much and cut down along with John Public.

We are very, very much opposed to an increase in the to-be-asked-for increase in the allowances for former Presidents Nixon and Ford, especially the former's travel and office expenses. He is doing more and fancier traveling than most of us. He is receiving enough, more than enough, from the people he lied to. If it isn't sufficient, he should learn to cut down and do without as we have had to do. This really angers us. We are supporting them in a style many of us only dream of.

Thank you for reading a letter which is not very well thought out in advance, polished or rewritten, but I am telling it to you as if we were sitting in our living room.

We are convinced many things need to be done. The time for oratory is long past. We look to our government for leadership and honor. We feel that in many and far too many instances, we have been betrayed.

America is a wonderful country. We want to keep it that way. We are trying to be decent and law-abiding citizens.

I am almost afraid to post this letter. Does the government really have people's names on lists, citizens who speak out? But for the sake of our grandchildren and their children's children, I am writing it. We are about your age, so you, too, can appreciate our concern.

Again, thank you so much, and our appreciation for your efforts in behalf of your constituents.

Very sincerely yours,

RUTH SCHMIDT.

MECH-TRONICS CORP. HONORED BY SBA

Mr. PERCY. Mr. President, every year the U.S. Small Business Administration conducts competitions to recognize outstanding small business subcontractors and prime contractors in each of the 10 SBA regions.

I am extremely proud that this year, Mech-Tronics Corp. of Melrose Park, Ill., headed by Eugene DeMuro, has been selected as SBA's region V Subcontractor of the Year.

In the SBA subcontractor competition, nominations are made by major prime contractors for the Federal Government. Mech-Tronics was nominated by Sundstrand Corp. of Rockford, Ill. Nominees are considered by independent panels and regional and national winners are chosen. The competition is keen and such recognition is a distinct honor.

The nominees are evaluated on their contractual performance, taking into consideration the scope of the contract, evidence of unusual ingenuity, handling of complex contracts, cost performance, ability to bid competitively and to meet required delivery schedules with high quality and highly reliable products or services.

Mech-Tronics, which was chartered in Illinois in 1948, has a history of excellence. The firm has received numerous performance citations from its customers and recently, it was presented the Outstanding Citizen of the Year Award from the Village of Melrose Park, one of four company locations.

Small business has placed a major role in the economic life of the United States. Small firms, including farms, account for 13.4 million of the Nation's 13.9 million businesses. They provide employment for over half the business labor force and account for more than 48 percent of the gross business product. The SBA subcontractor and prime contractor awards highlight the small business community's ever-increasing role in the Federal contracting process.

I take this opportunity to extend my personal congratulations to Mech-Tronics, Mr. DeMuro and his associates for this distinction of excellence and I would also like to commend Sundstrand for its part in assuring that this superior performance was recognized.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Muskie, I send to the desk a resolution which is a Budget Act waiver for the Small Business Administration authorization. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 156) waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 918.

The Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I see the chairman of the Budget Committee is here. I did not realize he was on the floor. I did this in his behalf. Perhaps the Senator would like to address himself to it.

Mr. MUSKIE. Mr. President, I appreciate the action on the part of the distinguished majority leader. The Budget Committee has considered the pending legislation, which deals, among other things, with legislation applicable to disaster relief programs of the Federal Government and the terms thereof. The waiver which is at the desk is required under section 402(a) of the Budget Act, because the legislation was introduced and is before us subsequent to May 15 of last year, which, under the Budget Act, is the deadline for introduction of authorizing legislation with budget impact on the current fiscal year 1979.

Mr. President, the Budget Committee recommended approval of Senate Resolution 156 for several reasons: First, the potential budget overage was minor and perhaps could be offset by spending reductions in other programs; second, the major cause of budget problems in the current SBA disaster loan program, agricultural disaster lending duplicating that provided by FmHA, would be essentially eliminated by the programmatic reforms in S. 918; third, while the bill did reintroduce subsidized interest rates, it did so at a much shallower subsidy level than prevailed in fiscal year 1978 and than would have been continued under the legislation vetoed by the President last fall; and fourth, S. 918 requires implementation by SBA of a "credit elsewhere test," which together with the lower interest subsidy, should eliminate much of the program abuse which SBC has complained of in the past.

For those reasons, the Budget Committee voted to recommend approval of the waiver resolution.

I do not think further discussion on this point is essential. I urge the approval of the waiver resolution.

The PRESIDING OFFICER. The question is on agreeing to the waiver resolution.

The resolution was agreed to as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 918 a bill to amend the Small Business Act and the Small Business Investment Act of 1958.

Such waiver is necessary to permit the consideration of legislation authorizing the enactment of new budget authority for fiscal year 1979 for the Small Business Administration disaster assistance program.

Authorizing legislation for this purpose was reported by the Small Business Committee prior to May 15, 1979 (H.R. 11445) and was ultimately approved by the Congress during the second session of the ninety-fifth Congress. However, the President withheld his signature from the bill after the sine die adjournment of the Congress. The effect of this disapproval was to cause certain benefits provided for in existing law to expire.

Major disasters have occurred, and may occur in the balance of this fiscal year, which could lead to increased loan activity, requiring new appropriations. This legislation is necessary to provide the authority for the enactment of those appropriations.

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

Mr. MUSKIE. 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 thank the Senator from Maine (Mr. MUSKIE) for the expeditious handling of this resolution, which makes it possible

now for the Senate to proceed to the pending business. I personally want to thank him for his fine cooperation in this instance, as in all instances.

SMALL BUSINESS INVESTMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 918, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 918) 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 Senate proceeded to consider the bill, which had been reported from the Select Committee on Small Business with an amendment to strike all after the enacting clause and insert the following:

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(h) The following program levels are authorized for fiscal year 1980:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $50,000,000 in direct and immediate participation loans, and $3,200,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $22,000,000 in direct and immediate participation loans and $11,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $65,000,000 in direct and immediate participation loans and $70,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $30,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $50,000,000 in direct and immediate participation loans, and $100,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $50,000,000 in direct purchases of debentures and preferred securities and to make $190,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,900,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $60,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $100,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1980, $677,453,000 to carry out the programs referred to in subsection (h), paragraphs (1) through (9). Of such sum, $441,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (7); $6,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $194,453,000 shall be available for salaries and expenses of the Administration, of which amount—

"(1) $11,315,000 shall be available for procurement assistance, of which amount no less than $300,000 shall be used to employ ten additional certificate of competency specialists, no less than $900,000 shall be used to employ thirty additional procurement center representatives and no less than $450,000 shall be used to employ fifteen additional subcontracting specialists;

"(2) $2,800,000 shall be available for technical assistance, of which amount no less than $1,200,000 shall be used to develop and maintain twelve technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technological problems or needs of small businesses by searching such technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses, and no less than $772,000 shall be used to pay for the continued development of a procurement automated source system;

"(3) $19,346,000 shall be available for management assistance, of which amount no less than $5,279,000 shall be used for SCORE/ACE program costs, no less than $3,835,000 shall be used for small business institute program costs, no less than $1,611,000 shall be used for management assistance program development costs, and no less than $1,000,000 shall be used to develop and implement a small business export development program and to employ no less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist;

"(4) $8,000,000 shall be available for economic research and analysis and advocacy, of which amount no less than $2,898,000 shall be used to employ sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out those functions prescribed by Public Law 94-305, no less than $1,500,000 shall be used to develop an external small business data bank and small business index, no less than $1,000,000 shall be used to undertake studies associated with issues affecting the whole of the small business sector, and no less than $500,000 shall be used to research small business problems within industries undergoing dislocation and stress and to recommend solutions for such problems;

"(5) $24,897,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, of which amount no less than $12,000,000 shall be used to carry out those functions prescribed by section 7(j) of this Act;

"(6) $8,034,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount no less than $1,000,000 shall be used to pay for development of such indicative small business data base; and

"(7) $8,000,000 shall be available for matching grants to Small Business Development Centers, and an additional $500,000 shall be available for the administration of the small business development center program.

"(j) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (7) of section 20(i) of this Act: *Provided, however,* That no program level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(k) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $50,000,000 in direct and immediate participation loans, and $3,520,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $71,500,000 in direct and immediate participation loans and $77,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $33,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct and immediate participation loans and $110,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct purchase of debentures and preferred securities, and to make $209,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,090,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $66,000,000 in loans guarantees, and other obligations or commitments.

"(9) For the programs authorized by section 404, and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $110,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(1) There are authorized to be appropriated to the Administration for fiscal year 1981, $850,100,000 to carry out the programs

referred to in subsection (k), paragraphs (1) through (9). Of such sum, $521,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraphs (1) through (7); $63,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $224,100,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,446,000 shall be available for procurement assistance;

"(2) $3,080,000 shall be available for technical assistance, of which amount no less than $1,320,000 shall be used to develop and maintain twelve technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technological problems or needs of small businesses by searching such technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses;

"(3) $20,180,000 shall be available for management assistance, of which amount no less than $5,806,000 shall be used for SCORE/ACE program costs, no less than $4,218,000 shall be used for small business institute program costs, no less than $1,772,000 shall be used for management assistance program development costs, and no less than $1,100,000 shall be used to implement the small business export development program and to employ no less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist;

"(4) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount no less than $3,187,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out those functions prescribed in Public Law 94–305, no less than $1,650,000 shall be used to develop an external small business data bank and small business index, no less than $1,100,000 shall be used to undertake studies associated with issues affecting the whole of the small business sector, and no less than $550,000 shall be used to research small business problems within industries undergoing dislocation and stress and to recommend solutions for such problems;

"(5) $27,386,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, of which amount no less than $13,200,000 shall be used to carry out those functions prescribed by section 7(j) of this Act;

"(6) $8,837,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount no less than $1,000,000 shall be used to pay for development of such indicative small business data base; and

"(7) $18,000,000 shall be available for matching grants to Small Business Development Centers, and an additional $550,000 shall be available for the administration of the small business development center program.

"(m) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in in paragraphs (1) through (7) of section 20(1) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(n) There are authorized to be appropriated to the Administration for fiscal year 1982, $20,000,000 which shall be available for matching grants to Small Business Development Centers, and an additional $605,000 which shall be available for the Administration of the small business development center program.".

PART B—MISCELLANEOUS AND TECHNICAL AMENDMENTS

AVAILABILITY OF UNEXPENDED FUNDS

SEC. 110. Section 20(a) of the Small Business Act is amended to read as follows:

"For fiscal years 1979, 1980, 1981, and 1982 there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.".

ENERGY SHORTAGE LOANS

SEC. 111. Section 7(b)(8) of the Small Business Act is amended by inserting after "energy-producing resources," the following: "including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless such strike boycott, or embargo is directly against such small business concern,".

DISASTER LOAN INTEREST RATES

SEC. 112. (a) Section 7(b)(1) of the Small Business Act is amended by striking the semicolon at the end thereof and adding the following: ": Provided, That, except as otherwise provided, no financial assistance shall be extended to a business concern pursuant to this paragraph unless the Administration determines that such concern is unable to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time;".

(b) The first undesignated paragraph of section 7(b) of such Act is further amended by striking the phrase "the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum:" and inserting in lieu thereof "the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum:".

(c) The first undesignated paragraph of section 7(b) of such Act is further amended:

(1) by inserting after the figure "$40,000" the following: "; and with respect to a disaster occurring on or after October 1, 1978, shall be 3 per centum on the first $55,000 of such loan"; and

(2) by inserting after the phrase "shall be 3 per centum." the following new sentence: "The interest rate on the Administration's share of all other loans made pursuant to paragraph (1) of this subsection, with respect to a disaster occurring on or after October 1, 1978, shall be—

"(A) if the business concern is unable to obtain credit elsewhere pursuant to paragraph (1) of this subsection, the rate provided for in section 324 of the Consolidated Farm and Rural Development Act for applicants under such Act who are unable to obtain sufficient credit elsewhere; or

"(B) if the business concern is able to obtain sufficient credit elsewhere pursuant to paragraph (1) of this subsection, the rate provided for in this paragraph: *Provided,* That five years after such loan is first approved, and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower will, upon request by the Administration, apply for and accept such loan in sufficient amount to repay the Administration.".

SEC. 113. (a) Section 324 of the Consolidated Farm and Rural Development Act is amended by striking out the first sentence in subsection (a) and inserting in lieu thereof the following: "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be a rate prescribed by the Secretary not in excess of 5 per centum per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum; and

"(2) with respect to loans or portions of loans exceeding the amount of actual loss by the disaster, the interest rate shall be that prevailing in the private market for similar loans, as determined by the Secretary.".

(b) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the subsection and inserting in lieu thereof a period.

(c) Section 18 of the Small Business Act is amended by striking "industries," and inserting in lieu thereof "industries: *Provided,* That an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for or would be declined for emergency loan assistance from the Farmers Home Administration under section 321 of the Consolidated Farm and Rural Development Act,".

INVESTMENT OF IDLE FUNDS

SEC. 114. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed.

SEC. 115. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.".

PRODUCT DISASTER LOANS

SEC. 116. Section 7(b)(4) of the Small Business Act is amended by striking "undetermined" and inserting in lieu thereof "other".

DEVELOPMENT COMPANY DEBENTURES

SEC. 117. (a) Title V of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"DEVELOPMENT COMPANY DEBENTURES

"SEC. 503. (a)(1) Except as provided in subsection (b), the Administration may guarantee the timely payment of all principal and interest as scheduled on any debenture issued by any qualified State or local development company.

"(2) Such guarantees may be made on such terms and conditions as the Administration may by regulation determine to be appropriate.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts guaranteed under this subsection.

"(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

"(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

"(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502;

"(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms;

"(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b);

"(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loans);

"(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 per centum of the cost of the project with respect to which such loan is made; and

"(6) the Administration approves each loan to be made from such proceeds.

"(c) The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

"(d) For purposes of this section, the term 'qualified State or local development company' means any State or local development company which, as determined by the Administration, has—

"(1) a full-time professional staff,

"(2) professional management ability (including adequate accounting, legal, and business-servicing abilities), and

"(3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company.".

(b) The table of contents of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 502 the following new item:

"Sec. 503. Development company debentures.".

REGULAR BUSINESS LOAN REFORM

SEC. 118. (a) Section 5(b)(7) of the Small Business Act is amended to read as follows:

"(7) in addition to any powers, functions, privileges and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time to render such services), when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act, and he may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and creditworthiness, and loan monitoring, collection and liquidation;".

(b) Effective October 1, 1981, section 7(a) of the Small Business Act is amended by—

(1) striking the phrase "and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediaate or deferred basis." and inserting in lieu thereof "and such loans may be made directly.";

(2) striking subparagraphs (2) and (3) in their entirety; and

(3) striking subparagraph (4)(A) and inserting in lieu thereof:

"(A) No loan made or effected under this subsection shall exceed $350,000.".

SURETY BOND GUARANTEE

SEC. 119. Section 411(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 per centum of the loss incurred and paid by the surety as the result of the breach; or (2) in a case in which (b) applies, the amount determined under (b).".

PROCUREMENT SYSTEMS

SEC. 120. Section 15(c) of the Small Business Act is amended to read as follows:

"(c) Public and private organizations and individuals eligible for assistance under section 7(h) of this Act shall be eligible to participate in programs authorized by this section.".

SEC. 121. (a)(1) The first sentence of section 15(d) of the Small Business Act is amended by inserting "small business" before "concerns".

(2) The last two sentences of subsection (d) of section 15 of such Act are repealed.

(b) Subsections (e) and (f) of section 15 of such Act are amended to read as follows:

"(e) In carrying out small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

"(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside.

(2) concerns which are small business concerns, on the basis of a total set-aside.

"(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside.

"(f) After priority is given to the small business concerns specified in subsection (e), priority shall also be given to the awarding of contracts and the placement of subcontracts, on the basis of a total set-aside, to concerns which—

"(1) are not eligible under subsection (e);

"(2) are not small business concerns; and

"(3) will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.".

(c) Section 15 of such Act is further amended by adding at the end thereof a new subsection as follows:

"(m) In carrying out labor surplus areas and small business set-aside programs, the Administration shall, with respect to each award or contract or class of award or contract, identify to the contracting procurement agency, concerns (including small business concerns) which are located in labor surplus areas.".

TITLE II—SMALL BUSINESS DEVELOPMENT CENTERS

SHORT TITLE

SEC. 201. This title may be cited as the "Small Business Development Center Act of 1979".

PROGRAM AUTHORIZATION

SEC. 202. The Small Business Act is amended by redesignating section 21 as section 30 and by inserting the following new section:

"SEC. 21. (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) private sector consultants and experts and academic institutions 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 section 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.

"(c)(1) The Administration is authorized to make grants to States (herein referred to as 'applicant') to assist any State government or any agency thereof, any regional entity, any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any entity formed by two or more of the above entities to develop and operate State small business development centers which may undertake studies, research, and counseling concerning the managing, financing, and operation of small business enterprises; provide technological assistance, technical and statistical information for small business enterprises; provide delivery or distribution of such services and information; and provide access to business analysts who can refer small business concerns to available experts.

"(2) The Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: *Provided*, That the additional amount shall not include any amount of indirect costs or in kind contributions paid for under any Federal program, nor shall such indirect costs or in kind contributions exceed 50 per centum of the non-Federal additional amount: *Provided further*, That no State small business development center shall receive a grant which would exceed its pro rata share, based upon the population to be served by the small business development center compared

to a total population of all participating States, of the amount authorized to be appropriated for such purpose in each of fiscal years 1980, 1981, and 1982, but in no event shall such center receive less than $250,000.

"(d)(1) During fiscal years 1980, 1981, and 1982 financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

"(2) An applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (c) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve, or reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the region, State, or part thereof to be served.

"(3) At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information, and assistance, as described in subsection (e), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

"(e)(1) A State small business development center 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.

"(2) A State small business development center shall provide services as close as possible to small businesses by establishing extension services and utilizing satellite locations when necessary and not duplicative. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small businesses. A small business development center shall have—

"(A) a full-time staff including a director to manage the program activities;

"(B) business analysts to counsel, assist, and inform small business clients;

"(C) technology transfer agents to provide state of the art technology to small businesses through coupling with national and regional technology data sources;

"(D) Information specialists to assist in providing information searches and referrals for small businesses;

"(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises, and

"(F) access to laboratory and adaptive engineering facilities.

"(3) Services provided by a State small business development center shall include, but not be limited to—

"(A) furnishing one-to-one individual counseling to small businesses;

"(B) assisting in technology transfer, research, and coupling from existing sources to small business concerns;

"(C) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small business and methods of compliance. Counseling and 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;

"(D) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

"(E) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

"(F) 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;

"(G) 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 the locality;

"(H) maintaining lists of local and regional private consultants to whom small businesses can be referred;

"(I) continuing to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community; and

"(J) utilizing private local and regional consultants and testing laboratories when appropriate and applicable.

"(4) A small business development center is authorized to compensate local and regional private consultants for services provided to small businesses on behalf of such small business development center.

"(f) Regional small business development centers may be established to support State small business development centers when the Administration, with the advice of the Board, determines a need for providing assistance and information on technical or specialized problems such as, but not limited to high technology transfer and utilization and regional data acquisition that may require capital intensive research and which transcend State boundaries. Regional small business development 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 small business development centers participating in the program.

"(g) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support the small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

"(h) The National Science Foundation and innovation centers supported by the National Science Foundation are authorized and directed under this section to cooperate with small business development centers participating in this program. The National Science Foundation shall report annually on the performance of such centers with recommendations to the Administration and the Congress on how such innovation centers can be strengthened and expanded. The National Science Foundation shall include in its report to Congress information on the ability of innovation centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(i) The National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration are authorized and directed under this section to cooperate with small business development centers participating in this program. The National Aeronautics and Space Administration shall report annually on performance of such centers with recommendations to the Administration and the Congress on how such industrial application centers can be strengthened and expanded. The National Aeronautics and Space Administration shall include in its report to Congress information on the ability of industrial application centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(j) The Administrator shall appoint a Deputy Associate Administrator for Management Assistance who shall report to the Associate Administrator for Management 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 of GS-17 of the General Schedule.

"(k) The sole responsibility of the Deputy Associate Administrator for Management Assistance shall be to administer the small business development center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefor, selecting applicants to participate in this program under this section, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers, concluding agreements with federally supported laboratories and centers and Federal agencies to provide technology assistance for this program, and conducting audits of recipients of grants under this section. The Deputy Associate Administrator for Management Assistance shall confer with and seek the advice and counsel of the Board in carrying out the responsibilities described in this section.

"(l)(1) There is established a National Small Business Development Center Advisory Board (herein referred to as 'Board') which shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from the academic community or their affiliates and six shall be from small businesses or associations representing small business.

"(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management Assistance in carrying out the duties described in this section. The Board shall meet at least quarterly and at the call of the Chairman of the Board. Each member of the Board 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 occupying the position under GS-18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

"(m)(1) Each State small business development center shall establish an advisory board the members of which shall be ap-

pointed by the Governor. No more than one-third of the members of such board shall be from the academic community or their affiliates and no less than two-thirds of the members of such board shall be from small businesses or associations representing small business.

"(2) Each State small business development center advisory board shall elect a chairman and advise, counsel, and confer with the director of the State small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participitate with, the small business development center.

"(n) The Administration, with the advice of the Board shall establish a plan for evaluation of the small business development 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 small business development center program on small businesses, including local and regional private consultants, and the socioeconomic base of the regions served;

"(2) the multidisciplinary resources the small business development center program was able to coordinate to assist small businesses; and

"(3) the extent to which various types of small businesses engaged in such areas as manufacturing, retailing, wholesaling and services have been assisted by the small business development center program.

For the purpose of this evaluation, the Administration is authorized to require any small business development center or party receiving assistance under this section to furnish it with such information annually or otherwise as it deems appropriate. Such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by January, 1982.".

FUNDING RESTRICTION

SEC. 203. Section 7(d)(1) of the Small Business Act is amended to read as follows:

"(d)(1) The Administration shall not fund any small business development center program, or any variation thereof, except as authorized in section 21 of this Act.".

PROGRAM REPEAL

SEC. 204. This title is repealed effective October 1, 1982.

TITLE III—SMALL BUSINESS ECONOMIC POLICY

SHORT TITLE

SEC. 301. This title may be cited as the "Small Business Economic Policy Act of 1979".

DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

SEC. 302. (a) For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practical means and to take such actions as are necessary, consistent with its needs and obligations and other essential considerations of national policy, to implement and coordinate all Federal department, agency, and instrumentality policies, programs, and activities in order to: foster the economic interests of small businesses; insure a competitive economic climate conducive to the development, growth, and expansion of small businesses; establish incentives to assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small businesses.

(b) Congress further declares that the Federal Government is committed to a policy of utilizing all reasonable means, consistent with the overall economic policy goals of the Nation and the preservation of the competitive free enterprise system of the Nation, to establish private sector incentives that will help assure that adequate capital at competitive prices is available to small businesses. To fulfill this policy, departments, agencies, and instrumentalities of the Federal Government shall use all reasonable means to coordinate, create, and sustain policies and programs which promote investment in small businesses, including those investments which expand employment opportunities and which foster the effective and efficient use of human and natural resources in the economy of the Nation.

STATE OF SMALL BUSINESS

SEC. 303. (a) The President shall transmit to the Congress not later than January 20 of each year a Report on Small Business and Competition which shall—

(1) examine the current role of small business in the economy;

(2) present current and historical data on production, employment, investment, and other economic variables, for small business in the economy as a whole and for small business in each sector of the economy;

(3) identify economic trends which will or may affect the small business sector and the state of competition;

(4) examine the effects on small business and competition of policies, programs, and activities of Federal departments, agencies, and instrumentalities, identify problems generated by such policies, programs, and activities, and recommend legislative and administrative solutions to such problems; and

(5) recommend a program for carrying out the policy declared in section 302 of this Act, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Competition, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 302 of this Act.

(c) The Report on Small Business and Competition and all supplementary reports shall, when transmitted to the Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

SPECIAL ASSISTANT FOR SMALL BUSINESS

SEC. 304. The President is authorized to designate a Special Assistant to the President for Small Business who shall serve in the White House Office of the Executive Office of the President and who shall perform the following duties:

(1) assist and advise the President in the preparation of the Report on Small Business and Competition;

(2) gather and publish timely and authoritative information, in cooperation and coordination with the Administrator of the Small Business Administration, concerning the position of small business in the economy and economic developments and economic trends, both current and prospective, which do or may affect small business and competition; to analyze and interpret such information in the light of the policy declared in section 302 of this Act for the purpose of determining whether such developments or trends are interfering or are likely to interfere with the achievement of such policy objectives; and to compile and submit to the President and Congress studies relating to such developments and trends;

(3) appraise the various programs and activities of the Federal Government as they affect small business and competition in the light of the policy declared in section 302 of this Act for the purpose of determining the extent to which such programs and activities are contributing, and the extent to which they are not contributing, to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) determine and evaluate the availability of capital, labor, management, and technical resources to small business; determine and evaluate emerging trends in the availability of such resources to small business; assess Federal Government policies and programs and other economic circumstances which affect small business in order to determine their impact on the availability and cost of capital and other resources for small business; and make recommendations to the President with respect thereto;

(5) develop and recommend to the President national economic policies to foster and promote small business and competition and to maintain and increase the strength of small business in each economic sector; and

(6) make and furnish such studies, reports, and recommendations with respect to matters of Federal Government economic policy and legislation which affect small business and competition as the President may request.

TITLE IV—SMALL BUSINESS ECONOMIC RESEARCH AND ANALYSIS

SEC. 401. The Small Business Act is amended by redesignating subsection 4(b) as section 4(b)(1) and inserting thereafter the following:

"(2) The Administrator also shall be responsible for—

"(A) establishing and maintaining an external small business economic data base for the purpose of providing the Congress and the Administration information on the economic conditions and the expansion or contraction of the small business sector. To that end, the Administrator shall publish on a regular basis national small business economic indices and, to the extent feasible, regional small business economic indices, which shall include, but need not be limited to, data on—

"(i) employment, layoffs, and new hires;

"(ii) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

"(iii) number of business formations and failures;

"(iv) sales and new orders;

"(v) back orders;

"(vi) investment in plant and equipment;

"(vii) changes in inventory and rate of inventory turnover;

"(viii) sources and amounts of capital investment, including debt, equity, and internally generated funds;

"(ix) debt to equity ratios;

"(x) exports;

"(xi) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and

"(xii) concentration ratios; and

"(B) publishing annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired pursuant to paragraph (A) of this subsection.".

SEC. 402. Section 634(e)(1) of title 15 of the United States Code is amended by in-

serting ", step ten," between "GS-15" and "of".

SEC. 403. Section 5315 of title 5 of the United States Code is amended by adding the following new paragraph:

"(128) Chief Counsel for Advocacy, Small Business Administration.".

SEC. 404. In consultation with the Administrator of the Small Business Administration and the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall conduct such studies of the credit needs of small business as may be appropriate to determine the extent to which such needs are being met by commercial banks and shall report the results of such studies to the Congress by October 1, 1980, together with their views and recommendations as to the feasibility and cost of conducting periodic sample surveys, by region and nationwide, of the number and dollar amount of commercial and industrial loans extended by commercial banks to small business. Reports shall when transmitted to the Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

TITLE V—WHITE HOUSE CONFERENCE ON SMALL BUSINESS

SHORT TITLE

SEC. 501. This title may be cited as the "White House Conference on Small Business Act".

AUTHORIZATION OF CONFERENCE

SEC. 502. (a) The President shall call and conduct a White House Conference on Small Business (hereinafter referred to as the "Conference") not later than June 30, 1980, to carry out the purposes described in section 503 of this title.

(b) Participants in the Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the regional and State levels prior to the date of the Conference, subject to the approval of the Administrator, of the Small Business Administration, and shall direct such conferences and activities toward the consideration of the purposes of the Conference described in section 503 of this title in order to prepare for the Conference.

PURPOSE OF CONFERENCE

SEC. 503. The purpose of the Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business, including new, small, and family enterprises; to examine the status of minorities and women as small business owners; and to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation.

CONFERENCE PARTICIPANTS

SEC. 504. In order to carry out the purposes specified in section 503 of this title, the Conference shall bring together individuals concerned with issues relating to small business: *Provided,* That no small business concern representative may be denied admission to any State or regional meeting.

PLANNING AND ADMINISTRATION OF CONFERENCE

SEC. 505. (a) All Federal departments, agencies, and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) In carrying out the provisions of this title, the Administrator of the Small Business Administration—

(1) shall provide such financial and other assistance as may be necessary for the organization and conduct of conferences at the regional and State levels as authorized under section 502(b) of this title;

(2) shall provide for the preparation of background materials for use by participants in the Conference, as well as by participants in regional and State conferences; and

(3) is authorized to make grants to, and enter into contracts with, public agencies, private organizations, and academic institutions to carry out the provisions of this title.

(c)(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

REPORTS REQUIRED

SEC. 506. Not more than one year from the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

FOLLOW-UP ACTIONS

SEC. 507. The Small Business Administration shall report to the Congress annually during the three-year period following the submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference.

AVAILABILITY OF FUNDS

SEC. 508. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Such sums as are appropriated to carry out the provisions of this title shall remain available until expended.

(b) No funds appropriated to the Small Business Administration shall be made available to carry out the provisions of this title other than funds appropriated pursuant to this section. Any funds remaining unexpended at the termination of the Conference shall be made available to the Administrator of the Small Business Administration to carry out the provisions of section 20 of the Small Business Act.

TITLE VI—EMPLOYEE OWNERSHIP

SEC. 601. This title may be cited as the "Small Business Employee Ownership Act".

SEC. 602. The Congress finds and declares that—

(1) employee ownership of firms has been shown to be a successful means of organizing an enterprise and that employee-owned firms are likely to have greater productivity rates, better long-range prospects, greater employee and management job satisfaction, and broader distribution of the company's profits and equity than similar nonemployee-owned firms;

(2) employee ownership of firms provides a means for preserving jobs and business activity where they would otherwise be lost due to company closings, liquidations, or relocations;

(3) employee ownership of firms provides a means of keeping a small business small when it might otherwise be sold to a conglomerate or other large enterprise;

(4) employee ownership of firms provides a means for creating a new small business from the sale of a subsidiary of a large business, when such a subsidiary would otherwise be closed, liquidated, relocated, or sold to another large business;

(5) unemployment insurance programs, welfare payments, and job creation programs are less desirable and more costly for both the Government and program beneficiaries than loan programs to maintain employment in firms that would otherwise be closed, liquidated, or relocated;

(6) the continued closing of small businesses or the sale of small businesses to conglomerates represents an undesirable and anticompetitive trend toward economic concentration;

(7) the slow growth in productivity in the United States contributes to inflation and balance-of-payments deficits;

(8) the present concentration of capital ownership has created too great a disparity between the very wealthy few and the low- and moderate-income majority; and

(9) by making and guaranteeing loans to employee stock ownership trusts or other employee organizations, the Small Business Administration could provide feasible and desirable methods for the transfer of all or part of a company's ownership to employees by aiding employee organizations in purchasing small business concerns that would otherwise be closed, liquidated, or relocated, or in purchasing subsidiaries of companies which would otherwise be closed, liquidated, or relocated, and would, if independently owned, be small businesses.

SEC. 603. The purposes of this title are—

(1) to include as small business concerns any employee-owned company which would otherwise be defined as a small business concern under the Small Business Act, or any employee organization, or employee stock ownership plan, established for the purpose of purchasing a business which, when purchased, would otherwise be defined as a small business concern under the Small Business Act, and to make such employee-owned firms or employee organizations eligible for all assistance available to small business concerns as provided in the Small Business Act;

(2) to assure that a small business using an employee stock ownership plan which qualifies under the specifications as set forth in this title can obtain assistance from the Small Business Administration through an employee stock ownership trust; and

(3) to assure that the Small Business Administration guarantees loans to employee-owned firms, to employee organizations or employee stock ownership plans seeking to buy their firms, on the same basis as the Administration guarantees loans to other small businesses under section 7(a) of the Small Business Act and that such assistance is made available by the Small Business Administration on the basis of a firm's reasonable prospects for success as an employee-owned firm.

SEC. 604. Section 7 of the Small Business Act is amended by adding at the end thereof the following:

"(m)(1) As used in this subsection, the term—

"(A) 'employee organization' means any organization organized for the purpose of acquiring the company or subsidiary of the company for which the organization's members work, and which represents employees of a company which is a small business concern under this Act as presently constituted or, if the company is a subsidiary of another company, which would be a small business concern under this Act if independently owned;

"(B) 'employee' means a full-time employee of a small business concern who has worked for the company at least thirty days prior to the application by an employee orga-

nization or an employee-owned firm for assistance under this subsection;

"(C) 'employee stock ownership plan' or 'ESOP' means a plan described in section 4975(e)(7) of the Internal Revenue Code of 1954;

"(D) 'employee stock ownership trust' or 'ESOT' means a trust which forms part of an employee stock ownership plan; and

"(E) 'expiration date of the assistance' means the date on which a loan, the repayment of which is guaranteed by the Administration under this Act, is fully repaid.

"(2)(A) The Administration is authorized to make all assistance available under this section available to employee organizations, employee-owned small business concerns, and employee stock ownership trusts which meet the requirements of this subsection.

"(B) Assistance to employee-owned small business concerns shall be made available under subsection (a) of this section on the same basis as such assistance is made available to other small business concerns, except as otherwise specifically provided in this subsection.

"(C) Assistance to an employee stock ownership plan maintained by a small business concern shall be made available under subsection (a) of this section on the same basis as such assistance is made available to a small business concern which does not maintain such a plan, if—

"(i) the concern which maintains the plan guarantees to the Administration that it will provide to the plan such funds as may be necessary for the repayment of the obligation incurred by the plan;

"(ii) the trustee of the ESOT of the plan establishes to the satisfaction of the Administration that—

"(I) the funds acquired by the ESOP with the assistance of the Administration will be used solely for, or in connection with, the purchase of qualifying employer securities (within the meaning of section 4975(e)(8) of the Internal Revenue Code of 1954);

"(II) no part of those funds will be used to acquire employer securities of any other corporation or otherwise to provide financing for any other enterprise; and

"(iii) participants in the ESOP will have a nonforfeitable right to all employer securities acquired by the ESOP with funds obtained as a result of the assistance made available under this subsection not later than the expiration date of the assistance.

"(3) A loan to an employee organization or to an ESOP may be guaranteed as provided in this subsection only if the purpose of the loan is to finance the purchase of stock issued by a small business concern which employs the members of the organization or the participants in the ESOP, or the purchase of stock issued by a subsidiary concern which, if independently owned, would be a small business concern and which employs such members or participants, if—

"(A) the small business concern or subsidiary would otherwise be closed, liquidated, relocated, or purchased by a large business, or if the owner of the concern or subsidiary and such members or participants agree to a transfer of ownership to the employees;

"(B) at the time the employee organization or the ESOP submits an application to the Administration for the guarantee of a loan, the organization or ESOP also submits a copy of a plan for the acquisition of the concern or subsidiary which provides that—

"(i) any employees of the concern or subsidiary will be offered an opportunity to participate in the ownership plan, and that employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer will be included in such an offering, unless the labor organization representing such employees specifically requests, in writing, exclusion of the employees covered by the agreement from participation in the plan;

"(ii) at least 51 per centum of the total stock or other asset value of the firm will be owned by at least 51 per centum of the employees by the expiration date of the assistance, or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954;

"(iii) any employee who is an owner-employee (within the meaning of section 401(c)(3) of the Internal Revenue Code of 1954), or a managerial employee, will have completed at least one year of service with the employer (within the meaning of section 410(a)(3) of such Code) before he is permitted to become a participant in the plan;

"(iv) where stock is distributed, participants in the plan will have a nonforfeitable right to such stock not later than the expiration date of the assistance, and that—

"(I) in the case of an ESOP, the stock will meet the requirements of section 409A(e) of the Internal Revenue Code of 1954, and

"(II) in the case of an employee organization, the stock will meet the requirements of section 409A(e)(2) of such Code (without regard to whether the employer has a registration-type class of securities);

"(v) the concern may repurchase stock being sold by employees leaving the firms or make stock available to new employees;

"(vi) there will be periodic reviews of the mode of company organization and the role employee owners will play in the management of the concern;

"(vii) except in the case of an ESOP, there is a method whereby the loan to the employee organization can be repaid by employee members through a system of payroll deductions if other methods of repayment as may be specified in the loan application are unable to provide the necessary cash; and

"(viii) there will be adequate management contracts to assure management expertise and continuity; and

"(c) in the case of a subsidiary, a plan is provided demonstrating that once the transfer of the subsidiary to the employees is completed, the subsidiary will be an independent business which qualifies as a small business concern under this Act.

"(4) Assistance under this subsection shall be provided when the Administration determines that the firm or employee organization seeking assistance can demonstrate the likelihood of an ability to repay any loans guaranteed, and when the Administration determines that the company will generate sufficient revenues to provide a reasonable assurance of repayment. The individual business experience or personal assets of individual employee-owners shall not be used as loan guarantee criteria, except that where employee-owners may assume managerial responsibilities, their business experience or ability may be considered.

"(5) The principal amount of any loan guaranteed under this subsection may not exceed $500,000.

"(6) The Administration shall compile a separate list of applications for assistance under this provision, indicating which applications were approved and which were denied, and shall report periodically to the Congress on the status of employee-owned firms.

"(7) The Administration is authorized to make guarantees under this subsection directly to the seller of a small business concern under this Act, or of a subsidiary of a company which would become a small business concern under this Act when independently owned as specified in paragraph (3)(c), where the requirements of this subsection for employee ownership are otherwise met. For the purposes of this subsection—

"(A) the Administration may guarantee payments on installment sale contracts by the buyer to the seller, but the obligation of the Administration under such a guarantee shall not exceed 90 per centum of the total remaining payments at the time of default:

"(B) in the case of default, the seller will have the option of (i) paying the Administration an amount equal to 90 per centum of the total amount paid on the contract at the point of default and reassume title to the business, in which case the Administration will be relieved of any further obligation to the seller, including the obligation to make remaining payments on the contract, or (ii) assigning to the Administration the option of assuming title to the business and receiving, in a lump sum, an amount equal to 90 per centum of the remaining payments due on the contract; and

"(C) if the seller exercises his rights under subparagraph (B)(ii), the Administration may resell the business or its assets, or may seek other individuals to assume the contract and make the remaining payments to the Administration.".

SEC. 605. Section 8(a)(4)(A) of the Small Business Act is amended by inserting before the word "and" at the end thereof the following: "or in the case of a company with an employee stock ownership plan, at least 51 per centum of the stock of which is allocated through an ESOT to one or more socially and economically disadvantaged individuals;".

SEC. 606. (a) The Small Business Administration shall, not later than January 1, 1980, prepare and transmit to the Committee on Small Business of the House of Representatives and the Senate Select Committee on Small Business a study of the feasibility of extending the authority granted in section 7(m)(7) of the Small Business Act to any purchaser of a small business concern.

(b) Such study shall be performed by an independent consultant and shall include, but need not be limited to—

(1) the extent and nature of the use of installment contracts for the sale of small businesses;

(2) the ability of the Small Business Administration to make credit judgments on contract sales;

(3) the need for the Small Business Administration guarantees to facilitate installment sales;

(4) the willingness of banks and other financial institutions to participate in evaluating installment sales; and

(5) the likely cost of such a program compared to existing loan guarantee programs in the Small Business Administration.

TITLE VII—SMALL BUSINESS EXPORT ASSISTANCE

SHORT TITLE

SEC. 701. This title may be cited as the "Small Business Export Assistance Project of 1979".

SEC. 702. There is established in the Office of International Trade within the Small Business Administration:

(1) a coordinator for overseas activities;

(2) a coordinator for domestic programs; and

(3) a coordinator for data collection and evaluation:

Provided, however, That these coordinators shall initially direct their efforts solely to the completion of the studies required under sections 703 and 704 of this Act.

SEC. 703. (a) The Small Business Administration shall, not later than one hundred twenty days after the enactment of this Act, prepare and transmit to the Committee on Small Business of the House of

Representatives and the Senate Select Committee on Small Business a study to be known as the Small Business Export Development Report.

(b) Such study shall include, but need not be limited to—

(1) a review of the current programs of the Small Business Administration, including direct assistance to small business, for the promotion of exports;

(2) a review of current cooperation and agreements between the Small Business Administration and other Federal departments, agencies, and instrumentalities, and with the State governments in promoting small business exports;

(3) a program for enhancing and coordinating the Small Business Administration's export promotion efforts, including a plan for national advertising and promotion of the Small Business Administration's activities;

(4) a statement of the proper role and policies of the Small Business Administration in relation to the current and proposed export programs of other Federal departments, agencies, and instrumentalities, as outlined in the President's export promotion package;

(5) a review of any limitations on a Small Business Administration's export promotion program which may be imposed by any Multilateral Trade Agreements; and

(6) a proposal for targeting United States small businesses with export potential and for the creation of a central information clearinghouse, including the establishment and maintenance of a national toll-free telephone system for inquiries.

(c) Such study shall be conducted in consultation with the Department of Commerce, the Treasury Department, the Office of Special Trade Representative, the Export-Import Bank, the Department of State and any other agency which the Small Business Administration determines may be of assistance in developing a plan for export assistance.

SEC. 704. (a) The Small Business Administration shall, not later than one hundred and twenty days after the enactment of this Act, and after consultation with other Federal agencies and appropriate State governments, develop and transmit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives a plan, to be known as the State Small Business Export Project, for a grant project for assisting State efforts in promoting small business exporting.

(b) Such plan shall include, but need not be limited to—

(1) a statement noting the important role of State governments in promoting and encouraging exporting within their jurisdictions;

(2) a system of matching grants for State programs;

(3) reasonable criteria for awarding grants for State plans which initiate or expand small business export development efforts, keeping in mind the President's goals of reducing paperwork;

(4) the possibility of coordinating State programs with Small Business Development Centers; and

(5) any other goal or procedure which the Administration deems necessary to achieve a speedy implementation and orderly operation of such a matching grant program.

The PRESIDING OFFICER. Amendments to the bill must be germane, with the exception of one amendment by the Senator from Idaho.

The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, I ask unanimous consent that Allen Neece, Alan Chvotkin, Kay Klatt, Linda Henderson, and Barbara Cantilena of the Small Business Committee staff; and Bob Dotchin, Bob Santy, Stan Twardy, and Marge Broadbin of the minority staff be granted the privileges of the floor during the consideration and votes on the pending measure.

I further ask unanimous consent that Roger Lemaster of my staff; John Runyon of Senator STEWART's office; and Renn Patch of Senator HATCH's office be granted the privileges of the floor during the consideration and votes on this bill.

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

Mr. NELSON. Mr. President, all the material in S. 918 has been acted on before by the Senate, either in one bill this year or in the omnibus bill last year. There are some changes and modifications in the proposals that are in this act.

In my judgment, S. 918, amending the Small Business Act and Small Business Investment Act of 1958, is one of the most important pieces of small business legislation to be considered by the Congress in several years.

This measure establishes for the first time a clearly defined national small business economic policy, which, first, makes it clear that the economic well-being of small business is one of the country's top priorities, and, second, requires that small business be addressed as a separate and unique economic factor in its own right. Furthermore, this bill will give the administration, the Congress, and the small business community for the first time ever the tools to analyze effectively, efficiently, and thoroughly all aspects of the current and future status of American small and independent enterprises.

Title III specifically states that the Federal Government is to use all practical means to implement and coordinate all Federal policies, programs, and goals in order to protect the economic interests of small businesses. Furthermore, an economic climate is to be provided which is conducive to the growth and development of this sector and incentives to assure such growth and development are to be established. An additional aim is to reduce the concentration of economic resources and to provide an opportunity for entrepreneurship and inventiveness.

There is declared, also, a policy establishing a national goal to preserve a competitive free enterprise system with private sector incentives that will help provide adequate, reasonably priced capital for small concerns. The Federal Government will coordinate, create and sustain policies and programs that will induce investment in independently owned firms.

Title IV compliments this policy statement by requiring SBA to publish regularly national, and, to the extent possible, regional small business economic indexes which will enable SBA, Congress, small business and other interested parties to determine precisely what is happening economically to the small business sector. This type of information is not presently available from any other source either within the Government or the private sector. Such data is critically important, however, for without it the executive branch and the Congress cannot accurately measure whether the small business sector is expanding or contracting and, in turn, determine what policies, programs, and procedures need to be modified to stimulate and assist this important segment of our economy. Stated another way, such information is necessary in order to make rational, cogent decisions on behalf of small business.

S. 918 also contains another title which is a major breakthrough for small business. Title II legislatively establishes a pilot 3-year small business development center program. The Small Business Development Center Act of 1979 will enable the private and academic sectors to join together to provide management and technical assistance to smaller concerns located throughout a State through the use of satellite and extension type services.

I do want to mention that the relatively short life of the SBDC program requires that programs be developed and implemented in the shortest possible time in order to assure that a thorough and comprehensive evaluation is produced by the study. In awarding the grants, I would urge SBA to give special consideration to a plan utilizing an existing successful small business service program. Such an approach will result in a faster startup time for some of the programs and thereby produce more reliable short-term data.

Increased export assistance will be provided smaller firms by title VII as SBA's Office of International Trade is upgraded and directed to provide additional outreach services. Additionally, two comprehensive studies are to be undertaken to determine how small U.S. companies can significantly increase their volume of overseas sales.

Title VI incorporates S. 388 which was just recently passed by the Senate. This title establishes an employee stock ownership loan program within SBA.

Enabling legislation and funding authorization for the January 1980 White House Conference on Small Business is contained in title V.

Finally, title I provides authorization for 1980 and 1981 SBA appropriations, amends SBA's physical disaster loan programs, and makes certain technical and miscellaneous amendments to the Small Business Act and the Small Business Investment Act of 1958. The authorization part of this title is important and precedent setting in that it allocates additional resources to SBA's economic research and analysis, management, technical, procurement and minority small business assistance activities and programs. Although the agency's financial assistance programs are continued at current levels, there is established a basis for reprioritifying SBA's mission by placing greater emphasis on the nonlending functions.

Before closing my discussion on title I, I wish to emphasize that the retroactive aspect of the interest rates on disaster loans will require that adjustments be made for individuals who have already executed their loan agreements. It is the intent of the Small Business

Committee that individuals have the option to decide for themselves whether they will repay the loan over a shorter period of time or pay at a rescheduled lower monthly rate. SBA is expected to take necessary action first, to advise affected individuals that they have an option in terms of repayment, and second, to provide them with a reasonable opportunity to exercise that option without imposing unnecessary burdens on the applicant.

As my colleagues are aware, the omnibus small business bill, H.R. 11445, was pocket vetoed after adjournment of the second session of the 95th Congress. S. 918 addresses many of the same substantive matters contained in H.R. 11445, but does not contain any of the proposals that caused a Presidential veto. For instance, the President vigorously objected to the authorization levels included in H.R. 11445. The Small Business Committee responded this year by setting SBA's overall authorization for fiscal year 1980 at over $100 million less than the administration requested. The physical disaster loan interest rate formulas and eligibility rates have also been amended to meet administration objections of last year.

To better understand the legislative history surrounding this bill, I shall outline those measures the Small Business Committee considered during its 4-day markup of S. 918.

At markup sessions on April 24 and May 1, 2, and 3, 1979, the committee considered seven bills as well as five committee-drafted titles to amend the Small Business Act and the Small Business Investment Act of 1958.

Title I provides for fiscal year 1980 and 1981 authorizations for the Small Business Administration. The title also amends the SBA disaster assistance program and includes other technical miscellaneous amendments to both the Small Business Act and the Small Business Investment Act of 1958.

The committee held a hearing on March 26, 1979, to consider SBA's fiscal year 1980 and fiscal year 1981 program ceilings and budget authorizations.

On April 24, the committee held a hearing to consider S. 40, an SBA disaster assistance measure introduced by Senator FORD on January 15, 1979, and cosponsored by Senators HUDDLESTON, STEWART, DECONCINI, and COCHRAN. The committee also considered at that same hearing S. 515, another physical disaster relief measure introduced by Senator JOHNSTON on March 1, 1979.

Both of these bills were later taken into account during the committee markup on part B of title I, section 112, relating to SBA's physical disaster loan programs.

Section 117 of the same title also incorporates S. 1029 by amending the Small Business Act to provide debenture financing for SBA's local development company loan program. Senator NUNN introduced S. 1029, on April 26, 1979, and was joined by Senator WEICKER as an original cosponsor.

Part of S. 793 was also considered in the technical and miscellaneous part of title I. It appears as section 118 which enables SBA to expand the bank certification program. Senator NELSON introduced S. 793 on March 27, 1979, and Senators NUNN, CULVER, BAUCUS, WEICKER, HATCH, and PRESSLER have joined as cosponsors.

Title II, cited as the Small Business Development Center Act of 1979, provides for the creation of a small business development center program. This title incorporates the provisions of S. 918 in amended form. The bill was introduced on April 9, 1979 by Senator GAYLORD NELSON; 2 days of hearings were held on the measure: April 5 and 26, 1979.

This title also reflects those provisions contained in S. 972 introduced in the 95th Congress on March 10, 1977; 4 days of hearings were held on S. 972 prior to Senate passage on August 5, 1977: March 23, 1977, April 20, 1977, April 26, 1977, and June 30, 1977.

Senators who joined in introducing S. 918 were: Senators NUNN, CULVER, HUDDLESTON, MORGAN, SASSER, and WEICKER.

Title III, cited as the Small Business Economic Policy Act of 1979, is a committee amendment which incorporates many of the provisions of title III of the conference version of H.R. 11445 as well as S. 1726, which was introduced in the 95th Congress by Senator Hubert Humphrey on June 21, 1977. The committee considered S. 1726 during 3 days of joint hearings with the Joint Economic Committee: June 29, 1977, July 21, 1977, and November 21, 1977.

Title III also includes several sections of S. 2367, a bill introduced on December 15, 1977, by Senator NELSON. That measure was cited as the National Small Business Policy Act, the most important provision of which is included as section 302 of S. 918.

Title IV, Small Business Economic Analysis, is another committee amendment which includes other sections of S. 1726 which do not appear in title III.

Title V is cited as the White House Conference on Small Business Act. This title was drafted by the committee to provide enabling legislation for the White House Conference on Small Business which is scheduled for January 1980. President Carter announced the conference on April 6, 1978, in response to Senate Resolution 105 introduced in the 95th Congress by Senator NELSON on March 3, 1977, and passed by the Senate on March 28, 1977.

Title VI is referred to as the Small Business Employee Ownership Act. Except for a minor amendment, this title incorporates the provisions of S. 388, which was approved by the Senate on May 2, 1979. The bill was introduced on February 8, 1979, by Senator STEWART. A 1-day hearing was held on the measure on February 27, 1979. Senators who have cosponsored S. 388 are: Messrs. NELSON, WEICKER, HATCH, PRESSLER, BAUCUS, CRANSTON, GRAVEL, INOUYE, LEAHY, LEVIN, MORGAN, RIEGLE, ZORINSKY, BENTSEN, DOMENICI, GOLDWATER, HATFIELD, HAYAKAWA, HEINZ, HUMPHREY, BOSCHWITZ, and SIMPSON.

Title VII is referred to as the Small Business Export Assistance Project of 1979. This title was drafted by the committee to reorganize and upgrade the Office of International Trade of the Small Business Administration and to direct the agency to undertake a study known as the "Small Business Export Development Report."

Mr. President, I firmly believe that this measure will vastly strengthen the small business sector and will be long remembered as landmark legislation. I strongly urge its adoption.

Mr. President, I ask unanimous consent that a statement giving the background for consideration of title II, small business development centers, be printed in the RECORD at this point.

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

CONSIDERATION OF TITLE II SMALL BUSINESS DEVELOPMENT CENTERS

HISTORY

In 1976, SBA administratively created a university business development center program. It named 8 universities located in 7 states to begin operating the "UBDC" program. Funding in that first year amounted to only $40,000 per center. Funding for FY 78 and FY 79 has never exceeded $300,000 per state.

WHAT THE BILL DOES

Title II creates a Small Business Development Center program—not a university business development center program.

As opposed to SBA's administratively designed program which deals only with specifically named universities, S. 918 requires the development of a State plan detailing how small businesses located throughout the State will receive management and technical assistance from both private and academic sources. The bill requires that certain minimum service and staffing be provided by each center, that satellite locations be utilized, and that an extension-type delivery system be implemented. Furthermore, multiple public and private institutions of higher learning are to be involved in the program, if at all possible.

None of these requirements exist in SBA's currently managed program.

PROGRAM EVALUATION

Some have suggested in the past that the legislatively mandated SBDC program not be adopted until SBA's UBDC program has been evaluated. It has also been suggested that if the SBDC program is enacted, that provisions should be made for evaluation of the statutory program.

I am pleased to say that the Small Business Committee was responsive to both suggestions when reporting title II this year.

First, SBA undertook an Office of Management and Budget directed study of the UBDC program last year, and reported the fundings to the Committee.

Futher, SBA contracted with a private consulting organization to make a comprehensive, in-depth evaluation of SBA's UBDC program. The preliminary report of that independently conducted * * * submitted to the Committee prior to the mark-up session of the bill.

Both studies conclusively demonstrated that this type of program is tremendously crucial to small business and that a government, academic, and private partnership arrangement is feasible, workable, and productive. Therefore, based on these two analysis, I believe we can confidently move forward with the next step and adopt a three-year experimental statutory program.

To insure that that program is properly evaluated as well, new section 21(n) of the Small Business Act requires a comprehensive program review be submitted to Congress no later than January, 1982. So that there is no misunderstanding as to the pur-

pose of this evaluation, I wish to quote from the legislation:

"(n) The Administration, with the advice of the Board, shall establish a plan for evaluation of the small business development 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 small business development center program on small business, including local and regional private consultants, and the socioeconomic base of the regions served;

"(2) the multidisciplinary resources the small business development center program was able to coordinate to assist small business; and

"(3) the extent to which various types of small businesses engaged in such areas as manufacturing, retailing, wholesaling and services have been assisted by the small business development center program."

Once this evaluation is completed, the Congress can then make a determination as to whether the program should be terminated or expanded.

GAO EVALUATION

The Senate last year adopted an amendment to H.R. 11445, requiring that the SBDC program be evaluated by GAO. Shortly after Senate passage of that measure, and before the conferees met to resolve their differences on title II of H.R. 11445, the Comptroller General, Elmer Staats, wrote to me as Chairman of the Small Business Committee vigorously protesting the inclusion of a statutorily mandated GAO review. He urged that that provision be deleted and that instead a review be requested by the Committee at the appropriate time. The conferees complied with that request, but by doing so I do not want to leave the impression that the amendment was not meritorious. At the appropriate time it is my intent to ask GAO to evaluate the operation of the statutory SBDC program.

PROGRAM TERMINATION

To assure all those who have been interested in this program that title II creates a truly *pilot, experimental* program, a sunset provision is contained in section 204 which repeals the title effective October 1, 1982, unless otherwise extended by the Congress.

NUMBER OF PARTICIPATING STATES

Since the SBDC program envisioned in title II is experimental in nature, the Small Business Committee declined to place a statutory limit on the number of States that can participate in the program. There are presently 9 states plus the District of Columbia participating in the SBA center program. It is anticipated that approximately five more states will enter the program under title II guidelines within the next year.

The report accompanying S. 918 speaks to this issue and since it is such an important question, I wish to quote from the report:

"For purposes of expanding the SBDC program during the statutory pilot period of three years, SBA is urged to look for unique or unusual services and Outreach endeavors that would be offered and undertaken by a State applying for admittance into the program. All types of demand end environmental variables should be taken into account to assure that the program is given a full-fledged, comprehensive test.

For instance, does the total overall program take into account such characteristics as: population density; types of businesses to be served, i.e., service, manufacturing, retailing, utilization of existing private or government resources; and application of different disciplines such as science, engineering, design, and business.

The Committee believes the program should be innovative and experimental and the agency should be on the lookout for States that wish to operate SBDCs that may be different from existing State SBDCs. Program diversity is what is needed, not program uniformity."

The point is the Committee did not want to limit SBA's flexibility in determining the maximum number of states that could participate because to do so might inadvertently prevent some unique or unusual aspect of the program from being tested. We want to be assured that all those characteristics mentioned in the report are addressed. I'm certain that there may be program variations that may be proposed which we have not considered in drafting the legislation. To guarantee that these different twists on the program are adequately and fully taken into account, no ceiling should be placed on the number of participating states.

PROGRAM EXPANSION CONTINUED

During hearings on S. 918 this spring, witnesses urged that SBA be given the final authority to determine the number of states that should participate in the pilot program. They pointed out that ideally there should be at least two states testing each major element of the program. For instance, there should be two states incorporating an existing extension service program in both engineering and business, two industrial states, two states sparsely populated, two states having large minority populations, and at least two states from each geographical region of the country.

The total number should approximate 15 states, but if there needs to be as many as 16, 17, or even 18 states admitted to make certain that all critical aspects of the program are fully tested, so be it.

Under no circumstances do the supporters of this measure want the program needlessly expanded because it is designed only to be a test. However, if we exclude some new aspects or a different program "twist" from being tested, then the legislation to some extent will have failed in its intent.

The answer is to let SBA have the final say on how many states participate.

There is one other limiting factor that assures that the program will not experience unreasonable expansion. It is intended that each state on average will receive a grant of about $1 million. The funds authorized over the next three years will not permit a program expansion much beyond 15. However, it might be possible for SBA to allow another 2 or 3 states entry into the program if justified and sufficient funds are available. Again, I want to emphasize the report language: "The program should be innovative and experimental and the agency should be on the lookout for states that wish to operate SBDCs that may be different from existing state SBDCs. Program diversity is what is needed, not program uniformity.

I urge no statutory limit in order that there is diversity, NOT uniformity.

DUPLICATION OF PROGRAMS

Last year during debate on H.R. 11445, there was some concern expressed that the statutory SBDC program might duplicate other Federal Government programs. I assured my colleagues at that time that the small business development center would not be duplicative, but in fact would complement other programs, particularly that at the Department of Commerce. Preparatory to floor consideration of S. 918, I asked SBA to do a comparative analysis between the Economic Development Administration, Office of Minority Business Enterprise, and SBA sponsored university related programs.

For summary purposes, let me say that EDA's program is exclusively concerned with saving and creating jobs in economically distressed areas. The EDA university center program services both large and small businesses as well as community organizations and development groups and then only within that section of a state or region which is classified as a distressed area.

SBA's business development center program, on the other hand, is solely concerned with strengthening small business concerns, regardless of whether they are located in a distressed area or what effect the assistance rendered by a center has on employment.

Both SBA and EDA programs have a different means of delivery. SBA sponsored programs make extensive use of volunteers, faculty, graduate students, and paid private consultants. EDA's program relies principally upon faculty students.

SBA also leverages other Federal, state, and local programs by functioning as an umbrella management organization that draws upon the resources of all available pertinent programs. EDA utilizes other existing programs to a much more limited extent.

OMBE's university programs are not directly comparable as they deal only with minority business concerns and are not solely concerned with providing management and technical assistance, i.e., assistance is rendered to state governments and other research and development endeavors.

Mr. NELSON. Mr. President, I yield the floor to the distinguished Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, the Small Business Committee, under the able leadership of its chairman, Senator NELSON, has worked hard to produce a good Small Business Administration authorization bill. After a great deal of "give and take," we have come up with a bill which is budgetarily sound yet provides adequately for the needs of small businesses. I commend the chairman and other members of the committee for their efforts on this bill.

A key part of the bill is the section which deals with disaster loans. A great deal of controversy has revolved around this issue and at times it appeared that it might scuttle the whole bill. However, with a lot of hard work we were able to arrive at a compromise which is compassionate for disaster victims and which helps us meet the urgent need for balancing the budget.

Although every member of the committee contributed to this effort, the distinguished Senator from Georgia (Mr. NUNN) is commended for his substantial contribution.

The compromise provision addresses the two major concerns about disaster loans. First, and I believe most important, it would establish interest rates on SBA disaster assistance at 3 percent on the first $55,000 for homeowners and 5 percent on disaster loans to businesses when they cannot secure credit elsewhere. Since October 1978 these interest rates have been set at cost of money to the Government, which is presently computed by SBA to be 7⅜ percent.

I believe that these reduced interest rates are extremely important. They provide the means for individuals to get back on their feet in a relatively short period of time after, in many cases, losing everything they possess in a disaster. These individuals are deserving of extra assistance from their Government and I am proud that we have been able to accomplish this.

As many of you know, the issue of subsidized interest rates was one of the primary reasons the President vetoed

the SBA bill last year. Further, the bill provision was strongly attacked by the Budget Committee last year. Fortunately, the compromise we have worked out enables us to mix compassion and good fiscal policy to arrive at a workable solution which benefits the disaster victims.

I personally would have preferred lower interest rates for disaster victims and, in fact, the bill which Senator FORD and I introduced would have extended the previous lower rates of 1 percent. However, after chairing the Small Business Committee hearings on the disaster program I became convinced that a compromise was the only answer. Seeking a lower interest rate than we have in the bill means that the bill would be subject to challenge for exceeding the budget. And, if it passed this hurdle it still would be subject to a veto by the President.

The second part of the compromise is focused on the participation of farmers in disaster programs. Farmers were expressly made eligible for assistance from the SBA through amendments to the Small Business Act in June 1976. Since that time their participation has grown substantially, even though they are eligible for assistance from FmHA. The reason for this preference has been that the SBA program is less stringent in its application. There is still a great deal of strong sentiment that farmers are the same as other small businesses and should be treated the same. Bearing this in mind we devised a compromise which substantially equates the two disaster programs in SBA and FmHA. Since farmers usually have closer contact with FmHA it is believed that they will gravitate toward that agency for assistance because they will be treated essentially the same at both agencies under this legislation. However, because the two programs could not be totally equalized, farmers will still be able to come to SBA for assistance if they do not qualify for it at FmHA. The equating of these two programs involves amending the Consolidated Farm Act. The distinguished chairman of the Agriculture Committee (Mr. TALMADGE) assisted in accomplishing this.

The equalizing process we use in the bill continues to give subsidized interest rates of 5 percent to farmers and businesses under both SBA and FmHA if the applicants cannot secure credit elsewhere. If they can secure credit elsewhere, they would still be eligible for disaster loans, but at the cost of money to the Government. The method of computing cost-of-money would be that now utilized by FmHA, which is presently 8¼ percent. Furthermore, the cost-of-money loans would be reviewed after a period of years and if the recipient was financially able to do so he would be graduated to a private loan at market rates.

This aspect of the compromise would, for all practical purposes, divert most farmers from the SBA loan window without discriminating between them and other businesses. And, it would impose a limited-credit-elsewhere test which is an important factor to the administration.

This compromise, as with most, does not please everyone completely. However, we must remember that there are strongly held views on all the points involved in the compromise and without it we are left in the polarized position we found ourselves in last year. I support this effort and hope that the rest of my colleagues will also.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Will the Senator yield to me briefly?

Mr. HUDDLESTON. Yes.

Mr. STENNIS. Has the Senator from Kentucky finished his opening statement?

Mr. HUDDLESTON. Yes.

Mr. STENNIS. Mr. President, I have a deep sense of gratitude as one from a State which has been adversely affected, to a very marked degree, by one of the most disastrous floods we have ever had, considering the small area that it covered. It was one of the most injurious, really, to thousands of people.

I especially commend the Senator from Kentucky, and thank him and all the others who contributed so much to the working out of this bill, with reference, particularly, to the disaster loan, and also to other phases of the bill.

I shall not speak on the bill as such, Mr. President. But I want to thank the Senator from New Jersey (Mr. WILLIAMS); the Senator from Idaho (Mr. CHURCH), who had matters of deep concern regarding the bill and the taking it up tonight, who went a long way in the spirit of compromise and accommodation toward getting the bill up for consideration before the week is out; the Senator from Connecticut (Mr. WEICKER) with his very fine attitude and help; the Senator from Maine, who has already spoken with reference to arranging for the upping of the necessary amount for the bill to come within the budget ceiling; and the Senator from Oklahoma.

I commend my colleague from Mississippi (Mr. COCHRAN), who has worked most diligently on this matter all the way through the happening of the floor which centered on his hometown, in preparation for the hearings and during the hearings, in helping to work out the bill. He deserves the greatest of credit. I am really proud of the record, the fine attention, and effective work he has done on the bill.

This is not just an ordinary, little backwater injury that these people in the disaster had. Their homes, many of them, were literally ruined, with everything they had in those homes, including clothing, and things of that kind. They are living in the yards or driveways in trailers. They are unable to keep all the children in school. It is not just some poverty level conditions, but the general disorganization. So it is timely that the bill be passed.

I am going to support the bill, Mr. President, as it is presented by this committee. I must move along and it had to have the Budget Committee to get the ceiling raised tonight. I have made a lot of inquiries into it, have taken part in many negotiations with several Members, and it has led me to believe that this bill is the only one, probably, that can be passed in any way near its present form. I understand it has some support in the House already, and in the White House, too, in its considerations. But I think on the whole, that is where the interest lies.

I thank the Senator very much for yielding to me.

Mr. President, I appreciate, again, the consideration by all, including the staff, on this Small Business Committee.

Mr. WEICKER. Mr. President, I ask unanimous consent that Stephen Beck of Senator SCHMITT's staff and Renn Patch of Senator HATCH's staff be granted privilege of the floor during consideration of S. 918.

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

Mr. WEICKER. Mr. President, since 1977, when the Senate Small Business Committee received legislative jurisdiction, the committee has sought to reorder the priorities of the Small Business Administration. The major emphasis of the committee, through its authorizations power, has been on the nonlending functions of the SBA.

Since its creation in 1953, the SBA has principally been a lending institution. Nearly two-thirds of SBA's personnel are directly involved in loan processing, administration and liquidation. As a result of this large allocation of resources to the SBA's lending programs, the advocacy and business development programs have been sorely neglected.

The legislation we are considering today is designed to correct this lop-sided allocation of resources. Title I, part A of S. 918 establishes spending floors in nonlending areas such as management. Through this budgetary technique, the committee provides SBA with a clear signal to readjust its direction and priority. As the ranking member of the Authorization Committee and Appropriations Subcommittee having jurisdiction over SBA, I intend to continue to pursue this effort.

Mr. President, the Small Business Committee, and particularly this Senator, has continually stressed the need for SBA to become an effective advocate for small businesses. In 1978, the Senate confirmed the first Chief Counsel for Advocacy in the agency.

Along with this confirmation, additional resources were specifically authorized and appropriated by the Congress for this function. Over the last year, the staff of the Office of Advocacy has dramatically increased. Despite these initiatives, SBA has failed to aggressively represent the interests of small business within the Federal Government.

The agency must place a greater emphasis on analyzing the impact legislation and regulations will have on small business. Small business needs an effective voice within the Federal bureaucracy. All too often, concerns of small business are an afterthought in the drafting of legislation and regulation. It ought to be one of the primary duties of SBA to change that situation. Despite this committee's often stated concerns,

small business still lacks an effective voice.

An example of this situation was the absence of any input by the SBA concerning the small business set-aside program aspect of the terms of the multilateral trade negotiations. At hearings before State, Justice, Commerce Subcommittee of Appropriations, in response to my question, Mr. Weaver admitted that he was not consulted prior to the negotiations. These negotiations would have fundamentally altered a long-standing policy of earmarking procurement contracts for small businesses, and the Administrator for SBA, the President's chief spokesman for small businesses was not even consulted.

Fortunately, congressional pressure, coupled with an outcry from small businesses, forced the administration to reconsider its position in this case. However, small businesses have not fared so well on other occasions. Neglect of small business concerns has been evident in the administration's policies on taxes, innovation, technology, and energy.

Of course, if the SBA is to be an effective advocate, it must have access to current information on the condition of small businesses in our economy. This information is also essential to the Congress to enable it to make informed judgments in developing legislation to aid small businesses.

Mr. President, it is absolutely incredible to this Senator that after 25 years of operation, the SBA has no such economic data available which specifically addresses the status of small business.

Last year, Congress authorized and approved $4 million for the development of a small business economic data base. However, the agency requested that the Congress rescind $2.129 million of that amount. Furthermore, in its fiscal year 1980 budget, SBA assigned $905,000 for this function.

It is clear that the agency has not ascribed the same priority to the development of this essential data base as has the Congress. By specifically authorizing $3 million for the development of the data base and for economic research, the Small Business Committee expects the agency to take substantial strides in this area.

In addition to this increased authorization for the small business economic base, title IV establishes clear guidelines for small business economic research and analysis. This title directs the SBA to regularly publish national and regional small businesses indices as a guide for the development of future policies. Furthermore it clearly enunciates the congressional intent for the utilization of funds provided for economic research and analysis.

This committee also feels that SBA should become more business-development oriented. Over the past three decades, about 30 percent of all new enterprises failed within the year, while 50 percent went out of business within 2 years. One of the basic causes of this failure rate is the lack of basic management and technical skills. Along these lines, title II of the bill authorizes $8 million in fiscal year 1980 for the creation of small business development centers. These centers are designed to provide small businesses with management and technical assistance. These services will be provided through an extensive delivery system utilizing resources of both universities and the private sector. The committee will carefully monitor this program to insure that small businesses benefit from this program.

Mr. President, I would now like to highlight some of the other important sections of this omnibus legislation.

Section 117 would provide a new authority for SBA to guarantee debentures issued by local development companies. Originally introduced as S. 1029 in this Congress by Senator NUNN and myself, the provisions of this section will help involve private enterprise in the important task of developing the economic base of our Nation's urban centers. A similar provision was included in H.R. 11445 which was passed last year by both the House and Senate, but was vetoed by the President. I might add that the President did not find fault with this provision in rejecting the omnibus bill last year.

There is presently a major capital gap for urban small businesses which the present SBA section 502 local development company program cannot effectively solve. This section, by creating a partnership between the Government and small businesses, will help fill this gap. The SBA will be authorized to guarantee the full amount of debentures issued by eligible local development companies. However, the amount of the debenture to be guaranteed cannot exceed one-half of the project cost, thereby necessitating that the remaining half be supplied by private sources. This approach provides security to the Federal Government, as responsible private lenders will not be willing to assume such a large exposure in an unsound commercial deal.

An appropriation of $750,000, as a reserve against losses, will create $50 million in new Federal guarantees, and accordingly a matching amount of $50 million of private sector financing. This $100 million program, at a cost of three-quarters of a million dollars, will create 10,000 new jobs.

Another important provision of S. 918 includes handicapped organizations in SBA's procurement set-aside program. This provision will provide handicapped organizations with the opportunity to compete for Government contracts which currently are not available to them.

Under a pilot program in fiscal year 1978, sheltered workshops were eligible for small business set-asides, and they bid on approximately $2.5 million in Government contracts. Though the dollar amount of contracts awarded was small, about $1,133,000, this amount provided employment for a great number of handicapped individuals.

Provisions of S. 918 will make handicapped organizations permanently eligible for participation in the set-aside program.

Mr. President, I have purposely left the most controversial portion of this bill to last—specifically the disaster loan provisions. The compromise the committee has fashioned I believe effectively speaks to the problems addressed by the Budget Committee.

I commend Senator MUSKIE for his leadership in attempting to gain fiscal control of this program. Last year, I strongly supported his efforts on the floor and in conference to maintain the interest rate on disaster programs at the cost of money to the Federal Government—currently 7⅜.

During the severe droughts of 1977, the Small Business Administration determined that crop loss was eligible for disaster assistance. In that year, the SBA disaster program skyrocketed to over $2.5 billion, of which $1.5 billion could be directly attributable to drought assistance. Mr. President, we must get a handle on this program.

This compromise developed by this committee has the support of the administration. Chairman NELSON has already detailed the provisions. I would simply like to emphasize a few points.

First, homeowners will receive disaster loans at decreased subsidy interest rate of 3 percent. The committee recognizes the trauma involved when one's principal residence is destroyed. Accordingly, the reduced interest rate was agreed to.

Second, the credit elsewhere test will apply only to businesses. It will not affect eligibility, only the level of interest rate applied.

Third, no business or firm currently receiving Federal disaster assistance will be denied such assistance under this proposal.

Mr. President, this legislation is a product of over 2 years of work. This committee is painfully aware of the poor performance record of SBA. Last year, our efforts to reshape this agency were thwarted by a Presidential veto. Now, unfortunately, we must start anew and valuable time has been lost. In the interim, small businesses remain the "forgotten sector of our economy."

Mr. President, it is appropriate that we are considering this legislation during Small Business Week. I urge the adoption of this legislation to assist the small businesses which are the backbone of our Nation's free enterprise system.

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

Mr. HUDDLESTON. Mr. President, will the Senator withhold that for a couple of minutes and let us get the committee amendment agreed to?

Mr. HEINZ. The Senator from Pennsylvania apologizes and is happy to withhold the amendment.

UP AMENDMENT NO. 158

(Purpose: To delete title VII of the Committee amendment)

Mr. HUDDLESTON. Mr. President, I call up an amendment on behalf of the chairman of the committee, Senator NELSON, and Senator WEICKER.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for Mr. NELSON and Mr. WEICKER, proposes an unprinted amendment numbered 158:

Beginning on page 72, strike all of title VII.

Mr. HUDDLESTON. Mr. President, this amendment strikes title VII of the bill for the purpose of sending it back to the committee. The intent of the committee is that it will be reported for action on the Senate floor within a couple of weeks.

If there are no questions, I move the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 159

(Purpose: To make certain technical and conforming amendments to the Committee amendment)

Mr. HUDDLESTON. Mr. President, I send to the desk technical conforming amendments, and I ask unanimous consent that the amendments be considered en bloc.

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

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 159.

Mr. HUDDLESTON. 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 45, line 10, insert the word "a" after the phrase "but at".

On page 52, line 13, strike "the light" and insert in lieu thereof "light".

On page 57, line 5, strike "Administrator," and insert in lieu thereof "Administrator".

On page 66, line 4, strike "ot" and insert in lieu thereof "to".

On page 69, line 21, strike "criteria," and insert in lieu thereof "criteria".

On page 70, line 18, strike "default:" and insert in lieu thereof "default;".

On page 28, line 10, insert after the words "actual loss" the word "caused";

On page 28, line 17, strike "subsection" and insert in lieu thereof "sentence".

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

The amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I ask this question of the able manager of this important bill, the Senator from Kentucky (Mr. HUDDLESTON) and the comanager of the bill, the able Senator from Connecticut (Mr. WEICKER): Does the Small Business Administration make loans to aliens at the present time?

Mr. HUDDLESTON. It is my understanding that they do.

Mr. RANDOLPH. Will the Senator give his opinion as to the provision in the Small Business Administration law as it initially was passed and has been amended?

Mr. HUDDLESTON. According to the information, the SBA has no authority to make aliens, as such, ineligible for SBA assistance. Federal agencies are not completely forbidden to distinguish between aliens and citizens, but absent congressional or Presidential action, they can only do so if they are exercising powers delegated to them in such fields as immigration, naturalization, national security, or foreign affairs. The SBA has no authority to make its own policy in this area.

Mr. RANDOLPH. The response is correct.

When the Small Business Administration came into being, it was not my privilege to be a Member of either body of Congress.

Is it not true that there are provisions in other lending laws passed by Congress that Congress itself specifically prohibits loans being made to aliens?

Mr. HUDDLESTON. That is correct. I think the Farmers Home Administration does have that prohibition.

Mr. RANDOLPH. What does the Senator think about amending the present act to prohibit the lending of money of the Federal Government to aliens through loans?

Mr. HUDDLESTON. I have been on the Small Business Committee for a short time, but it is my understanding that this matter never has been considered by the Small Business Committee and legislation has not been offered to effect that change.

Mr. RANDOLPH. This subject was brought to my attention in the past few weeks. I have discussed this situation with a representative of the Small Business Administration. It was explained that certain laws forbade the Federal Government to loan money only to American citizens. There was no specific prohibition, however, in the SBA Act prohibiting the lending of money to aliens.

I question the policy of lending of money of the Federal Government to aliens. It is in a spirit of understanding that I discuss the matter this evening.

I have been told that in one area of the country, the percentage of aliens who have been given loans is running 15 percent of the volume of the loans from one SBA district office.

I will not offer an amendment to this bill. I am not sure how the membership of this body feels. Would any Member want to discuss this matter?

Mr. NELSON. Mr. President, I say to the distinguished Senator from West Virginia (Mr. RANDOLPH) that the statistic to which he refers is brand new to me. I assume there may be cases in which it would be perfectly sensible to lend to somebody who was not a citizen of this country and who may very well become a citizen at a subsequent date, or who may be applying for citizenship. I do not know of any specific cases. But I say to the Senator that the point raised is brand new to this Senator.

We will have some other legislation later this year, I believe. I am prepared to assure the Senator (Mr. RANDOLPH) that I will get information from the Small Business Administration, make the inquiry tomorrow, explore the situation. If in fact, some legislation should be addressed to this problem, we will have an opportunity to do it later this year.

Mr. RANDOLPH. I am very grateful to the able Senator from Wisconsin, the able chairman of the Small Business Committee. I feel that we need to go into this matter in some detail, certainly to be fair. Reports have come to me that there is urging on the part of the SBA—I am not fully informed and perhaps I am not factual, but I will look into the possible encouragement of SBA loans to aliens.

Mr. HUDDLESTON. I would be glad to join the Senator from West Virginia and the distinguished chairman of the committee in exploring this situation and making a determination as to the recommendations the committee should make in regard to it.

Mr. RANDOLPH. I appreciate the chairman of the committee (Mr. NELSON), and the chairman of the subcommittee (Mr. HUDDLESTON), saying that it is a matter that should have the prompt attention of the committee.

I urge the Members present and those who may read the RECORD to take an interest in checking into this problem or policy. The Farmers Home Administration will not give loans to aliens, through specific legislative intent. The Senator's statement as to the attention he will give to it is very reassuring, and I am grateful.

Mr. HUDDLESTON. I thank the Senator from West Virginia.

Mr. TALMADGE. Mr. President, will the distinguished Senator from Kentucky yield to me briefly?

Mr. HUDDLESTON. Mr. President, if the Senator will give me just 10 seconds here for an amendment, I will yield to the Senator from Georgia.

Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to and that the bill as amended be considered original text for the purpose of further amendment.

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

Mr. HUDDLESTON. I yield to the Senator from Georgia.

Mr. TALMADGE. Mr. President, section 113 of the Small Business Investment Act amends section 324 of the Consolidated Farm and Rural Development Act by imposing a two-tiered interest rate structure on the emergency loan program of the Farmers Home Administration. I support this provision of S. 918.

Although the legislative jurisdiction for the Consolidated Farm and Rural Development Act rests with the Senate Committee on Agriculture, Nutrition, and Forestry, the committee believed these amendments were both desirable and needed. Therefore, in consultation with the Small Business Committee we agreed that the Agriculture Committee would not seek jurisdiction over those provisions in S. 918 which under normal circumstances, would have been referred to the committee.

The two-tiered interest rate structure is not a new idea. The idea was first proposed by the late Senator Allen in the Agriculture Credit Act of 1978. The Consolidated Farm and Rural Development Act would be amended to provide that

an interest rate of 5 percent would remain available to agricultural producers who were unable to obtain credit from other sources. Those producers able to obtain commercial credit would also be eligible to borrow from FmHA under the new provisions, but the interest rate for these borrowers would be at a cost-of-money to the Government with a 1-percent add-on for administrative costs. The bill makes similar adjustments in the SBA's disaster lending authority.

For 2 years now, both the administration and the Congress have been wrestling with policy questions concerning who should be providing disaster assistance to our agricultural producers and whether or not the differences between the Small Business Administration physical disaster program and the Farmers Home Administration emergency loan program are such that the Farmers Home Administration is in fact treating our farmers and ranchers as "second-class citizens." Much time and energy has been expended in trying to find answers to these and other questions.

In the summer of 1977, I chaired a meeting which was attended by Secretary of Agriculture Bob Bergland; Mr. Vernon Weaver, Administrator of the Small Business Administration; my fellow Senator from Georgia, SAM NUNN; Congressman NEAL SMITH of Iowa; as well as a number of other Senators and Congressmen. That was the first time in which the Small Business Administration became heavily involved in agricultural disaster lending, and it was apparent even then that not only would they have difficulties in administering any agricultural disaster lending program, but also that the difference in lending philosophy between the two agencies created a climate which was ripe for controversy.

Arguments at that time centered on the interest rates being charged and the credit elsewhere test that has traditionally been applied to the Farmers Home Administration's lending programs, disaster as well as nondisaster. This amendment resolves those arguments in an acceptable manner.

The Farmers Home Administration, as our primary agricultural lending agency, has a nationwide county office delivery system capable of handling the needs of most of our agricultural producers. The bill, however, is not designed to remove the Small Business Administration completely from agricultural disaster lending. What it does do is to mandate that agricultural producers first seek assistance for their agriculture-related losses from the Farmers Home Administration. This I believe is entirely appropriate; however, S. 918 also recognizes the fact that the SBA physical disaster loan program should remain available to those farmer-businessmen who for various reasons would not be able to receive, or do not receive, assistance from the Farmers Home Administration.

I agree wholeheartedly with Senator NELSON and other members of the Small Business Committee when they state in their committee report that this legislation makes he Farmers Home Administration and the Small Business Administration programs as statutorily close as is reasonable and desirable, taking into account the fact that the SBA program is open to other classes of recipients.

In closing I would simply add that the provisions in S. 918 were arrived at in a true spirit of compromise, and I believe the result is a disaster lending program which can be accepted and effectively administered by both the Small Business Administration and the Farmers Home Administration in a reasonable and equitable fashion.

I yield the floor and thank the distinguished Senator from Kentucky for yielding.

Mr. PROXMIRE. Mr. President, will the Senator from Kentucky yield?

Mr. HUDDLESTON. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the distinguished manager of the bill, the Senator from Connecticut, and my colleague from Wisconsin (Mr. NELSON) have done an excellent job in the hearings and markup on this new authorization for the activities of the Small Business Administration. The bill is essentially within the President's budget and he and his colleagues have considerably tightened the language of the law and the administrative procedures of the SBA. He is to be congratulated for his very constructive work in this regard.

However, it is my personal view that the Small Business Administration should be abolished. As a consequence I shall vote "no" on the final passage of the bill.

WHY IT SHOULD BE ABOLISHED

There are dozens of reasons why I take this view. Among them are:

The SBA has a history of political favoritism, bad judgment, and biased decisions. It has been a repository of patronage and scandals under virtually all administrations.

It helps only a minute number of small businesses.

Its minority business program has been a disaster. A recent compilation showed that only 7 of the 32 loans under the program went to minority businesses.

It appears to me that it either makes loans or loan guarantees to those who do not need them at all, or to those who do not qualify. We have seen recent examples of loan guarantees being provided by the SBA to well placed, famous, and well-to-do persons who do not need the loans. I have had numerous calls and letters even from those who pass on SBA loans telling me, on the other hand, that the SBA is now making loans which neither it nor anyone else should make.

It is my view that the SBA should be abolished and that those programs of SBA which are absolutely essential, such as the disaster programs, should be transferred to some other agency such as Commerce, Defense, or HUD in order to avoid duplication.

REFORM IN PRIVATE INSTITUTIONS OBVIATES NEED FOR SBA

Finally, what has now happened to our financial institutions really makes the SBA redundant.

There was a time when qualified minority businesses in the ghettos of this country could not get a loan. They were red-lined. That situation has now been rectified at least to the extent that a minority businessman or woman has a greater chance of getting a loan from existing private local institutions than he or she has of getting a minority loan from the SBA—far greater.

Competition among financial institutions of all kinds is far different today than it was when deserving businesses could be denied loans at the whim of the local banker or by red-lining in the central city.

Those days are largely gone. Credit is now available from the private sector. There is vigorous, active competition to make loans to needy but deserving businesses. In fact, in my view the private credit institutions are way ahead of the SBA in these matters.

Therefore, what may have been a justification for this agency and its programs in the past is now gone.

For fiscal year 1980 the SBA's budget calls for $796.3 million in budget authority, $694.2 million in outlays and the full-time permanent civilian employment of 4,600 people.

While not all of these funds could be saved by the abolition of this agency, which has essentially outlived its usefulness and which has lost its way, much of it could be saved.

CUT SPENDING

The Federal Government is too big. Spending is excessive. The public debt is too high and we are adding from $29 to $40 billion to it.

Since the President says he wants to cut the budget and Congress says it wants to cut the budget, and the people of the country mean it when they say they want to cut the budget, there is no better place to begin than right here.

This is the place to start.

For all these reasons I shall vote "no" on the final passage of this bill.

UP AMENDMENT NO. 160

(Purpose: To revise the duplication of benefits provisions applicable to SBA disaster loans)

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 160.

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

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

The amendment is as follows:

On page 35, after line 21, insert:

SEC. 122. Section 7(b) of the Small Business Act is amended by adding at the end thereof the following:

"A State grant made on or after January 1, 1979, shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155) to a disaster loan under paragraph (1), (2), or (4) of this subsection.".

Mr. HEINZ. Mr. President, I have discussed this amendment with both the

majority and minority. I understand it is acceptable to them.

Briefly, as I think most of my colleagues will recall, we had a terrible flood in Johnstown, Pa., on July 20, 1977. Subsequently, the SBA provided loans to victims of this disaster. It was very helpful.

The State of Pennsylvania then established several disaster assistance programs, including one under State Act 51, which was passed pursuant to a special constitutional amendment, that enabled them to provide up to $4,500 in grants to assist families with expenses, working capital, and other types of problems.

The local SBA office is now going around to those hard-hit families and asserting that every single penny that the State of Pennsylvania gives these families pursuant to various State programs must be used to pay off the SBA loans.

We have tried to figure out, since as far as we know this is an absolutely unique experience, what is going on with the SBA, and we have asked the area people and they say, "Well, that is what we think we are supposed to do. Check with Washington."

We checked with Washington. They say, "We do not know anything about it."

It is a real catch-22 situation because no one is willing to take any responsibility or make any decisions.

So the purpose of this amendment is simply to send a message to the SBA that what they are doing just cannot be right. It just cannot be right to say to the State of Pennsylvania, "Look, every single cent you grant for the people who were hard hit by a flood has to be taken away instantaneously to pay off a loan."

Mr. President, I support the intent of section 315 of the 1914 Disaster Relief Act Amendments on the duplication of benefits. But this is simply not the correct way to proceed, and I hope we can send a message here.

I appreciate the chairman and ranking minority member helping me in this regard.

Mr. HUDDLESTON. Mr. President, I think the Senator from Pennsylvania has adequately described the situation that is new to the committee. It has not been considered prior to this moment because we were not aware of the problem. We have agreed that in order to clarify the situation and give us a chance to look at the amendment it is acceptable and between passage of the bill and the time we go to conference we expect to have a more definitive idea of what is involved and what the proper course should be.

I can assure the Senator from Pennsylvania that we will do all that we can do to correct this problem. We see too often, I think, the case where the Government gives with one hand and takes away with the other. Since we are dealing with people who have suffered in a disaster I think it is incumbent upon us to be as generous as we can and to not create situations that will cause undue hardship and thwart efforts of those who may wish to help aid disaster victims.

The distinguished Senator from Connecticut, the minority manager of this bill, has stepped out of the Chamber. He has assured me, however, that this is acceptable to his side. It is acceptable to my side. And we will accept this amendment.

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

Mr. HUDDLESTON. I yield.

Mr. HEINZ. I express my appreciation to the Senator. I think he stated the case with great accuracy. I appreciate particularly his sensitivity and that of the committee to this issue, and I know that the Senator understands it and feels, I think, as we all do, that something has to be wrong here. We do not have all the information we need, and this will give us the time to straighten it out. I appreciate the Senator's assistance.

Mr. HUDDLESTON. I thank the Senator.

I move the amendment be adopted.

The amendment was agreed to.

Mr. BAUCUS. Mr. President, the Senate Select Committee on Small Business, of which I am privileged to be a member, this week held 2 days of hearings on the Small Business Administration's set-aside program for Federal timber sales.

Because of the far-reaching effects of this 21-year-old program to the grower, the producer, and the consumer of wood products, I wish to share with my colleagues my remarks before the committee.

Mr. President, I ask unanimous consent that my remarks before the committee be printed in the RECORD.

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

SMALL BUSINESS ADMINISTRATION'S FEDERAL TIMBER SALES SET-ASIDE PROGRAM

(Remarks of Senator MAX BAUCUS before the Senate Select Committee on Small Business)

There are some half-billion acres of commercial forest land in this nation. Approximately 70 percent of this is privately owned, mostly by small landowners, but also by a forest products industry consisting of several thousand sawmills, planing mills, plywood plants, and paper, pole and other producing plants. These operations play a vital role in the economic and social well-being of our nation.

In the past few years, a number of significant changes have occurred in the forest products industry. Since 1958, nearly 5,000 sawmills employing five or more employees have ceased to operate. Employment in this industry has declined by 60,000 workers.

Since 1963, the degree of concentration in the sawmill sector (measured by the percent of shipments ranked by company size) has likewise changed dramatically. From a modest degree of concentration by the nation's 50 largest firms, their share of the market has increased from 29 per cent to 45 per cent. The degree of concentration by the largest firms was 55 per cent in 1972. This data does not include their imports from Canada which very likely increases their domination inasmuch as softwood lumber imports rose sharply during this period.

Not only has the number of mills decreased, but so has the number of firms generally in the industry. The sector of the sawmill industry showing the greatest decline is the mills with 5 to 45 employees, followed by those with 50 to 99 employees. In short, the smallest of the small mills have shown the greatest mortality.

Correspondingly, the growth of conglomerates in the industry has been substantial, although it is not always apparent to the public. Typically, this is not an industry of giant plants; rather a large firm is likely to control several smaller, widely scattered plants. Economies of scale suggest that the most efficient mills are those employing 100 to 249 workers. This is the only category showing growth during the era in question. Large businesses may also operate efficiently plants with as few as 50 employees.

Contrast this with the papermill industry, which historically has been marked by large plants and a high degree of concentration. The top 50 paper firms control 88 per cent of shipments. In terms of number, the top paper firms account for 25 per cent of all companies, whereas the top 50 sawmill companies account for only six-tenths of one per cent of the firms.

The forest products industry is characterized by a dependence on the lands of others for most of its wood supply. Less than five firms secure a preponderant proportion of raw materials from their own lands.

Since 1952, the acreage of commercial forest land in the United States has changed little, down some 2½ per cent to a total of 488 million acres.

There has been little change in ownership by farmers and other small non-industrial private owners. Some 4 million owners hold 283 million acres of land, or 58 per cent of the total. These lands provide 35 per cent of our softwood supplies—some 3.6 billion cubic feet annually. Although total acreage has changed little, the growth rate on these lands in relation to timber removals has improved significantly—from minus 3 per cent to plus 65 per cent.

Industry lands are the other category of private forests. They total 68 million acres and account for 14 per cent of commercial forest lands. Industry holdings are up approximately 15 per cent since 1952. These lands provide 3.5 billion cubic feet of softwood timber, or 34 per cent of national output. Unlike the other category of private lands, industry holdings show a removal rate well in excess of the growth rate. While the growth is only minus 21 per cent today, contrasted with a minus 32 per cent in 1952, the situation remains a critical one. It is further compounded by the fact that, although we have several thousand firms in our forest industry, only a handful own this forest land. These are mainly the large firms—those classified under the current Small Business standards as having over 500 employees.

The remaining commercial timber forests are found on publicly owned lands and constitute two major categories. The largest, comprising 18 percent of our total commercial forest base, is the National Forest System. Existing in 40 States, but with 85 per cent of the total in the Western States, the national forests contain some 89 million acres of commercial forest lands. This figure is down about 6 percent from the comparable 1952 statistic. These lands, along with other public forests, are managed under a sustained yield concept. Since 1952, removals have risen 107 per cent (to a total of 2.1 billion cubic feet, or 20 percent of supply). The ratio of growth to removals has dropped from plus 63 percent to plus 16 percent.

The other public lands are managed by the Department of the Interior, other Federal agencies and States. They comprise 10 percent of our forest land, or about 48 million acres. As with the national forests, their acreage has declined 5 percent. Their softwood removals are up 97 percent, to 0.8 billion cubic feet, and they comprise 8 percent of our softwood output. Their rate of growth to removals stands at plus 26 percent.

Until 1958, the Small Business Act applied only to objects purchased by the Federal government. The Act was amended then to

assure small business a fair share of the sale of objects by the Federal government. The amendment's stated purpose was to "insure that a fair proportion of the total sales of Government property be made . . ." to small business.

The Act left to the Small Business Administration the definition of "small business," and the agency entered into cooperative agreements with timber selling agencies, mainly the Forest Service in the U.S. Department of Agriculture and the Bureau of Land Management in the U.S. Department of the Interior.

In April of 1959, the SBA promulgated rules defining firms with 100 or fewer employees as small businesses for the purpose of bidding on Federal timber. In September of 1959, the figure was raised to 250 employees to assure consistency with standards already operable for SBA loan purposes.

Five years later, in March of 1964, the standard was again increased, this time to 500 employees. In response to an inquiry on this action, the General Accounting Office has noted that the SBA has no documentation on the reason for the increase. This Committee will want SBA to outline the size standards currently applied to its other programs which are available to the forest products industry.

The size standard has remained at 500 for the past 15 years, despite numerous efforts (mainly by large firms) to secure revisions. SBA has conducted reviews in 1966, 1973 and 1975. Twelve large firms sued in 1971 to change the program (*Duke City, et al.* v. *Butz;* 382 Fed. Supp. 362; 539 Fed. Rep. 2nd Sec. 220, July 6, 1976). The District Court, whose judgment was ultimately affirmed, agreed that the large firms had the standing to sue, but it also found that they had no case. The Court determined that the decision to institute set-asides had a rational basis and was within the Administrator's statutory authority. It held that the process did not deny the large firms administrative due process. Further, the set-asides process did not require an Environmental Impact Statement under the National Environmental Protection Act. Finally, the Court found no evidence, as alleged by the large firms, that their Fifth Amendment rights were violated, nor were other Federal statutes violated. The Court of Appeals termed the opinion of the District Court as "able," and adopted all of it with the exception of a technical procedural point pressed by the Government.

Thus the 12 large firms failed to upset the set-aside program in Court. If anything, the legal basis for the program has been strengthened.

Given this background, it would be my view that this Committee should proceed cautiously with any proposal to change, either by statute or administratively, the current standard.

Although caution is advised, this is not to say that no further concern is warranted. The charter of this Committee is to promote and protect small business. Despite the 21-year existence of the small business set-aside program for Federal timber sales, the evidence I have seen indicates that small business, by almost any standard, is shrinking and the degree of concentration by the large firms in the forest products industry is growing.

Thus I suggest at the outset that the comments of witnesses on these observations will be most welcome.

Further, I would note that there seems to be a scarcity of authoritative studies by SBA, studies done for SBA, and other independent studies of trends in the wood products industry and their meaning for the grower, producer and consumer of wood products. I am leaning toward proposing that a comprehensive and totally objective set of studies be promptly commissioned by the SBA which will both examine the situation and define possible areas for action. I would hope the witnesses would address this topic.

Finally, let me comment on a recent study conducted by the General Accounting Office on aspects of the set-aside program. The agency made five principal findings:

(1) The program has had little adverse effect on communities.

(2) Companies with fewer than 100 employees have benefited less than firms with 100 to 500 employees. This is confirmed in general by an examination of census data on the industry, although census data covers all firms in all States, including those where there is little or no public timber.

(3) The program tends to remain static in the proportion of timber allocated to small and large firms. It may well be that if "small business" is declining, its share in certain situations deserves to be increased to assure its survival.

(4) The General Accounting Office states there is no record that the SBA considered factors required by its regulations in setting the timber industry size standard. This judgment appears to be at odds with the Court's findings in the Duke City case, where this issue was subject to extensive litigation.

(5) Set-aside sales have been higher in quality but have returned less revenue than open sales. This topic is intimately tied to whether the appraised prices for Federal timber represent a good judgment of fair value, whether bid prices on open sales are influenced by other outside factors, and whether the number of bidders and other factors affecting competitive offerings are functioning in a way which best serve standards that are applicable to set-aside and open sales.

The Committee will welcome comment on the GAO report, as well as all other aspects of this problem which deserve analysis.

The hearing record will remain open for 30 days after the close of these deliberations for submission of additional information. A determination will be made on whether such materials will be placed on view in the Committee files or printed in the hearings.

Although the issue of size standards is the focal point of these hearings, I would hope the witnesses will feel free to provide the Committee with supplemental statements on any matter which they feel will help promote a healthy and viable small business sector in our forest products industry.

UP AMENDMENT NO. 161

(Purpose: To provide for a study of the forest products industry)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 161.

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

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

The amendment is as follows:

On page 18, line 16, strike the period and insert in lieu thereof "; and". On page 18, after line 16, inserting the following: "(8) not to exceed $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based nonconcentrated, healthy forest products industry. In conducting the study and investigation pursuant to the preceding sentence, particular attention should be given to the analysis and review of, and recommendations with respect to, reasons for failure among firms within the forest products industry.

Mr. BAUCUS. Mr. President, this is a fairly simple amendment and the circumstances are very important to the small timber producers in the Rocky Mountain West and other parts of the country.

Essentially, Mr. President, the Small Business Administration today administered what is called the small business timber setaside program for small businesses, small timber producers. It is a program where a certain share of timber sales on the national forests are allocated to small timber producers. It is a program that began in 1958.

Unfortunately, though, since 1958, about 5,000 small timber producers have collapsed and folded up and gone out of business, and the purpose of this amendment is very simply to provide for $200,000 for a study to be undertaken by the SBA to get a lot better data.

Today we do not know why these businesses, the 5,000 since 1958, that are participating under the setaside program, are going out of business. We need better information, and there is no other agency that provides the information. We very simply want that information so that the SBA and Congress can be more fully informed and operate the program more efficiently.

We have had 2 days of hearings on the timber program, learned of some of the problems. But it was during the course of those hearings that we realized the need for the request for information we now have made, and I urge the adoption of the amendment.

Mr. HUDDLESTON. Would this study focus on any particular segment of the small business purchases?

Mr. BAUCUS. In answer to the Senator, it would focus on the small timber producers, those producers which are presently participating under the program, and it should present the select committee with several policy alternatives.

It is not the purpose of the study now to get data, but to propose alternatives for the Congress.

Mr. HUDDLESTON. And the sum of $200,000 for the study is to cover the salary and expense authorizations set for the committee; is that right?

Mr. BAUCUS. The Senator is correct. This is not a request for additional authorization but it is rather an amendment to provide $200,000 for a study under the pending current authorization.

Mr. HUDDLESTON. Mr. President, I believe the amendment by the Senator from Montana has a good deal of merit, and I support his objectives.

I know Senator PACKWOOD and others in this Chamber share the interest and concern for this important small business program, and we are prepared on this side of the aisle to accept the amendment. I understand the other side also

is prepared to accept it, and I move that the amendment be accepted.

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

The amendemnt was agreed to.

UP AMENDMENT NO. 162

(Purpose: To reduce the interest rate applicable for homeowners under the SBA physical disaster program)

Mr. COCHRAN. Mr. President, I have an amendment which I send to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes an unprinted amendment numbered 162.

Mr. COCHRAN. 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 26, strike lines 6 through 9 and insert in lieu thereof the following:

"(1) by striking the phrase "and prior to October 1, 1978," the first time it appears; and ".

On page 25, strike all from line 16 through line 3 on page 26, and redesignate accordingly.

Mr. COCHRAN. Mr. President, my amendment pertains to section 112 of S. 918, the section relating to the disaster assistance portion of the bill for homeowners.

I am joined in this amendment, Mr. President, by Senators BOSCHWITZ and DURENBERGER.

As presently written, S. 918 provides disaster assistance loans for homeowners of 3 percent on the first $55,000 of assistance, and an effective rate of 8.5 percent for loans over that. This is made retroactive to October 1, 1978. That is the date when the interest rate for disaster assistance returns to the cost of money because of the expiration of the authority to continue a subsidized interest rate for disaster victims.

My amendment would change the interest rate for homeowners to 1 percent on the first $10,000, 3 percent on the next $30,000, and would change the effective rate for assistance over $40,000 to 7⅜ percent. This would also be retroactive to October 1, 1978. This 7⅜ percent interest is the same interest rate in effect prior to October 1, 1978.

In addition, the amendment would have the effect of reducing the upper tier of assistance for businesses from an effective rate of 8.5 percent to 7⅜ percent.

I think everyone knows, Mr. President, that our Nation has sustained unprecedented natural disasters during the past several months. Since October 1978, there have been 77 disasters which have been declared as qualified for Federal benefits in 39 States, the Marshall Islands, and Puerto Rico.

I would like, Mr. President, at this point to offer a table listing the location of these disasters, the nature of the disasters, and the dates on which they occurred throughout the United States last fall and so far this year. I ask unanimous consent that it be printed in the RECORD at this point.

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

State, disaster number, date declared, and, type:

Alabama, 1588, March 2, 1979, snow-ice; 1617, April 20, 1979, flooding and winds.

Alaska, 1546, November 24, 1978, winds, rain, seawave.

Arizona, 1555, December 17, 1978, flooding.

Arkansas, 1613, April 31, 1979, tornado.

California, 1543, November 1, 1978, fire; 1583, March 1, 1979, flooding; 1609, April 9, 1979, fire.

Connecticut, 1565, January 25, 1979, rain, snowmelt, flood; 1597, March 21, 1979, fire.

Florida, 1591, March 16, 1979, flooding.

Hawaii, 1590, March 7, 1979, flooding.

Illinois, 1571, February 1, 1979, snow; 1598, March 21, 1979, snow; 1630, May 7, 1979, flooding.

Indiana, 1554, January 4, 1979, flooding; 1578, February 14, 1979, flooding; 1605, April 3, 1979, ice-snow, flooding.

Iowa, 1574, February 2, 1979, heavy snow, blizzard; 1611, April 9, 1979, hail, high winds.

Kentucky, 1552, December 21, 1978, flooding; 1556, January 3, 1979, flooding; 1566, January 31, 1979, explosion and fire.

Louisiana, 1551, December 6, 1978, tornado; 1631, May 7, 1979, flooding.

Maryland, 1582, February 26, 1979, civil disorder; 1593, March 21, 1979, ice-snow.

Massachusetts, 1569, January 30, 1979, rain, hail, wind, tide; 1636, May 15, 1979, fire.

Michigan, 1592, March 21, 1979, ice-snow.

Minnesota, 1629, May 4, 1979, flooding.

Mississippi, 1567, February 6, 1979, ice, storm; 1616, April 13, 1979, flooding (P).

Missouri, 1568, February 6, 1979, fire; 1594, March 21, 1979, flooding; 1608, April 5, 1979, fire; 1622, April 27, 1979, tornado, rains; 1625, May 2, 1979, flooding, tornado; 1628, May 3, 1979, flooding.

Montana, 1604, March 27, 1979, five; 1612. April 13, 1979, flood, tornado; 1618, April 23, 1979, ice jams.

Nebraska, 1610, April 7, 1979, fire.

North Dakota, 1627, May 1, 1979, flooding and tornado.

New Hampshire, 1596, March 16, 1979, flooding.

New Jersey, 1575, February 5, 1979, heavy snowfalls, flood.

New Mexico, 1573, January 29, 1979, flooding.

New York, 1571, February 1, 1979, rain, winds, snow, floods; 1576, February 9, 1979, flooding, heavy rains; 1579, February 14, 1979, rains, flooding, snow; 1599, March 19, 1979, flooding; 1623, April 30, 1979, flooding.

Ohio, 1557, January 10, 1979, flooding; 1606, April 3, 1979, flood, snow melt.

Oklahoma, 1615, April 17, 1979, tornado.

Oregon, 1589, March 13, 1979, flooding.

Pennsylvania, 1562, January 19, 1979, fire; 1584, March 2, 1979, fire.

Rhode Island, 1570, January 30, 1979, storm, flooding; 1577, February 9, 1979, fire.

South Carolina, 1621, April 26, 1979, tornado.

Tennessee, 1633, May 10, 1979, flooding.

Texas, 1549, December 7, 1978, flooding, heavy rains; 1563, January 24, 1979, ice storm; 1614, April 13, 1979, tornado; 1619, April 24, 1979, tornado, rain, flooding; 1626, May 2, 1979, flooding, tornado.

Vermont, 1607, April 4, 1979, ice, flooding.

Washington, 1550, December 7, 1978, heavy rainfall; 1586, March 2, 1979, flooding.

West Virginia, 1553, December 7, 1979, flooding.

Wisconsin, 1587, March 2, 1979, snow-ice; 1624, May 2, 1979, flooding; 1632, May 9, 1979, flooding.

Marshall Islands, 1580, February 21, 1979, flood, wind.

Puerto Rico, 1544, November 8, 1978, rains, flooding.

Mr. COCHRAN. The table is necessarily incomplete, because there have not been sufficient evaluations made of some of the disasters which have already occurred this year. But the extensive nature of these disasters, Mr. President, dramatically illustrates the fact that there have been hundreds of thousands of people affected throughout the United States. Total damages to property have been estimated in excess of $1 billion in the recent floods in Mississippi alone. In our State, in the recent Easter week floods, over 26,000 people were driven from their homes.

A great many homeowners have been particularly hard pressed by the disasters to secure financing for rebuilding, for repairing, for their efforts in recovering from these severe disasters.

I want to say at this point, Mr. President, that I think the committee, through its hearings and through the efforts to negotiate with the administration, has done a marvelous job in coming forth with a piece of legislation that apparently is supported by the administration.

Last year the Senate and the House agreed to a bill that contained the interest rate for homeowners that the committee bill contains. Unfortunately, the administration saw fit to veto that legislation. I know it was an omnibus bill and contained other amendments to the Small Business Act. But, nonetheless, that action at the end of the congressional session last year had the effect of doing away with the subsidy for interest rates on disaster loans, so that disasters occurring since October 1, 1978, have not provided the normal, generous response of the Federal Government to our citizens of the United States who are damaged severely by such disasters.

Historically we have seen the Government respond with dispatch and with sensitivity to those who have been harmed severely by natural disasters. In our own State of Mississippi, when we sustained the ravages of Hurricane Camille, the Federal Government acted very quickly on emergency legislation to make available to disaster victims in our State generous benefits that helped us recover our economic vitality and our moral equilibrium and optimistic attitude, so that the areas harmed so severely by that disaster have now recovered.

We saw the same experience occur when Hurricane Agnes devastated many areas of the Nation, particularly Pennsylvania, I recall, with severe flooding.

But here, Mr. President, we find ourselves without a disaster program, and having seen disasters occurring in the Dakotas, in Minnesota, West Virginia, as shown by the table, and in many other States, Kentucky and, particularly, our State of Mississippi, the people are without a sensitive and generous disaster benefit program.

The program itself, as a matter of fact, at this point, Mr. President, is a disaster, and it does not provide the meaningful and needed assistance that

is required and that is rightfully expected from the Government in such a situation.

This week we saw the Senate approve a very generous loan and grant program to our friends in the Middle East to help pave the way for what we hope will be a meaningful and long-lasting peace in that area of the world, with payment postponement provisions of loans that were very generous.

On numerous occasions, Mr. President, we have seen this Nation, our Government and the citizens of the United States respond very quickly and generously to disasters occurring in other parts of the world. This was true when we saw earthquakes devastate large areas of Central America and make rebuilding almost impossible. We responded very generously.

It makes you wonder, Mr. President, when we are not able to get more support from the administration for a better rate of interest for disaster victims, whether or not we have forgotten that charity begins at home.

I suggest, Mr. President, that we need to exercise our own will here on Capitol Hill in coming to a dicision about what is appropriate for disaster victims in the United States.

I know this amendment that I am offering does not have the support of the administration. This has been stressed by the distinguished Senator from Kentucky, and I know that OMB does not approve of the effort we are making. I know, too, Mr. President, that this was why the committee was not able to work out a better rate of interest, a more generous loan rate, for disaster victims.

In spite of that opposition from the other end of Pennsylvania Avenue, Mr. President, I think we ought to adopt this amendment to demonstrate to disaster victims in the United States that we are not without genuine concern and feeling, and are prepared to make available benefits that are absolutely necessary in many cases if the victims are going to be able to rebuild and continue to live a happy and successful life.

During the hearings, the committee was very generous in permitting testimony from State officials from our State, local officials, mayors, and interested citizens, who described in great detail, as reflected by the committee report, the hardship that is being seen and endured in the State of Mississippi.

But this is not confined to our State. As we have indicated, this is indicative of problems that we have all over the country right now. And to see these victims going into disaster centers, Mr. President, going up to the tables that are manned by SBA officials, asking about the possibility for a disaster loan, and being told that they can get a loan but they will have to pay 7⅜ percent interest on it, and seeing the absolute shock and frustration endured by someone who has just been wiped out of his house, with all of his furniture and belongings destroyed, has to make a very strong and indelible impression upon you. Certainly that impression is made upon that disaster victim who, in a time of absolute frustration, looks to the Federal Government as his final source of help.

And well he should. I think the Government should be sensitive to people in this situation, and we should do what is possible. I certainly think, Mr. President, looking at the expected costs, that we can well afford the rate of interest that is provided for in this amendment, considering, as we have to, the largess that we have seen the Government provide in similar situations in the past, and as we are currently providing in payment for other legitimate interests that our Government has at this time.

Therefore, Mr. President, I urge the support of this amendment.

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

Mr. COCHRAN. I am happy to yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, North Dakota recently suffered its worst floods in this century. At one time, about 2 weeks ago, over 800,000 acres of the best farmland in the United States was under water. Much of that will not be farmed. Homes on five rivers in North Dakota were badly damaged and destroyed.

As I say, we have suffered our worst disaster in this century. The worst one previous to that was in 1897. So I have a great deal of sympathy for the amendment the Senator is offering, and I cannot help being for it. These cover interest rates our people need and deserve. I will be glad to join the Senator as a cosponsor.

Mr. COCHRAN. I thank the Senator from North Dakota.

Mr. HUDDLESTON. Mr. President, I am somewhat reluctantly opposing the amendment by the distinguished Senator from Mississippi, and I say reluctantly because I was a cosponsor of a bill introduced and considered by the committee that would have provided essentially what he is asking that we do now.

I have had a long history of working with the victims of disasters in my State of Kentucky, which is a disaster-prone State. Since I have been here in the Senate, we have had tornadoes, we have had several major floods, and I know how important it is that we render what help we can for those who are victims of these kinds of disasters.

But in every instance since I have been here, when disasters have occurred in various places in the United States, those representing the areas affected have had to come to this body and offer amendments to adjust the rates for loans to both businesses and homeowners who have suffered from the disaster.

So we have had an inconsistent program throughout the years. One time not long ago, I can remember we had 1 percent interest, with a $5,000 forgiveness provision.

The effort that has been made by the Small Business Committee is to develop as equitable a program as we can, as compassionate as we can, and one that will be consistent, so that year after year, when disasters occur—and they do virtually every year, in some section of the country—we will have a program that victims will understand and will know is available to them.

As I say, I would prefer to see lower interest rates than the bill calls for, and we started out with that objective. But it became obvious very quickly that we had to face reality, we had to work out a bill that would be acceptable to Members of the Senate—and the Senate is on record, by previous votes, as supporting cost of money rates. We had to develop something that would be acceptable to the other body of this Congress, something that would be acceptable to the Office of Management and Budget and to the administration.

With all of these considerations, and with the consideration of the budgetary constraint we are now operating under in this Congress, we arrived at the formula that is contained in the legislation we are now considering.

I feel now, in spite of my concern for those who are afflicted by disasters and my desire to be as helpful as the Government can be, that what we are offering is as good as can be devised at this particular time and have any hope of making it through this legislative process and becoming law.

I think we can recall that a measure was passed in 1978 that called for virtually the same rate provisions as in the bill we are considering, 3 percent on the first $55,000 of SBA assistance, and the cost of money rates beyond that. That was vetoed by the President. So we are faced with reality. We are faced with a question of bringing some consistency into the program, and allowing it to develop as a program that will be good this year, next year, and the years after, in providing the assistance that it is felt we can prudently provide to those who are subject to disasters.

I think that by establishing a fair interest rate, without the fiscal year limitations we have had in the past, we will have fewer variances in the interest rates, and that the citizens unfortunate enough to be victims of a disaster will at least have knowledge that a fair and uniform rate will be charged to all.

Because of that, and because of the other what I believe to be beneficial aspects of this bill, I would oppose the amendment, as attractive as it may seem, of the Senator from Mississippi.

I yield at this point to the distinguished chairman of the Small Business Committee, the Senator from Wisconsin (Mr. NELSON).

The PRESIDING OFFICER (Mr. FORD). The Senator from Wisconsin.

Mr. NELSON. Mr. President, let me say I agree with what the distinguished Senator from Kentucky has said. I do not think there is any magic figure for these interest rates. As the Senator from Mississippi knows, we have had a vast range of proposals over the years. Some years we have had grants and 1-percent interest rates, 3-percent interest rates, 5-percent interest rates, and combinations of all of those. Every time we have had a disaster, or practically every time, we have modified the program one way or the other.

I do not think anybody can claim they have the final, best answer. I respect the arguments made by the Senator from Mississippi, and I think agree with most of what he said.

In any event, a year ago the Senate voted on the floor to make disaster loans at the cost of money. The House refused to go along with that. So you have a spectrum, Mr. President, in the Senate which runs from the viewpoint that people ought to pay the cost of money down to those who believe it ought to be 1 percent or grants, 1 percent, 3 percent, 5 percent. I think there is a good argument for each of them.

The problem, I believe, is that we have had a great deal of difficulty getting an agreement with the House. Last year we went along with the House, and the bill went to the President, but the President vetoed it.

He vetoed the bill for several stated reasons. One of them was the interest rate, the subsidy, which he did not find acceptable. Another was the no credit elsewhere test.

This year, through the hearings and the efforts of the distinguished Senator from Kentucky, we have the OMB and the House committee, as I understand it, and our own committee in agreement on a proposal, which, if not satisfactory to everybody, all in all I think is a good one. It is 3 percent money on the first $55,000, and the cost of money at 8½ percent thereafter.

On the first $40,000 actually there is not a big difference between the subsidy proposal of the Senator from Mississippi and what is in this bill. On the first $40,000 in the amendment of the Senator from Mississippi, as I recall it, it is 1 percent on $10,000 which would be $100, 3 percent on the next $30,000, which would be $900, so he has a subsidy of $1,000, whereas 3 percent on the first $40,000, of course, would be $1,200. I realize if you do not have any money, $200 is $200, but in terms of the subsidy it is not a very large difference.

My concern is that the agreement is so delicate that if for some reason or another this resulted in a veto then we are back with just the cost of the money. Therefore, I would hope that the Senator might consider not pressing his amendment to a rollcall.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I yield to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I rise in opposition to the Cochran amendment. With all due respect to my good friend, this is not the first time that this issue has been before us. It has been sort of a running battle for the last 2 or 3 years. Every time disaster strikes, one of the immediate means for relief which occurs to one Senator or another is cheap interest loans.

I simply want to present to the Senate tonight some of the abuses which have flown from the adoption of that kind of emotional, instantaneous reaction to disaster. When disaster strikes our neighbors, our inclination is to give them every helping hand we can, and it has cost the taxpayers a great deal of money in the last 2 or 3 years.

In the 1979 fiscal year budget, to the best of my recollection, the U.S. Government will pay out $52.4 billion in interest on the Federal debt at an average cost to the Government of 8.25 percent.

It is proposed with this amendment that we lower the interest we charge on this money we borrow to 1 percent in some cases and 3 percent in others.

Mr. President, because of this inclination on the part of Senators, liberals and conservatives, when disaster strike their States, liberalism and conservatism go out the windows, our hearts open up to all the victims, we lower the terms, and we make entry to the Federal Treasury easy, because of our compassion for our constituents back home.

It is in the context of that background that the members of the Small Business Committee, Mr. President, have done a statesmanlike job, in my judgment, in negotiating a package of Federal disaster lending program reforms, which although not perfect represent significant improvements over current programs.

I wish to commend the distinguished committee chairman, Senator NELSON, and the distinguished Senators from Kentucky, Senator HUDDLESTON, and Connecticut, Senator WEICKER, for their work in negotiating this agreement.

The disaster loan provisions contained in S. 918 are the product of long negotiations. They are the product of compromise. If significant changes of the type contemplated by the amendment by the Senator from Mississippi are adopted, this entire carefully negotiated agreement can come undone.

Last year, the President vetoed a bill which included home and personal property interest rates higher than the level proposed in the Cochran amendment, partly on the grounds that the bill's rates were too low. I urged the President to veto that bill.

This year we cannot risk seeing the SBA bill vetoed. This year we must have a bill that is signed into law. The reason is that this year, unlike last year, without legislation SBA's program authorizations will expire—we cannot afford to see it vetoed.

The Cochran amendment, however, is undesirable for other reasons as well. First, it would return interest rates on homes and personal property to the disastrously low levels of 1977 and 1978: 1 percent on the first $10,000 of loan, and 3 percent on the next $30,000. Second, by lowering interest rates to those levels for home and personal property loans, it would create pressure to reduce interest rates on business loans to unacceptably low levels as well.

Mr. President, this would be unacceptable. We are now acquiring documentary evidence of the program abuses that occur when interest rates are set too low. A soon-to-be-released GAO investigative report on SBA and Farmers Home Administration disaster lending programs will reveal that deeply subsidized interest rates stimulate overborrowing and encourage people of enormous wealth to abuse the program, all at enormous cost to the taxpayers.

The GAO has not yet completed its report. But let me give you an example of some of the abuses that the GAO investigators have found.

A businessman who also operates several farms borrowed $408,000 for 3 years from SBA due to the 1977 drought. His financial statements showed that he enjoyed annual gross income of $900,000, owned assets valued at $42 million and had a net worth of $38 million. Other credit information showed this individual also had credit available from major banking institutions at the prime rate plus 1 percent.

Another borrower, a millionaire, who obtained an 8-year, $81,300 SBA physical disaster loan, had cash on hand of more than $92,000 and $50,000 worth of other current assets available. In addition, this borrower owned over 1,100 acres of land valued at $778,000 with a mortgage of only $15,000. The loan file also showed that of the $81,300 loan, the borrower used $15,000 to reduce other outstanding debt and invested the remaining loan funds of $66,300 in a certificate of deposit.

A medical doctor with a net worth of $3.2 million and an annual net profit from his private medical practice of $120,000, received a $500,000 SBA physical disaster farm loan with a repayment period of 15 years. The doctor owns about 1,600 acres of land, a pecan processing plant, and numerous rental properties. In addition to the doctor's real estate holdings and other long-term assets, he had more than $325,000 in cash on hand, marketable securities, and other current assets.

The president and principal owner of a multimillion dollar corporation with plants or sales offices in six States, and two countries, received a $500,000 SBA physical disaster farm loan. The borrower is an officer, partner or director in at least six other companies and has interest in additional businesses. The borrower has a net worth of $4.8 million and annual gross nonfarm income in excess of $250,000. The nonfarm income is from salaries, dividends, interest, rents, director's fees, profits realized from partnerships and small business corporations.

When this borrower applied for the loan he requested a 20-year repayment period, however, the request was denied and the repayment period was approved for 15 years. An SBA official noted on the loan approval sheet that the farming losses do not reflect the overall operations of the borrower. He added that the borrower has a very strong operation financially and that repayment should be no problem. The borrower protested the 15-year repayment period and asked for reconsideration. SBA decided in favor of the borrower and changed the repayment period to 20 years.

This did not end the borrower's efforts to hold the low-interest money as long as possible. When the first annual installment was due, he mailed SBA a check for the accrued interest and requested that the principal amount due be deferred 1 year because of 1978 crop losses. This time, SBA ruled against the borrower based on substantial other income that the borrower had available to pay SBA obligations.

Another SBA loan recipient, who was identified by SBA officials as a member of one of his State's most influential

families and a large landowner, received a $298,700 disaster loan for 5 years. The applicant reported a net worth of $1 million; however, the loan officer commented in his report that the applicant's financial statements were grossly understated. Representatives of local lending institutions unanimously agreed that a borrower with his financial position could have easily obtained credit elsewhere.

A farmer owning 1,000 acres also received a $16,000 SBA disaster loan for 5 years. This was in spite of the fact that the farmer had available $19,000 in cash and $11,000 in accounts receivable. His assets totaled $1.5 million and his net worth $1.1 million. He was also director of a local bank.

Another farmer with $1.4 million of total assets and no liabilities received a $6,700 SBA physical disaster loan for 5 years. The farmer owned 475 acres and had $425,000 of farm equity. Local banking officials said they would give this individual a signature loan for the same amount.

The list of abuses could go on and on. The home and personal property interest rates of the Cochran amendment, together with lower interest rates on business loans—the pressure for which would certainly be increased by passage of the Cochran amendment—would be certain to encourage continuation of such abuses.

In the absence of the Cochran amendment, however, the reforms in S. 918 should do much to correct for these past abuses. First, as I have indicated, holding the amount of interest subsidy to a reasonable level will deny much of the incentive for potential borrowers to abuse the program.

Second, under S. 918, all but a small proportion of agricultural disaster victims would be expected to borrow only from the Farmers Home Administration, an agency that knows agriculture and, therefore, should be more capable than SBA of guarding against fraud and abuse in agricultural lending.

Third, the bill institutes a credit elsewhere test at the SBA to match the one at Farmers Home. Disaster victims who can obtain credit elsewhere would still be allowed to borrow at both SBA and FmHA, but they would have to pay interest at the Government's cost of borrowing. The taxpayer, therefore, should be relieved of the burden of subsidizing low-interest loans to millionaires. Personally, I believe there is serious question whether such credit-worthy borrowers should be allowed to borrow from the Federal Government, but I accept this provision as a necessary compromise.

Now, Mr. President, other members of the Senate Budget Committee and I are in conference with the House Budget Committee on this year's budget resolution, undertaking to do our very best to hold spending down to the level which the Senate has mandated us to do, achieving, hopefully, in 1981, a balanced budget. Here we are talking about a program which, in its abuses over the last 3 years, has resulted in subsidizing millionaires along the lines I have described, who are attracted by low-interest loans from the Government in lieu of credit that is available or resources that are available to them from other sources. I would not like to see the Senate open the door to this kind of budget abuse in the name of disaster relief, as to which there is absolutely no legitimate connection.

RELATIONSHIP OF BILL TO BUDGET RESOLUTION

The authorization contained in S. 918 for SBA programs exclusive of disaster lending can be accommodated within the Senate Concurrent Resolution 22 function 370 targets. That is the first congressional budget resolution. The levels in the House bill are substantially above our targets but we would expect that the Senate Select Committee will work to maintain its funding level in conference.

For disaster lending, full funding in fiscal year 1979 could cause the function 450 budget authority and outlay targets each to be exceeded by $0.1 billion. In fiscal year 1980, assuming an average disaster year—and I do not know how you establish that except statistically over a period in the past—full funding could exceed the budget authority and outlay targets by $0.1 billion. In each of fiscal year 1981 and fiscal year 1982, the potential funding excess would be $0.2 billion in both budget authority and outlays.

Therefore, passage of S. 918 will require offsetting reductions in funding for other programs in function 450. Programs that might be reduced include EDA development finance and HUD urban development action grants, both of which received assumed funding increases under Senate Concurrent Resolution 22.

SECTION 401 POINT OF ORDER

Senators should be aware that S. 918 is also subject to a point of order under section 401 of the Budget Act because of the retroactive interest rate reductions.

Legislation which would apply lower interest rates retroactively to existing SBA disaster loans is "new spending authority" as defined in section 401(c) of the Budget Act.

Section 401(c)(2)(C) of the Budget Act provides that the term "spending authority" means authority:

> To make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

Consideration of legislation which assesses the three characteristics set forth in section 401(c)(2)(C) is subject to special provisions of the Budget Act, since such legislation commits the Federal Government to make expenditures without prior review through the appropriations process. The three characteristics of legislation described in section 401(c)(2)(C), or "entitlement" legislation, are:

First. The legislation authorizes payments;

Second. The budget authority for these payments is not provided for in advance by appropriation acts; and

Third. The Government is obligated to make the payments to all persons who meet the requirements established by the law.

A provision applying lower interest rates retroactively to existing loans on which payments already have been made possesses all three characteristics of entitlement legislation.

First, such a provision provides authority to make payments. Under current law, holders of loans made in connection with disasters which have occurred since October 1, 1978, have been making repayments under the terms of the higher interest rates. This legislation would decrease the amounts owed by these loan holders. Thus, it entitles at least some of the loan holders to refunds for excess repayments already made. These refunds are "payments" within the definition of section 401(c)(2)(C).

Second, the budget authority for these payments is not provided for in advance "by appropriations acts." Section 3(a)(5) of the Budget Act defines the term "appropriation act" as "an act referred to in section 105 of title 1, United States Code." Section 105 refers to "appropriation acts" in terms of single year appropriations. In this case, subsequent appropriations action would be required to liquidate the existing obligation to make the payments. However, the obligation itself arises upon enactment of the retroactive interest rates.

Third, the United States—that is, the Small Business Administration—is obligated to make payments to all persons who have paid interest at the higher rate and who cannot receive the benefit of the lower rates except by obtaining a refund. While all those who have received disaster loans since October 1 would not be entitled to cash refunds, many were holders of 6-month loans which already have been fully repaid. In these cases, at least, payments would have to be made.

Section 401(c)(1) of the Budget Act provides that "new spending authority means spending authority not provided by law on the effective date of this section." The effective date of section 401 was March 5, 1975. Therefore, the spending authority provided in the retroactive provision is "new spending authority" in terms of section 401(c).

Section 401(b)(1) of the Budget Act provides that:

> It is not in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection 401(c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

Since the provision applying the lower interest rates retroactively would be "new spending authority" effective before October 1, 1979, and will be reported in calendar year 1979, it is subject to a point of order under section 401(b)(1).

Mr. President, it is possible for S. 918 to be modified so as not to violate sec-

tion 401, by elimination of the retroactive feature of the disaster loan interest rate reductions. However, such a modification would create a situation in which victims of disasters which occurred prior to last October 1 or after the effective date of the new legislation received subsidized loans, whereas others were required to pay interest at the Government's cost of money.

In this instance, strict adherence to section 401 would result in a serious inequity not intended by the authors of the Budget Act. Therefore, I shall not raise a point of order, although I wish to establish for the RECORD the applicability of section 401 of the Budget Act to S. 918 as reported.

Mr. President, I will close with some summaries of what happened in 1978 when, on the basis of the interest rate treatment given to homes and small businesses in the SBA disaster loan program, the program was opened to agricultural loans. At that time, widespread drought and the resulting strains in the agricultural credit markets brought pressure that resulted in crop damage being declared eligible for SBA disaster loans.

As we now know, in consequence of those changes, SBA disaster loan volume shot up from an annual average of $200 million to a record $2.5 billion by fiscal year 1978, with many of those loans as I described earlier in my statement in specific terms.

Farmers Home emergency loan volume also rose precipitously from an average annual level of about $700 million to $3.4 billion in fiscal 1978.

That is a total of $5.9 billion for the two disaster loan programs, more than a sixfold increase that no one had anticipated, and that caused enormous problems for our efforts to reduce the Federal deficit and achieve a balanced budget.

In my 5 years as chairman of the Budget Committee, I do not know of any program that has created greater risk of higher deficits and imbalances in the Federal budget than the temptation of this body to let its compassion get away from it when dealing with disasters around the country. It cost us almost $6 billion in less than a 12-month period in 1978 for yielding to that temptation. I hope we do not repeat the experience today.

I thank the Chair very much.

Several Senators addressed the Chair.

Mr. STENNIS. Will the Senator yield me a half a minute?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. First, I commend the Senator from Maine for his eloquent way of indicating the difficulties that the committee was faced with in developing the legislation we have before us at this time.

Mr. President, I promised the Senator from Nebraska I would yield to him very briefly, and then to the Senator from Mississippi.

Mr. WEICKER. Before the Senator yields, Mr. President, I ask unanimous consent that Jamie Cowie of Senator BOSCHWITZ' staff be given floor privileges during consideration of S. 918.

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

The Senator from Nebraska.

Mr. EXON. Mr. President, I thank the Senator from Kentucky, the leader on this bill.

I rise, Mr. President, to oppose the amendment that has been offered by my friend, the Senator from Mississippi. I support in toto the comments, generally, that have been made by the distinguished chairman of the Budget Committee, a committee of this body on which I serve.

I will be very brief. It seems to me, while this is another one of those bills it is very difficult to stand up and oppose, those of us who are legitimately concerned about fiscal responsibility must take a stand somewhere and draw the line.

If I wanted to waste the time of this body—and there has been a lot of wasted time here today—I might propose an amendment that we gave interest-free loans to those involved in disasters, or maybe we could pay them 1 percent or 2 percent.

The disaster loan program is very attractive the way it stands right now. As a Governor, I had to deal with all kinds of disasters in my State of Nebraska, and thank the Lord we had the help of the Federal Government when it was needed. But I suggest that if we need more money for the disaster loan program, we better appropriate it for specific purposes, without going through the sham of reducing, unrealistically, an interest rate down to 1 percent.

Mr. President, I hope the Senate will see fit to vote down this amendment.

I thank my friend from Kentucky for yielding.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I will take less than 1 minute.

Mr. President, in my inquiries here with several, I approached the Senator from Maine with the idea of his giving his personal attention to this problem, that this bill had to be cleared by his committee on the budget. I might have induced him to leave other duties this afternoon in order to give this matter the proper attention with a chance to bring it here tonight, rather than sometime in the future.

I spoke to him then that I was talking about a bill that carried the interest rate that is in the committee bill.

I feel obliged for that reason to support his position here, which I shall do.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. I yield such time as he may need to the Senator from Oklahoma.

Mr. BELLMON. I thank my friend from Connecticut.

Mr. President, I will be very brief. As our chairman already said, Mr. President, the Senate Budget Committee has been deeply concerned about the runaway spending under our disaster loan programs. In 1976, farmers were made eligible for SBA disaster assistance.

I would like to say to the Members of the Senate that the Agriculture Committee had, I think, a very good reason for doing what we did when we made farmers eligible. The reason was that the disaster program being supported by the SBA was an extremely liberal, generous program, and the farmers home program, which the Agriculture Committee had oversight over, was a much more responsible and conservative program.

We required the credit elsewhere test. We were charging the cost of money to the Treasury for the loans. We felt it was unfair to the rural people on one side of the city limits to be benefiting from a far less liberal program than the business community that was on the other side of the city limits.

So, we moved to make them the same. The result is the cost went up, but with the result, I think, of making the Small Business Committee realize that this act was too liberal and now they have moved to tighten it up.

I commend the Senator from Kentucky for what he has done.

Mr. President, farmers, however, did not represent a significant portion of SBA's clientele until 1977. That year, the Small Business Act amendments authorized deeply subsidized 3-percent interest rates on SBA disaster loans. Around the same time, severe drought conditions hit many agriculture regions of our Nation and crop damage was declared eligible for SBA disaster loans.

Widespread drought conditions, heavily subsidized interest rates and the availability of SBA disaster loans for crop damage were all underlying factors of the unprecedented loan volume in fiscal year 1978.

Mr. President, 3 weeks ago the Senate approved the first budget resolution for fiscal year 1980. The function 450, community and regional development, targets contained in that resolution are based on specific assumptions with regard to disaster spending.

Those assumptions are: First, that interest rates on SBA disaster loans remain equal to the Government's cost of borrowing, as now provided under current law; second, that unnecessary duplication between the farmers' home emergency loan and SBA disaster loan programs be eliminated by limiting disaster lending for crop damage to farmers' home; and third, that SBA disaster loans be restricted to those applicants who are unable to obtain credit elsewhere on reasonable terms.

The bill before us today even without the Cochran amendment deviates from our budget assumptions in three ways: First, it lowers interest rates on SBA disaster loans below the Government's cost of money, retroactive to October 1, 1978; second, it institutes a "no credit elsewhere" test only on business disaster loans and uses this test, not as the determinant of eligibility but as the determinant of the interest rate to be paid; and third, it continues SBA disaster lending for crop damage.

However, the magnitude of the deviation is not great from a budget stand-

point. For example, interest rate subsidies are only at 3 percent for individuals (not 1 percent) and the 3-percent rate only applies on the first $55,000.

As a result, CBO estimates that funding for the SBA disaster loan program could exceed the Senate's revised fiscal year 1979 second budget resolution by $100 million in budget authority and outlays. The potential overage in both fiscal years 1981 and 1982 could be $200 million in budget authority and outlays. If we approve S. 918, these increases will need to be accommodated by finding reductions in other programs within the community and regional development function.

The bill before us represents an acceptable compromise, a positive response to the problems which have plagued our disaster lending policies in the past couple years.

I support the Small Business Committee's effort to reduce the current discrepancies between the more liberal SBA program and the more restrictive farmers' home program. This will allow the bulk of agriculture disaster lending to be provided by farmers' home, as it appropriately should be. Administration steps should be taken to assure that these loans are used only for the replacement and repair of disaster-destroyed property, and to assure that the "no credit elsewhere" test as the determinant of interest rates is strictly applied and enforced.

Interest rates at the Government's cost of money or below represent a "sweet deal" in today's markets, a deal any smart businessman would take advantage of. A soon to be released GAO study points up numerous cases of abuse in this area. Senator MUSKIE has already discussed some of the findings of this study.

Another case cited is that of an attorney who earned over $84,000 in annual nonfarm income and obtained a $57,690 farmers' home emergency loss loan. The attorney had a net worth of $983,100 including equity in 2,262 acres of land and current assets of $389,000. Loan funds were found to have been disbursed directly to the borrower with no verification of use by FmHA.

I would hope that both the SBA and farmers' home programs are carefully monitored to screen out such instances of abuse in the future. I would prefer to see borrowers able to obtain credit elsewhere be ineligible for Federal assistance. In the absence of this, I would at least hope the conferees on this bill accept the $500,000 cap on business loans now favored by the House.

In closing, I would like to reiterate a point made by Senator MUSKIE. By making the lower interest rate provisions of this bill retroactive to October 1, 1978, the bill violates section 401 of the Budget Act. This is because the lower interest rate provisions would apply retroactively to existing loans made in connection with disasters occurring after October 1, 1978, entitling some loanholders to a refund of excess interest paid. This constitutes "new spending authority" not subject to appropriations action prior to obligations being incurred, as defined in section 401(c)(2)(C) of the Budget Act. I will decline to raise a point of order against the bill. In this particular instance, I can see no purpose it would serve to do so.

I will support the compromise position on disaster lending contained in S. 918.

The amendment offered by Senator COCHRAN to reinstate deep interest rate subsidies of 1 percent on SBA home and personal property loans represents bad policy in my view.

Disaster assistance is a Government responsibility. It seems to be the Senate's view that Federal disaster assistance should be provided to anyone who has sustained a loss due to natural disaster, regardless of income level—that disaster victims should receive equal treatment from the Federal Government. There is a point, Mr. President, beyond which we exceed the bounds of reasonableness. One-percent loans in today's market are totally indefensible. They do nothing but open up the program to abuse by those who are seeking easy money. One-percent loans get widely publicized and stimulate great demand for loans. They represent virtually free money—direct grants to disaster victims. I urge my colleagues not to support the Cochran amendment. One-percent loans serve only to drive up program costs and invite abuse.

Mr. President, I would like to simply express my opposition to the Cochran amendment because this will bring us back to the problem situation that caused this cost to soar to such insupportable heights.

Mr. President, I realize the good intentions of the Senator from Mississippi, but we simply cannot afford this kind of legislation. I am forced to oppose the Cochran amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I yield to the distinguished Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise in strong support of the Cochran amendment.

We loan money all over the world, to other countries and to citizens, at very low interest rates. We are very hesitant to do it for our own people.

There have been problems cited by the distinguished chairman of the Budget Committee, but those are problems that can be resolved administratively. Good administration and ground rules would resolve those problems. But it seems that we have a most difficult time in giving money and good credit terms to our own people, while we are generous overseas.

If we look at some of the loans we have made overseas, in virtually every part of the world, Communist and non-Communist, and compare them to the difficulty we have in helping our own people in times of disaster—our farmers or our small businessmen—we realize that we sometimes are applying a double standard against our own people, against our own economic development.

Therefore, I support this amendment.

Mr. HUDDLESTON. Mr. President, for all the reasons that have been enunciated for opposing this amendment, I move at this time that the amendment by the distinguished Senator from Mississippi (Mr. COCHRAN) be laid on the table, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Mississippi. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The PRESIDING OFFICER. Have all Senators voted?

The result was announced—yeas 46, nays 38, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—46

Baucus	Exon	Muskie
Bellmon	Glenn	Nelson
Boren	Hart	Nunn
Bradley	Hayakawa	Pell
Bumpers	Hollings	Proxmire
Byrd, Harry F., Jr.	Huddleston	Randolph
Chiles	Jackson	Riegle
Church	Javits	Roth
Cohen	Kennedy	Schmitt
Culver	Leahy	Stennis
Danforth	Levin	Stone
Dole	Lugar	Talmadge
Domenici	Magnuson	Tsongas
Durkin	Matsunaga	Weicker
Eagleton	Metzenbaum	Williams
	Moynihan	

NAYS—38

Armstrong	Heflin	Pryor
Baker	Heinz	Sarbanes
Boschwitz	Helms	Sasser
Burdick	Humphrey	Schweiker
Byrd, Robert C.	Jepsen	Simpson
Chafee	Kassebaum	Stevens
Cochran	Laxalt	Stewart
DeConcini	Long	Tower
Durenberger	Mathias	Wallop
Ford	McClure	Warner
Garn	Melcher	Young
Hatch	Packwood	Zorinsky
Hatfield	Pressler	

NOT VOTING—16

Bayh	Gravel	Ribicoff
Bentsen	Inouye	Stafford
Biden	Johnston	Stevenson
Cannon	McGovern	Thurmond
Cranston	Morgan	
Goldwater	Percy	

So the motion to lay on the table Mr. COCHRAN's amendment (UP No. 162) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Mississippi was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, if I could get the attention of my colleagues, I wonder if we might ascertain——

The PRESIDING OFFICER. Will the Senator suspend? I will help him.

Will Senators take their seats? The Senator will withhold for just a moment. Senators take their seats.

The Senator from Connecticut.

Mr. WEICKER. Mr. President, I am trying to ascertain for the benefit of our colleagues what it is that lies ahead. I understand we have an amendment by the distinguished Senator from Pennsylvania which the committee is prepared to take. I also understand there is an amendment of the distinguished Senator from South Dakota.

Does the distinguished Senator intend to ask for the yeas and nays?

Mr. PRESSLER. I do not know.

Mr. WEICKER. Is there any other amendment? There is a committee amendment. I do not think, unless any other Senator cares to ask for it, that the yeas and nays will be asked for on final passage.

Am I correct? I ask the distinguished Senator from Kentucky.

Mr. HUDDLESTON. That is correct.

Mr. WEICKER. I yield.

UP AMENDMENT NO. 163

(Purpose: To increase the FY 1979 authorization level for the programs authorized by Title III of the Small Business Investment Act of 1958)

Mr. HUDDLESTON. Mr. President, I send to the desk a committee amendment and ask that it be considered immediately.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself and Mr. JOHNSTON, proposes an unprinted amendment numbered 163.

Mr. HUDDLESTON. 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 24, between lines 10 and 11, insert the following:

"Section 20(e)(5) of Public Law 95-89 (15 USC 681) is amended to read as follows:

"(5) For the programs authorized by Title III of the Small Business Investment Act of 1958, the Administration is authorized to make $47,000,000 in direct purchase of debentures and preferred securities and to make $198,000,000 in guarantees of debentures."

Mr. HUDDLESTON. Mr. President, this amendment simply increases the authorization for the programs under title III of the Small Business Investment Act of 1958 by $25 million. The reason this increase is necessary is that the demand for Government matching funds under the MESBIC program has greatly exceeded the funds previously authorized by Congress. I have been informed by the MESBIC industry that $8 million remains for disbursement under this program at the Small Business Administration. Staff informs me that this total has been confirmed by the Small Business Administration. Against these available funds, the demand brought about by the investment of private funds in these minority business investment corporations is approximately $25 million.

Let me emphasize one critical point, Mr. President. I do not expect and will not support any supplemental appropriation to provide additional funds for this program. It is my understanding that the Small Business Administration will be able to reprogram funds from other programs to meet the demand for additional funds in fiscal year 1979. In the event that the Small Business Administration is unable to find funds available for reprograming, no additional funds will be disbursed in fiscal year 1979 other than those funds currently appropriated.

The 301(d) SBIC (MESBIC) industry has a long and established record of supporting the acquisitions and startup of minority business enterprises. I respectfully recommend that the authorization level of the SBA be raised to $25 million so that the efforts of this industry which represents a true private sector/public sector partnership and a Federal program that is working will not be frustrated merely for the lack of adequate Government funding. I note, in making this recommendation that the private sector funds are already available and that it is the Government funds that have fallen short. I support this increase in the authorization level of the SBA for the following reasons:

First. It is the policy of the President to increase minority participation in the American economic system. The 301(d) SBIC program encourages minority economic participation while producing direct, advantageous social results. The 301(d) SBIC program represents the direct injection of private capital into minority businesses along with Federal funds. This is a policy that must be encouraged.

Second. There are currently over 100 MESBIC's licensed and over 40 applications pending. Already the pending applications represent over $30 million of private sector funds waiting to be utilized when MESBIC's are licensed. Among those pending applications is a 301(d) SBIC to be financed by the National Association of Broadcasters whose application represents an additional $7½ million to help minorities enter the broadcast field. Also, the Federal Home Loan Bank Board will finance a $5 million MESBIC to help minority savings and loan banks. Further, the Department of Transportation, through its Minority Business Resource Center is financing several MESBIC's to help invest in businesses that will help restore our national railroad system.

Third. The industry itself already has over $65 million in private capital. The SBA authorization level is inadequate to handle the funding requests of already existing MESBIC's. The SBA is presently rationing its current level of leverage funds among an industry that has already outgrown the leverage authorization.

In today's money market the 301(d) SBIC or MESBIC's are the major source through which minority entrepreneurs can find the funds necessary to enter sophisticated markets.

The present level of funding is too low. There will be new demands on this program, and it will prove to be woefully inadequate. Therefore, the need for an increase in SBA authorization is now painfully obvious, if we are to insure equal economic opportunity for all Americans.

This amendment has been approved by both sides of the aisle, and I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky. (Putting the question.)

The amendment was agreed to.

UP AMENDMENT NO. 164

(Purpose: To improve small business participation in Small Business Development Centers)

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment numbered 164.

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:

On Page 40, line 18, strike all following "business' thru and including Page 41, line 2 and insert in lieu thereof the following:

"A small business development center shall have—

"(A) a full-time staff director to manage the program activities;

"(B) access to business analysts to counsel, assist, and inform small business clients;

"(C) access to technology transfer agents to provide state of art technology to small businesses through coupling with national and regional technology data sources;

"(D) access to information specialists to assist in providing information searches and referrals for small businesses;"

On Page 43, line 3 insert the following new subparagraphs

"(5) The assistance provided by Small Business Development Centers as described in this subsection may, to the extent practicable and feasible, be provided by qualified small business vendors, including but not limited to, private management consultants, private consulting engineers, and private testing laboratories."

Mr. SCHWEIKER. Mr. President, I will be very brief. This amendment would encourage——

The PRESIDING OFFICER. Will the Senator suspend? I think the Senator is entitled to be heard. Senators who want to continue with their conversations please retire to the cloakroom.

The Senator may proceed.

Mr. SCHWEIKER. My amendment would encourage and allow the private sector to provide management and technical service for the small business community through small business development centers. It simply gives small businesses an opportunity to participate in these small business development centers.

I had tried to clear this with both sides, and I hope it is acceptable to both sides.

Mr. HUDDLESTON. The Senator from Pennsylvania's amendment has been perused by both sides. We think it is a commendable amendment and we have no objection to it on this side.

Is that the situation on the other side of the aisle? It is. So, Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. (Putting the question.)

The amendment was agreed to.

Mr. HUDDLESTON. Mr. President, that concludes the amendments I know of.

Mr. COCHRAN. Mr. President, will the Senator yield for one brief statement?

Mr. HUDDLESTON. I yield.

Mr. COCHRAN. I thank the Senator for yielding. I had another amendment, Mr. President, which I was going to offer before my first one was treated so rudely by the leadership, which would have, in effect, reduced interest rates for businesses and eliminated the credit-elsewhere test. But because of the vote on my previous amendment I am not offering that amendment at this time.

I just wanted to make that statement for the record.

Mr. HUDDLESTON. I thank the distinguished Senator from Mississippi. I likewise thank him for his consideration.

Mr. PRESSLER. Mr. President, if I could join in those remarks, Senator BOSCHWITZ and I were thinking of offering an amendment on the credit-elsewhere test and some other changes. But we have become convinced by the distinguished chairman of the committee, who makes very cogent arguments, and who pointed out what was in the House bill, and we will be submitting remarks, but we will not be offering the amendment at this time.

Mr. HUDDLESTON. I thank the Senator.

Mr. STENNIS. Mr. President, I rise in support of the pending bill. I am particularly interested in those provisions which deal with interest rates on disaster loans. I believe they reflect a responsive and compassionate policy in trying to help those who have suffered catastrophic losses as a result of natural disasters.

My interest in the provisions of the bill which reduce interest rates on loans made for disaster purposes arises because of recent floods, storms, and natural disasters in Mississippi and elsewhere. Under existing law, the interest rate on disaster loans made by the Small Business Administration is based on the cost of money to the United States which makes these disaster loans carry a 7⅜ percent interest rate. The bill which is pending before us retroactively lowers interest rates on homeowner loans for disasters occurring on or after October 1, 1978, to 3 percent on the first $55,000 of assistance. Reductions are also made in the interest rate on disaster business loans.

I believe, Mr. President, that the reductions in the interest rates which this bill proposes are absolutely essential in existing circumstances. They represent a humane understanding and considerate manner of offering needed assistance to help relieve human suffering. Many States and communities have recently suffered devastating losses and severe damage as a result of spring floods, storms, and tornadoes. I am concerned with all of the victims of these disasters, but, naturally, I am directly concerned with the plight and difficulties of my fellow Mississippians.

The so-called Easter flood in Mississippi produced damage and devastation on a scale and a scope which literally staggers the imagination. These were not flash floods in the sense in which the water suddenly rises and quickly recedes. In many cases, the flood waters remained in residential and business areas for many days, thus magnifying and extending the resulting damage. The flood was estimated to be of a magnitude which occurs only once every 500 years.

The destruction and damage was tremendous. The final money toll has not yet been finally determined, but certainly the damage to private and public property will exceed $1 billion. Damage was particularly heavy in and around our capital city of Jackson, but it was also heavy in many other communities along the Pearl, Tombigbee, Yazoo, and other streams and rivers.

In many cases the damage to buildings and residences was most severe. Some buildings were destroyed. Carpets and furnishings were ruined. The removal of silt and mud is an almost impossible task. It is estimated that more than 6,000 homes were flooded and many of them made uninhabitable. These businesses and homes require major repairs. The walls and insulation must be removed, discarded and replaced. Cabinets and appliances were ruined in many cases. It will take weeks for the houses to dry. The sheetrock, wallboard, or plaster must be torn out, replaced, and repainted. Much work must be done at great expense—expense which the homeowner has already incurred once and is still paying on his existing mortgage. Many of the homes affected were moderate in cost while many others were very expensive.

One of the most tragic aspects of this situation, Mr. President, is that many people had a substantial portion of their life savings tied up in their homes. Now it is gone. The psychological impact of such a massive flood upon these people is difficult to imagine. In the aftermath of the disaster, in addition to the personal sense of loss, anguish, and frustration, the flood victims are now facing harsh financial reality.

Most of the homeowners had substantial mortgages. If they were recent purchasers, they were already paying interest rates of 9, 10, and 11 percent. Under existing law, they are faced with large second mortgages with Small Business Administration loans at interest rates of 7⅜ percent. This heavy indebtedness and crushing interest will be extremely burdensome for most people and impossible for others. Many homeowners are confronted with the possibility that they may be forced to sell their homes and start over again.

Therefore, Mr. President, I fully support the provisions of this bill, which provide for interest of 3 percent per annum on the first $55,000 of a disaster loan made by the Small Business Administration and which reduce the interest on business loans. There is ample precedent for disaster loans being set at a level below the market rate. Between July 1, 1976 and October 1, 1978, the rate was 1 percent on the first $10,000, 3 percent on the next $30,000 and market rate above $40,000.

Mr. President, I commend the Committee on Small Business for its consideration, compassion and understanding which caused it to recommend a reduction in the interest rate on SBA disaster loans. It would be difficult to explain to the people of Mississippi why the U.S. Government can give away and lend money at nominal rates to foreign governments, while at the same time disaster victims here in this country would have to bear the crushing burden of an additional loan at 7⅜ percent interest. I would not want to try to explain it to them.

The committee has recognized that it is one of the basic functions of the Government to come to the aid of citizens when disaster strikes. I commend them for it.

I want to reiterate my strong support for the disaster loan provisions of this bill. Certainly this will not and cannot fully compensate the victims of the Mississippi floods and the other natural disasters around the country. However, it will reduce the burden. It will give the victims an opportunity for a new start. It is reasonable and humane and I strongly urge that it be passed by the Senate.

Mr. KENNEDY. Mr. President, I want to voice my strong support for this legislation, and commend Senator NELSON and the members of the committee for their efforts on behalf of small business.

The importance of small business to the Nation's economy cannot be overstated. Small business firms employ well over half of the private sector work force and contribute 43 percent of our gross national product. These same firms have been responsible for more than half of the major technological innovations made in the United States, and studies show that the bulk of new jobs are created by new and expanding small business firms.

Yet, the small business community is encountering serious difficulties. The committee report points out, for example, that some 400,000 small firms went out of business last year alone, and that the

share of industrial assets held by small business is declining.

The cause of this decline is clear. The small business person has become overwhelmed by an increasingly hostile business climate. The lack of capital, increasing costs, and, complex Government regulation have all made it more difficult for small business to compete and survive in the marketplace.

More than ever before, small business needs a well-coordinated program of management and technical assistance to cope with an increasingly complex business environment. Title II of this bill establishes a program to meet this need. This title authorizes the creation of small business development centers (SBDC) designed to pool the resources of universities and colleges to assist small firms.

In Massachusetts, some 20 institutions of higher education have pledged to participate in such a center to be administered by the School of Business Administration of the University of Massachusetts. The Governor of Massachusetts has lent his strong support to the establishment of an SBDC in the Commonwealth, and the State legislature is prepared to appropriate the necessary State matching funds.

Small businesses in Massachusetts and throughout the country will find these centers a major new source of valuable management and technical assistance. It is a creative concept which deserves our support, and I look forward to final enactment of this legislation.

● Mr. DOLE. Mr. President, I can certainly understand and appreciate the problems of those who fall victims of physical disasters. I think we should be responsive to their needs.

S. 918, mandates significant changes in the SBA disaster loan program which will serve to eliminate duplicative features of existing FmHA programs. Under this bill, homeowners who are hardest hit by such physical disasters will receive loans at a subsidized interest rate of 3 percent. That rate is 5½ percent below the current cost of money to the Federal Government and 7 percent below cost on a loan from the private sector assuming a loan could be obtained at 10 percent. Mr. President, S. 918, represents a responsible compromise with a combination of programmatic changes and moderately reduced interest rates. This compromise, I might add, is supported by the authorizing committees of both Houses and the Administration.

SUBSIDY AMENDMENT

Mr. President, because I am firmly convinced the SBA should be able to respond to the needs of those who suffer from physical disasters, quickly and effectively, I support the committee language as contained in the bill. The committee language, which is the result of much debate, not only maintains the ability to assist those in need, but will also serve to reduce program abuses.

Mr. President, I urge my colleagues to support the committee language contained in the bill and oppose any amendments which would produce deeper subsidies and unreasonably low interest rates or eliminate the reforms which are needed to insure the focus of this measure on those it was intended to serve.●

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall the bill pass? (Putting the question.)

The bill (S. 918), as amended, was passed as follows:

S. 918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(h) The following program levels are authorized for fiscal year 1980:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $50,000,000 in direct and immediate participation loans, and $3,200,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $22,000,000 in direct and immediate participation loans and $11,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $65,000,000 in direct and immediate participation loans and $70,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $30,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $50,000,000 in direct and immediate participation loans, and $100,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $50,000,000 in direct purchases of debentures and preferred securities and to make $190,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,900,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $60,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $100,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1980, $677,453,000 to carry out the programs referred to in subsection (h), paragraphs (1) through (9). Of such sum, $441,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (7); $6,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $194,453,000 shall be available for salaries and expenses of the Administration, of which amount—

"(1) $11,315,000 shall be available for procurement assistance, of which amount no less than $300,000 shall be used to employ ten additional certificate of competency specialists, no less than $900,000 shall be used to employ thirty additional procurement center representatives and no less than $450,000 shall be used to employ fifteen additional subcontracting specialists;

"(2) $2,800,000 shall be available for technical assistance, of which amount no less than $1,200,000 shall be used to develop and maintain twelve technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technological problems or needs of small businesses by searching such technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses, and no less than $772,000 shall be used to pay for the continued development of a procurement automated source system;

"(3) $19,346,000 shall be available for management assistance, of which amount no less than $5,279,000 shall be used for SCORE/ACE program costs, no less than $3,835,000 shall be used for small business institute program costs, no less than $1,611,000 shall be used for management assistance program development costs, and no less than $1,000,000 shall be used to develop and implement a small business export development program and to employ no less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist;

"(4) $8,000,000 shall be available for economic research and analysis and advocacy, of which amount no less than $2,898,000 shall be used to employ sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out those functions prescribed by Public Law 94-305, no less than $1,500,000 shall be used to develop an external small business data bank and small business index, no less than $1,000,000 shall be used to undertake studies associated with issues affecting the whole of the small business sector, and no less than $500,000 shall be used to research small business problems within industries undergoing dislocation and stress and to recommend solutions for such problems;

"(5) $24,897,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, of which amount no less than $12,000,000 shall be used to carry out those functions prescribed by section 7(j) of this Act;

"(6) $8,034,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount no less than

$1,000,000 shall be used to pay for development of such indicative small business data base; and

"(7) $8,000,000 shall be available for matching grants to Small Business Development Centers, and an additional $500,000 shall be available for the administration of the small business development center program; and

"(8) not to exceed $200,000 shall be available for a study, the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, nonconcentrated, healthy forest products industry. In conducting the study and investigation pursuant to the preceding sentence, particular attention should be given to the analysis and review of, and recommendations with respect to, reasons for failure among firms within the forest products industry.

"(j) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (7) of section 20(1) of this Act: *Provided, however,* That no program level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(k) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $50,000,000 in direct and immediate participation loans, and $3,520,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(1) of this Act, the Administration is authorized to make $71,500,000 in direct and immediate participation loans and $77,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(1) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $33,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct and immediate participation loans and $110,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct purchase of debentures and preferred securities, and to make $209,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,090,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $66,000,000 in loans guarantees, and other obligations or commitments.

"(9) For the programs authorized by section 404, and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $110,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1981, $850,100,000 to carry out the programs referred to in subsection (k), paragraphs (1) through (9). Of such sum, $521,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraphs (1) through (7); $63,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $224,100,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,446,000 shall be available for procurement assistance;

"(2) $3,080,000 shall be available for technical assistance, of which amount no less than $1,320,000 shall be used to develop and maintain twelve technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technological problems or needs of small businesses by searching such technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses;

"(3) $20,180,000 shall be available for management assistance, of which amount no less than $5,806,000 shall be used for SCORE/ACE program costs, no less than $4,218,000 shall be used for small business institute program costs, no less than $1,772,000 shall be used for management assistance program development costs, and no less than $1,100,000 shall be used to implement the small business export development program and to employ no less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist;

"(4) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount no less than $3,187,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out those functions prescribed in Public Law 94-305, no less than $1,650,000 shall be used to develop an external small business data bank and small business index, no less than $1,100,000 shall be used to undertake studies associated with issues affecting the whole of the small business sector, and no less than $550,000 shall be used to research small business problems within industries undergoing dislocation and stress and to recommend solutions for such problems;

"(5) $27,386,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, of which amount no less than $13,200,000 shall be used to carry out those functions prescribed by section 7(j) of this Act.

"(6) $8,837,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount no less than $1,000,000 shall be used to pay for development of such indicative small business data base; and

"(7) $18,000,000 shall be available for matching grants to Small Business Development Centers, and an additional $550,000 shall be available for the administration of the small business development center program.

"(m) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (7) of section 20(1) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

"(n) There are authorized to be appropriated to the Administration for fiscal year 1982, $20,000,000 which shall be available for matching grants to Small Business Development Centers, and an additional $605,000 which shall be available for the Administration of the small business development center program.".

THE PROGRAMS AUTHORIZED BY TITLE III OF THE SMALL BUSINESS INVESTMENT ACT OF 1958

SEC. 102. Section 20 (e)(5) of Public Law 95-89 (15 U.S.C. 681) is amended to read as follows:

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $47,000,000 in direct purchase of debentures and preferred securities and to make $198,000,000 in guarantees of debentures.".

PART B—MISCELLANEOUS AND TECHNICAL AMENDMENTS

AVAILABILITY OF UNEXPENDED FUNDS

SEC. 110. Section 20(a) of the Small Business Act is amended to read as follows:

"For fiscal years 1979, 1980, 1981, and 1982 there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.".

ENERGY SHORTAGE LOANS

SEC. 111. Section 7(b)(8) of the Small Business Act is amended by inserting after "energy-producing resources," the following: "including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless such strike, boycott, or embargo is directly against such small business concern,".

DISASTER LOAN INTEREST RATES

SEC. 112. (a) Section 7(b)(1) of the Small Business Act is amended by striking the semicolon at the end thereof and adding the following: ": *Provided,* That, except as otherwise provided, no financial assistance shall be extended to a business concern pursuant to this paragraph unless the Administration determines that such concern is unable to obtain sufficent credit elsewhere at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time;".

(b) The first undesignated paragraph of section 7(b) of such Act is further amended by striking the phrase "the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceeding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum:" and inserting in lieu thereof "the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum:".

(c) The first undesignated paragraph of section 7(b) of such Act is further amended:

(1) by inserting after the figure "$40,000" the following: "; and with respect to a disaster occurring on or after October 1, 1978, shall be 3 per centum on the first $55,000 of such loan"; and

(2) by inserting after the phrase "shall be 3 per centum." the following new sentence: "The interest rate on the Administration's share of all other loans made pursuant to paragraph (1) of this subsection, with respect to a disaster occurring on or after October 1, 1978, shall be—

"(A) if the business concern is unable to obtain credit elsewhere pursuant to paragraph (1) of this subsection, the rate provided for in section 324 of the Consolidated Farm and Rural Development Act for applicants under such Act who are unable to obtain sufficient credit elsewhere; or

"(B) if the business concern is able to obtain sufficent credit elsewhere pursuant to paragraph (1) of this subsection, the rate provided for in this paragraph: *Provided*, That five years after such loan is first approved, and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower will, upon request by the Administration, apply for and accept such loan in sufficient amount to repay the Administration.".

SEC. 113. (a) Section 324 of the Consolidated Farm and Rural Development Act is amended by striking out the first sentence in subsection (a) and inserting in lieu thereof the following: "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be a rate prescribed by the Secretary not in excess of 5 per centum per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum; and

"(2) with respect to loans or portions of loans exceeding the amount of actual loss caused by the disaster, the interest rate shall be that prevailing in the private market for similar loans, as determined by the Secretary.".

(b) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the sentence and inserting in lieu thereof a period.

(c) Section 18 of the Small Business Act is amended by striking "industries," and inserting in lieu thereof "industries: *Provided*, That an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for or would be declined for emergency loan assistance from the Farmers Home Administration under section 321 of the Consolidated Farm and Rural Development Act,".

INVESTMENT OF IDLE FUNDS

SEC. 114. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed.

SEC. 115. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.".

PRODUCT DISASTER LOANS

SEC. 116. Section 7(b)(4) of the Small Business Act is amended by striking "undetermined" and inserting in lieu thereof "other".

DEVELOPMENT COMPANY DEBENTURES

SEC. 117. (a) Title V of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"DEVELOPMENT COMPANY DEBENTURES

"SEC. 503. (a)(1) Except as provided in subsection (b), the Administration may guarantee the timely payment of all principal and interest as scheduled on any debenture issued by any qualified State or local development company.

"(2) Such guarantees may be made on such terms and conditions as the Administration may by regulation determine to be appropriate.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts guaranteed under this subsection.

"(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

"(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

"(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502;

"(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms;

"(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b);

"(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loans);

"(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 per centum of the cost of the project with respect to which such loan is made; and

"(6) the Administration approves each loan to be made from such proceeds.

"(c) The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

"(d) For purposes of this section, the term 'qualified State or local development company' means any State or local development company which, as determined by the Administration, has—

"(1) a full-time professional staff,

"(2) professional management ability (including adequate accounting, legal, and business-servicing abilities), and

"(3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company.".

(b) The table of contents of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 502 the following new item:

"Sec. 503. Development company debentures.".

REGULAR BUSINESS LOAN REFORM

SEC. 118. (a) Section 5(b)(7) of the Small Business Act is amended to read as follows:

"(7) in addition to any powers, functions, privileges and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time to render such services), when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act; and he may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and creditworthiness, and loan monitoring, collection and liquidation;".

(b) Effective October 1, 1981, section 7(a) of the Small Business Act is amended by—

(1) striking the phrase "and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis." and inserting in lieu thereof "and such loans may be made directly.";

(2) striking subparagraphs (2) and (3) in their entirety; and

(3) striking subparagraph (4)(A) and inserting in lieu thereof:

"(A) No loan made or effected under this subsection shall exceed $350,000.".

SURETY BOND GUARANTEE

SEC. 119. Section 411(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 per centum of the loss incurred and paid by the surety as the result of the breach; or (2) in a case in which (b) applies, the amount determined under (b).".

PROCUREMENT SYSTEMS

SEC. 120. Section 15(c) of the Small Business Act is amended to read as follows:

"(c) Public and private organizations and individuals eligible for assistance under section 7(h) of this Act shall be eligible to participate in programs authorized by this section.".

SEC. 121. (a)(1) The first sentence of section 15(d) of the Small Business Act is amended by inserting "small business" before "concerns".

(2) The last two sentences of subsection (d) of section 15 of such Act are repealed.

(b) Subsections (e) and (f) of section 15 of such Act are amended to read as follows:

"(e) In carrying out small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

"(1) concerns which are small business

concerns and which are located in labor surplus areas, on the basis of a total set-aside.

"(2) concerns which are small business concerns, on the basis of a total set-aside.

"(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside.

"(f) After priority is given to the small business concerns specified in subsection (e), priority shall also be given to the awarding of contracts and the placement of subcontracts, on the basis of a total set-aside, to concerns which—

"(1) are not eligible under subsection (e);

"(2) are not small business concerns; and

"(3) will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.".

(c) Section 15 of such Act is further amended by adding at the end thereof a new subsection as follows:

"(m) In carrying out labor surplus areas and small business set-aside programs, the Administration shall, with respect to each award or contract or class of award or contract, identify to the contracting procurement agency, concerns (including small business concerns) which are located in labor surplus areas.".

TO REVISE THE DUPLICATION OF BENEFITS PROVISIONS APPLICABLE TO SMALL BUSINESS ADMINISTRATION DISASTER LOANS

SEC. 122. Section 7(b) of the Small Business Act is amended by adding at the end thereof the following:

"A State grant made on or after January 1, 1979, shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155) to a disaster loan under paragraph (1) (2), or (4) of this subsection.".

TITLE II—SMALL BUSINESS DEVELOPMENT CENTERS

SHORT TITLE

SEC. 201. This title may be cited as the "Small Business Development Center Act of 1979".

PROGRAM AUTHORIZATION

SEC. 202. The Small Business Act is amended by redesignating section 21 as section 30 and by inserting the following new section:

"SEC. 21. (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) private sector consultants and experts and academic institutions 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 section 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.

"(c)(1) The Administration is authorized to make grants to States (herein referred to as 'applicant') to assist any State government or any agency thereof, any regional entity, any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any entity formed by two or more of the above entities to develop and operate State small business development centers which may undertake studies, research, and counseling concerning the managing, financing, and operation of small business enterprises; provide technological assistance, technical and statistical information for small business enterprises; provide delivery or distribution of such services and information; and provide access to business analysts who can refer small business concerns to available experts.

"(2) The Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: *Provided*, That the additional amount shall not include any amount of indirect costs or in kind contributions paid for under any Federal program, nor shall such indirect costs or in kind contributions exceed 50 per centum of the non-Federal additional amount: *Provided further*, That no State small business development center shall receive a grant which would exceed its pro rata share, based upon the population to be served by the small business development center compared to a total population of all participating States, of the amount authorized to be appropriated for such purpose in each of fiscal years 1980, 1981, and 1982, but in no event shall such center receive less than $250,000.

"(d)(1) During fiscal years 1980, 1981, and 1982 financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

"(2) An applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (c) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve, or reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the region, State, or part thereof to be served.

"(3) At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information, and assistance, as described in subsection (e), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

"(e)(1) A State small business development center 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.

"(2) A State small business development center shall provide services as close as possible to small businesses by establishing extension services and utilizing satellite locations when necessary and not duplicative. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small businesses. A small business development center shall have—

"(A) a full-time staff director to manage the program activities;

"(B) access to business analysts to counsel, assist, and inform small business client;

"(C) access to technology transfer agents to provide state-of-art technology to small businesses through coupling with national and regional technology data sources;

"(D) access to information specialists to assist in providing information searches and referrals for small businesses;

"(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises, and

"(F) access to laboratory and adaptive engineering facilities.

"(3) Services provided by a State small business development center shall include, but shall not be limited to—

"(A) furnishing one-to-one individual counseling to small businesses;

"(B) assisting in technology transfer, research, and coupling from existing sources to small business concerns;

"(C) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Counseling and 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;

"(D) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

"(E) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

"(F) 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;

"(G) conducting indepth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality;

"(H) maintaining lists of local and regional private consultants to whom small businesses can be referred;

"(I) continuing to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community; and

"(J) utilizing private local and regional consultants and testing laboratories when appropriate and applicable.

"(4) A small business development center

is authorized to compensate local and regional private consultants for services provided to small businesses on behalf of such small business development center.

"(5) The assistance provided by Small Business Development Centers as described in this subsection may, to the extent practicable and feasible, be provided by qualified small business vendors, including but not limited to, private management consultants, private consulting engineers, and private testing laboratories.

"(f) Regional small business development centers may be established to support State small business development centers when the Administration, with the advise of the Board, determines a need for providing assistance and information on technical or specialized problems such as, but not limited to high technology transfer and utilization and regional data acquisition that may require capital intensive research and which transcend State boundaries. Regional small business development 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 small business development centers participating in the program.

"(g) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support the small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

"(h) The National Science Foundation and innovation centers supported by the National Science Foundation are authorized and directed under this section to cooperate with small business development centers participating in this program. The National Science Foundation shall report annually on the performance of such centers with recommendations to the Administration and the Congress on how such innovation centers can be strengthened and expanded. The National Science Foundation shall include in its report to Congress information on the ability of innovation centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(i) The National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration are authorized and directed under this section to cooperate with small business development centers participating in this program. The National Aeronautics and Space Administration shall report annually on performance of such centers with recommendations to the Administration and the Congress on how such industrial application centers can be strengthened and expanded. The National Aeronautics and Space Administration shall include in its report to Congress information on the ability of industrial application centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(j) The Administrator shall appoint a Deputy Associate Administrator for Management Assistance who shall report to the Associate Administrator for Management 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 of GS-17 of the General Schedule.

"(k) The sole responsibility of the Deputy Associate Administrator for Management Assistance shall be to administer the small business development center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefor, selecting applicants to participate in this program under this section, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers, concluding agreements with federally supported laboratories and centers and Federal agencies to provide technology assistance for this program, and conducting audits of recipients of grants under this section. The Deputy Associate Administrator for Management Assistance shall confer with and seek the advice and counsel of the Board in carrying out the responsibilities described in this section.

"(l)(1) There is established a National Small Business Development Center Advisory Board (herein referred to as 'Board') which shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from the academic community or their affiliates and six shall be from small businesses or associations representing small business.

"(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management Assistance in carrying out the duties described in this section. The Board shall meet at least quarterly and at the call of the Chairman of the Board. Each member of the Board 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 occupying the position under GS-18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

"(m)(1) Each State small business development center shall establish an advisory board the members of which shall be appointed by the Governor. No more than one-third of the members of such board shall be from the academic community or their affiliates and no less than two-thirds of the members of such board shall be from small businesses or associations representing small business.

"(2) Each State small business development center advisory board shall elect a chairman and advise, counsel, and confer with the director of the State small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participate with, the small business development center.

"(n) The Administration, with the advice of the Board, shall establish a plan for evaluation of the small business development 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 small business development center program on small businesses, including local and regional private consultants, and the socioeconomic base of the regions served;

"(2) the multidisciplinary resources the small business development center program was able to coordinate to assist small businesses; and

"(3) the extent to which various types of small businesses engaged in such areas as manufacturing, retailing, wholesaling and services have been assisted by the small business development center program.

For the purpose of this evaluation, the Administration is authorized to require any small business development center or party receiving assistance under this section to furnish it with such information annually or otherwise as it deems appropriate. Such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by January, 1982.".

FUNDING RESTRICTION

SEC. 203. Section 7(d)(1) of the Small Business Act is amended to read as follows:

"(d)(1) The Administration shall not fund any small business development center program, or any variation thereof, except as authorized in section 21 of this Act.".

PROGRAM REPEAL

SEC. 204. This title is repealed effective October 1, 1982.

TITLE III—SMALL BUSINESS ECONOMIC POLICY

SHORT TITLE

SEC. 301. This title may be cited as the "Small Business Economic Policy Act of 1979".

DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

SEC. 302 (a) For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practical means and to take such actions as are necessary, consistent with its needs and obligations and other essential considerations of national policy, to implement and coordinate all Federal department, agency, and instrumentality policies, programs, and activities in order to: foster the economic interests of small businesses; insure a competitive economic climate conducive to the development, growth, and expansion of small businesses; establish incentives to assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small businesses.

(b) Congress further declares that the Federal Government is committed to a policy of utilizing all reasonable means, consistent with the overall economic policy goals of the Nation and the preservation of the competitive free enterprise system of the Nation, to establish private sector incentives that will help assure that adequate capital at competitive prices is available to small businesses. To fulfill this policy, departments, agencies, and instrumentalities of the Federal Government shall use all reasonable means to coordinate, create, and sustain policies and programs which promote investment in small businesses, including those investments which expand employment opportunities and which foster the effective and efficient use of human and natural resources in the economy of the Nation.

STATE OF SMALL BUSINESS

SEC. 303 (a) The President shall transmit to the Congress not later than January 20 of each year a Report on Small Business and Competition which shall—

(1) examine the current role of small business in the economy;

(2) present current and historical data on production, employment, investment, and other economic variables, for small business in the economy as a whole and for small business in each sector of the economy;

(3) identify economic trends which will or may affect the small business sector and the state of competition;

(4) examine the effects on small business and competition of policies, programs, and activities of Federal departments, agencies, and instrumentalities, identify problems generated by such policies, programs, and activities, and recommend legislative and administrative solutions to such problems; and

(5) recommend a program for carrying out the policy declared in section 302 of this Act, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Competition, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 302 of this Act.

(c) The Report on Small Business and Competition and all supplementary reports shall, when transmitted to the Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

SPECIAL ASSISTANT FOR SMALL BUSINESS

SEC. 304. The President is authorized to designate a Special Assistant to the President for Small Business who shall serve in the White House Office of the Executive Office of the President and who shall perform the following duties:

(1) assist and advise the President in the preparation of the Report on Small Business and Competition;

(2) gather and publish timely and authoritative information, in cooperation and coordination with the Administrator of the Small Business Administration, concerning the position of small business in the economy and economic developments and economic trends, both current and prospective, which do or may affect small business and competition; to analyze and interpret such information in light of the policy declared in section 302 of this Act for the purpose of determining whether such developments or trends are interferring or are likely to interfere with the achievement of such policy objectives; and to compile and submit to the President and Congress studies relating to such developments and trends;

(3) appraise the various programs and activities of the Federal Government as they affect small business and competition in the light of the policy declared in section 302 of this Act for the purpose of determining the extent to which such programs and activities are contributing, and the extent to which they are not contributing, to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) determine and evaluate the availability of capital, labor, management, and technical resources to small business; determine and evaluate emerging trends in the availability of such resources to small business; assess Federal Government policies and programs and other economic circumstances which affect small business in order to determine their impact on the availability and cost of capital and other resources for small business; and make recommendations to the President with respect thereto;

(5) develop and recommend to the President national economic policies to foster and promote small business and competition and to maintain and increase the strength of small business in each economic sector; and

(6) make and furnish such studies, reports, and recommendations with respect to matters of Federal Government economic policy and legislation which affect small business and competition as the President may request.

TITLE IV—SMALL BUSINESS ECONOMIC RESEARCH AND ANALYSIS

SEC. 401. The Small Business Act is amended by redesignating subsection 4(b) as section 4(b)(1) and inserting thereafter the following:

"(2) The Administrator also shall be responsible for—

"(A) establishing and maintaining an external small business economic data base for the purpose of providing the Congress and the Administration information on the economic condition and the expansion or contraction of the small business sector. To that end, the Administrator shall publish on a regular basis national small business economic indices and, to the extent feasible, regional small business economic indices, which shall include, but need not be limited to, data on—

"(i) employment, layoffs, and new hires;

"(ii) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

"(iii) number of business formations and failures;

"(iv) sales and new orders;

"(v) back orders;

"(vi) investment in plant and equipment;

"(vii) changes in inventory and rate of inventory turnover;

"(viii) sources and amounts of capital investment, including debt, equity, and internally generated funds;

"(ix) debt to equity ratios;

"(x) exports;

"(xi) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and

"(xii) concentration ratios; and

"(B) publishing annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired pursuant to paragraph (A) of this subsection.'.

SEC. 402. Section 634(e)(1) of title 15 of the United States Code is amended by inserting ", step ten," between "GS-15" and "of".

SEC. 403 Section 5315 of title 5 of the United States Code is amended by adding the following new paragraph:

"(128) Chief Counsel for Advocacy, Small Business Administration.".

SEC. 404. In consultation with the Administrator of the Small Business Administration and the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall conduct such studies of the credit needs of small business as may be appropriate to determine the extent to which such needs are being met by commercial banks and shall report the results of such studies to the Congress by October 1, 1980, together with their views and recommendations as to the feasibility and cost of conducting periodic sample surveys, by region and nationwide, of the number and dollar amount of commercial and industrial loans extended by commercial banks to small business. Reports shall when transmitted to the Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

TITLE V—WHITE HOUSE CONFERENCE ON SMALL BUSINESS

SHORT TITLE

SEC. 501. This title may be cited as the "White House Conference on Small Business Act".

AUTHORIZATION OF CONFERENCE

SEC. 502. (a) The President shall call and conduct a White House Conference on Small Business (hereinafter referred to as the "Conference") not later than June 30, 1980, to carry out the purposes described in section 503 of this title.

(b) Participants in the Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the regional and State levels prior to the date of the Conference, subject to the approval of the Administrator of the Small Business Administration, and shall direct such conferences and activities toward the consideration of the purposes of the Conference described in section 503 of this title in order to prepare for the Conference.

PURPOSE OF CONFERENCE

SEC. 503. The purpose of the Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business, including new, small, and family enterprises; to examine the status of minorities and wommen as small business owners; and to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation.

CONFERENCE PARTICIPANTS

SEC. 504. In order to carry out the purposes specified in section 503 of this title, the Conference shall bring together individuals concerned with issues relating to small business: *Provided,* That no small business concern representative may be denied admission to any State or regional meeting.

PLANNING AND ADMINISTRATION OF CONFERENCE

SEC. 505. (a) All Federal departments, agencies, and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) In carrying out the provisions of this title, the Administrator of the Small Business Administration—

(1) shall provide such financial and other assistance as may be necessary for the organization and conduct of conferences at the regional and State levels as authorized under section 502(b) of this title;

(2) shall provide for the preparation of background materials for use by participants in the Conference, as well as by participants in regional and State conferences; and

(3) is authorized to make grants to, and enter into contracts with, public agencies, private organizations, and academic institutions to carry out the provisions of this title.

(c)(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5 United States Code.

REPORTS REQUIRED

SEC. 506. Not more than one year from the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

FOLLOWUP ACTIONS

SEC. 507. The Small Business Administration shall report to the Congress annually during the three-year period following the

submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference.

AVAILABILITY OF FUNDS

SEC. 508. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Such sums as are appropriated to carry out the provisions of this title shall remain available until expended.

(b) No funds appropriated to the Small Business Administration shall be made availabel to carry out the provisions of this title other than funds appropriated pursuant to this section. Any funds remaining unexpended at the termination of the Conference shall be made available to the Administrator of the Small Business Administration to carry out the provisions of section 20 of the Small Business Act.

TITLE VI—EMPLOYEE OWNERSHIP

SEC. 601. This title may be cited as the "Small Business Employee Ownership Act".

SEC. 602. The Congress finds and declares that—

(1) employee ownership of firms has been shown to be a successful means of organizing an enterprise and that employee-owned firms are likely to have greater productivity rates, better long-range prospects, greater employee and management job satisfaction, and broader distribution of the company's profits and equity than similar nonemployee-owned firms;

(2) employee ownership of firms provides a means for preserving jobs and business activity where they would otherwise be lost due to company closings, liquidations, or relocations;

(3) employee ownership of firms provides a means of keeping a small business small when it might otherwise be sold to a conglomerate or other large enterprise;

(4) employee ownership of firms provides a means for creating a new small business from the sale of a subsidiary of a large business, when such a subsidiary would otherwise be closed, liquidated, relocated, or sold to another large business;

(5) unemployment insurance programs, welfare payments, and job creation programs are less desirable and more costly for both the Government and program beneficiaries than loan programs to maintain employment in firms that would otherwise be closed, liquidated, or relocated;

(6) the continued closing of small businesses or the sale of small businesses to conglomerates represents an undesirable and anticompetitive trend toward economic concentration;

(7) the slow growth in productivity in the United States contributes to inflation and balance-of-payments deficits;

(8) the present concentration of capital ownership has created too great a disparity between the very wealthy few and the low- and moderate-income majority; and

(9) by making and guaranteeing loans to employee stock ownership trusts or other employee organizations, the Small Business Administration could provide feasible and desirable methods for the transfer of all or part of a company's ownership to employees by aiding employee organizations in purchasing small business concerns that would otherwise be closed, liquidated, or relocated, or in purchasing subsidiaries of companies which would otherwise be closed, liquidated, or relocated, and would, if independently owned, be small businesses.

SEC. 603. The purposes of this title are—

(1) to include as small business concerns any employee-owned company which would otherwise be defined as a small business concern under the Small Business Act, or any employee organization, or employee stock ownership plan, established for the purpose of purchasing a business which, when purchased, would otherwise be defined as a small business concern under the Small Business Act, and to make such employee-owned firms or employee organizations eligible for all assistance available to small business concerns as provided in the Small Business Act;

(2) to assure that a small business using an employee stock ownership plan which qualifies under the specifications as set forth in this title can obtain assistance from the Small Business Administration through an employee stock ownership trust; and

(3) to assure that the Small Business Administration guarantees loans to employee-owned firms, to employee organizations or employee stock ownership plans seeking to buy their firms, on the same basis as the Administration guarantees loans to other small businesses under section 7(a) of the Small Business Act and that such assistance is made available by the Small Business Administration on the basis of a firm's reasonable prospects for success as an employee-owned firm.

SEC. 604. Section 7 of the Small Business Act is amended by adding at the end thereof the following:

"(m)(1) As used in this subsection, the term—

"(A) 'employee organization' means any organization organized for the purpose of acquiring the company or subsidiary of the company for which the organization's members work, and which represents employees of a company which is a small business concern under this Act as presently constituted or, if the company is a subsidiary of another company, which would be a small business concern under this Act if independently owned;

"(B) 'employee' means a full-time employee of a small business concern who has worked for the company at least thirty days prior to the application by an employee organization or an employee-owned firm for assistance under this subsection;

"(C) 'employee stock ownership plan' or 'ESOP' means a plan described in section 4975(e)(7) of the Internal Revenue Code of 1954;

"(D) 'employee stock ownership trust' or 'ESOT' means a trust which forms part of an employee stock ownership plan; and

"(E) 'expiration date of the assistance' means the date on which a loan, the repayment of which is guaranteed by the Administration under this Act, is fully repaid.

"(2)(A) The Administration is authorized to make all assistance available under this section available to employee organizations, employee-owned small business concerns, and employee stock ownership trusts which meet the requirements of this subsection.

"(B) Assistance to employee-owned small business concerns shall be made available under subsection (a) of this section on the same basis as such assistance is made available to other small business concerns, except as otherwise specifically provided in this subsection.

"(C) Assistance to an employee stock ownership plan maintained by a small business concern shall be made available under subsection (a) of this section on the same basis as such assistance is made available to a small business concern which does not maintain such a plan, if—

"(i) the concern which maintains the plan guarantees to the Administration that it will provide to the plan such funds as may be necessary for the repayment of the obligation incurred by the plan;

"(ii) the trustee of the ESOT of the plan establishes to the satisfaction of the Administration that—

"(I) the funds acquired by the ESOP with the assistance of the Administration will be used solely for or in connection with, the purchase of qualifying employer securities (within the meaning of section 4975(e)(8) of the Internal Revenue Code of 1954);

"(II) no part of those funds will be used to acquire employer securities of any other corporation or otherwise to provide financing for any other enterprise; and

"(iii) participants in the ESOP will have a nonforfeitable right to all employer securities acquired by the ESOP with funds obtained as a result of the assistance made available under this subsection not later than the expiration date of the assistance.

"(3) A loan to an employee organization or to an ESOP may be guaranteed as provided in this subsection only if the purpose of the loan is to finance the purchase of stock issued by a small business concern which employs the members of the organization or the participants in the ESOP, or the purchase of stock issued by a subsidiary concern which, if independently owned, would be a small business concern and which employs such members or participants, if—

"(A) the small business concern or subsidiary would otherwise be closed, liquidated, relocated, or purchased by a large business or if the owner of the concern or subsidiary and such members or participants agree to a transfer of ownership to the employees;

"(B) at the time the employee organization or the ESOP submits an application to the Administration for the guarantee of a loan, the organization or ESOP also submits a copy of a plan for the acquisition of the concern or subsidiary which provides that—

"(i) all employees of the concern or subsidiary will be offered an opportunity to participate in the ownership plan, and that employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer will be included in such an offering, unless the labor organization representing such employees specifically requests, in writing, exclusion of the employees covered by the agreement from participation in the plan;

"(ii) at least 15 per centum of the total stock or other asset value of the firm will be owned by at least 51 per centum of the employees by the expiration date of the assistance, or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954;

"(iii) any employee who is an owner-employee (within the meaning of section 401(c)(3) of the Internal Revenue Code of 1954), or a managerial employee, will have completed at least one year of service with the employer (within the meaning of section 410(a)(3) of such Code) before he is permitted to become a participant in the plan;

"(iv) where stock is distributed, participants in the plan will have a nonforfeitable right to such stock not later than the expiration date of the assistance, and that—

"(1) in the case of an ESOP, the stock will meet the requirements of section 409 A(e) of the Internal Revenue Code of 1954, and

"(II) in the case of an employee organization, the stock will meet the requirements of section 4099A(e)(2) of such Code (without regard to whether the employer has a registration-type class of secruities);

"(v) the concern may repurchase stock being sold by employees leaving the firm or make stock available to new employees;

"(vi) there will be periodic reviews of the mode of company organization and the role employee owners will play in the management of the concern;

"(vii) except in the case of an ESOP, there is a method whereby the loan to the employee organization can be repaid by employee members through a system of payroll deductions if other methods of repayment as may be specified in the loan

application are unable to provide the necessary cash; and

"(viii) there will be adequate management contracts to assure management expertise and continuity; and

"(c) in the case of a subsidiary, a plan is provided demonstrating that once the transfer of the subsidiary to the employees is completed, the subsidiary will be an independent business which qualifies as a small business concern under this Act.

"(4) Assistance under this subsection shall be provided when the Administration determines that the firm or employee organization seeking assistance can demonstrate the likelihood of an ability to repay any loans guaranteed, and when the Administration determines that the company will generate sufficient revenues to provide a reasonable assurance of repayment. The individual business experience or personal assets of individual employee-owners shall not be used as loan guarantee criteria except that where employee-owners may assume managerial responsibilities, their business experience or ability may be considered.

"(5) The principal amount of any loan guaranteed under this subsection may not exceed $500,000.

"(6) The Administration shall compile a separate list of applications for assistance under this provision, indicating which applications were approved and which were denied, and shall report periodically to the Congress on the status of employee-owned firms.

"(7) The Administration is authorized to make guarantees under this subsection directly to the seller of a small business concern under this Act, or of a subsidiary of a company which would become a small business concern under this Act when independently owned as specified in paragraph (3)(c), where the requirements of this subsection for employee ownership are otherwise met. For the purpose of this subsection—

"(A) the Administration may guarantee payments on installment sale contracts by the buyer to the seller, but the obligation of the Administration under such a guarantee shall not exceed 90 per centum of the total remaining payments at the time of default;

"(B) in the case of default, the seller will have the option of (i) paying the Administration an amount equal to 90 per centum of the total amount paid on the contract at the point of default and reassume title to the business, in which case the Administration will be relieved of any further obligation to the seller, including the obligation to make remaining payments on the contract, or (ii) assigning to the Administration the option of assuming title to the business and receiving, in a lump sum, an amount equal to 90 per centum of the remaining payments due on the contract; and

"(C) if the seller exercises his rights under subparagraph (B)(ii), the Administration may resell the business or its assets, or may seek other individuals to assume the contract and make the remaining payments to the Administration.".

SEC. 605. Section 8(a)(4)(A) of the Small Business Act is amended by inserting before the word "and" at the end thereof the following: "or in the case of a company with an employee stock ownership plan, at least 51 per centum of the stock of which is allocated through an ESOT to one or more socially and economically disadvantaged individuals;".

SEC. 606. (a) The Small Business Administration shall, not later than January 1, 1980, prepare and transmit to the Committee on Small Business of the House of Representatives and the Senate Select Committee on Small Business a study of the feasibility of extending the authority granted in section 7(m)(7) of the Small Business Act to any purchaser of a small business concern.

(b) Such study shall be performed by an independent consultant and shall include, but need not be limited to—

(1) the extent and nature of the use of installment contracts for the sale of small businesses;

(2) the ability of the Small Business Administration to make credit judgments on contract sales;

(3) the need for the Small Business Administration guarantees to facilitate installment sales;

(4) the willingness of banks and other financial institutions to participate in evaluating installment sales; and

(5) the likely cost of such a program compared to existing loan guarantee programs in the Small Business Administration.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WEICKER. 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 amend the Small Business Act and Small Business Investment Act of 1958 and for other purposes.

Mr. HUDDLESTON. Mr. President, so far as I know that is the final vote today.

The PRESIDING OFFICER. Will the Senator please suspend. The Senate will please come to order. I want to hear the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Senate be authorized to make technical and clerical corrections in the engrossment of S. 918.

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

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the bill be printed as passed.

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

Mr. HUDDLESTON. Mr. President, I would like to take this opportunity to again thank the distinguished——

The PRESIDING OFFICER. Will the Senator please suspend. Let us give the Senator an opportunity to make a statement. The Senate will come to order. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I again take this opportunity to express my appreciation to the distinguished chairman of the Small Business Committee, the Senator from Wisconsin (Mr. NELSON), and the ranking minority member, the Senator from Connecticut (Mr. WEICKER) who, I might note, is today observing his birthday, which makes him now old enough to not only be a Senator but to be a President, except that he opted out of that situation earlier today. But I appreciate the work he has done on this particular legislation and the work he has done in seeing its passage here this evening.

Mr. WEICKER. I thank the distinguished Senator from Kentucky and I also commend him for the presentation of this legislation on the floor and his wisdom and counsel within the committee.

(Mr. MATSUNAGA assumed the chair.)

PROPOSED ELIMINATION OF AMTRAK'S "MONTREALER" SERVICE

Mr. WEICKER. Mr. President, last Friday I chaired a hearing held in Burlington, Vt., by the Select Committee on Small Business concerning the impact of the proposed termination of Amtrak's "Montrealer" service on small businesses in New England. Eighteen witnesses testified on the important role played by the "Montrealer" in the New England economy.

Despite the overwhelming support of the people of Vermont and other areas served by the "Montrealer," it was one of the routes included on the list of proposed cuts submitted to Congress by Secretary of Transportation Brock Adams on January 31, 1979. The recommendations made by the Department of Transportation (DOT) were made pursuant to the mandate of the Amtrak Improvements Act of 1978 to develop "an optimal intercity railroad passenger service." DOT's recommendation called for the elimination of 12,000 miles, which represents 43 percent, of the present rail service.

In developing the recommendations, the Secretary of Transportation was directed in section 4(a) of the act to consider:

First, any unique characteristics and advantages of rail service as compared to other modes of transportation;

Second, the role that rail passenger service can play in helping meet the Nation's transportation needs while furthering national energy conservation efforts;

Third, the relationship of benefits of given intercity rail passenger services to the costs of providing such services, computing the benefits in passengers per train mile and revenues earned and computing the costs in loss or profit per passenger mile rather than total loss of profit per route;

Fourth, the transportation needs of areas lacking adequate alternative forms of transportation;

Fifth, frequency and fare structure alternatives and the impact of such alternatives on ridership, revenues, and expenses of rail passenger service; and

Sixth, the adequacy of other transportation modes serving the same points to be served by the recommended route system.

In addition to the criteria set forth in the legislation, the conference report on the bill indicated that—

The conferees wish to point out the importance of tourism and the impact rail passenger service may have on the tourism industry. Many States . . . do not exhibit high concentrations of population, but rely heavily on tourism to maintain their economic growth. In areas where alternative modes of transportation are lacking, the relative importance of rail passenger transportation to tourism should be weighted heavily in the Secretary's final recommendations.

Congress, in the Amtrak Improvements Act, emphasized the importance of public input into DOT's restructuring process. Accordingly prior to making its final recommendations, DOT held over 50 public hearings around the country. However, there were no hearings held in

Vermont, New Hampshire, Western Massachusetts, or Connecticut. Thus, the people in the region primarily affected by the termination of the "Montrealer" did not have the opportunity to express their views and needs prior to the elimination of the route. Moreover, the Secretary of Transportation did not have the benefit of this input prior to making his recommendation.

Mr. President, I would like to detail for my colleagues the testimony given at last Friday's hearing. The information provided by the witnesses will enable the Senate to make a well-informed decision, based on the criteria enunciated in the Amtrak Improvements Act, on the proposed termination of the "Montrealer".

ENERGY CONSIDERATIONS

As I have stated before, the current gasoline shortage, unlike that of 5 years ago, will not disappear at the end of the summer. Fortunately, the people of Vermont realize this and they urge that rail passenger services be developed as an energy-efficient alternative to automobile travel.

The efficiency of an Amtrak train was discussed by Carlton Graves, Vermont State Legislative Director and general chairman of the United Transportation Union:

I would also like to illustrate the fuel savings of a Amfleet train. A new Amfleet train can carry 550 passengers 100 miles on 200 gallons of diesel fuel. It would take 110 five passenger autos and at least 726 gallons of gas to carry the same people the same distance.

J. David Stein, transportation director of the New England Regional Commission, predicts that—

The current energy situation is going to magnify the need for (and the benefits of) the "Montrealer" more than on most other Amtrak routes.

Support for Mr. Stein's statement can be found in the experiences of the Vermont tourist industry during the 1973–74 gasoline shortage. Ralph DesLauriers testified on the impact that the 1973–74 shortage had on the ski resort at Bolton, Valley, Vt., and the important role to be played by the "Montrealer" in future gasoline shortages:

The train is especially valuable during periods when gasoline shortages prevail and the cost increases. The Vermont travel industry was severely affected by the shortages of gasoline in 1973 and 1974. As a result of that experience, my company worked to increase the ratio of visitors arriving by public transportation as opposed to the automobile. Prior to the 1973–74 gas shortage, over 95% of our guests travelled by private car. We worked hard to change this mix, with the result that now only 69% of our hotel guests arrive by car. In 1978, 6% of our registered guests arrived by AMTRAK, 10% via airplane, and 15% by chartered bus. This past winter season, without the factor of a gasoline shortage, our AMTRAK business doubled over the previous ski season, while the 1978–79 season itself was 30 days shorter than the previous year. During the 1973–74 gasoline shortages, the number of our guests arriving on AMTRAK tripled over the previous year. During the same period, our overall volume dropped by 23%. We anticipate that our customers travelling by AMTRAK would again triple should there be another restriction on gasoline, a situation which appears imminent. At the same time, we anticipate that our revenue would drop approximately 20%. At that rate, our AMTRAK-generated business volume would amount to about 22% of our registered hotel guests, and 11% of our total income. In an industry where profits are about 5%, this could very well mean the difference between survival and bankruptcy.

As a result of its experience during the winter of 1973–74, Mr. DesLauriers' company has made a major effort to tie in more effectively with travel agents and to generate more riders on Amtrak, airlines, and bus charters. "We have tried to become less dependent on the automobile."

Mr. President, it is my opinion that all Americans should follow the lead of Mr. DesLauriers and find alternatives to automobile transportation. However, we will not be able to free ourselves from cars by cutting rail-passenger routes such as the "Montrealer," which is relied on by the people who it serves.

Christopher G. Barbieri, executive vice president of the Vermont Chamber of Commerce, summed up in his testimony before the committee the absurdity of DOT's recommendation to terminate the "Montrealer":

It seems incredible then, with all that Vermonters have done, with the limited alternatives available to the private auto; and with the all too obvious fuel shortages that loom in the months and probably years ahead, that a government which espouses conservation and mass transportation, would take from us one of the few alternatives that we have available. This policy seems totally inconsistant and self-defeating to us.

ADVANTAGES OF RAIL SERVICE

In making the route-restructuring recommendation, the Secretary of Transportation is directed to consider "any unique characteristics and advantages of rail service as compared to other modes of transportation," and "the transportation needs of areas lacking adequate alternative forms of transportation."

Ronald E. W. Crisman, the Secretary of Transportation for the State of Vermont, observed that the "Montrealer" was extremely valuable to the people of Vermont due to a lack of adequate alternative forms of transportation:

The importance of this service is enhanced by the fact that there are no alternative modes providing service. Only Burlington, in Vermont, has dependable air service, for instance, and that is occasionally down due to snow, either here at other airport.

Mr. Stein, of the New England Regional Commission, stated that the "loss of the Montrealer would impose a significant hardship on the citizen of (New Hampshire and Vermont) who have rather limited alternative forms of public transportation available to them." Mr. Stein elaborated on this point:

Then there is the matter of the hardship imposed on the local folks who stand to lose a principal non-automobile means of transportation out of this area. This problem is magnified significantly during a gas shortage. Contrary to the protestations of U.S. DOT in its route study report, air service to this area is very limited. Here in Burlington there is limited, but reasonable, air service to Boston, but not to the North. There is also some service to Montpelier, and some to New York, but nothing is offered to any other stations served by the Montrealer. Most of the service that does exist—even that to Burlington—is characterized in general by small aircraft, with limited excess seating capacity. We should also point out that alternative public transportation—air or bus—is subject to the unreliability and delay that weather imposes on both of those modes during New England winters. One really wonders how, in a gas shortage, the residents and small business persons of this area will make necessary trips without the availability of the train.

The harsh winter of Vermont makes the "Montrealer" an indispensable mode of transportation. Carlton Monaghan, a retired locomotive engineer, commented that rail passenger trains are "the most dependable" form of transportation in the State:

For example, not long ago in the winter, the weather was so bad that motor vehicle traffic was at a standstill, the airlines were grounded, yet the Montrealer ran."

Mr. Graves added that—

Everyday we hear of the airlines cancelling flights for weather or lack of fuel. Our trains run regardless of weather, sometimes a little late, but they always get there regardless of weather.

The "Montrealer" also provides an inexpensive means of transportation. As JAMES M. JEFFORDS, the Congressman from Vermont noted:

The auto, the bus and the plane are not viable alternatives for many persons who currently use the Montrealer. Vermont has the 47th lowest per capita income of all States. An auto remains a luxury for many Vermonters and is likely to remain as such. The Montrealer is of particular benefit to those many families wishing to travel long distances. The cost of travelling between Montreal and Washington by plane ranges between 35% and 100% higher than by train, and is prohibitive for many travellers. In addition approximately 26% of all Amtrak users are part of two low income groups—the elderly and students. Amtrak is more than a convenience for the businessman, tourist, or shopper. It is an essential means of providing equal mobility to the lower income residents of Vermont.

IMPACT ON TOURISM

In the conference report on the Amtrak Improvements Act, the conferees directed the Secretary of Transportation to carefully consider the "importance of rail passenger transportation to tourism * * * in the Secretary's final recommendations." Testimony given at the Small Business Committee's hearing clearly shows that Secretary Adams did not take the impact on tourism into consideration in making his recommendations.

Gar Anderson, executive vice president of the Vermont Hotel, Motel, Restaurant Association discussed the importance of the "Montrealer" to the Vermont tourist industry:

Today in Vermont, our travel industry leaders are deeply concerned over the impending energy crisis and affect a shortage of gasoline will have on Vermont's second most important industry—tourism. The travel industry in Vermont employs over 23,500 people representing 14% of our state's non-farming labor force.

This makes Vermont the third most travel dependent State in the nation for employment. The U.S. Travel Data Center's publication, The Impact of Travel on State Eco-

nomics, estimated that in 1976 travel taxes generated 66 million dollars in revenue for our State. This figure represents $138.66 of tax dollars for every man, woman and child in Vermont—a figure 40% higher than the next highest New England State and 56% higher than the National average.

Governor Snelling has told us that fifteen times as many people as live in our State visited us last year. Ninety percent of these people, Mr. Chairman, are said to come to Vermont via the automobile. Certainly, this is not a very encouraging picture in light of the restrictions on travel currently being created by gasoline shortages across the Nation.

What alternative do we have to this potentially disasterous situation? At this time, Mr. Chairman, we have virtually no easy alternative. We do, however, have the potential to develop alternatives. One of these alternatives is passenger rail service.

Mr. DesLauriers, as chairman of the New England Council which represents 1,100 business members, commented on the "important contribution made by the travel industry to the entire New England economy." Citing Vermont as an example, Mr. DesLauriers observed that in the State—

From 10–14 percent of the people are employed in vacation and travel-related businesses. These businesses pay approximately 20 percent of all state and local taxes. This industry is especially important in the rural parts of Vermont where the problems of unemployment and low business tax base are most acute.

More than 80 percent of the businesses in Vermont employ fewer than 50 people. My own company, Bolton Valley Corporation, is a medium-sized, family-owned ski and summer resort. It employs 110 people, and has one hundred hotel rooms, seventy condominiums, four chairlifts, and necessary support facilities for year-round operation. The firm is representative of the tourist industry in Vermont, both in size and in being located in a rural area. Bolton Valley and other tourist businesses like it contribute significantly to the state's industrial mix and are vital to Vermont's economic well-being.

Bolton Valley, like other tourist-related facilities in the state, benefits substantially from the "Montrealer." This Amtrak route runs through the very heart of the market area from which our skiers and vacationers come—Washington, D.C., Delaware, Philadelphia, New Jersey, New York, Connecticut, and western Massachusetts. Last year approximately 23,000 vacationers arrived or departed Vermont via the "Montrealer."

Mr. President, I believe that the testimony of Messrs. Anderson and DesLauriers, which is similar to that given by other witnesses, shows the importance of the "Montrealer" in the tourist industry of New England and Vermont.

CONCLUSION

In 1929, the Nation's railroads, operating approximately 20,000 passenger trains, carried 77 percent of the intercity passenger traffic while buses carried 15.4 percent of the traffic.

By 1950, more than half of the passenger trains had disappeared, and the railroad's share of the intercity passenger traffic had declined to 46.3 percent. Traffic on buses increased to 37.7 percent and the airlines' share had grown to 14.3 percent.

Twenty years later, in 1970, railroad passenger traffic had dropped to 7.2 percent of the commercial share of passenger traffic and the number of trains still in operation had dropped to less than 450. Airlines dominated the public carrier market with 73 percent, while buses held onto barely 16 percent. There was also substantial growth in private automobile traffic.

Today, automobile drivers are sitting in lines waiting to get gasoline. However, unlike the shortages experienced in 1973–74, these shortages will not disappear at the end of the summer. They are here to stay, and they will force the American public to turn to modes of Transportation other than the automobile.

Rail-passenger service will play an important role in meeting future transportation needs. Yet, DOT has proposed to eliminate an important route from our national rail-passenger system. Mr. DesLauriers stated, quite eloquently, the absurdity of DOT's proposal to eliminate the Montrealer:

The public, the private sector, individual businesses and the individual states have heard the call from the administration and from Congress that there is a national energy emergency, and have taken steps to implement energy-efficient transportation plans. They have invested both time and money toward achieving this goal, and now, with a single almost irrational stroke, the Department of Transportation suggests we eliminate the "Montrealer," an energy-efficient means of transportation that serves the heavily-populated northeast corridor and its vacationland.

In times of energy shortage, it is easy to add cars or even a second train to an established route. However, if the "Montrealer" were dropped, it would be almost impossible to restore train travel to this region. The public and customer acceptance of this train is strong, and would, in fact, argue for a second train over the same route, rather than a cutback. It is a good, safe, energy-efficient essential means of transportation through New England and Vermont, and should be retained.

Mr. President, I am convinced that the "Montrealer" should be retained. I will take any and all actions necessary to insure that DOT does not terminate the "Montrealer." I urge my colleagues to carefully consider the testimony given at the Small Business Committee hearing. This testimony provides the best reason for retention of the route.

REFUGEE PRESSURES

Mr. HUDDLESTON. Mr. President, in recent weeks newspaper articles have been placed in the RECORD depicting how successful refugees have been in adopting a new way of life in this country. I believe that these successes are worthy of note and that we should be proud of the fact that many are adjusting so well. However, there is another side to this adjustment problem which also must be carefully considered. An article which appeared in the Washington Post on April 30, 1979, reveals some of the pervasive pressures which refugees are having extreme difficulty in coping with. The article states that—

These pressures have shown themselves, social workers say, in increased cases of alcoholism, marital separations, and even family violence in the Vietnamese community.

Given the stressful situations which many refugees have to face, it is not surprising that these types of problems are developing. Nonetheless, it is these problems which we must be fully aware of in formulating comprehensive immigration legislation.

The adjustment problems referred to in the article will have both a short and a long-range impact upon our society. They will impose additional costs upon the taxpayers in the form of larger social, medical and law enforcement programs. Congress must be fully aware of both sides of the picture before committing the country to the greatly expanded refugee program which is now pending in committee.

I ask unanimous consent that the article by Judith Valente be printed in the RECORD.

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

REFUGEE PRESSURES

(By Judith Valente)

Nguyen's case was referred to the Fairfax County Department of Social Services last week, shortly after the birth of her first child. She was hoping to find a day-care program that would look after the baby while she studied English and looked for a job.

Nguyen, 24, was assigned a Vietnamese social worker—one of eight in the Washington area being trained to help Vietnamese refugees with emotional and mental problems. And then, according to Tran thi Phuong, the social worker, the woman's story began unfolding.

Nguyen's family and her husband's had planned to escape together from Vietnam last year but ended up in separate boats. The boat carrying his family sank. Her relatives made it to safety. Afterwards, the young couple's life together in America took a nightmarish turn, with him resenting her for her family's luck and blaming her for his losses.

Shortly before the baby was due, her husband abandoned her, and Nguyen [not her real name] found herself in a financial and emotional crisis, Tran said.

Social workers dealing with the Washington area's 12,000-member Vietnamese refugee community say they are uncovering hundreds of cases like Nguyen's with refugees who need as much help coping with emotional pressures as they do in meeting their material needs.

These pressures have shown themselves, social workers say, in increased cases of alcoholism, marital separations, and even family violence in the Vietnamese community.

Ironically, the problems exist side by side with the tremendous economic advances the refugees have made ever since they began fleeing their country after Saigon fell to the Communists four years ago today.

One of the most recent national surveys of Vietnamese refugees, conducted by Darrel Montero, director of the Urban Ethnic Research Project at the University of Maryland, shows that the Vietnamese have made remarkable economic strides: 94 percent of all male household heads are employed; 51 percent of the Vietnamese households are earning more than $800 a month; only 3 percent are earning less than $200 a month.

But economic advances aside, there is a dark underside to the otherwise rapid integration of Vietnamese refugees into American society, experts say.

Karen Shanor, codirector of one of the country's first projects to identify and deal with the mental health problems of the refugees, said a certain "mystique that there are no problems" has grown up about the Vietnamese community.

"In the resettlement camps, American officials would talk to (the refugees) and they

would look so very placid. There was the impression that everything was all right," said Shanor, a clinical psychologist.

But everything isn't always all right.

Upon arrival, and for at least the first year, the refugees struggled with basic problems of survival; learning English, finding a job, getting a place to live, Shanor said. The emotional problems were left to fester.

Guilt about having survived when so many of their friends and relatives had died, frustration at having to start over—usually with lower level jobs than they had before—or just the sheer trauma of their perilous escape from Vietnam, are, four years later, taking their toll on the refugees, Shanor said.

"It's not exactly a delayed trauma like with the Vietnam veterans who acted like it wasn't happening. . . . It's more of a compounded trauma," which builds up over time, according to Shanor.

Shanor and Vietnamese psychiatrist Dr. Tran Minh Tung have been training eight members of the local Indochinese community to deal with the emotional problems that are cropping up among the refugees. The trainees are stationed at social service agencies in both Washington and Northern Virginia.

In the six weeks that they have been at work, the trainees say, they have found mental health problems among young and old, married and single, the employed and the unemployed.

Many of the tensions the Vietnamese face, according to the trainees, stem simply from the pressures of having to make it economically and from the breakdown of traditional Vietnamese values as the refugees begin to blend more and more into American society.

The growing independence of the Vietnamese women and youths, for example, is creating a great deal of friction in numerous families, according to the caseworkers.

"In Vietnam the husband is the head of the family. He is probably the only one employed," said Duc Duong, an activist in the Montgomery County Vietnamese community. But here, according to the Montero study, 93 percent of all females over 16 have jobs.

"The husband feels he's kind of losing face," Duong said.

Many of the elderly refugees are finding the extended family structure they depended on in Vietnam for moral and financial support is collapsing here and are finding it difficult to cope.

"I know of one woman—she is 56, her son is 25," said mental health worker Boun Thinh. "Recently, she took a job to help support the family while her son studies. She knows little English.

"I think she's going to have a nervous breakdown . . . IRC (International Rescue Committee) said they could find her a job. She went to work, but she feels like a robot. She can't talk to anybody all day."

ADMINISTRATION ENDORSES OIL DIVERSIFICATION

Mr. KENNEDY. Mr. President, for the last several years I have been urging the administration to undertake a program of diversifying the sources of the oil that we import. It is clear to any unbiased observer that we will have significant import dependence for many years to come. Since this import dependence will not be removed by a magical technological breakthrough or through higher prices, it is crucial that we begin now to diversify the sources of our oil imports. I was pleased in reviewing the recent National Energy Plan II that the plan concluded that oil diversification was the most important step that can be taken in the near term to increase U.S. energy security. I quote from page VIII–27:

Above all, the Nation must integrate its foreign and economic policies with the new energy realities. Since import dependence through the year 2000 is inevitable, the U.S. must develop strategies to diversify its sources of foreign supply. It must be vigilant to take those steps, small and large, that will enhance its political security as well as economic strength.

In recent testimony the administration has singled out its commitment to the World Bank and to certain OPIC programs as its initiatives in the oil diversification area. I urge the administration to develop, without delay, the strategies that it calls for in the conclusion of National Energy Plan II to diversify our sources of foreign supply. I look forward to examining these strategies and working with the administration in implementing them.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

REPORT OF THE COMMODITY CREDIT CORPORATION—MESSAGE FROM THE PRESIDENT—PM 73

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the provisions of Section 13, Public Law 806, 80th Congress, I transmit herewith for the information of the Congress the report of the Commodity Credit Corporation for the fiscal year ended September 30, 1978.

JIMMY CARTER.

THE WHITE HOUSE, *May 16, 1979.*

MESSAGES FROM THE HOUSE

At 11:36 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3824. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 2729, an act to authorize appropriations for activities of the National Science Foundation, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FUQUA, Mr. BROWN of California, Mr. SCHEUER, Mr. HARKIN, Mr. WYDLER, and Mr. HOLLENBECK were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to House Concurrent Resolution 107, a concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal year 1980 and revising the congressional budget for the U.S. Government for the fiscal year 1979; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. GIAIMO, Mr. ASHLEY, Mr. OBEY, Mr. SIMON, Mr. MINETA, Mr. JONES of Oklahoma, Mr. SOLARZ, Mr. BRODHEAD, Mr. WIRTH, Mr. PANETTA, Mr. GEPHARDT, Mr. LATTA, Mrs. HOLT, Mr. SHUSTER, Mr. FRENZEL, and Mr. RUDD were appointed managers of the conference on the part of the House.

At 2:50 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2805. An act to make technical and conforming changes to the financial disclosure provisions in the Ethics in Government Act of 1978.

H.J. Res. 262. A joint resolution to declare May 18, 1979 to be "National Museum Day."

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 2805. An act to make technical and conforming changes to the financial disclosure provisions in the Ethics in Government Act of 1978; to the Committee on Governmental Affairs.

H.R. 3824. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 16, 1979, he presented to the President of the United States the following enrolled bill:

S. 532. An act to continue the work of the President's Commission on Pension Policy to develop a national retirement income policy in the United States, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-1418. A communication from the Secretary of Energy, transmitting a draft of proposed legislation to amend Public Law 95-509 to increase the authorization for appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes; to the Committee on Armed Services.

EC-1419. A communication from the First Vice President and Vice Chairman, Export-Import Bank of the United States, reporting, pursuant to law, with respect to a transaction involving the purchase of U.S. goods by the Electricity Supply Board (E.S.B.) of the Republic of Ireland for use in a thermal power plant in the Shannon estuary area of Ireland; to the Committee on Banking, Housing, and Urban Affairs.

EC-1420. A communication from the Acting General Counsel, Department of Housing and Urban Development, transmitting a draft of proposed legislation to authorize appropriations under title I of the Housing and Community Development Act of 1974 for fiscal years 1981, 1982 and 1983, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-1421. A communication from the Administrator, National Aeronautics and Space Administration, proposing an amendment to H.R. 1786, to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-1422. A communication from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to amend the act of August 10, 1956, as amended, section 716 of title 10, United States Code, section 1006 of title 37, United States Code, and sections 8501(1)(B) and 8521(a)(1) of title 5 United States Code; to the Committee on Commerce, Science, and Transportation.

EC-1423. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the implementation of the Alaska Native Claims Settlement Act, as amended; to the Committee on Energy and Natural Resources.

EC-1424. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on various bidding options utilized in fiscal year 1978 lease sales on the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

EC-1426. A communication from the General Counsel, Department of Energy, reporting, pursuant to law, on a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1427. A communication from the Chairman, Interagency Geothermal Coordinating Council, Department of Energy, transmitting, pursuant to law, the Council's third annual report; to the Committee on Energy and Natural Resources.

EC-1428. A communication from the Assistant Secretary of the Interior, transmitting, pursuant to law, an application by Eastern Municipal Water District of Hemet, Riverside County, Calif., for a loan under the Small Reclamation Projects Act (70 Stat. 1044, as amended); to the Committee on Energy and Natural Resources.

EC-1429. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, an application by the Central Nebraska Public Power and Irrigation District, Gosper, Phelps, and Kearney Counties, Nebr., for a loan under the Small Reclamation Projects Act; referred to the Committee on Energy and Natural Resources.

EC-1430. A communication from the Deputy Assistant Secretary of the Interior for Land and Water Resource, transmitting, pursuant to law, a report on the modification of Gibson Dam, Sun River project, Montana; referred to the Committee on Energy and Natural Resources.

EC-1431. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Should The Appalachian Regional Commission Be Used as a Model for the Nation"; referred to the Committee on Environment and Public Works.

EC-1432. A communication from the Federal Cochairman of the Ozarks Regional Commission, transmitting, pursuant to law, the annual report of the Ozarks Regional Commission for fiscal year 1978; referred to the Committee on Environment and Public Works.

EC-1433. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Home Health Care Services—Tighter Fiscal Controls Needed"; referred to the Committee on Finance.

EC-1434. A communication from the Secretary of the Treasury, transmitting, pursuant to law, notice that the general revenue sharing program is under consideration by the administration but that no decision has been reached as to whether to request new legislation for next fiscal year as required by section 607 of the Congressional Budget Act of 1974; referred to the Committee on Finance.

EC-1435. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Medicare Hospital Certification System Needs Reform"; referred to the Committee on Finance.

EC-1436. A communication from the District of Columbia Auditor, transmitting, pursuant to law, copies of the following reports: (1) Third Annual Report of the District of Columbia Auditor (March 21, 1979); (2) Letter to Hon. John Wilson, re: Real estate tax practices (March 29, 1979); (3) Advisory Neighborhood Commissions Annual Report-fiscal year 1978 (March 30, 1979); (4) Letter to Hon. John Wilson re: Mayor's proposed "Real Property Tax Classifications for Tax Year 1980 Act" (April 30, 1979); (5) Enforcement of health and safety standards in residential facilities funded under contract by the District of Columbia Government (May 1, 1979); referred to the Committee on Governmental Affairs.

EC-1437. A communication from the Inspector General of the Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on the activities of the Office of Inspector General for the period January 1 to March 31, 1979; referred to the Committee on Governmental Affairs.

EC-1438. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "More Can Be Done To Identify and Help Communities Adjust to Economic Problems Caused by Increased Imports"; referred to the Committee on Governmental Affairs.

EC-1439. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Employment Examinations: Do They Achieve Equal Opportunity and Merit Principle Goals?"; referred to the Committee on Governmental Affairs.

EC-1440. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports on visa petitions accorded third and sixth preference classification under section 204(d) of the Immigration and Nationality Act; referred to the Committee on the Judiciary.

EC-1441. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting notice that the Administrative Office of the U.S. Courts is preparing a report on the implementation of title II of the Speedy Trial Act of 1974, and that they expect to file the report prior to July 1, 1979; referred to the Committee on the Judiciary.

EC-1442. A communication from the Assistant Attorney General of the United States, transmitting a draft of proposed legislation to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; referred to the Committee on the Judiciary.

EC-1443. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to improve the provision of mental health services and otherwise promote mental health throughout the United States; and for other purposes; referred to the Committee on Labor and Human Resources.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-222. A resolution adopted by the Legislature of the State of Washington; to the Committee on the Judiciary:

"HOUSE FLOOR RESOLUTION NO. 79-37

"Whereas, There is a growing concern by citizens and taxpayers that the rate of increase in government spending imperils the purchasing power of the individual and the health of the economy; and

"Whereas, This concern has become one of the most important problems facing the country as measured by numerous public opinion polls; and

"Whereas, There is a growing public demand that government taxes and spending be subject to greater discipline; and

"Whereas, The failure to respond to the clear majority will of the American people could cause significant damage to public confidence in our system of government;

"Now, therefore, be it resolved, By the House of Representatives of the State of Washington, That the members of the House do respectfully pray that the Congress of the United States recognize the imperative need for a credible response to the public demand for a more efficient restraint on federal taxation and spending, and to move to adopt either a constitutional amendment for submission to the states, or a binding internal procedure with effective safeguards against evasion, to achieve the end of responsible fiscal control which will help reduce inflation, protect purchasing power, and preserve the vitality of this nation's economy; and

"Be it further resolved, That the House of Representatives of the State of Washington commends to the attention of the Congress the following provisions and concepts to achieve the desired end: That the growth rate in outlays of the government of the United States be prohibited from exceeding the growth rate of the national economy; that any budgetary surplus be used to reduce the public debt of the United States; that the President and Congress by extraordinary majority may declare an emergency appropriation in excess of the limit for one year; that the position of the budget outlays composed of grants to state and local governments be protected; and that additional burdens imposed on state or local governments by the government of the United States be compensated;

"Be it further resolved, That copies of this resolution be immediately transmitted to the Honorable Jimmy Carter, President of the United States; the President of the

United States Senate; the Speaker of the United States House of Representatives; and each member of Congress from the State of Washington."

POM-223. A concurrent resolution adopted by the Legislature of the State of New Hampshire; to the Committee on the Judiciary:

"CONCURRENT RESOLUTION

"Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, the annual Federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

"Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

"Whereas, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all Federal spending and be in balance; and

"Whereas, the State of New Hampshire has long been known for its sensible, prudent approach to governmental spending; and

"Whereas, the New Hampshire example of fiscal responsibility is a model for all to follow; and

"Whereas, we believe that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

"Whereas, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments which shall be valid to all intents and purposes when ratified by three-fourths of the several states. We believe such action vital; now, therefore, be it

"Resolved by the legislature of the state of New Hampshire, that this body proposes to the Congress of the United States that procedures be instituted in the Congress to propose and submit to the several states an amendment to the Constitution of the United States requiring that the federal budget be balanced in the absence of a national emergency; and be it further

"Resolved, that, alternatively, this body respectfully petitions the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget and to make certain exceptions with respect thereto; and be it further

"Resolved, that this application by this body constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar application pursuant to Article V, but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this House Concurrent, then this petition for a Constitutional Convention shall no longer be of any force or effect; and be it further

"Resolved, that this application and request be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to such specific and exclusive purpose; and be it further

"Resolved, that this Body also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution; and be it further

"Resolved, that copies of this resolution be sent to the Secretary of State and presiding officers of both houses of the legislatures of each of the several states in the Union, the Speaker and the Clerk of the United States House of Representatives, the President and the Secretary of the United States Senate, and to each member of the New Hampshire named Congressional delegation."

POM-224. A resolution adopted by the Legislature of the State of New York; to the Committee on Governmental Affairs:

"LEGISLATIVE RESOLUTION 375

"Whereas, The old testament has many references to the value of pigeons which were given symbolic significance by their sacrifice in religious ceremonies; and

"Whereas, The homing instinct has been valued since ancient times when this pigeon was first used as a carrier of messages; and

"Whereas, Egyptian writings dating from about 3000 B.C. are the earliest records of the domestication of pigeons; and

"Whereas, The carrier pigeon is known to have been used by the Roman Army during the conquest of Gaul, and in the same intrepid tradition has served the United States and our allied forces through two World Wars, saving thousands of lives with their swift and valorous flights bearing urgent strategic information; and

"Whereas, There are at least three members of this species in the Hall of Fame, including Jungle Joe, who carried vital information for the United States over steep mountains in Asia, Pathfinder, a World War II Night Flyer, and Sneaky, a hen pigeon who carried an urgent tactical message and so aided the St. Lo breakthrough in Belgium; and

"Whereas, The sport of pigeon racing, which is both a national and international activity, has helped to promote international relations between the United States, England, Spain, Germany, France, Belgium, Japan and many other countries throughout the World; and

"Whereas, It is the sense of this Legislative Body that the Homing Pigeon has contributed greatly to the service of this country, particularly as an adjunct to military communications, saving the lives of those serving with our armed forces and aiding in tactical victories during war, and should be duly recognized by way of a commemorative postage stamp; now, therefore, be it

"Resolved, That this Legislative Body does hereby memorialize the Congress of the United States and Mr. William Bolger, United States Postmaster General to enact such necessary measures as would provide for the printing of a fifteen cent stamp commemorating the Homing Pigeon; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the Congress of the United States and to Mr. William Bolger, United States Postmaster General."

POM-225. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Environment and Public Works:

"SENATE RESOLUTION 17

"Whereas, the federal Clean Air Act of 1970 established mandatory automobile emission standards and time schedules for their implementation by automobile manufacturers; and

"Whereas, in response to the stringent emission control requirements of the Clean Air Act, automobile manufacturers have installed catalytic converters to reduce harmful pollutants on most cars built after 1974; and

"Whereas, catalytic converters are muffler-type devices intended to chemically alter harmful carbon monoxide, hydrocarbons, and nitrous oxides in automobile exhausts into harmless emissions; and

"Whereas, while the catalytic converters have enabled automobile manufacturers to comply with the mandates of the Clean Air Act, a serious question has arisen as to whether these devices are in the best interests of the nation's drivers and the general public as well; and

"Whereas, for example, the installation of catalytic converters on new vehicles reportedly increases the initial selling price of vehicles so equipped by an estimated average cost of up to $400 per vehicle; and

"Whereas, in addition, it is an established fact that minimal amounts of lead, a common ingredient in regular and premium gasolines, will seriously impair, if not totally negate the intended cleaning function of the catalytic converter; and

"Whereas, as a result, vehicles fitted with catalytic converters must, out of practical necessity, use only unleaded gasoline to assure the effective functioning of the emission control systems and to contain the emission of harmful pollutants within acceptable limits; and

"Whereas, unleaded gasoline is more expensive than conventional gasolines because of the extra costs associated with the production of unleaded gasoline; and

"Whereas, efforts of the federal government to assure adequate supplies of unleaded gasoline have not been entirely successful due in large part to circumstances of an international nature beyond the control of the federal government with the resultant shortage of unleaded fuel in several regions of the United States; and

"Whereas, experience has demonstrated that frequent repairs and engine service work are required for vehicles equipped with catalytic converters to assure maximum fuel efficiency and effective functioning of the emission control system with the resultant obvious additional costs which must be borne by owners of such vehicles; and

"Whereas, informed sources point to the additional cost of manufacturing unleaded gasoline coupled with the expected increase in price when and if gasoline is deregulated; and

"Whereas, the cost of replacing a defective catalytic converter with a new one is upwards of $300 per installation; and

"Whereas, effective alternative technologies have been developed to reduce the emission of harmful pollutants; and

"Whereas, the questionable effectiveness, fuel efficiency, high repair and maintenance cost, and other problems associated with the catalytic converter give rise to the firm conviction that the elimination of the catalytic converter and its replacement with alternate technologies may better serve the intended purposes of the catalytic converter is a matter of compelling national interest; now, therefore,

"Be it resolved by the Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, that the President of the United States, the United States Congress, the Department of Energy, the Department of Transportation, the Environmental Protection Agency, and all other State Legislatures are respectfully urged to join in a concerted national effort to do away with the reliance on the use of catalytic converters in view of the concerns expressed in this Resolution; and

"Be it further resolved that certified copies of this Resolution be transmitted to the

President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, the Secretary of Energy, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and to each of the presiding officers of the legislative bodies of each state of the United States of America."

POM-226. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Foreign Relations:

"HOUSE JOINT RESOLUTION 32

"Whereas Congress has established the Center for Cultural and Technical Interchange between East and West in Hawaii for the promotion of better relations and understanding between the United States and the nations of Asia and the Pacific; and

"Whereas the purpose of the center in Hawaii is to provide a place where scholars and students in various fields of study from the nations of the East and the West may study, give and receive training, exchange ideas and views which promote the international, educational, cultural, and related activities of the United States; and

"Whereas the United States shares the Arctic circumpolar frontiers with other Arctic coastal nations: Canada, Greenland/Denmark, Norway, and the Union of Soviet Socialist Republics; and

"Whereas the problems of life and living in an Arctic environment are shared by the nations of the Arctic community; and

"Whereas the extreme problems of environmental accommodation posed by the Arctic climate are shared by the Arctic community; and

"Whereas the solutions to these and other problems of life in the Arctic can best proceed from cooperative endeavors of the Arctic peoples; and

"Whereas the world need for energy resources from the Arctic would be facilitated by common work and coordination among the Arctic peoples; and

"Whereas it is in the public interest for the State of Alaska to participate in any effort by the United States to provide leadership and initiative in American Arctic circumpolar resource management and development;

"Be it resolved by the Alaska State Legislature that Congress is urged to authorize a program for

"(1) the establishment and operation in Alaska of an institution concerned with Arctic circumpolar cultural and economic research, development, and the exchange of ideas and views through arrangements with public educational or other nonprofit institutions;

"(2) grants, fellowships and other aid to outstanding scholars and authorities from the Arctic circumpolar nations as may be necessary to attract such authorities to the institution;

"(3) grants, scholarships, and other aid to qualified students from the Arctic circumpolar nations as may be necessary to enable such students to engage in study at the institution; and

"(4) making the facilities of the institution available for study to other qualified persons on a reasonable basis;and be it

"Further resolved that Congress is urged to enter into a joint agreement with all other participating Arctic coastal nations to mutually share the expenses for establishing and operating the Arctic Circumpolar Cultural and Technical Interchange Center.

"Copies of this resolution shall be sent to the Honorable Walter F. Mondale, President of the U.S. Senate; the Honorable Thomas P. O'Neill, Speaker of the U.S. House of Representative; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-227. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources:

"SENATE JOINT RESOLUTION 13

"Whereas section 17(d)(2) of the Alaska Native Claims Settlement Act of 1971 directed the Secretary of the Interior 'to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act . . . up to, but not to exeed, 80 million acres of unreserved public lands in the State of Alaska . . . which the Secretary deems suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic River Systems'; and

"Whereas the same 1971 Act required Congress to act upon the Secretary's recommendations within seven years; and

"Whereas both the United States House of Representatives and the United States Senate have had under consideration legislation responding to the recommendations of the Secretary entered in accordance with the mandate of the 1971 Act, but Congress has failed to agree on a single version of Alaska national interest lands legislation; and

"Whereas the President, Secretary of the Interior, and Secretary of Agriculture, acting in accordance with authority purportedly granted by the Antiquities Act (16 U.S.C. 431), the Federal Land Policy and Management Act (43 U.S.C. 1701), and other statutory bases for land withdrawals and reclassifications, have reserved or reclassified more than 110 million acres of Alaska land, compromising Statehood Act selection rights and threatening or severely restricting, if not altogether precluding, both traditional land and resource use activities and opportunities for resource development throughout much of Alaska;

"Be it resolved that the Alaska State Legislature adopts the following seven points as the position of the State of Alaska in its attempts to secure Congressional review and disposition of issues involving Alaska national interest lands in keeping with the spirit of the 1971 Congressional legislation:

"(1) Congress should revoke each and all of the 1978 executive or administrative orders withdrawing lands in Alaska;

"(2) by legislation, Congress should convey to the State its full entitlement of federal lands authorized by the Alaska Statehood Act, and to Alaska Natives the full entitlement of public lands authorized to Alaska Natives by the Alaska Native Allotment Act, 48 U.S.C. 357 (Act of May 17, 1906), as amended, and by the Alaska Native Claims Settlement Act, as amended;

"(3) Congress should provide for a rational means of providing access to state and private lands across any federal enclaves created;

"(4) State management of fish and game on all lands in Alaska should be continued;

"(5) Congress should exempt highly valuable mineral deposits and other commodity resources from inclusion in federal systems which obviate development;

"(6) traditional land uses on all lands in Alaska should continue; and

"(7) The President and the Secretary of the Interior should be precluded from establishing or adding to any conservation system unit within Alaska by means of any executive or administrative authority; and be it

"Further resolved that Alaska's Congressional delegation support the passage of Alaska lands legislation this year as long as that legislation basically conforms to the policy statements enumerated in this resolution and is an improvement over conditions which would otherwise prevail under the Antiquities Act and other executive and administrative actions should no Alaska land legislation be enacted.

"Copies of this resolution shall be sent to the Honorable Jimmy Carter, President of the United States; to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and to all other members of the United States Congress."

POM-228. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources:

"JOINT RESOLUTION 5

"Whereas the developmet of a wise national resource use policy requires that public land be utilized on an enlightened multiple-use basis, accommodating all reasonable uses for which the land is suited; and

"Whereas the Congress of the United States has recognized and approved this concept as the general policy of the United States in the Federal Land Policy and Management Act of 1976 which states in sec. 102(a)(7) (43 U.S.C. 1701(a)(7)) that

"'The Congress declares that it is the policy of the United States that . . .

"'(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;'

"but (b) of that section states:

"'(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.';

"and

"Whereas by a series of proclamations the President of the United States has purported to establish national monuments encompassing over 55,000,000 acres of land within the State of Alaska, citing as authority for this action the Act for the Preservation of American Antiquities adopted June 8, 1906 (16 U.S.C. 431); and

"Whereas the authority under the Antiquities Act is severely limited, allowing the president only:

"'to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. . . .';

"and

"Whereas each of the proclamations contains a declaration by the President of the United States that the area reserved 'is the smallest area compatible with the proper care and management of the objects to be protected', yet:

"(1) the total area taken by the proclamations exceeds the total area of New England, with New Jersey, Delaware and Maryland added for good measure;

"(2) the total area taken by the proclamations exceeds the total area of Austria, East Germany and Belgium combined;

"(3) the total area taken by the 14 proclamations exceeds the total area of the 20 largest-in-population standard metropolitan statistical areas in which over one-fourth of the total population of the United States work and live, with in excess of 20,000 square miles left over to provide the national monuments near the concentrated population areas which are so sorely needed; and

"Whereas no one could consider such reservations a reasonable exercise of presidential discretion to reserve "the smallest area compatible with the proper care and management of the objects to be protected" if the area was other than in Alaska; and

"Whereas the Alaska Statehood Act, which is a compact between the people of Alaska and the United States, provides:

"'. . . the State of Alaska is hereby declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever . . . .';

"and

"Whereas the Statehood Act provided that substantial land could be selected by the State of Alaska and would be granted to the state upon selection, and the reasons for the selection and grants, as stated in the report of the Committee on Interior and Insular Affairs accompanying the bill, include the finding that:

"' In Alaska very little land has passed out of Federal title and there seems to be little chance of any marked change in this situation under existing Federal policies'

"leading to the conclusion that the land must be conveyed to the state since, as stated in the report:

"'If Alaska is to become a State, it must be a full and equal State, and not a puppet of the Federal Government';

and

"Whereas, in fact, only an insubstantial proportion of the land to which the State of Alaska is entitled under the Statehood Act has actually been granted to the state despite the passage of almost 20 years; and

"Whereas in truth and law Alaska is a State of the United States 'on an equal footing with the other States in all respects whatever' and is not a colony or 'a puppet of the Federal Government';

"Be it resolved by the Alaska State Legislature that it requests the Congress of the United States to act promptly and decisively to overturn these actions, thereby doing justice to the people of Alaska and of the whole United States and reaffirming the core constitutional principle of the United States that all states are on an equal footing.

"Copies of this resolution shall be sent to the Honorable Henry M. Jackson, Chairman, Senate Energy and Natural Resources Committee; the Honorable Morris K. Udall, Chairman, House Interior and Insular Affairs Committee; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and to all other members of the United States Senate and the United States House of Representatives."

POM-229. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on the Judiciary:

"HOUSE RESOLUTION

"Whereas, according to the U.S. Immigration and Naturalization Service, 7,789 immigrants admitted to the country between 1975 and 1976 identified Hawaii as their State of intended permanent residence; and

"Whereas, the 7,789 alien arrivals in 1976 are more than four times the same figure for the year 1960 when 1,619 aliens reported Hawaii as their intended destination to the U.S. Immigration and Naturalization Service; and

"Whereas, a technical study on population by the State Department of Planning and Economic Development (DPED) supporting the Hawaii State Plan points out that "Hawaii carries a very disproportionate burden in absorbing aliens"; and

"Whereas, to support that statement, the DPED study stated that the number of aliens per 100 civilians for the United States in 1973 was 2.2 in comparison to the Hawaii figure of 8.1, which was the highest of all the states; and

"Whereas, although foreign-born persons constitute not more than 15 percent of the population, a Legislative Reference Bureau (LRB) study entitled "In-migration as a Component of Hawaii Population on Growth: Its Legal Implications" reported that they accounted for 66 percent of the tuberculosis cases in the State in 1970; and

"Whereas, that same study also showed that 75 percent of all leprosy cases detected in Hawaii between 1966 and 1971 involved foreign-born persons; and

"Whereas, the LRB report went on to further indicate that to control tuberculosis and leprosy, the state spent more than $4 million in 1970-71; and

"Whereas, in March of 1978 there were 2,214 foreign-born persons receiving public financial assistance according to a report entitled "Immigration Trends in Hawaii" published by the State Department of Health; and

"Whereas, there are many instances in the educational, employment, and other areas in which the disproportionate burden in absorbing aliens causes Hawaii's taxpayers to bear an unequal share of the fiscal responsibility for national immigration policies; now, therefore,

"Be it resolved by the House of Representatives of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, that the United States Congress is requested to enact legislation providing increased financial assistance to states disproportionately affected by immigration; and

"Be it further resolved that certified copies of this Resolution be transmitted to the Governor of the State of Hawaii, the President of the United States Senate, the Speaker of the United States House of Reprsentatives, and to each member of Hawaii's congressional delegation."

POM-230. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Energy and Natural Resources:

"HOUSE CONCURRENT RESOLUTION No. 109

"Whereas, Travel and tourism generate more tax revenue in Michigan than in all but four states in the union; and

"Whereas, Michigan respects tourism, its second largest industry, as a legitimate, professional, job-producing segment of the economy. The State promotes travel and development of tourist-related business in the same modern, sophisticated manner it approaches every other enterprise which contributes to the general welfare and prosperity of its citizens; and

"Whereas, Restrictions on Sunday sale of gasoline would have a devastating effect on the estimated 35,500 establishments directly connected with travel and tourism; and

"Whereas, Drastic reductions in Sunday travel in Michigan would have far less benefit in terms of fuel conservation than the restrictions imposed during a normal business day; and

"Whereas, Limiting travel for aesthetic and recreational purposes would produce little or no encouragement for the public to develop a positive attitude toward desired alternatives to private auto travel, such as car pools and mass transit; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring), That the federal government be urged not to prohibit or restrict Sunday gasoline sales and permit the various States to develop alternative energy conservation measures; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, the United States Secretary of Commerce, the United States Secretary of Energy, and to each member of the Michigan Delegation to the Congress of the United States."

POM-231. A concurrent memorial adopted by the Legislature of the State of Arizona; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT MEMORIAL 1005

"Whereas, the Alaska Native Claims Settlement Act of 1971, Section 19(d)(2), specified that the Secretary of the Interior may withdraw up to, but not to exceed, eighty million acres of unreserved public land in the State of Alaska for possible addition to the national park, forest, wildlife refuge, and wild and scenic river systems; and

"Whereas, the United States Congress is addressing this issue during the current session; and

"Whereas, a careful inventory of the mineral potential of the land that may be included in a management category, which would foreclose mineral exploration and development, should be undertaken and completed before its designation into a management category; and

Whereas, large blocks of land with identifiable agricultural potential should be included in management systems which would allow for future agricultural development; and

"Whereas, cooperative federal-state procedures or institutions should be established to make future recommendations or designations on policy, planning and management of Alaska's federal and state land; and

"Whereas, municipalities in the state oppose any legislation that would create instant land use classifications severely restricting land and resources without consideration for other land use potential; and

"Whereas, passage of this bill without a careful mineral inventory and guaranteed access provisions, traditional environmental and economic impact studies, provisions for future agricultural development, creation of new national forests in the interior of Alaska, completion of the selection process of the state and natives, state game management as guaranteed under the Statehood Act and cooperative federal-state planning and development would be against the best interests of the citizens of the State of Alaska and nation alike."

POM-232. A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Foreign Relations:

"CONCURRENT RESOLUTION

"Whereas, the United States of America no longer officially recognizes the Republic of China but now recognizes the People's Republic of China; and

"Whereas, the United States of America, by virtue of the Taiwan Relations Act of 1979, maintains trade, cultural, economic and other relations with the people and the government in Taiwan; and

"Whereas, the people in Taiwan have been among the most trusted friends and allies of the people of the United States; and

"Whereas, Taiwan is of great strategic importance in the defense of East Asia and the Pacific and has always utilized its military power in the interests of the free world; and

"Whereas, after the severance of diplomatic relations between the United States and Taiwan, the people and the government in Taiwan require more support from the United States; and

"Whereas, aid to the people and the government in Taiwan is in the best interest of the United States; and

"Whereas, Atlanta is the location of the Coordination Council for North American Affairs representing the interests of Taiwan in the southeastern United States.

"Now, therefore, be it resolved by the

House of Representatives, the Senate concurring:

"That the United States Government give its full support to the people and the government in Taiwan and protect their securtiy and welfare.

"Be it further resolved that the Congress of the United States is urged to continue to fulfill its obligations imposed by the fifty-nine treaties and agreements between the United States and the Republic of China in force at the end of 1978 and declared to remain in force after January 1, 1979.

"Be it further resolved that the Government of the United States is hereby urged to promote continued relations between the people of the United States and the people in Taiwan.

"Be it further resolved that copies of this resolution be forwarded to the President of the United States, to each United States Senator from South Carolina, each member of the House of Representatives of Congerss from South Carolina, the Clerk of the Senate of the United States and the Clerk of the House of Representatives of the United States."

POM-233. A petition adopted by the Principal's Association of Ponape, Eastern Caroline Islands, recommending to the United States Government the continuation of the present level of United States assistance and to implement policies in accordance with the petitioners' desires; to the Committee on Energy and Natural Resources.

POM-234. A resolution adopted by the Palau Constitutional Convention, Koror, Palau, requesting that the United States Congress allow employment of Palauan students while they are attending schools in the United States; to the Committee on Labor and Human Resources.

POM-235. A resolution adopted by the Board of Supervisors of the County of Los Angeles, California, requesting the President of the United States and the Congress to enact a national roll-back of gasoline prices to the January 1, 1979 level, that the Attorney General of the United States investigate the major oil companies and determine the reasons for their billions of dollars in excess windfall profits, and that the Secretary of Energy investigate why no refineries were built on the West Coast in anticipation of Alaskan oil, and recommend to the President and Congress a plan to build more refineries throughout America to solve the gasoline shortage, and provide a greater allocation of gasoline to California residents and see that refineries operate at 100 percent capacity; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES SUBMITTED DURING THE RECESS

Pursuant to order of May 15, 1979, the following reports of committees were reported on May 15, 1979, during the recess:

By Mr. BUMPERS, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 490. A bill to protect archaelogical resources owned by the United States, and for other purposes (Rept. No. 96-179).

By Mr. BUMPERS, from the Committee on Energy and Natural Resources, with amendments:

S. 495. A bill to authorize the establishment of the Frederick Law Olmsted National Historic Site in the State of Massachusetts, and other purposes (Rept. No. 96-180).

By Mr. CHURCH, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 496. A bill to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (Act of June 24, 1974; 88 Stat. 266), and for other purposes (Rept. No. 96-181).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 411. A bill to improve the protections afforded the public against risks associated with the transportation of hazardous commodities by pipeline (Rept. No. 96-182).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

S. 712. A bill to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes (Rept. No. 96-183).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1020. A bill to authorize appropriations for the Federal Trade Commission (together with additional views) (Rept. No. 96-184).

S. 1159. An original bill to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes (Rept. No. 96-185).

S. 1160. An original bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes (Rept. No. 96-186).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment and an amendment to the title:

S. 670. A bill to amend the Rural Development Act of 1972 (Rept. No. 96-187).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with amendments and an amendment to the title:

S. 892. A bill to extend the authorization of appropriations for carrying out rural development research, small farm research, and small farm extension programs (together with minority views) (Rept. No. 96-188).

By Mr. BAYH, from the Committee on the Judiciary, without amendment:

S.J. Res. 62. A joint resolution to declare May 18, 1979, to be "National Museum Day."

By Mr. ROBERT C. BYRD (for Mr. MUSKIE), from the Committee on the Budget, without amendment:

S. Res. 157. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 1787.

S. Res. 159. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 584.

By Mr. DOLE, from the Committee on the Judiciary, without amendment:

S.J. Res. 63. A joint resolution to designate the year of 1979 as the "Food-for-Peace Year" (Rept. No. 96-189).

S.J. Res. 68. A joint resolution to authorize and request the President to proclaim the week of June 17 through 23, 1979, as "Product Safety Week" (Rept. No. 96-190).

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. Res. 162. An original resolution commending Alfred L. Atherton, Jr.

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 156. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 918.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CANNON (from the Committee on Commerce, Science, and Transportation):

S. 1159. A bill to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes. Original bill reported during the recess and placed on the calendar.

S. 1160. A bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes. Original bill reported during the recess and placed on the calendar.

By Mr. PERCY (for himself and Mr. LEVIN):

S. 1161. A bill to require biannual reports to Congress on the effectiveness of Government programs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 1162. A bill to amend section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to provide that when papayas produced in the United States are made subject to any regulation with respect to grade, size, quality, or maturity, imported papayas shall be made subject to the same regulation; to the Committee on Agriculture, Nutrition and Forestry.

By Mr. DOLE (for himself, Mr. HARRY F. BYRD, JR., Mr. ZORINSKY, Mr. BENTSEN, Mr. JEPSEN, Mr. WALLOP, Mr. FORD, Mr. MORGAN, Mr. TOWER, Mrs. KASSEBAUM, Mr. LUGAR, Mr. STONE, Mr. HATCH, Mr. YOUNG, Mr. EXON, Mr. MCCLURE, Mr. PRESSLER, Mr. COCHRAN, Mr. MELCHER, Mr. HELMS, Mr. SCHMITT, Mr. HUMPHREY, and Mr. GOLDWATER):

S. 1163. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Finance.

By Mr. GRAVEL:

S. 1164. A bill to amend the Water Resources Development Act of 1974 to authorize and direct the removal and disposal of certain debris and obsolete buildings in the vicinity of Ft. Glenn on Umnak Island in the Aleutian Islands, Alaska, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BELLMON:

S. 1165. A bill to amend chapter 105 of title 10, United States Code, to provide for increases in the amount of the monthly stipend paid to participants in the Armed Forces Health Professions Scholarship program; to the Committee on Armed Services.

S. 1166. A bill to provide a permanent extension for the exclusion from gross income of certain amounts received under certain education programs for members of the uniformed services; to the Committee on Finance.

By Mr. HUMPHREY:

S. 1167. A bill for the relief of Hsia Fu Chen; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 1168. A bill for the relief of Samuel Bo-Wen Huang; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S. 1169. A bill to provide for the continued treatment of Mexican plywood as a desig-

nated eligible article under the generalized system of preferences established by the Trade Act of 1974; to the Committee on Finance.

By Mr. WILLIAMS (for himself and Mr. JAVITS):

S. 1170. A bill to provide improved safety and health standards for railroad employees, to amend the Federal Railroad Safety Act of 1970, to amend the hours of service laws, and for other purposes; to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (for himself and Mr. LEVIN):

S. 1161. A bill to require biannual reports to Congress on the effectiveness of Government programs, and for other purposes; to the Committee on Governmental Affairs.

GOVERNMENT ACCOUNTABILITY ACT OF 1979

Mr. PERCY. Mr. President, I am pleased to introduce today, with Senator LEVIN, the Government Accountability Act of 1979. Both Senator LEVIN and I serve on the Senate Governmental Affairs Committee and we hope to bring this legislation up for hearings this year. I am delighted to have the strong support of my distinguished colleague and look forward to working with him on this legislation in the months ahead.

My good friend from Illinois, Representative JOHN ERLENBORN, is today introducing the same bill in the House with support from Representatives FUQUA, HORTON, and GEPHARDT. The goal of our bill is quite simple. Namely, to provide the public and Congress with a ranking of Federal programs so that those glaringly ineffective and mismanaged programs will stand out.

Last year before I introduced the bill in the Senate in August, I went over to the House of Representatives and asked my distinguished friend and congressional colleague, Representative Bill Steiger, to be the principal sponsor in the House. Representative Steiger studied the bill and we hammered out the final provisions of the bill in several sessions in the Capitol. I had also worked with him closely on the capital gains tax cut legislation. From there and other occasions, I had developed the highest regard for him. He brought to the Capitol the type of dedication and intelligence that we need more of and his presence is sorely missed. Bill Steiger enthusiastically introduced the measure in the House and worked diligently on it in the final months of the last session. This is just one other indication of the immense loss to the Nation of this brilliant young man, taken from Congress early in his career: The loss of his leadership on the Government Accountability Act. I hope we will be able to clear this bill for the President's signature this year. It will be a step toward better Government. It will therefore also be a tribute to Representative Steiger.

I know that his Wisconsin colleague, Senator PROXMIRE, will take a strong interest in this legislation, for as long as I have known him, he, too, has fought for better accountability, better cost control, and the curbing of waste and mismanagement in Government spending programs.

The Senator from Wisconsin has dramatized for the country to see, persistently and steadily, that he is the watchdog of the U.S. Senate on waste in Government. I urge him to join us in supporting the Government Accountability Act and look forward to working with him on it.

Throughout last year we saw revelations of nearly all types of waste in the Federal Government. The General Services Administration scandals burst on the scene and witnesses appeared before the Senate Governmental Affairs Committee estimating that at least $66 million a year was being stolen outright by GSA employees and that when noncriminal negligence is taken into account, the figure climbs to over $100 million. The Inspector General at the Department of Health, Education, and Welfare reported on colossal waste and mismanagement at that agency and the Comptroller General told Congress that between $2.5 and $25 billion was being stolen from the Federal government. It is quite clear that Federal programs are suffering from this squandering of the taxpayers' dollar.

These events and the headlines they engender contribute significantly to the erosion of public confidence in Government. On March 29, Joseph Connor, the chairman of Price Waterhouse & Co. spoke to this point:

> Public officials at all levels of government are confronted as never before with demands for greater accountability. Headlines about fraud and mismanagement in Federal government programs and agencies—Medicare, Student Loans, the General Services Administration—have caused such public concern that President Carter has launched an anti-fraud campaign, stating that "honest and effective government is essential to restore public faith in our public action." Rising taxes and a conviction that government is too big, too costly and too wasteful have led to a national taxpayers' revolt. And, financial crises in our major cities have generated demands from taxpayers and investors for more and better information about the fiscal condition of municipalities.

These feelings are widespread and have been documented in public opinion polls taken by Louis Harris, Roper, and various newspapers. As Mr. Connor continued in his remarks:

> The crisis of confidence must end. Public faith in the accountability of our public institutions must be restored. The public wants to believe that America works. They want government in control of itself.
>
> Get government in control. It sounds so simple. How do we do it? I don't pretend to have all the answers, but I do know what is indispensable to any successful operation, whether in the public or private sector. It is a strong, integrated system of accounting and administrative controls to ensure that employees know what to do and do it effectively, that funds are spent for what is intended, that maximum return is received for every dollar, and that services are delivered as promised.

In private industry, the waste and corruption we have seen in several Federal agencies would not go undetected for long. Businesses have too much to lose to tolerate this kind of inefficiency and intrigue. Those that do not police their own ranks are soon out of business or before the bankruptcy judge.

The Government, as we all know, operates by different rules than the private sector. This is not completely unusual, because Government provides services that private business is either unable or unwilling to provide. Government is simply not business, but the business of Government should be managed with some of the same toughness of purpose, leanness and efficiency that has characterized the private sector in America.

This means that the efficient standards of the private sector should be applied to the operations of Government. We have a long way to go in even trying to bring a semblance of efficiency into Federal program management, however, because we know so little about how specific programs actually work. Congress has tried to bring modern business techniques into the governmental process. In 1974, former Senator Sam Ervin and Senators MUSKIE and RIBICOFF and I worked to bring about passage of the Congressional Budget and Impoundment Control Act which has, for the first time, given us a procedure for an overview of the budget and an opportunity to vote on our priorities. The budget process is helping us get a handle on a budget that has surpassed the $500 billion mark.

The Senate has also passed sunset legislation which would establish a procedure for congressional review of past program performance. Last October, the Senate accepted my amendment to the Sunset Act, which added a new title incorporating the Government Accountability Act. I believe the management report required by the bill enhances our chances for meaningful sunset of programs and felt last fall that it was appropriate to include it with that legislation. I want to point out, however, that the management report stands on its own feet as a means of bringing better management techniques to the Federal Government. As much as it may improve sunset, it is an important step in its own right and, like budget reform and sunset, gives us a tool for spending control.

Despite the new and proposed congressional procedures, it is imperative for their complete success that the President—our Nation's Chief Executive Officer—make his own report to the Congress on the management of all the programs administered by the executive branch. Laurence Silberman, a former Under Secretary of Labor, Deputy Attorney General and Ambassador wrote in the journal Common Sense last summer about the difficulties of effectively reviewing Federal programs. We are indebted to Mr. Silberman for his analysis of the Federal bureaucracy and how it works with special interest groups to maintain vested program interests.

Mr. Silberman points out in his article that although there is widespread agreement that the size of American Government should be brought under control, there is no similar widespread agreement on what areas should be trimmed or reorganized to be made more

efficient. In short, he contends that "since there is no uniform method for evaluating programs, generating a national political consensus as to prime targets for elimination is extremely difficult."

I agree with Mr. Silberman that the best way for the public to know how programs are being managed is to have a ranking of programs within each department. The ranking would be based on three basic criteria: clarity of the law and the statutory objective, implementation of the program, and the quality of its management. A biannual management report by the President to Congress is the appropriate vehicle for the ranking. All programs could not be rated in the same category. If an agency had 50 programs, it would have to list the 50 according to their relative effectiveness. Consequently, this agency would have 50 rankings. This is an important part of our bill because all agencies would have to sort out what their most and least effective programs are. The ranking would be inevitable and the evaluations would have to be made and not avoided, as is so often the case today.

In addition to this ranking, programs would be rated as "excellent," "adequate," or "unsatisfactory." This is a type of report card that would tell us—and the public—how Federal programs are performing.

Presidents of different political persuasions will have different priorities and objectives for major programs and the report will vary from administration to administration. Presidents will have to include programs which are authorized by statute and which are subject to the appropriations process, but would not include 2 independent regulatory agencies or the Executive Office of the President.

Our bill would also require the Director of OMB to identify programs, including those of the independent regulatory agencies, that have seemingly contradictory aims or inconsistencies. In some cases, the OMB Director might find an existing but contradictory program arrangement beneficial, in which case he will be required to explain the reasons for retaining the arrangement and the effect on the management of the programs. In short, the burden of proof will be on the programs to prove themselves. Those that cannot measure up will be carefully reviewed by Congress possibly reduced or eliminated. Timing of the reports in conjunction with the President's budget submission will provide the opportunity to work this into the regular legislative agenda.

The Government Accountability Act does not specify what steps Congress must take upon receipt of the management report. I have no doubt that each committee will instinctively want to review the low-ranked programs within its jurisdiction. Committees may want to examine the top-rated programs, too, to see what it is that makes them so effective. Both the Congressional Budget Office and the General Accounting Office stand ready to help in this evaluation of the President's report. Their comments would be invaluable to the congressional consideration of specific programs.

Mr. President, if there is one thing we should learn from the balanced budget and tax limitation drives, it is that the resources of Government are finite. Taxpayers will not stand idly by while the Government takes more and more of their paychecks for dubiously effective, in fact demonstratively inefficient, programs. We have hit the breaking point.

The management report will serve notice to agency executives that their tenure will be evaluated not only by their new program initiatives but, more importantly, by their success in administering existing programs. This change in the perception of how one succeeds in the Washington bureaucracy should itself lead to an improvement in the way we are governed. I have long felt that the Office of Management and Budget has traditionally emphasized the budgetary aspect of its responsibility with considerably less attention being paid the management side. OMB does now rank programs as part of their annual budget preparation, however, and I believe this procedure can be built on in designing the management report. I am also encouraged by the administration's creation this spring of a Management Improvement Council which will focus more attention on the problems of public management.

Mr. President, several columnists weighed in last year in favor of the Government Accountability Act. I ask unanimous consent that the bill and the articles by George Will and Michael Novak be printed in the RECORD.

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

S. 1161

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 "Government Accountability Act of 1979".

SEC. 2. (a) The Congress finds that—

(1) the public confidence in the ability of the Congress and the executive branch to manage the Federal Government effectively has declined:

(2) the Federal Government is not as accountable as it should be in serving the public interest;

(3) the Federal Government, unlike private enterprise, has no built in mechanism for calling attention to and eliminating programs that are not proving to be cost effective;

(4) the executive branch, the Congress and the public do not possess adequate information on the relative effectiveness of Federal programs;

(5) the taxpaying public is properly demanding more accountability for the expenditure of tax revenues and demanding that public expenditures not grow any larger with respect to the economy as a whole;

(6) the further uncontrolled growth of Government will pose a threat to our democratic society and economy;

(7) the Federal Government cannot be competently managed and new programs for future needs cannot be implemented unless workable management techniques are developed to assess program effectiveness; and

(8) such findings demand that all Federal programs should be evaluated using traditional management standards and that effective programs should be strengthened to better serve the public or eliminated.

(b) The purposes of this Act are to—

(1) provide for more professional and efficient management of the Federal Government;

(2) identify those programs which are ineffective and determine the cause of their ineffectiveness;

(3) encourage the development of uniform methods for evaluating Federal programs;

(4) provide Congress additional tools needed to identify ineffective Federal programs.

SEC. 3. (a) For the purposes of this Act—

(1) The term "program" means an organized set of activities carried out pursuant to separate statutory authorization or for which Federal expenditures are specifically allocated by the Federal Government, and which can be evaluated in terms of relative effectiveness in pursuing a governmental goal, but shall not include national foreign intelligence activities.

(2) The term "executive department" shall have the meaning given it in section 101 of title 5, United States Code.

(3) The term "independent establishment" shall have the meaning given it in section 104 of title 5, United States Code, except that it includes the United States Postal Service and the Postal Rate Commission but does not include the General Accounting Office or the Independent Regulatory Agencies.

SEC. 4. (a) At the beginning of the ninety-seventh Congress and every two years thereafter the President shall submit to the Congress a report on the management of the executive branch (hereinafter called the Management Report). The Management Report shall be submitted on the same day as the budget is transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921.

(b) It is the intent of Congress that the President shall be granted full discretion in the design of the Management Report provided that—

(1) Programs shall be—

(i) designated with each executive department and within each independent establishment, according to their relative effectiveness, as "excellent", "adequate", or "unsatisfactory", and

(ii) ranked as to their effectiveness relative to all other programs within each functional category in that executive department or within that independent establishment.

(2) The designation and ranking of programs as to relative effectiveness shall be determined by the degree to which each program's statutory objective is being met. Such designation and ranking shall be based on—

(i) the clarity of the law and the statutory objective upon which the program is based,

(ii) the overall implementation of the program by the responsible executive department or independent establishment, and

(iii) the overall quality of the management of the program by the responsible executive department or independent establishment.

(c) The Management Report shall include the President's reasons for the program designations and rankings.

(d) The Management Report shall include a list of those programs the President recommends for administrative or legislative improvement during that Congress.

(e) The Management Report shall include the report of the Director of the Office of Management and Budget required under section 5 of this Act, including the President's recommendations and proposed actions pursuant to it.

SEC. 5. (a) The Director of the Office of Management and Budget (hereinafter called the Director) shall provide an evaluative report on Federal programs to the President

which shall be forwarded to the Congress by the President with the Management Report.

(b) In the report the Director shall identify any programs, including those carried out by the Independent Regulatory Agencies, that are contradictory to other Federal programs and recommend corrective legislation. The Director shall also recommend the termination or modification of any programs whose relative ineffectiveness no longer justifies continued Federal expenditures or only justifies a lower level of Federal expenditures.

SEC. 6. The President may from time to time submit to the Congress reports supplementary to the Management Report, each of which shall include such supplementary or revised recommendations as the President may deem necessary or desirable to achieve the purposes of this Act. The Director may also from time to time, submit to the President reports supplementary to the report required by section 5.

LET'S RANK GOVERNMENT EFFECTIVENESS

(By Michael Novak)

I wish Democrats had thought of this idea first: a shrewd technique to make big government accountable. "Rank the bastards!" might be its battle cry.

My colleague at the American Enterprise Institute, former Ambassador Laurence H. Silberman, spelled out the idea in the new Republican intellectual journal Commonsense (310 First St. N.E., Washington, D.C. 20003). Each year the president of the United States would be required to report to Congress on the rank of every program in each department of the executive branch according to its effectiveness. Then the Congress—and the people—would get an idea of the least effective programs in each department.

Every single program would be ranked. Each would be rated in comparison to other programs within its own department. Good programs would get due notice. So would poor ones. Silberman proposes three mandatory criteria for distinguishing them: (a) coherence of statutory objectives; (b) design of the program; (c) quality of management. The ranking system would give government programs something like the major-league baseball standing: a mandatory finish line with clear winners and losers each year.

The director of the Office of Management and Budget would be required to identify programs within the government that have contradictory aims (i.e., encouraging tobacco growers but discouraging smokers). The OMB director would be entitled to propose to Congress the elimination of ineffective programs. Good managers might welcome that opportunity.

Would this particular presidential report be buried from sight? Both journalists and the public would love it. Would budget-wise administrators place the most popular programs at the lowest ranking, to protect them? Lobbies for popular programs would almost certainly begin fighting for a high ranking months before the report was due.

Some ineffective but popular programs would always be at the bottom and some of the worst would be sure to be among them. Besides, the president would have to supply a rationale for each ranking. He would not want to appear to be naive.

Some administrators might try to hide poor programs within larger categories. But astute administrators would have an incentive to break programs down into smaller measurable units. In order to keep their empires as large as possible, some would sacrifice only smaller units at the bottom. Year by year, the worst of these could be pruned away.

Actually, Silberman notes, good managers of federal departments have been doing something like this for years. Faced with tighter budgets, they informally rank their programs when they allocate scarce resources. A new law would force them to make these ranking formal, analytically precise and public.

How can one compare apples and oranges? When you have a limited amount of money for fruit, you have to. A Government Accountability Act would force managers to compare real programs with real programs, on the basis of clear technical analysis. Over the years, evaluative techniques will become sharper. For the only way to diminish controversy will be to develop clear, objective, communicable criteria.

Recall that when students in college used to be ranked, each single one received a relative position. Nowadays, when students are not ranked, "grade inflation" occurs; the bottom half moves upward in an anonymous mass. In the old days, even if all passed, each knew where he stood. Ranking improves techniques of evalaution.

Most subcabinet officers today stay in one position less than two years. To make a name for themselves, some find an incentive to launch a "new" program. No one notices or rewards tough managerial skills (which usually provoke internal dissension).

Under a ranking system, new appointees would face the threat of seeing their program slip lower, compared to previous years, and some would hit bottom. Standards of excellence would change, as incentives changed.

In the private sector, competition helps. A ranking system will make the public sector competitive.

Leaders in the House and Senate have recently proposed a Government Accountability Act based on Ambassador Silberman's shrew techniques. Democrats, who favor good government as well as big government, should favor this act for the best of populist reasons.

It restores a piece of invisible government to visibility. It will help presidents to get a handle on the monster they manage.

REPORT CARDS FOR FEDERAL PROGRAMS

(By George F. Will)

Laurence H. Silberman has a curry-seasoned temperament and a sandpapery turn of mind. He has been under secretary of labor and deputy attorney general. He was ambassador to Yugoslavia where, because of the attention he called to political persecutions, the regime considered him, to his credit, obnoxious.

Today he exemplifies one benefit the Republican Party has derived from losing the White House. He now has time to think and write about his experiences in the executive branch. And when, as is frequently the case, he has a good idea, it is his habit to share it evenhandedly with people who do, and even some who do not, express an interest in it.

His latest idea is to require presidents to submit to Congress periodic reports rating federal programs as "excellent," "adequate" or "unsatisfactory," and ranking the programs within each department. "The hard, miserable, squirmy but incontestable truth," he says, "is that . . . we Americans cannot seem to eliminate any government programs no matter how wasteful they may be. This should be of equal concern to those who wish to maintain or even expand the present level of government as well as those who believe that government's share of GNP must be reduced. . . Indeed, our reluctance to initiate new programs is surely in part attributable to the widespread realization that a program, once initiated, achieves instant immortality."

Bills embodying Silberman's idea have been introduced by Sen. Charles Percy (R-Ill.) and Rep. William Steiger (R-Wis.) These bills, designed to cause government to exercise what Silberman calls "constructive powers of self-destruction," will not pass this year, and if passed next year they will not cause the instant death of much, if anything.

The problem is the "iron triangle": the collaborative relationship among congressional committees that pass, bureaucracies that administer and constituencies that benefit from particular programs. Silberman believes that the way to weaken this "tight-knit tribal alliance" is to strengthen the large but diffuse part of the public that favors reform. This part believes government should be pruned, but cannot agree on where to begin. The Percy-Steiger bills would facilitate agreement by supplying what Silberman calls "a common evaluative language."

Eventually Congress may pass something like Sen. Edmund Muskie's "sunset" bill to require most programs to be reauthorized—or liquidated—over a 10-year cycle. The Percy-Steiger bill would require the executive branch to help give shape to that system of legislative oversight. Clearly, Congress must force the issue by compelling the executive branch to act.

Already the phrase "zero-based budgeting" has joined "free coinage of silver" and other slogans in the graveyard of panaceas. The Carter administration's capacity for pruning was revealed in its "new" urban policy which, as David Broder reported, "included 160 suggestions for improving old programs left scattered in five agencies," but not one suggestion that "called for eliminating any single existing federal program——despite the almost universal acknowledgment that some of them are real losers."

To the president who once asked, "Why not the best?," Silberman says. "If not the best, at least not the worst." Unfortunately, the hard, miserable, squirmy but incontestable truth is this: A "sunset" law might merely involve reflexive reauthorization of almost everything, and a government "report card" of the sort Silberman proposes might break all records for grade inflation.

Silberman remembers the professor who confessed, tongue-in-cheek, that he had failed to devise a way to produce a class without a bottom half. But egalitarians opposed to the allocation of rewards on the basis of merit have weakened academic grading, and they have counterparts in government. However, the Percy-Steiger bill's strength is its shrewdness about the nation's psychology.

The "report card" might captivate a nation that is fond of lists and rankings, such as college football polls. The "report card" also would please journalists who are happiest when regarding public affairs as sport. Even in Washington there is more interest in elections than in government, because elections lend themselves to sports language—who is ahead, who has "momentum." Ranking of programs as "winners" and "losers" would generate public attention. That would serve the public interest, which is the object of the exercise.

● Mr. LEVIN. Mr. President, a February 1979 ABC News/Louis Harris survey tells us that the public is "crying out for greater efficiency and improved delivery" of public programs in health, welfare, education, and safety. A Washington Post poll confirms extensive "disenchantment with Government performance." In survey after survey, poll after poll, the public is demanding more efficient and effective management of needed social services, improved conservation of scarce budget resources, in short, increased Government accountability to the individual taxpayer.

How is the Congress responding?

We are confronted with these growing demands for public accountability and reductions in Government fraud, waste and mismanagement. Yet, many think

we lack the information and the mechanisms to make Government programs accountable. We clearly need additional data and tools to help identify, improve or eliminate ineffective, inefficient or conflicting Federal spending programs.

One such possible tool is provided by the "sunset" bill, S. 2, many of my colleagues and I are cosponsoring. Another technique is provided by the bill I am pleased to cosponsor, as chairman of the Subcommittee on Oversight of Government Management, with Senator PERCY—the Government Accountability Act of 1979.

Basically, the act would—

Require the President to submit with the budget message at the start of each Congress a report on the management of the executive branch. The President in this "management report" would be required to rank Federal spending programs within each executive department according to their relative effectiveness compared to other programs in the same department. The ranking would be based on three criteria: Clarity of statutory objective, overall implementation and quality of management. A Presidential explanation of the ranking as well as a rating of "excellent," "adequate" or "unsatisfactory" would accompany each ranked program. The management report would also contain administrative and legislative recommendations.

"Federal programs" are defined in the bill as those "carried out pursuant to separate statutory authorization or for which Federal expenditures are specifically allocated by the Federal Government." Excluded would be the programs of the independent regulatory agencies because of their relatively limited spending.

Require the Director of the Office of Management and Budget (OMB) to identify programs, including those of the independent regulatory agencies, that appear to have contradictory aims and to recommend corrective action. The Director's evaluation would be made part of the President's management report.

Require the Director of OMB to recommend "the termination or modification of any programs whose relative ineffectiveness no longer justifies continued Federal expenditures or only justifies a lower level of Federal expenditures."

Focusing the attention of the public, media and Congress on the least effective and worst managed Federal programs, this bill should improve congressional oversight and evaluation of Federal spending programs and increase program accountability to Federal taxpayers.

The Government Accountability Act would build on the existing OMB rankings of Federal spending programs done each year in preparation of the President's budget. The act would only require that the ranking be refined, formalized, and above all, made public.

Testifying before the Governmental Affairs Committee in March, John White, Deputy Director of OMB, acknowledged that such program ranking information would assist the Congress in its budget deliberations.

Recently, the administration and OMB have taken steps to enhance management effectiveness within the executive branch. These actions include the announcement of a Presidential Management Improvement Council and revision of OMB Circular A-117, on "Management Improvement and the Use of Evaluation in the Executive Branch." These internal actions put greater emphasis on the management function of OMB and are steps in the right direction.

But OMB and the administration need to go further. They need to cooperate with the Congress in providing additional information so we can do a more effective job of overseeing the management effectiveness of Federal spending programs. Such information should be provided by the Government Accountability Act of 1979.

Finally, I urge OMB and others concerned with program and management evaluation to study the bill closely and to work with Senator PERCY, me and other cosponsors in refining and improving the bill. Issues need to be addressed including the definition of "program," the precision of the ranking and rating criteria and the problem of evaluating programs cutting across various departments and agencies. I urge OMB and others to work with us in shaping this important legislation.●

By Mr. INOUYE:

S. 1162. A bill to amend section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to provide that when papayas produced in the United States are made subject to any regulation with respect to grade, size, quality, or maturity, imported papayas shall be made subject to the same regulation; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. INOUYE. Mr. President, today, I am introducing a bill to amend the Agricultural Adjustment Act by adding papayas to the list of agricultural commodities with quality standards.

By making this addition, the mainland consumer is assured of a high quality product at all times.

The Hawaiian papaya industry has had rigid quality standards since 1971, and I believe it is vitally important that all papaya imports, whatever their sources, be required to match the high quality standards imposed upon Hawaiian papaya.

Papaya marketings continue to expand. Sales are rising beyond $8.5 million in a Hawaiian agricultural economy of $259 million. This year Hawaiian farmers produced 55 million pounds of fruit, but by 1984 that amount is expected to double with sales rising to $20 million.

The Washington Post recently ran an article extoling the virtues of the papaya and explaining the fruit's sudden popularity. Papayas are filled with vitamins and minerals, yet a 3.5 ounce serving contains only 13 calories.

To take advantage of this new popularity and to encourage diversification of our agriculture so that we are not so dependent on sugar and pineapple, I stress again that quality standards must be high.

I urge my colleges to give this legislation their favorable consideration. Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the first sentence of section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608e-1), is amended by striking out "or eggplants" and inserting in lieu thereof "eggplants, or papayas".●

By Mr. DOLE (for himself, Mr. HARRY F. BYRD, JR., Mr. ZORINSKY, Mr. BENTSEN, Mr. JEPSEN, Mr. WALLOP, Mr. FORD, Mr. MORGAN, Mr. TOWER, Mrs. KASSEBAUM, Mr. LUGAR, Mr. STONE, Mr. HATCH, Mr. YOUNG, Mr. EXON, Mr. MCCLURE, Mr. PRESSLER, Mr. COCHRAN, Mr. MELCHER, Mr. HELMS, Mr. SCHMITT, Mr. HUMPHREY, and Mr. GOLDWATER):

S. 1163. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Finance.

CARRYOVER BASIS

● Mr. DOLE. Mr. President, I am introducing today legislation to repeal the "carryover basis" provisions enacted as part of the Tax Reform Act of 1976.

Mr. President, I am joined in this effort by 22 of my Senate colleagues. I particularly appreciate the support by the distinguished chairman of the Subcommittee on Taxation and Debt Management, Mr. BYRD, of Virginia and the distinguished Senator from Nebraska (Mr. ZORINSKY).

Mr. President, this bill is exactly the same as earlier legislation I introduced this session. However, the Senator from Kansas felt it is necessary to demonstrate the broad bipartisan support for the repeal of the carryover basis.

As my colleagues know, the Senate has before it an agreement to consider the repeal of carryover basis as an amendment to the first appropriate House-passed revenue bill. I hope the Senate could quickly act on this matter and dispose of, once and for all, what has proven to be ill-conceived and misdirected tax policy.●

By Mr. GRAVEL:

S. 1164. A bill to amend the Water Resources Development Act of 1974 to authorize and direct the removal and disposal of certain debris and obsolete buildings in the vicinity of Fort Glenn on Umnak Island in the Aleutian Islands, Alaska, and for other purposes; to the Committee on Environment and Public Works.

● Mr. GRAVEL. Mr. President, the legislation I am introducing today would authorize the Army Corps of Engineers to undertake a demonstration project to

show the feasibility of authorizing a full scale cleanup of World War II debris on the Aleutian Islands in Alaska.

Prior to 1941, the Aleutian chain was an area of unsurpassed natural beauty and wilderness. Japan's attack on Pearl Harbor led to a dramatic change in this area of Alaska. The Aleutian Islands became an area of strategic importance in the Pacific theater, and the Army Corps of Engineers undertook one of the greatest military construction efforts of World War II in this region. Construction continued beyond 1943 when the last Japanese forces evacuated from the islands. At the end of the war, most of the facilities were abandoned.

Today vast quantities of military debris remain on the Alaska Peninsula. Much of it remains in populated areas that presents both an environmental eyesore and a safety hazard to the residents.

In 1974, the Congress recognized this problem and mandated a study of the nature and extent of debris by the Corps of Engineers. This study was presented to the Congress in 1977.

The study recommended three alternative plans for cleaning the debris: Total cleanup costing $117 million, alternate cleanup costing $79 million and minimum cleanup costing $22.5 million.

Because of the huge cost involved in a total cleanup, I asked the Army Corps of Engineers to identify one site that could be used to demonstrate the cleanup process and the need for further action. On April 4, the corps responded by identifying Fort Glenn on Umnak Island as an appropriate site, and recommended three alternative cleanup levels: Total cleanup costing $21,300,000, alternate cleanup costing $12,800,000 and minimum cleanup at $5,000,000 .

The legislation I am introducing today would authorize a demonstration project at Fort Glenn that would provide for a cleanup at the alternate level costing $12,800,000.

While I realize that current pressures on the Federal budget may present a problem for this proposal, it should be made clear that this demonstration is more than a cleanup project. It is a project that will generate employment opportunities for an area of the Nation with extremely high unemployment and will provide a financial base upon which the residents of the region can build a sound economy.

According to data provided by the Aleutian/Pribilof Islands Association, the current unemployment rate among Native Alaskans in the region is 76 percent. The city of King Cove had the lowest unemployment rate of 55 percent—while the smallest village of Belkofski had the highest rate of 100 percent—no jobs were available in the community.

This problem is largely attributable to the seasonal nature of the main industry in the region, fisheries. Nonseasonal employment is often limited to village health programs, community administration and CETA programs.

In recognition of this problem, the Corps of Engineers report noted that "maximum effort should be given to obtaining * * * unskilled workers from the local populations on the sites chosen for cleanup * * *.This action would not only supplement the sole source of income (seasonal fishing) of most Peninsula and Aleutian villages, but also boost the morale of the local inhabitants." A further benefit would be the decreased reliance upon unemployment benefits and social service programs.

In the long run, the Aleut people intend to use any profits realized from this project for the development of the bottom fishery industry in the region. The passage of the 200-mile limit bill has opened the entire field of bottom fisheries to potential development by American fishermen, and the resources generated by this project would be used to insure that the local population would participate directly in the development and utilization of the vast fishery resource surrounding the Aleutian and Pribilof Islands.

Finally, some of the land covered with debris belongs to two village corporations established pursuant to the Alaska Native Claims Settlement Act. At present, these lands cannot be utilized for any productive economic activity. However, once the debris is removed, these lands will be developed for agricultural uses such as livestock production.

For these reasons, my bill contains language that would to the maximum extent feasible require the project to use local resources in an effort to reduce the high rate of unemployment among local residents.

I ask unanimous consent that the bill be printed in the RECORD, together with a letter from the Army Corps of Engineers.

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

S. 1164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 35 of the Water Resources Development Act of 1974 is amended to read as follows:

"SEC. 35. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to plan and implement a demonstration project for the removal and disposal of debris and obsolete buildings in the vicinity of Ft. Glenn on Umnak Island in the Aleutian Islands, Alaska, remaining as a result of construction during World War II. To the maximum extent feasible such project shall use local resources in an effort to reduce the high rate of unemployment among local residents. There are authorized to be appropriated $12,800,000 to carry out the purposes of this section.".

DEPARTMENT OF THE ARMY,
Washington, D.C., April 4, 1979.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: This is in further response to your letter of 29 January 1979 to Lieutenant General J. W. Morris, Chief of Engineers, concerning the Debris Removal and Cleanup Study of the Aleutian Islands and Lower Alaska Peninsula, Alaska. I have inclosed a draft bill which would authorize a demonstration cleanup project. The October 1976 report and inventory of World War II debris in these areas along with the draft Environmental Impact Statement, currently scheduled for completion by the Alaska District on 30 September 1979, are resource documents and do not contain recommendations for any particular level of implementation. Such recommendations would have to be determined as part of overall funding policies and priorities.

The most appropriate site for a pilot or demonstration project is Fort Glenn on Umnak Island. Cleanup of the Fort Glenn site is preferred by the local interests and would meet your desire to assist local Governmental bodies in their land-use planning. A demonstration project at this site would offer certain logistical advantages; interagency cooperation can be initiated easily; it is near major native populations; and, construction, inspection and supervision techniques can be developed. A disadvantage of this approach is that pollution and various debris problems will still exist at other sites and historical features will continue to deteriorate or be vandalized.

The following updated cost estimates are based on 1980 cleanup operations and include costs for engineering plans, specifications and contract administration for various levels of cleanup described in the October 1976 report:

[In millions]

Cleanup level	All sites	Fort Glenn only
Total cleanup	$192	$21.3
Alternate cleanup	130	12.8
Minimum cleanup	37	5.0

Since the actual cleanup has not been authorized, we are unable to express a funding capability at this time.

It currently is unlikely that native-owned companies have the capability to undertake a project of this magnitude on their own. We would rather look to the socio-economic clauses of our contract in the areas of Affirmative Action, Equal Employment Opportunity, and Utilization of Small Business and Socially and Economically Disadvantaged Enterprise. Insuring the proper representation of Alaska natives under any prime contractor's subcontracting program as well as their labor force would be of major importance.

Additionally, Section 8(a) of the Small Business Act could be utilized consistent with the availability of qualified native-owned business. Under this procedure, certain phases of the cleanup operations could conceivably be set aside for their exclusive participation and negotiated through the local Small Business Administration office in Anchorage.

Please understand that this legislative drafting service does not constitute any comments on the merits of the proposal. It is the policy of the Department of the Army to comment on the merits of legislation only in response to a request from the Chairman of the Committee to which the legislation has been referred for consideration and after clearance by the Office of Management and Budget.

Sincerely,

R. L. JORNS,
Colonel, Corps of Engineers,
Assistant Director of Civil Works.●

By Mr. BELLMON:

S. 1165. A bill to amend chapter 105 of title 10, United States Code, to provide for increases in the amount of the monthly stipend paid to participants in the Armed Forces health professions scholarship program; to the Committee on Armed Services.

● Mr. BELLMON. Mr. President, I am introducing two bills today that I believe will provide relief to the Armed Forces health professional scholarship

program. We must provide equity as well as incentives to attract young men and women to enlist in the military service.

A shortage of medical doctors has persisted in the Armed Forces since the cessation of the selective service. The Armed Forces health professional scholarship program is a major source of the present supply of the medical doctors. My legislation should help this program enlist candidates.

The first bill is to provide for annual cost-of-living increases for the Armed Forces health professional scholarship program in the same manner as the national health scholarship program which furnishes Public Health Service doctors for the Federal Government. The national health scholarship program already includes annual cost-of-living increase which is causing a disparity between the two programs. As of July 1, 1979, the national health scholarship monthly stipend will be $453 compared to the Armed Forces health scholarship monthly stipend of $400.

The national health scholarship program was able to fill all 4,552 of its slots in 1978 while the Armed Forces health professional scholarship program fell short (1,209 of 1,343 slots). I believe ending the inequity of the monthly stipend will go a long way toward easing recruitment problems for the Armed Forces.

The second bill concerns a minor problem but one which has caused tension and low morale every year for the affected students. Congress has granted tax relief for health professions scholarship programs on an annual basis through a series of temporary amendments to the Internal Revenue Code. My bill simply provides permanent income tax relief by exemption of scholarship benefits for all Federal health professions scholarship recipients.

Mr. President, I ask unanimous consent that the texts of these two bills be printed in the RECORD, and I urge the Senate to act on this legislation.

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

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (d) of section 2121 of title 10, United States Code, relating to the monthly stipend paid to persons participating in the Armed Forces Health Professions Scholarship program, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end of such subsection the following new paragraph:

"(2) The amount of the monthly stipend, specified in paragraph (1) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary of Defense for each school year beginning after September 30, 1976, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmited to the Congress under section 5305 of title 5, United States Code) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.".

SEC. 2. No person shall be entitled to any benefits by virtue of the amendments made by the first section of this Act for any period before the date of enactment of this Act.

S. 1166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 4 of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes", approved October 26, 1974 (Public Law 93-483; 83 Stat. 1457), is amended—

(1) by striking out "and before 1980"; and

(2) by striking out "and before 1984".●

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S. 1169. A bill to provide for the continued treatment of Mexican plywood as a designated eligible article under the generalized system of preferences established by the Trade Act of 1974; to the Committee on Finance.

● Mr. DECONCINI. Mr. President, today I am introducing with my distinguished senior colleague, Senator GOLDWATER, legislation to provide for continued treatment of Mexican plywood as a designated article under the generalized system of preferences established by the Trade Act of 1974.

Mexico is now an important trading partner of the United States for many products and promises to continue in this role in the future. That country is the seventh most important customer for U.S. wood products exports. Likewise, the U.S. imports certain wood products from Mexico.

For the last 5 years we have been importing increasing quantities of softwood plywood from Mexican firms, one of which is 49-percent owned by an Arizona company. These imports are small, totaling only $3.9 million in 1978 and accounting for only 0.07 percent of U.S. softwood consumption in that year. Yet they are important to the American Southwest and to Mexico.

Under the Trade Act of 1974, when imports of any item from one country total more than 50 percent of all the imports under the Tariff Schedules of the United States, that country and product can no longer receive the benefits of the generalized system of preferences, that is, be imported duty free. In this case, softwood plywood from Mexico becomes subject to a U.S. duty of 20 percent ad valorem. It is my understanding that if a duty of this size continues it will sharply reduce future Mexican shipments.

Kaibab Industries, the Arizona-based company, is a 49-percent owner of Productora de Triplay, which is located in Durango, Mexico. The other 51 percent is owned by Mexican citizens, most of whom are involved in the management of this operation. Productora de Triplay primarily manufactures softwood plywood, and provides employment for over 500 Mexican workers. As part owner, Kaibab Industries provides the management and consulting expertise, plus computer and accounting services for Productora and has for the past 11 years.

Productora de Triplay produces approximately 19,383,846 square feet of softwood plywood and 60 percent of this production is exported to the United States. Sales and distribution are then handled through Kaibab's wholesale distribution system throughout the southwestern United States.

On March 1, 1979, Kaibab Industries received a wire from the U.S. Customs Service stating that a 20-percent tariff would be required on softwood plywood which Kaibab and other companies import from Mexico.

Mr. President, this proposal if enacted into law will assist with our relationship with Mexico, will have a minimal effect on our domestic plywood industry, and will benefit the United States.

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. 1169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 504 (c)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2464(c)(1)(B)) and any Executive Order issued under title V of that Act to the contrary, plywood described in item 240.21 of the Tariff Schedules of the United States (19 U.S.C. 1202) which is the product of Mexico shall be treated as an eligible article designated under section 503 of such Act (19 U.S.C. 2463).

SEC. 2. The provisions of the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after March 1, 1979.●

By Mr. WILLIAMS (for himself and Mr. JAVITS):

S. 1170. A bill to provide improved safety and health standards for railroad employees, to amend the Federal Railroad Safety Act of 1970, to amend the hours of service laws, and for other purposes; to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent.

FEDERAL RAILROAD EMPLOYEES SAFETY AND HEALTH ACT

Mr. WILLIAMS. Mr. President, today I am introducing, for myself and Senator JAVITS, the Federal Railroad Employees' Safety and Health Act of 1979.

My bill would provide for greater employee protection under the Railroad Safety Act and transfer railroad safety and health activities from the Department of Transportation to the Department of Labor. The Department of Transportation would retain other functions relating to the development of national railroad policy and programs.

In 1970, Congress brought hope of improved safety to railroad workers and passengers by enacting the Federal Railroad Safety Act. Unfortunately, the promise of this legislation has not been realized: the deterioration of our Nation's railroads, particularly in the Northeast corridor, has continued undiminished.

In 1977 there were over 10,000 train accidents, an increase of over 6 percent from the previous year in the number of accidents per million train miles; 43 per-

cent of these accidents were caused by defects in track or roadbed, while 25 percent were caused by equipment defects or failures. Moreover, the seriousness of these accidents is increasing.

Railroad workers suffer the most from accidents on our Nation's railways, registering more than 91 percent of the injuries in 1977. While the number of worker deaths declined last year, nearly 100 still lost their lives in railroad accidents. Further, there were more than 61,000 injuries to workers serious enough to require medical attention or result in time away from work.

By any standards, these figures represent a tragic cost in human lives, personal injury, and unnecessary suffering.

Any successful effort to save lives and reduce the accident and injury rates must enlist the support of railroad workers.

These workers neither should be expected to work under unsafe conditions nor be penalized for alerting officials to safety and health hazards.

My bill not only corrects the current deficiencies in the law, but also provides protection for railroad workers who call attention to safety and health hazards.

The effort to improve the safety of our railroads also requires the participation of management, with the vigorous enforcement of regulations by State and Federal authorities.

As early as 1973, the Federal Railroad Administration (FRA) acknowledged before Congress that railroad accidents and injuries may be, in substantial part, preventable.

In April 1978, the Administrator of the Federal Railroad Administration testified before the Senate Surface Transportation Subcommittee that many of these accidents could be avoided with enforcement of current health and safety standards:

> As noted above, train accidents are generally attributable to track equipment, and human factors. The track and equipment area are the most easily addressed through regulation, although FRA has regulated in all three fields.
>
> We believe that strict carrier adherence to existing track and equipment standards would reverse the train accident trend and materially reduce the number of train accidents. However, among many railroads, compliance with the regulations is poor.
>
> At the same time, FRA is aware that many safety problems are the result of poor maintenance and inspection activities in circumstances where little or no additional outlay of funds would be required to comply with applicable standards and procedures. Most often, but not always, persistent neglect of this kind can be attributed to an indifference on the part of management or a failure by management to hold supervisors and employees accountable for compliance.

Notwithstanding this acknowledgment, the Federal Railroad Administration has consistently failed to try to hire even the number of inspectors authorized by Congress.

Since 1974, Congress has authorized funds for hiring 500 railroad inspectors. This number was increased to 600 in 1979.

A 1977 Federal Railroad Administration study entitled "System Safety Plan" estimated that 800 safety personnel—inspectors and support staff—would be necessary to halt the increase in the number of train accidents. Yet, as recently as last year, the Federal Railroad Administration had employed only 214 inspectors with no plans for expanding significantly their inspection staff in 1979.

It is no wonder that the number of freight cars, passenger cars, and locomotives inspected has declined consistently over the last decade while the percentage of cars found defective has nearly doubled.

The response of the Federal Railroad Administration to the deterioration of our railroad systems is flagrant and intolerable. It has consistently downgraded its enforcement and inspection responsibilities while devoting most of its resources to research and development. The Department of Transportation appears to suffer from a basic conflict between improving transportation technology and safeguarding railroad safety and health.

Congress must act. We must enlist the support of workers who run our railroads in the effort to make them safe. Moreover, the transfer of railroad safety and health enforcement to the Department of Labor is essential to a meaningful railroad safety and health program.

Mr. President, I ask unanimous consent that the Federal Railroad Employee's Safety and Health Act of 1979, which would improve employee protection under the Railroad Safety Act and transfer authority over railroad safety and health programs from the Department of Transportation to the Department of Labor, be referred jointly to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation.

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

ADDITIONAL COSPONSORS

S. 43

At the request of Mr. HATCH, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 43, the National Ski Patrol System Recognition Act.

S. 339

At the request of Mr. STEVENSON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 339, a bill to amend the Export-Import Bank Act of 1954 with respect to credit to Communist countries, and for other purposes.

S. 535

At the request of Mr. SCHMITT, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 535, the Nuclear Waste Transportation Safety Act of 1979.

S. 654

At the request of Mr. GOLDWATER, the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of S. 654, a bill to remove residency requirements and acreage limitations applicable to land subject to reclamation laws.

S. 949

At the request of Mr. BURDICK, the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Nevada (Mr. LAXALT), and the Senator from Utah (Mr. GARN) were added as cosponsors of S. 949, a bill to amend the National Environmental Policy Act to provide a 180-day statute of limitations on judicial challenge of compliance with NEPA.

S. 962

At the request of Mr. MCGOVERN, the Senator from West Virgina (Mr. RANDOLPH), the Senator from North Carolina (Mr. MORGAN), the Senator from Idaho (Mr. CHURCH), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 962, the Self-Reliant Development and International Food Assistance Reform Act of 1979.

S. 1131

At the request of Mr. WILLIAMS, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1131, a bill to amend title XII of the National Housing Act to establish national standards in order to reduce incendiarism and maintain community vitality, and to encourage States to adopt minimum standards for arson investigation and insurance underwriting.

S. 1158

At the request of Mr. GARN, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 1158, a bill to amend the Clean Air Act to delay for 1 year the deadline on approval of State implementation plans.

SENATE JOINT RESOLUTION 62

At the request of Mr. PELL, the Senator from Maryland (Mr. MATHIAS) and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of Senate Joint Resolution 62, to declare May 18, 1979, to be "National Museum Day."

SENATE JOINT RESOLUTION 77

At the request of Mr. STEVENSON, the Senator from Utah (Mr. HATCH) was added as a cosponsor of Senate Joint Resolution 77, congratulating the men and women of the Apollo program upon the 10th anniversary of the 1st manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "U.S. Space Observance."

AMENDMENTS SUBMITTED FOR PRINTING

FOREIGN ASSISTANCE ACT AMENDMENTS—S. 588

AMENDMENT NO. 204

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to S. 588, a bill to amend the Foreign Assistance Act of 1961, and for other purposes.

● Mr. DECONCINI. Mr. President, I am submitting an amendment to eliminate title II of S. 588 which authorizes development assistance programs for fiscal years 1980 and 1981.

Title II of S. 588 creates a new agency, the Institute for Technological Cooperation with a Council on Technological Cooperation to advise the Director. The

purpose of these new agencies is to support developing countries in "their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives." Toward this end, the Institute would "increase scientific and technological cooperation and jointly support long-term research on those critical problems that impede development and limit efficient use of the world's human, natural and capital resources."

I am quite sure that no Member of Congress nor any member of the taxpaying public could possibly disagree with those sentiments and those goals. Certainly, I do not. However, I do believe that in this era of rampant inflation that the taxpayers' dollar—in this case, $25 million—might be better spent or even saved in this instance since the Institute is not really undertaking any new function. The goals associated in S. 588 with the Institute are essentially the same goals that suffuse much of the effort of AID. It seems to me, Mr. President, that we are creating another layer of expensive, well-paid bureaucracy to facilitate the interaction and scholarly endeavors of an elite group of social and other scientists in the United States and within the underdeveloped countries.

The present program seems to have a great deal in common with the United Nations University which the Senate, on three separate occasions, has soundly rejected.

Mr. President, I believe I speak for my Arizona constituents in opposing the Institute and its $25 million budget. As a member of the Foreign Operations Subcommittee of Appropriations, I can assure my colleagues that this program will have to overcome substantial hurdles before it is funded. I do not believe we need yet another agency to "support research," "foster the exchange of scientists," and so forth. We must draw the line some place, and this new program seems like the place to me, I hope my colleagues will agree.●

SENATE RESOLUTION 162—ORIGINAL RESOLUTION REPORTED COMMENDING ALFRED L. ATHERTON, JR.

Mr. CHURCH, from the Committee on Foreign Relations, reported the following original resolution, which was placed on the calendar:

S. RES. 162

Whereas, Alfred L. Atherton, Jr. has served his nation with great distinction respecting Middle East diplomacy for more than a decade;

Whereas, Mr. Atherton, in his capacity as Assistant Secretary of State and as Ambassador-at-Large, contributed significantly to the achievement of the Camp David Accords and The Egypt-Israel Treaty of Peace; and

Whereas, Mr. Atherton has now been appointed to serve as Ambasador of the United States to the Arab Republic of Egypt.

Now therefor be it resolved that it is the sense of the Senate that Ambassador Atherton is to be commended for his outstanding service to the Nation.

NOTICES OF HEARINGS

SUBCOMMITTEE ON CHILD AND HUMAN DEVELOPMENT

● Mr. CRANSTON. Mr. President, for the information of my colleagues and the public, the Child and Human Development Subcommittee, which I chair on the Labor and Human Resources Committee, will on Thursday, May 31, hold in Los Angeles the third in a series of hearings investigating the abuse and neglect of children in institutions.

The General Accounting Office will be testifying at this hearing on the results of their investigation, at my request, into reports of foster-care and other federally assisted children placed in the custody of the People's Temple members, who may have died in the mass suicide in Jonestown, Guyana.

The hearing will be held in the Washington Room of the Los Angeles County Patriotic Hall, 1816 South Figueroa, Los Angeles, Calif., and will begin at 10 a.m. and continue until 12 p.m.●

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources will hold hearings on farm worker collective bargaining on Thursday, May 24, 1979. The hearings will be at 9:30 a.m. in room 4232 Dirksen Senate Office Building. For further information, contact Darryl Anderson of the committee staff, 224-3674.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. CHILES. Mr. President, the Committee on Governmental Affairs will be holding a hearing on the nominations of Inspectors General for the Department of Commerce, the National Aeronautics and Space Administraiton, and the Department of Housing and Urban Development. The hearing will take place on Wednesday, May 23, at 9 a.m. in room S-146 of the Capitol.

For further information regarding this hearing, please contact Mr. Ronald A. Chiodo, chief counsel and staff director of the Subcommittee on Federal Spending Practices and Open Government (224-0211).●

SPECIAL COMMITTEE ON AGING

● Mr. CHILES. Mr. President, there will be a hearing of the Special Committee on Aging on "Home Care Services for Older Americans: Planning for the Future," on Monday, May 21, at 9:30 a.m. in room 1318, Dirksen Senate Office Building.

The hearing is a continuation of the committee's inquiry of May 7 regarding the Department of Health, Education, and Welfare's lack of focus on policy directions for home health care and nursing home care. Testimony will be taken from HEW Under Secretary Hale Champion.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HEALTH AND SCIENTIFIC RESEARCH

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Health and Scientific Research Subcommittee of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate today, beginning at 2 p.m., to hold a markup session on the Hospital Cost Containment Act of 1978.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the session of the Senate on Wednesday, May 23, 1979, beginning at 3:30 p.m., to hold a markup session on amendments to the food for peace program.

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

ADDITIONAL STATEMENTS

THE RESOURCE CONSERVATION AND RECOVERY ACT REAUTHORIZATION BILL

● Mr. BENTSEN. Mr. President, this week the Environment and Public Works Committee will be reporting the Resource Conservation and Recovery Act reauthorization bill. This act was initially passed in 1976; it represents a congressional commitment to protect the American people from the improper disposal of hazardous material. The impact of this act is now being defined as the Environmental Protection Agency proposes and promulgates regulations to implement it. One of the key elements of these regulations that Congress must now consider is whether such regulations properly focus on degree of hazard. In at least one instance, the Environment and Public Works Committee concluded that EPA was misdirecting its efforts, developing regulations on drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas. In this area the Environment and Public Works Committee adopted an amendment to suspend regulatory activity under the Resource Conservation and Recovery Act until a 2-year study is completed and the results convince Congress that a sufficient degree of hazard exists that cannot be controlled by existing State and Federal regulatory programs. The committee concluded the existing State and Federal programs should control disposal of these wastes during the study and EPA should be concentrating its regulatory efforts on wastes that represent more significant hazards.

It is my hope that Congress will continue to focus its legislative efforts on the problems of hazardous wastes to assure that necessary efforts to protect the public are not diffused by regulatory efforts on low hazard materials that are adequately controlled under existing State and Federal regulations. In my view it is absolutely necessary to generate laws that provide the greatest protection to the American people from severe and pressing hazards.

We cannot afford to weaken these pro-

tections by spreading the regulatory umbrella too widely.

I urge my colleagues to favorably act on this measure when it is considered on the floor of the Senate.●

SELECTIVE SERVICE: A TEST OF MOBILIZATION CAPABILITY

● Mr. COHEN. Mr. President, the Selective Service System's ability to provide sufficient numbers of recruits to fill our defense needs in time of emergency has been the topic of serious debate recently.

To test its accelerated mobilization capability, Selective Service undertook a computer exercise, just completed, using automatic data processing equipment. I wrote Selective Service System Director Robert Shuck to ask about the test and its results.

In his response, Director Shuck told me the preliminary findings indicate that during an emergency, approximately 2 million males—the number turning 18 each year—could be registered in 5 days.

Selective Service has requested a supplemental appropriation for fiscal year 1979 of approximately $1.7 million and an appropriation for fiscal year 1980 of $9.8 million. These funds would permit the Agency to employ 50 additional people, recruit and train local and appeal board members, and complete an analysis of computer requirements over the next 5 years.

"With the additional money and personnel, we will be able to develop the capability to start the delivery of inductees within 30 days," Director Shuck said in his letter. That, as you know, would meet the accelerated mobilization schedule required by the Defense Department since October 1977. Prior to that date, the Pentagon had estimated it would need its first inductee 110 days after mobilization.

Last year, Congress refused to approve the $2.5 million additional request made by the administration to allow it to develop this computer technology. Especially in light of the concern over our ability to mobilize quickly in time of emergency, it would seem incumbent on us to approve the small additional request Selective Service says is necessary so that it can meet our defense needs, even without registration.

If the preliminary results of the computerization test prove out, this is a small investment, indeed, in a stronger U.S. defense capability. So that all who are concerned about this issue can have the benefit of Director Shuck's comments, I now submit his letter for the RECORD. It will, I am sure, be of interest to all my colleagues as we debate whether there is need to return to registration.

The letter follows:

SELECTIVE SERVICE SYSTEM,
Washington, D.C. May 10, 1979.

DEAR SENATOR COHEN: Thank you for your letter of April 23, 1979 requesting information concerning the computer test just concluded by Selective Service. This test comprises but one part of the effort to meet the accelerated mobilization requirements of the Department of Defense.

The test was conducted to determine the feasibility and applicability of using automatic data processing equipment to accomplish rapid input of registration information received from each registrant following an emergency registration.

In response to your specific questions concerning this study, I am pleased to provide you with the following information:

The methodology employed is a business type application of Data Entry at remote locations and the transmission of that data to a central point for processing to meet the needs of Selective Service. This is accomplished through a carrier program called Intelligent Data Entry System (IDES) and our in-house developed data entry format programs. The data is transmitted from one location to another via telephone line through a Dataphone connector.

The computer system used in this test was an IBM Series/1 computer with Data Entry Stations. To provide a perspective as to size and power, the Series/1 is what is currently termed a "mini-computer."

The preliminary findings indicate that such a system is quite feasible for accomplishing the input of registrant data quickly and efficiently in an emergency situation, as well as during continuous registration. During an emergency, preliminary data indicates we could input one year of birth group, approximately 2 million male registrants, in five (5) days utilizing distributive computer processing with remote and clustered key entry stations and mini-computers at our regional offices.

The final statistical report has not been completed as the test just ended on May 2. My project officer is completing a detailed analysis of the equipment's capabilities against the test objectives and of the large volume of data collected at the two remote sites and the host site involved in the test.

The President has approved and forwarded to Congress a supplemental appropriation for Fiscal Year 1979 of approximately $1.7 million and a 1980 budget of $9.8 million. These funds will permit the Selective Service System to employ 50 additional people, recruit and train local and appeal board members, and complete an analysis of computer requirements over the next 5 years. With the additional money and personnel we will be able to develop the capability to start the delivery of inductees within 30 days.

We believe the $1.7 million supplemental for Fiscal Year 1979 and the $9.8 million for 1980 will meet all fund requirements, except funding for the purchase or lease of the required computer capability. Until we have completed the computer analysis we do not know what computer equipment will be needed, nor do we know how much we will need for purchase or lease. Based on present data we estimate the purchase of mini-computers for our Regions would be approximately $500,000 and the monthly lease of a central computer will be approximately $70,000 per month.

I certainly appreciate your interest and concern about the Selective Service System. We believe we must improve our readiness capability so that we would be able to begin the delivery of inductees as soon as possible after authorized to do so. We consider the Selective Service System as an important element in our Nation's defense readiness posture and we will do what we can to ensure we are ready for any emergency situation.

If you have any additional questions or desire to discuss our readiness activities, please write or give me a call on 724-0424.

Sincerely,

ROBERT E. SHUCK.●

ACADEMY AWARD FOR THE CALIFORNIA CHILDREN'S HOME SOCIETY FILM

● Mr. CRANSTON. Mr. President, I am delighted to share with my colleagues the news that the Children's Home Society of California won an Academy Award last month for its outstanding documentary, "Teenage Father."

"Teenage Father" was one of four documentary films nominated for an award in the live action short film category. The film explores young men's thoughts and feelings about the experience of being involved as an unmarried teenager in an unplanned pregnancy. A great deal of attention has gone into the problems of teenage pregnancy in recent years, but only rarely have the particular problems of the teenage father been highlighted.

The Children's Home Society of California has been working since 1891 to improve the lives of children and families in California. It is a nonprofit, voluntary children's services agency helping families in the State's 58 counties. It provides a full range of services to children and families, such as adoption, day care, foster care, parent-child counseling, and public education.

The Children's Home Society has produced several other documentaries dealing with the problem of teenage pregnancy from the perspective of the mother and child; the "Teenage Father" fills a gap by providing the perspective of the teenage father. The Children's Home Society has made a valuable contribution to our understanding of the many dimensions of the problems of teenage pregnancy. The society is to be congratulated both for recognizing the need for a documentary in this area and for the quality of the film which resulted in an Academy Award.●

RURAL CLEAN WATER PROGRAM

● Mr. HEINZ. Mr. President, in reviewing the natural resources function during debate on the first budget resolution, I was impressed with the excellent work of the Senate Budget Committee. Under the able leadership of Senators MUSKIE and BELLMON, the committee demonstrated its commitment to insuring a strong effort to improve our environment and protect our natural resources. Accordingly, I supported the function 300 totals and urged their approval by my colleagues.

However, I am concerned by the report language accompanying mission 4, pollution control and abatement, in this function. The report indicated that the committee did not assume future funding for the rural clean water program. Given the importance and pressing need of this agricultural cost share initiative, I would hope the Senate Appropriations Committee and the Congress would move to provide adequate startup funding for the RCWP in the near future.

Under the rural clean water program, the Federal Government will assist local farmers in paying half the cost of installing "best management practices" on their land to reduce water pollution. The

various techniques utilized are designed to curb the flow of sediment, pesticides, fertilizers, and animal wastes into rivers and lakes.

In my home State of Pennsylvania there are 20 high-priority watersheds that could benefit from this program. These watersheds are concentrated in the important southeastern farm belt and several other areas in the State. By providing funding for the rural clean water program, badly needed projects could be initiated to control agricultural pollution and soil erosion in these areas. Without such an effort, it will be impossible to achieve the "fishable and swimmable" quality waters mandated under present water pollution law. In addition, the rural clean water program will significantly contribute to present efforts to control the serious problem of soil erosion that threatens the very future of U.S. food production.

There is a pressing need to address the problems of erosion and nonpoint source pollution. Soil erosion is averaging 9 tons per acre annually from U.S. farms, while topsoil forms only at the rate of about 4 tons per acre each year. Agricultural pollution of water has increased to the point where farming now adversely affects water quality in two-thirds of all U.S. river basins.

Given the agricultural pollution and soil erosion problems this Nation faces, I believe the RCWP is needed. I am disappointed by the Budget Committee's assumptions and urge the Congress to appropriate the necessary funding.●

TRUCKING DEREGULATION

● Mr. EXON. Mr. President, as a Senator representing a rural State, I frequently reflect unique concerns which rural America has on many issues which face this Congress. One such issue is the proposed complete deregulation of the trucking industry and its potentially adverse effects on those who reside in rural areas of this Nation should this massive industry be removed completely from the regulatory control of the Federal Government. Many Nebraskans have grave concerns with regard to the timeliness and end result of total deregulation of the trucking industry. Any deregulation plan must address our particular problems while attempting to make the best use possible of our dwindling available energy supplies and as much elimination of Government controls and regulations as is practical.

I am submitting the following resolution passed by the Nebraska unicameral in opposition to the deregulation of the trucking industry for printing in the RECORD.

The resolution follows:

LEGISLATIVE RESOLUTION 22

Whereas, the deregulation of the trucking industry is a matter of great concern to the people of the State of Nebraska; and

Whereas, the deregulation of trucking may have a significant negative impact on rural states such as Nebraska; and

Whereas, thorough study and consideration should be given as to the impact deregulation of trucking would have on the various states; and

Whereas, the opportunity should exist for all interested parties to have input on the matter of deregulation of the trucking industry;

Now, therefore, be it resolved by the memmers of the Eighty-Sixth Legislature of Nebraska, first session:

1. That the Legislature of the State of Nebraska opposes the deregulation of the trucking industry by means of agency fiat by the Interstate Commerce Commission.

2. That any deregulation of the trucking industry should be done by the standard decision making procedures of the U.S. Congress thus allowing all interested parties to have the opportunity to present their views before Congress. This will insure Congress has the opportunity to explore the need, merits and ramifications of such action.

3. That a copy of this resolution be presented to the members of the Nebraska Congressional Delegation.●

UNIONMUTUAL PLANS FOR DAY CARE

● Mr. COHEN. Mr. President, too often, there is a view of the business community as not being sufficiently sensitive to social needs. A project now underway in the State of Maine is showing the positive contribution a committed, concerned business can make to its community.

Unionmutual, a Portland-based insurance firm that is Maine's biggest company, announced last week that it would start construction of a day care center to serve the entire Portland area. Collin C. Hampton, president of the firm, explained that the principle of the project is that the private sector should find ways to serve as many social needs as possible without reliance on taxpayers' money.

The day care center is being built next to Unionmutual's outer Congress Street complex. It will serve 100 children between 2½ and 8 years old. The firm spent 2 years researching how to best meet the growing demand of working parents for adequate day care in the Portland area. It wanted to do the job in a way that would require no Federal or State tax dollars to operate effectively.

"We see this as a kind of affirmative action plan to break the * * * prevailing view that the words 'business' and 'social needs' are somehow in conflict," Hampton said.

This commitment to community needs deserves recognition and applause. I commend Collin Hampton and Unionmutual for their concern and for the significant social contribution they are making.

Following is a Portland Evening Express article, from its May 10 edition, telling of the day care project sponsored by Unionmutual. It will, I know, be of interest to those who are concerned about the role of business in community affairs.

I also request that it be printed in the RECORD following these remarks.

The article follows:

UNIONMUTUAL PLANS FOR DAY CARE

(By Frank Sleeper)

Unionmutual announced today the start of construction of a day care center that will serve the entire Portland area.

The center, a Unionmutual idea, won't put Unionmutual in the day care business, however.

President Coln C. Hampton said his firm will lease the facility to Living and Learning Centers Inc. of Waltham, Mass., Unionmutual will not subsidize the day care center in any way, he added.

(The principle behind the project, Hampton explained, is that the private (business) sector should find ways to serve as many social needs as possible without reliance on taxpayers' money.)

The profit-making Waltham firm runs 38 other centers in that state, Connecticut, Rhode Island and New Hampshire.

The $200,000 building, which will be next to Unionmutual's outer Congress Street complex, will serve 100 children between 2½ and 8 years old. Construction could be completed by September.

It will be open from 7:30 a.m. to 5:30 p.m. for morning, full day or after-school programs. Cost for five full days, including hot lunch, will be $42.50. Flexible schedules are arranged whenever possible to accommodate the particular needs of parents.

The building will be near Unionmutual's back parking lot.

Alfred N. Naddaff, president of Living and Learning Centers, said future plans include adding an infant-toddler program.

Unionmutual carried out two years of research on how to best meet the growing demand of working parents for adequate day care in the Portland area, Hampton said.

And the firm wanted to do the job in a way that would require no federal or state tax dollars to operate effectively.

While the insurance holding company will function only as a landlord, Hampton said, "We will . . . take credit for being the catalyst in meeting a social need."

He said Unionmutual has been trying for some time to develop a new approach to its social role.

The firm has focused most of its social efforts in traditional channels—cash and human contributions.

"We see this as a kind of affirmative action plan to break the . . . prevailing view that the words 'business' and 'social needs' are somehow in conflict," Hampton said.

"We believe the day care center project meets that criteria, as it provides a profit opportunity through the disciplined business approach of Living and Learning Centers Inc., it provides Unionmutual policyholders with an attractive rate of return on their investment and it satisfies a social need."

Unionmutual's research found a shortage of quality child day care services in the area.

Hampton said Unionmutual would like to encourage other businesses to examine its approach and apply it "perhaps even more effectively in other areas of social need."

David E. Hughes, Unionmutual's second vice president for external affairs, said he's been working on the idea for two years.

In that time, Hughes said he's found many human services people who have deep suspicion about business getting involved in actually providing social services.

"They point to abuses by some who have sought profit at the expense of service but overlook equally serious problems of waste, mismanagement and greed in non-profit operations," he said.

Allied Construction Co., South Portland, is the builder.●

JUDGE BAZELON STEPS BACK

● Mr. RIBICOFF. Mr. President, Judge David Bazelon who has served 30 years on the Circuit Court of Appeals has taken senior status. Judge Bazelon is an old and dear friend, a man of character, personality and outstanding ability. Few men have served on the Federal bench with such distinction. His decisions have,

indeed, been in the landmark category. His contributions to the entire field of jurisprudence will be indelibly noted in the annals of law. His accomplishments and the significance of his career are well set out in the article announcing his retirement in the Washington Post of May 15, 1979 and in an editorial in today's Post as well. I ask that these articles be printed in the RECORD.

The articles follow:

JUDGE BAZELON, AUTHOR OF "DURHAM RULE" DECIDES TO "STEP BACK"

(By Lawrence Meyer)

U.S. Circuit Court Judge David L. Bazelon, whose legal opinions have influenced the thinking of a generation of lawyers and educators, announced yesterday that he will assume the semi-retired status of a senior judge on June 30.

Controversial and outspoken during almost 30 years as an appellate court judge—15 of those years spent as the chief judge of the U.S. Court of Appeals here—Bazelon is widely known as a liberal, activist judge. His career has spanned the terms of seven presidents—beginning with Harry Truman—and during his tenure as chief judge, the Court of Appeals here was generally regarded to be second in importance and influence only to the Supreme Court.

In a letter to President Carter released yesterday, Bazelon said that "resolving to step back a bit from a 30-year labor of love is necessarily difficult." But he did so, Bazelon said, knowing that Carter "will select as my replacement an individual with the vision and talent necessary to address the demanding challenges that will face our court in the years to come."

Harvard law professor Alan Dershowitz, once a clerk to the judge, said Bazelon's "enduring contribution" to the law "has been that he has pressed more questions on the system than any other judge . . . He has singled out the function of the Court of Appeals more than any other judge—to raise questions, open areas for discussion."

Bazelon, who will be 70 years old in September, came to the Court of Appeals in 1949 when he was 40, then the youngest man ever appointed to a federal judgeship. Within five years he had begun to provoke debate and controversy with his opinions. He has been a consistent advocate of safeguarding the rights of persons accused of crimes, of ensuring in practice as well as in theory that defendants were adequately represented in court and of bringing knowledge from other disciplines, particularly psychiatry, to bear on the criminal justice system.

Bazelon's effort to open up the legal system to more information, to prompt debate and to pose hard questions, is illustrated by his best known opinion involving the case of Monte Wayne Durham, a convicted burglar with a history of mental disturbance.

In that 1954 appellate court opinion, which propounded what came to be known as the "Durham Rule," Bazelon attempted to change the prevailing legal test for insanity. The old test held that a criminal could claim insanity as a defense only if it could be proven that the defendant could not distinguish between right and wrong or if the act was the product of an "irresistible impulse."

The "Durham Rule" said that a defendant should not be held criminally responsible if the crime was a product of a mental disease or defect.

But for Bazelon, the Durham case was not a chance to impose a new formula on American courts. Durham, Bazelon said in a recent interview, "was an effort to open the door to information—period. The door had been closed shut."

Bazelon hoped, with Durham, that psychiatrists would be able, in the context of a criminal trial, to give juries some insight into what motivated a criminal.

The Durham case, Bazelon wrote in a concurring opinion when the Court of Appeals finally abandoned the Durham Rule in 1972, "fueled a long and instructive debate that uncovered a vast range of perplexing and previously hidden questions. And the decision helped to move the question of responsibility from the realm of esoterica into the forefront of the critical issues of the criminal law."

According to a former law clerk, Bazelon, who became chief judge of the Court of Appeals in 1962, believes that "most judges in America are janitors who sweep the dirt under the rug. He thinks it's critically important to surface the dirt under the rug."

"Any wiseacre can go around asking a lot of hard questions without knowing answers," Bazelon said last week. "But I honestly believe you're never going to move in on anything unless you confront it."

The behavioral sciences, Bazelon said during the interview, had developed information suggesting that a person's genetic makeup or early childhood experiences might color his or her behavior. "In a moral society," Bazelon asked, "do you weigh that before you impose moral guilt or do you ignore it? I wanted people to confront and grapple with the problem. I don't know how to settle it."

"The Baz has wanted the courts to confront the issues," said Joel Klein, a former law clerk. "He has constantly played that role, raising issues others consciously avoided or never thought about."

"Bazelon, despite what people think, does not have a program to carry out," said law professor Dershowitz. "He keeps saying, 'I don't have the answers. I just know the problems.' "

Bazelon, according to Dershowitz, prodded lower court judges to produce more and better information during trials and sharpened issues for decision by the Supreme Court. "He sees his job as forcing the Supreme Court to confront these issues," Dershowitz said.

During the 1960s, Bazelon and Chief Justice Warren E. Burger, then a circuit judge on Bazelon's court, carried on a highly publicized and increasingly bitter public debate over the rights of criminal defendants. Although cordial to each other in public, the two men developed an animosity toward each other that became an open secret in legal circles.

In later years, Bazelon wryly claimed that he was responsible for Burger's elevation to the Supreme Court by President Nixon in 1969. "I was the foil," Bazelon said, with Burger's tough law-and-order opinions playing off Bazelon's demands for upholding constitutional safeguards.

Bazelon still maintains the positions, in private and public, that indelibly marked him as a liberal judge. "You can't have criminal justice without social justice," he said recently. "That ties into everything."

"It is easy," Bazelon told a conference of prison officials in 1976, "to concede the inevitability of social injustice and find the serenity to accept it. The far harder task is to feel its intolerability and seek the strength to change it."

He has insisted, in a number of cases, that the Court of Appeals has an obligation to look at how effectively court-appointed lawyers represented their clients in criminal cases. "In most cases they give you a warm body," Bazelon said. "I'm not saying there isn't effective counsel, but in most cases, it's a sham."

During his 30 years on the bench, Bazelon has also been active on a variety of commissions, conferences and organizations concerned with social and psychological problems.

A stern, forbidding figure in court, Bazelon is warm and gregarious in private, expressing himself in colorful language, laced with Yiddish expressions and a seemingly endless supply of jokes and "stories"—some turned against himself—to make his point.

Although Bazelon could have remained as chief judge of the court until he turns 70 in September, he voluntarily relinquished the chief judgeship in March 1978 to allow his close friend and colleague Circuit Judge J. Skelly Wright a longer tenure as chief judge. Wright must step down from the chief judgeship in 1981, when he turns 70.

Bazelon, who could have remained a full-time circuit judge indefinitely, made clear that he intends to maintain his busy schedule. He said he intends to be an active senior judge giving "substantial service" to the court as well as continuing his interests outside the court.

Asked how he would like his period as a judge to be remembered, Bazelon pondered a moment before he replied. "For the effort to make people aware," he said.

JUDGE BAZELON STEPS BACK

For more than a quarter of a century, Judge David L. Bazelon has been the *enfant terrible* of American law. He has asked the indiscreet questions and challenged the conventional wisdom. He has forced his colleagues on the bench and at the bar to think about the things they had always done routinely. By doing so, he has exerted enormous influence on the shape of the law not only in this city, where he has served as a federal circuit judge for 30 years, but throughout the nation as well.

None of this is likely to change now that Judge Bazelon has decided, in his own words, "to step back a bit from a 30-year labor of love" and retire as a regular member of the U.S. Court of Appeals. His new status as a senior judge seems likely to free him to probe even more deeply into those dusty corners of the law where too many unexamined problems still lurk.

Judge Bazelon is best known, here and elsewhere, for having opened up, with his opinion in the *Durham* case, a long and still inconclusive debate on the relationship between mental illness and crime. Some of his critics claim that debate has been useless, that the *Durham* rule has been repudiated by his own court, and that the law has not been substantially changed. They have missed the point. Judge Bazelon wanted to make lawyers and psychiatrists and others think about what they were doing to criminals who were or might be mentally ill. They have thought—at least, some of them have—and the awareness of the problem, even if there is no consensus on the solution, is far greater than when the *Durham* case was decided.

The list of other areas of the law in which Judge Bazelon has opened doors and pointed out problems is too long to recite. There were, for example, police interrogation and investigative arrests, sentences equating a fine of $1 with one day in jail, and the failure of juvenile courts to live up to their promise of helping, not punishing, young people.

For years, the phrase "lookit" was a vital part of Judge Bazelon's private conversation. It was a contraction of "look at it," and it was uttered, forcefully and compellingly, when he was trying to persuade someone to examine an issue or a problem or a bit of conventional wisdom that had been too hastily accepted. More than any other phrase, it seems to sum up what his career has been all about. Look at it; examine it; is it right?

This community has been fortunate to have had a judge who was prepared to give that scrutiny to whatever came to his attention. Judge Bazelon has rocked the boat, violently and perhaps even unnecessarily at times, and he will no doubt keep on rock-

ing it. But the law is better now because of what he has done.●

STATEMENT OF SENATOR STAFFORD ON FLEXIBLE BILLBOARD CONTROL PROGRAM

● Mr. STEVENS. Mr. President, our colleague from Vermont (Mr. STAFFORD) is absent due to illness today. He had intended to place a statement in the RECORD, together with letters representing the views of the Governors of Colorado, Montana, Maine, and Iowa. I ask that Senator STAFFORD's remarks and these letters be printed in the RECORD.

The material follows:

S. 344: COLORADO, MONTANA, MAINE, AND IOWA SUPPORT FLEXIBLE BILLBOARD CONTROL PROGRAM

Mr. STAFFORD. The Governors of Colorado, Montana, and Maine have been kind enough to write to me to express their support for S. 344, my bill that would allow states greater flexibility in controlling billboards. In addition, the director of the Iowa Department of Transportation has written to me with the views of that State. Their voice is loud and clear on this issue. For example, Governor Lamm of Colorado states:

"We certainly support your Senate bill 344 allowing States more flexibility under the Federal Highway Beautification Act."

Governor Brennan of Maine has this to say:

"Given the continually changing Federal legislation in this respect it would certainly appear to be helpful to provide greater flexibility to the states in making their own determinations relative to this beautification issue."

Governor Judge of Montana has written to state:

"As we read, S. 344 would at least afford the opportunity for a program of some kind. Another thing we see S. 344 as doing is giving states, which have major policy problems in relation to the existing law, the flexibility needed to meet and solve their individual problems. This may well be the major benefit of S. 344.

Raymond L. Kassel, Director of the Iowa Department of Transportation, offers this observation:

"I believe that the approach taken in your bill is what the program needs. Placing responsibility on the several states to control outdoor advertising may be the only way that the goals and objectives of the program are ever going to be met. Your bill should not and does not compromise or undermine the efforts of those states like Iowa who are attempting to make the program work."

I submit these letters for the RECORD.

The letters follow:

MAY 2, 1979.

Hon. ROBERT T. STAFFORD,
U.S. Senate, Committee on Environment and Public Works, Washington, D.C.

DEAR SENATOR: We certainly support your Senate Bill 344 allowing States more flexibility under the Federal Highway Beautification Act.

One of the benefits of this bill would be the additional five percent Federal participation on the purchase of nonconforming billboards. We still have approximately 1,500 nonconforming signs to purchase.

We were glad to see that S.B. 344 eliminates 23 USC 131(g). We do not feel we should have to expend funds to purchase illegal signs, as the FHWA has interpreted the 1978 Act.

Thank you for requesting our comments. We hope you are successful wtih S.B. 344.

Very truly yours,

RICHARD D. LAMM,
Governor.

MAY 2, 1979.

Hon. ROBERT T. STAFFORD,
U.S. Senator, Committee on Environment and Public Works, Washington, D.C.

DEAR SENATOR STAFFORD: This is our reply to your letter of March 27 concerning S. 344. Montana was among the states that expressed favor for your bill to AASHTO. The principal reason for this is that our Department of Highways feels that, having removed a substantial number of signs, it has an obligation to continue purchasing, removing and enforcing its outdoor advertising control program.

Following enactment of the Federal Highway Beautification Act in 1965, Montana very reluctantly enacted an outdoor advertising control law. The law that was passed did not meet Federal requirements and was not accepted by the Secretary of Transportation. It was only under the imminent possibility of loss of Federal Aid Highway funds that the Legislature passed an acceptable law during an extraordinary session in 1971.

Now that we have an acceptable outdoor advertising control law, we have made considerable progress in the acquisition and removal of non-conforming signs. We have taken down virtually all the signs having a value of $100.00 or less and have purchased the non-conforming signs owned by all major billboard companies except 3-M Company, with whom we are negotiating for purchase of their non-conforming signs. Having progressed this far, the Department of Highways feels it has a strong commitment to continue the present program in order to avoid giving an unfair advantage to sign owners who are unwilling to sell and remove their non-conforming signs.

There doesn't appear to be an easy answer to the question of the effect S. 344 would have in Montana. In view of Montana's reluctance to enter the sign control program at the beginning, we have to face the possibility that our state may elect to discontinue its program altogether. However, as we read it S. 344 would at least afford the opportunity for a program of some kind. Another thing we see S. 344 as doing is giving states, which have major policy problems in relation to the existing law, the flexibility needed to meet and solve their individual problems. This may well be the major benefit of S. 344.

There are some questions of concern to me if the present mandatory federal program is discontinued, or if S. 344 is enacted. Would a State have the option to continue its program and still receive federal support? If a state drops out of the program could new signs be erected at locations where signs had previously been acquired and removed? If so, would the Federal government require a payback of the Federal funds involved in the original acquisition and removal costs?

As to the question of zoning intrusions imposed by the 1978 Highway Act, I think it is wrong, in theory, for the Federal government to limit or undermine local authority. However, actual conflicts over this in Montana should be minimal.

Sincerely,

THOMAS L. JUDGE,
Governor.

MAY 8, 1979.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: This will respond to your recent letter transmitting a copy of S. 344 and your floor statement, all related to legislation that you have proposed to allow states greater flexibility under the Federal Highway Beautification Act.

As you may be aware, the State of Maine has passed legislation to require the removal of all off-premise bill-boards. While that issue is presently before the courts on appeal, my administration is committed to providing the State matching funds necessary to assure the effectiveness of this removal program. Assuming that appropriate Federal funding is made available and that court actions continue to be favorable, the State of Maine will remove its billboards over the course of the next two to three years.

For the above reasons your proposed legislation may not have a great impact on the State of Maine. However, given the continually changing Federal legislation in this respect it would certainly appear to be helpful to provide greater flexibility to the States in making their own determinations relative to this beautification issue.

Thank you for keeping us advised in this regard and the best of luck in your endeavors.

Sincerely,

JOSEPH E. BRENNAN,
Governor.

MAY 9, 1979.

Hon. ROBERT T. STAFFORD,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: I have read your letter of March 27, 1979 and the material provided on S. 344 with much interest. I agree with the approach that you are taking. Allowing states to develop their own mechanisms to control outdoor advertising may very well speed up the program and certainly will reduce the cost of accomplishment.

In my judgment the totally controlled Federal program approach has not worked. Some states had advertising control programs before the passage of the Federal Highway Beautification Act. With preexisting local support, those states have succeeded. Other states have lacked the local support necessary. Where this is the case, they have embarked on a passive effort to spend Federal funds and accomplish the minimum necessary to avoid the Federal penalty of reduced highway funding.

One of my initial concerns in reviewing your bill and statement was the effect it would have on funding for the Iowa program. I was relieved to discover that the bill does not disrupt Iowa's ongoing program. Initially Iowa entered the outdoor advertising control program with great reluctance. Today, however, we are making a good faith effort to assure its success.

For your information with the exception of 450 interstate jumbos, all but 25 of the 7,000 nonconforming signs that existed in Iowa have been purchased. All of these signs will be removed by 1982. Forty percent of an estimated 52,000 abandoned and illegal signs have been removed from Iowa's roadways. In an effort to make the interstate advertising control program work, Iowa was a pioneer in the development of the interstate Logo program. The entire Iowa interstate system will have Logo signing by the fall of 1980. This signing provides needed motorist information.

As we get closer to removing all of the illegal signs, it is becoming more and more apparent that motorist information and tourist signing on the primary highway systems are problems that have not yet been resolved. Currently Federal regulations authorize the extension of Logo to the primary highways. In Iowa, however, Logo signing on the primary system is impractical. Existing regulations for off the right-of-way privately owned directional signing are so strict that they do not even recognize the categories of motorist information signing that could be signed through the Logo program.

Section 2 of S. 344 which amends Section 131 (Control of Outdoor Advertising), Subsection (c)(1) of the U.S. Code would tie off right-of-way directional signing to existing national standards. In my judgment this is a mistake. Iowa and the program need the ability to continue to examine alternatives to

meet the motorist information needs of the traveling public on the primary highway system. I suggest that you eliminate the language "as in effect on the date of enactment of this section." This would maintain directional signing consistent with national standards while allowing the several states and the Federal government to continue to work out solutions to primary highway directional signing.

In conclusion, I believe that the approach taken in your bill is what the program needs. Placing responsibility on the several states to control outdoor advertising may be the only way that the goals and objectives of the program are ever going to be met. Your bill should not and does not compromise or undermine the efforts of those states like Iowa who are attempting to make the program work.

I believe it would be a mistake for your bill to lock in and prevent reexamination of ten-year old national signing standards. If the program is to work, an effort should be made to carefully preserve the possibility for change and improvement.

If your staff needs additional information about the Iowa advertising control program, I will be happy to answer their questions.

Very truly yours,

RAYMOND L. KASSEL,
Director.●

PROF. DONALD L. McKERNAN

● Mr. HOLLINGS. Mr. President, on Friday of this week at the National Cathedral there will be a memorial service for one of this Nation's leaders in marine affairs, Donald L. McKernan. Professor McKernan's distinguished career reflects a lifelong commitment to the advancement of marine and fisheries science and service to his country. His unique achievements include serving the Secretary of War in 1950 on special assignment in Japan to survey fisheries there for postwar development; being the first director of the Bureau of Commercial Fisheries in Alaska; serving as Ambassador and Special Assistant to the Secretary of State for Fisheries and Wildlife which included supervising 10 International Fisheries and Marine Science Commissions; and, most recently, acting as the director of the Institute of Marine Affairs and Fisheries at the University of Washington. Over the past 2 years Professor McKernan continued to contribute his advise and leadership as chairman of the National Advisory Committee on Oceans and Atmosphere. He served as adviser on fisheries and marine affairs at the United Nations and the Law of the Sea Conferences. At the time of his death he was again in the service of his country as an adviser to Secretary of Commerce Kreps on the recent trade mission to the People's Republic of China. Professor McKernan's guidance will be sorely missed by those of us he has touched and led. We extend our condolences to his family and many friends.●

FINANCIAL DISCLOSURE OF SENATOR JACOB K. JAVITS, 1978

● Mr. JAVITS. Mr. President, it has been my practice and policy during the last 11 years to publish a report of my financial situation. For the second year, Senate rules likewise require that certain financial information about Senators be made available to the public.

Tuesday, May 15, in accordance with these new rules, I made the necessary filings of two financial reports. The first form, filed with the Secretary of the Senate, is the "Senate Public Financial Disclosure Report." This document lists my assets and liabilities as of December 31, 1978, and sets forth as well a statement of my earnings in 1978, including my Senate salary, honoraria, and writing fees.

In addition, I filed with the Comptroller General of the United States a copy of my Federal, State and local tax returns. Under the Senate rules these returns are not available to the public. However, following my longstanding practice I am publishing a summary of these income tax returns here.

In accordance with the form I have used in the past, the following items are submitted for the RECORD. The list includes:

First, each of my interests in property;

Second, the assets held in a family trust established in 1937, in which as a beneficiary I have a life interest and my wife and children have a remainder interest;

Third, each of my liabilities; and

Finally, a summary of my 1978 Federal income tax return and the amounts of State and local taxes paid for 1978.

The material follows:

INTERESTS IN PROPERTY (1978) [1]

Nature of interest, type of property, and location:

Indian Trail Groves, Ltd., land, Miami, Fla.

Indian Trail Ranch Liquidating Trust, interests in mortgages on land, mortgages, Miami, Fla.

Arrowhead Associates, land, Tysons Corner, Va.

TBV Lessors, land, California.

Watergate West, Inc., stock, residence, Washington, D.C.

L. S., Inc., stock, New York, N.Y.

Terra Bella Vineyards, vineyards, California.

Southgate Associates, land and building, Chicago, Ill.

New York State Project Finance Agency, bonds, New York, N.Y.

J.T. Company, finders fee, New York, N.Y.

The Javits Book Group, memoirs, New York, N.Y.

Checking Accounts, cash.

American Bar Association Retirement Association, cash on deposit, Chicago, Ill

Cleveland Realty Investors, stock, Cleveland, Ohio.

Senate Retirement Fund, cash on deposit, Washington, D.C.

Paintings, art works, objects and household furnishings, Watergate West, Washington, D.C.

BENEFICIAL INTEREST IN TRUST (1978)

Name of trust: Ida Javits Trust.

Name of trustee or other fiduciary: John Trubin and Lewis M. Schott—Trustees.

Address of trustee or other fiduciary: 375 Park Avenue, 14th Floor, New York, New York 10022

TRUST HOLDINGS

Belco Oil & Gas Fund, land interest.

East Hampton Property, land interest.

Loxahatchee Real Estate, land interest.

American Telephone & Telegraph Co., bonds.

Bartell Media (Downe Communications), bonds.

[1] In all cases these are for normal investment only and do not represent any element of control or of relative major size.

Cavenham USA, Inc., bonds.

Government Employees Financial Corp., bonds.

Israel Savings bonds.

N.Y.S. Power Authority, bonds.

N.Y.S. Project Finance Agency, bonds.

U.S. Treasury Notes, short-term paper.

Federal Intermediate Credit Banks, bonds.

West Indies & Caribbean Development, stock.

Amax, stocks.

Anderson Clayton & Co., stocks.

Archer Daniels Midland Co., stocks.

Arlen Realty & Development, stocks.

Bankers Securities Corp. stocks.

C.I. Realty Investors, stocks.

Cenco Instruments, stocks.

Chase Manhattan Corp., stocks.

Chesapeake Corp., stocks.

Citicorp, stocks.

Cities Service Corp., stocks.

Cone Mills, stocks.

Connecticut General Mortgage & Realty Investments, stocks.

Continental Illinois Properties, stocks.

Corporate Property, Ltd., stocks.

Criterion Insurance Co., stocks.

Crown Zellerbach Corp., stocks.

Decicom, stocks.

Del Labs, stocks.

Federal Paper Board Co., stocks.

Ferro Corp., stocks.

Freeport Minerals stocks.

Global Marine Inc., stocks.

Government Employees Financial Corp., stocks.

Government Employees Insurance Co., stocks.

Government Employees Life Insurance Co., stocks.

Great Northern Nekoosa Corp., stocks.

Great Western Financial Corp., stocks.

ICM Realty, stocks.

IMC Magnetic Corp., stocks.

Inland Container Corp., stocks.

Investors Diversified Services, stocks.

Kaiser Aluminum & Chem. Corp., stocks.

Liberty Corp., stocks.

Magic Marker Corp., stocks.

Marine Midland Bank, Inc., stocks.

New York Times, Inc., stocks.

Phoenix Canada Oil Co., Ltd., stocks.

Rowan Co., Inc., stocks.

Royal Palm Beach Colony, stocks.

Scott Paper Co., stocks.

Specialty Brands Inc., stocks.

Staley, A. E. Mfg. Co., stocks.

Stokely Van Camp Inc., stocks.

Time, Inc., stocks.

Tishman Realty & Construction, stocks.

Tubos de Acero de Mexico, stocks.

Western Pacific Industries, stocks.

West Indies & Carribean Developments Ltd., stocks.

Westvaco Corp., stocks.

White Shield Exploration, stocks.

White Shield Indonesia Oil, stocks.

Indian Trail Groves Ltd., partnership interest.

Tecco Properties, L.P., land.

Loxahatchee Investments, Ltd., Partnership interest.

Checking Account, cash.

Indian Trail Ranch Liquidating Trust, partnership interest in mortgage on land.

Note receivable.

Painting.

East Hampton property, purchase money mortgage.

LIABILITIES (1978)

(Not including current trade bills)

Name of creditor, location of creditor, and type of liability:

1. Ida Javits Trust, c/o John Trubin & Lewis M. Schott-Trustees, 375 Park Avenue, 14th Floor, New York, New York, income advances unliquidated.

2. Citibank, New York, New York, contingent liability on partnership loan re: Southgate Associates.

3. Watergate West, Inc., Washington, D.C., mortgage on personal residence.

4. Northwestern Mutual Life Insurance Company, Travelers Insurance Company, Equitable Life Assurance Society, New York Life Insurance Company, Massachusetts Mutual Life Insurance Company, Mutual of New York, various loans on life insurance policies secured by cash surrender value of policies.

5. George C. Marshall Ltd., Washington, D.C., Southgate Associates, Chicago, Illinois, Terra Bella Vineyards, Porterville, California, proportionate share of these partnerships' liabilities.

Summary of 1978 Federal, State, and city income tax returns of Senator Jacob K. Javits

Senate salary	$57,500
Net income other than salary (includes dividends and interest, rents and royalties, articles and lectures, investments, etc.)	56,028
Total	113,528
Deductions (include charitable contributions of $4,708)	37,366
Federal tax	35,994
New York State tax	10,786
New York City tax	3,431
Total taxes	50,211

THE POWER OF THE PRESS: A PROBLEM FOR OUR DEMOCRACY

● Mr. STEVENSON. Mr. President, Max M. Kampelman has voiced thoughts expressed in private with growing frequency by members of the media and government. He describes the power of the media and goes on to suggest that this one most powerful institution is the Nation's only unaccountable institution, unrestrained by effective internal procedures or external checks. His comments about the media go to the heart of our self-governing system of Government and deserve the attention of the Members and the press. Mr. President, I ask that Mr. Kampelman's article entitled, "The Power of the Press: A Problem for Our Democracy," in the fall 1978 issue of Policy Review be printed in the RECORD.

The article follows:

THE POWER OF THE PRESS: A PROBLEM FOR OUR DEMOCRACY

(By Max M. Kampelman)

Attention to power is indispensable for an understanding of the role of the media in our democratic society. Political scientists have rightfully written for years about the abuses of executive power and congressional power. The critical question for our democracy today, however, is not so much the power of the Presidency, which is restrained by the Congress, the opposing political party, the press and the courts; nor so much the power of the Congress, which is restrained by the President, by partisan politics, by the press and by the courts. The relatively unrestrained power of the media may well represent an even greater challenge to our democracy.

Power itself is not antithetical to a democracy. Power is manageable as long as it is properly restrained. There are, of course, definite restraints on the power of the President and on the power of the Congress. The genius of the American polity, in fact, has been its ability to balance various elements of power. Powerful corporations and unions restrain one another and both are restrained by government and by laws. The American press, however, perhaps the second most powerful institution in the country next to the Presidency, is characterized by few, if any, effective restraints.[1]

PRESS FREEDOM—AN ESSENTIAL LIBERTY

Freedom of the press is essential to political liberty. A society of self-governing people is possible only if the people are informed, hence the right to exchange and print words. Where men cannot freely convey their thoughts to one another, no freedom is secure. But what if that freedom is used in a vulgar, cynical, immoral, dishonest, libelous, obscene, or seditious manner? Is it not true that no man is free if he can be terrorized by his neighbor? And, is it not possible for words as well as swords to terrorize? Furthermore, can a citizen be truly informed if falsehoods come masqueraded as truths? Is it not true that the abuse of liberty can destroy liberty? And, is a democratic society unable to defend itself against these kinds of threats to its internal welfare and safety?

The First Amendment to the Constitution, guaranteeing the rights of free press and free speech, is not exclusive.[2] Rather, it is part of a series of constitutional protections. What happens when these rights conflict with one another? For example, if the right to a fair trial is fundamental to liberty, what happens to it if the press is free to prejudice a fair trial by what it publishes?[3]

The press (both print and electronic) is very jealous of what it asserts as its right to protect its sources of information. At a press conference in Washington, Dan Rather asserted that the right was "not for the benefit of reporters. It is for the benefit of listeners and viewers and readers. . . . The cause is America."[4] This is related to a newly-articulated "public's right to know." But what about the public's right to know the sources of news stories? Are the media insisting on a degree of confidentiality which they deny to the government? Does it not seem incongruous for a private, profit-making enterprise, such as the media, to have a greater right of confidentially than a democratically-elected government?

During recent years, the media have been filled with headlines about the alleged misdeeds of the CIA. There are a number of important questions at issue. Are there, for example, too many intelligence agencies functioning and vying for power? How does one balance the competing claims of individual freedom and national security? How is authority to be exercised over intelligence services? How are intelligence operations to be kept nonpolitical? How is freedom of the press to be preserved while preventing irresponsible dissemination of classified information? Indeed, how can a government, be it democratic or not, operate without secrecy?

These serious questions require careful consideration by the press and an informed public as well as by the institutions of government. Headlines and sensational scoops, however, do not, in themselves, contribute to democratic, rational debate, while at the same time they may well serve to damage the nation's intelligence structure. There is a need for some secrecy in government. We would all agree, for example, that troop movements and military installations fall into that category. There are other "secrets" that can perhaps safely be made public. But how are we to recognize which is which? Are the media claiming for themselves the right to decide which leaks are in the public interest and which are not?

Other powerful institutions in our society are required to exercise their power responsibly. Is the press, surely one of the more powerful institutions of our society, not also accountable for what it does? I am reminded here of the statement of Stanley Baldwin, who, as Prime Minister of Great Britain, was vehemently attacked by Lord Rothermere and Lord Beaverbrook, press magnates of that day. Mr. Baldwin replied, "What the proprietorship of these papers is aiming at is power, and power without responsibility—the prerogative of the harlot throughout the ages."[5] Obviously, the awesome power of the press, protected by its constitutional freedom, can be abused: good men may be slandered; justice may be thwarted; base passions may be aroused; people may be misinformed; and government may be weakened.

Felix Frankfurter once wrote, "A free press is vital to a democratic society because its freedom gives it power. Power in a democracy implies responsibility in its exercise." He went on to warn, "Nor can the limits of power which enforce responsibility be finally determined by the limited power itself."[6]

THE PRESS AS A BUSINESS

In addressing ourselves to some of these questions of the media's rights and responsibilities, their power and possible abuse of power, it is important to note that as the media have grown more powerful, they have also become more business and profit oriented. Ben Bagdikian, the distinguished newspaperman and newspaper critic, reports that when he was writing his book on the media industry, he found that average profits for that industry were 76 percent higher than those of all other American industries.[7] The Washington Post has published a financial profile of 13 leading public newspaper firms showing an average 35.8 percent increase in net income from 1975 to 1976.[8]

Profits are not inimical to a democratic society, just as power is not antithetical to a democratic society. But these figures are important and revealing as we note that the press is not only an institution designed to provide the principal means of communication and the exchange of ideas in our body politic, but (unlike almost all universities, for example) it is also an institution of business and profit for those who own newspapers, television stations and so forth. In terms of employment, the newspaper industry today is America's third largest manufacturer, behind only automobiles and steel.[9]

As early as 1920, Walter Lippmann wrote of the tremendous power of the press:

"The news of the day as it reaches the newspaper office is an incredible medley of facts, propaganda, rumor, suspicion, clues, hopes and fears . . . The power to determine each day what shall seem important and what shall be neglected is a power unlike any that has been exercised since the Pope lost his hold on the secular mind."[10]

Indeed, as Douglass Cater has more recently pointed out, those words and events, considered newsworthy by those who have staged them, might as well not have occurred if they fail to get projected and selected by the media.[11]

There was a time when the awesome power of the press faced the restraint of competition. That restraining influence, however, is disappearing. There are, today, fewer than 45 cities with two or more competing dailies and about 1,500 cities with a noncompetitive daily press; and each year more and more noncompetitive dailies are being swallowed up by the large corporate chains. The Washington Post reported in the summer of 1977 that within two decades "virtually all daily newspapers in America will be owned by perhaps fewer than two dozen major communications congolmerates."[12] Today, 72 percent of daily and 80 percent of Sunday newspaper circulation is controlled by companies with two or more dailies.[13] As John B. Oakes, former senior editor of The New York Times observed, "The perception of the press as more interested in private profit than public service is strengthened when it lobbies for special privilege and exemption from, for example, the antitrust laws—as it did in connection with the Failing Newspaper Act a few years ago."[14]

The problem is a real one. Walter Lippmann said, "A free press exists only where

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newspaper readers have access to other newspapers which are competitors and rivals so that editorial comment and news reports can—regularly and promptly—be compared, verified and validated. A press monopoly is incompatible with the free press."[15] Lippmann's warning is more pertinent now than then. Ninety-six percent of the daily newspaper cities in the country have only one newspaper. In 1910, 100 million Americans were served by 2,400 newspapers; today, 220 million are served by 1,775.[16] Sixty percent of all the individual newspapers in the country are owned by chains, compared to 30 percent in 1960.[17]

And the chains are getting bigger. Today the top 25 chains have more than 52 percent of total press circulation, compared to 38 percent in 1960. It is indeed true that (in the realm of newspaper concentration), "never before has so much been under the control of so few."[18] And now the chains are buying other chains. Most recently, for example, the 30-newspaper Newhouse chain purchased the eight Booth newspapers for $305 million, the largest newspaper transaction in history.[19] On May 8, 1978, Gannett Company and Combined Communications Corporation announced plans to merge in a $370 million exchange of stock, which, if consummated would be even larger. The resulting parent company would be the publisher of 79 daily and 6 weekly newspapers; the owner of 21 radio and television stations, newsprint interests, the polling firm of Louis Harris and Associates; and a major force in outdoor advertising.[20]

Today's press is a fair cry from the fragile printing presses that the Bill of Rights was designed to safeguard. The Washington Post Company is a vivid illustration of the change, with its 1977 revenues of $436 million and its until recently five-level presence in the nation's capital—as owner of a newspaper, a radio station, a television station, a national news magazine, and a major news service.[21] CBS, in addition to its radio and television properties, controls 15 to 20 percent of the mass paperback book market. Time, Inc., besides its magazine and book publishing activities, owns a television station and television production company. It is in the process of buying a Denver cable television system for $143 million and the Book-of-the-Month Club for $63 million, and just purchased The Washington Star for $20 million.[22] In sum, today the press is among the most profitable business groups in America, with 15 public companies that own newspapers producing operating revenues of more than $100 million each in 1977, led by the Times-Mirror Company, publisher of The Los Angeles Times, with more than $1 billion.[23]

THE LAWS OF LIBEL

With competition less of a restraint on the power of the press, what about the courts and libel laws? Libel laws are today much less of a restraint as a result of The New York Times Co. v. Sullivan[24] (a case which was decided in 1964) and its progeny. In Sullivan, the Supreme Court held that public officials should sue and collect for libel only if the libel was uttered "with knowledge that it was false or with reckless disregard of whether it was false or not."[25] This double standard against public officials and in favor of newspapers was further broadened to include "public figures"[26] and then even private individuals who might be involved in "an issue of public or general concern."[27]

Subsequent Supreme Court pronouncements in Gertz v. Robert Welch, Inc.[28] and Time, Inc. v. Firestone[29] refined the libel laws vis-a-vis the press to the point where, in the words of Columbia Law Professor Alfred Hill:

". . . at the present time media defendants cannot be held for defamation of public officers or public figures except for misconduct that is willful or reckless (the Sullivan rule); and cannot be held liable for defamation of private persons, or of public persons in their private capacities, except upon a showing of "fault," which probably is satisfied by proof of negligence (the Gertz rule)."[30]

Two recent United States Court of Appeals decisions have marked even further expansions of the libel law umbrella offering protection to the press. In Edwards v. National Audubon Society, Inc.,[31] decided on May 25, 1977, the Second Circuit overruled a lower court decision which found a libel had been committed with malice by The New York Times in an article labeling certain scientists as "paid liars." The Court, without challenging the fact that the charge was false and without condoning "the mischievous and unwarranted assault on the good name" of the scientists, ruled that the reporting was justified because the charges were "newsworthy," regardless of their falsity![32]

The same Circuit Court again reversed a lower court decision on November 8, 1977, in *Herbert* v. *Lando*,[33] in which former Army Lieutenant Colonel Anthony Herbert sued for libel perpetrated in the production and dissemination of a CBS "60 Minutes" episode entitled "The Selling of Colonel Herbert." Notwithstanding the fact that under *Sullivan*, Colonel Herbert carried the burden of proving that the journalists acted with actual malice, the majority of three ruling judges held that Colonel Herbert could not make pre-trial discovery inquiries into the journalists' states of mind. The dissenting judge signed an opinion observing that the "notion that a plaintiff carrying such a burden should be denied the right to ask what the defendant's mental state was is remarkable on its face."[34] The press, not surprisingly, applauded the decision.[35] John P. Roche, however, more a professor than a journalist, summed up the practical result of the decision best when he wrote that it "makes the rule of malice simply a Catch-22, a logical cul-de-sac. If the Supreme Court accepts this weird formulation, public figures will be utterly defenseless."[36] Echoing that sentiment, a federal district judge, in apparently the first lower court case to rely on *Herbert*, suggested that the decision virtually rules out libel suits brought by public officials and rhetorically asked, "Are men and women of honor who happen to be public figures to right vicious dangers hereafter by resort to fisticuffs or dueling?"[37]

The doctrine of tortious invasion of privacy, closely linked but distinguishable from libel, has also proven to be most accommodating to the press. Reluctance on the part of the courts to restrain the media had its most visible manifestation in the 1975 Supreme Court decision of *Cox Broadcasting Corp.* v. *Cohen*.[38] In this case, defendant Cox Broadcasting published the name of a rape victim determined from examination of a public indictment, although a Georgia statute made it a misdemeanor to effect "public dissemination" of the identity of such a victim. In reversing Georgia's highest state court's determination that a cause of action for invasion of privacy would be appropriate the Supreme Court sweepingly declared the immunity of the media from liability for truthfully reporting that which was available to the public in official court records. Implied in this ruling is the possibility that this policy could be extended to other public records as well.

THE GROWING POWER OF THE PRESS

Ben Bagdikian, in commenting further on the power of the press, pointed out that nobody likes to make an enemy of the town crier. Not only, he said, is the press protected by the Constitution as it is now interpreted by the Supreme Court, but very often it has additional protection as government officials hesitate to apply other laws (such as antitrust laws) to the press. He writes, "The press is traditionally permitted to go further and is reprimanded more gently about corporate transgression than are other enterprises."[39]

What we see in the press is a powerful, ever-growing institution with huge financial resources to supplement the power it wields in its control over the dissemination of news, but with fewer and fewer restraints on that power. What should society do in the face of that power and the dangers arising out of its abuses? Believers in democracy, obviously, understand the dangers to a free society that would arise from attempts to impose government regulation as a method of correcting the abuses. The danger, however, is that unless the abuses are corrected, there may well be increasing demands within society for effective government restraints. What is left to consider, therefore, is whether or not self-restraint by the media is a likely alternative.

Professionalism is a form of self-restraint, particularly when it is accompanied by good intentions. Regrettably, however, we remember Irving Kristol's characterization of journalism as "the underdeveloped profession."[40] It is appropriate to analyze the actual functioning of the media in evaluating the extent of its professionalism.

Critics of the press have pointed out that the difficulties in accurately presenting information to the body politic begin with the very first principle of modern journalism. Schools of journalism teach that news stories must begin with a "lead," defined as "an attention arresting sentence." It is here that the process of distortion is likely to begin.

In television, this is accomplished by what Walter Cronkite recently called the "hyper-compression" of the news. He said: We fall far short of presenting all or a good part of the news each day that a citizen would need to intelligently exercise his franchise in this democracy. So as he depends more and more on us, presumably the depth of knowledge of the average man diminishes. This clearly can lead to disaster in a democracy.[41]

The emphasis on drawing attention in order to sell newspapers, produce profits and gain influence is one of the serious problems faced by modern journalism. A recent issue of the Columbia Journalism Review highlights this troublesome trend with an article by Fergus M. Bordewich, "Supermarketing the Newspaper," that reports a growing emphasis on rapes, robberies and accidents. "Many papers are becoming so breezy you can hear the whistling through the holes where the news might have been."[42] In a frantic effort to recapture the attention of their readers, the press is now emphasizing what John B. Oakes terms "chewing gum for the brain." Oakes goes on to observe that "To the degree that this tendency downgrades those traditional mainstays of news, information and opinion which the First Amendment was obviously designed to protect, American journalism is weakening its moral if not its legal claim on the public to that special status it has rightly held in our society."[43]

A corollary to this is the editor's love for the "scoop." This adds to an already feverish drive for the sensational story and has a tendency to result in overplays that tend to distort not only the story itself, but the balance of news in our newspapers.

This distortion is also related to the growing importance of investigative journalism. The success of The Washington Post in its Watergate investigation has stimulated other newspapers to set up investigative squads. Increasingly it is the investigative reporter who receives the awards that journalists bestow upon themselves.

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THE RISE OF THE "NEW JOURNALISM"

In this examination of professionalism and its relation to the press, it is relevant to note the development of what has been called "new journalism," a theory which asserts that the responsibility of the press is "to discover truth, not merely facts." [44] Other variations of this new type of journalism are "advocacy journalism" or "personal journalism." [45] In either variation, the reporter is encouraged to indicate and further his point of view in his news stories. Objectivity is ridiculed as being impossible to attain.

This has just meant that to an unprecedented extent, the media have not just reported events, but have stimulated, sometimes created, and even actively participated in those events.

It is here appropriate to quote a statement of Ben Bradlee, the pragmatic executive editor of The Washington Post, who said, "The press won in Watergate." Bradlee went on to make clear that he understood the implications of that declaration of victory by adding the caveat, "I believe, though, that power corrupts. We are in a powerful position and I hope we don't misuse it." [46]

It is understandable that a significant segment of the media has become impatient with its limited information dissemination role. It is not easy and frequently not exciting for an intelligent person simply to report events. The tendency, therefore, has been for imaginative and socially dedicated journalists to go beyond normal reporting in order to seek fuller expression of their talents or social values.

We must not forget, however, that these tendencies to develop a social, messianic role for the media, when added to the already feverish drive for the sensational story and the scoop, lead to further dispositions that should concern us.

Max Frankel, the editorial page editor of The New York Times, admitted the tendency of some journalists, especially the new recruits, to be impatient with standards of objectivity or with any standard that would prevent them from placing their own views before the public.[47] Asserting that "the new permissiveness is carried too far," Charles B. Seib, the ombudsman for The Washington Post, recently wrote that "It is a rare day that I don't see a news story that betrays a reporter's feelings in a way an editor of the old school would not have tolerated." [48]

What are those views? Here we have some guidance in the form of the results of a Daniel Yankelovich survey which indicate that there is a serious gap in values between the bulk of journalists and society as a whole.[49]

Journalists are reported to have an instinctive suspicion and distrust of authority, particularly governmental authority. Frank Mankiewicz attributes a cynicism to political journalists, an assumption, for example, that no candidate ever advocates programs for reasons other than to get votes.[50] There are also troublesome signs of a homogeneity of political, social and economic attitudes. Theodore White described national journalists as a "self-selected group" [51] drawn from a social and educational elite affected by what Lionel Trilling termed the "adversary culture." [52]

Increasingly, journalists see it as their function to place before the public the needs of society as they see them. Roger Mudd of CBS stated this clearly, "What the national media, and mainly television, have done is to believe that their chief duty is to put before the nation its unfinished business. . . . The media have become the nation's critics, and as critics no political administration, regardless of how hard it tries, will satisfy them." [53]

This is an interesting development. Traditionally in our democracy, the nation's political agenda was the prerogative of the politician seeking and then elected to public office. Now the media are assuming that role. In addition to looking upon himself as a defender of people, the journalist now looks upon himself increasingly as a spokesman for the people; and yet, as the Daniel Yankelovich survey demonstrates, his values and the values of the society he would speak for are not the same.

The fact is that many reporters tend to think of themselves as representing the people in a disinterested way and with a purity of motive that a self-serving politician selfishly seeking votes cannot hope to duplicate. And yet, it is a strength of democracy that politicians are and should be aware of and responsive to voters. The English observer, Henry Fairlie, asserting that politicians "are the most hopeful messengers of a society's will to improve" and that "the political world is inherently good," complained that:

"Political journalists have been seduced into believing that politics is probably, if not necessarily, ignoble. . . . It is as if every journalist is afraid that he might be caught in believing in something or in somebody. Yet on the whole, the political world in the past 200 years has accomplished a great deal of good for a vast number of people." [54]

ANALYSES OF POSSIBLE MEDIA BIAS

There is substantial evidence that television became a potent influence in turning public opinion against the Vietnam War. Edward J. Epstein early and conclusively demonstrated that the three television networks all begin treating the war negatively after the Tet offensive.[55] Any doubts as to this effect were put to rest with the publication of Peter Braestrup's two-volume study on how the American press and television interpreted the Tet crisis.[56] The American media virtually single-handedly turned a significant victory for American and South Vietnamese troops into a demoralizing defeat, leading the tight-lipped Dean Rusk to ask some journalists, "There gets to be a point when the question is: Whose side are you on?" [57] Analyzing the Braestrup study, John P. Roche recently described this period as "a shameful episode in the annals of the American media." [58]

Dr. Ernest W. Lefever, in his analysis of the CBS Evening News programs in 1972 and 1973, also produced very impressive data with respect to the media and national defense.[59] He found, for example, that stories on Vietnam that were critical of U.S. policy were aired 651 times in 1972, while stories that supported American policies were aired 153 times. On national defense generally, he found that major policy questions were "almost totally neglected." Nearly two-thirds of the stories that year presented the U.S. military in an unfavorable light, while in only 13 percent was it shown in a favorable light. Statements by newsmakers who were critical of official policies and wanted the U.S. either to get out or cut back in Vietnam were quoted 842 times in 1972, while those who wanted to see the war pursued more vigorously were quoted 23 times that year, a ratio of 36 to 1.

James Reston recognized that reality when he drew the following conclusion: "Maybe the historians will agree that the reporters and the cameras were decisive in the end. They brought the issue of the war to the people, before the Congress and the courts, and forced the withdrawal of American power from Vietnam." [60] And yet it is clear that Robert Bartley of The Wall Street Journal is correct in stating that the essence of "professionalism" is the setting aside of personal attitudes when writing stories or preparing a broadcast.[61]

"SELECTIVE MORALITY" IN THE MEDIA

Personal opinion and bias, however, are not the only ingredients in news selectivity.

According to reliable sources, the death toll in Cambodia from beatings, shootings, starvation and forced labor has reached an estimated 1.8 million to 2.5 million victims since April 17, 1975, when the communists seized control.[62] This plight of the Cambodians has appeared regularly over the French news wire services, dating from the Khmer Rouge guerrillas' capturing of the country. The American daily press, however, until recently, largely ignored the modern-day holocaust in Cambodia. The Wall Street Journal suggested that the horrible crimes of the Cambodian communists had attracted less attention than much smaller crimes in other countries "because they are inflicted in the name of revolution," a view substantiated in part by Anthony Lewis' statement that the reports were met with skepticism because they came from "right-wing quarters." [63]

Contrast this, however, with the news from South Africa, Israel, and Panama, now considered to be "hotspots." Every death in South Africa understandably brings with it thorough news and television coverage. Massacres and mass executions in many Third World countries have warranted only a few paragraphs, if anything, but rock-throwing incidents on the West Bank of Israel or a single regrettable killing in Bethlehem have evoked front page news stories and photographs. And, while the Senate debated the Canal treaties, the dozens of newspapers and television correspondents who had descended on Panama in anticipation of "trouble" if the treaties were not ratified, struggled "to find anything to report." The burning of the treaties in front of the United States Embassy, for example, became a major news event. "Sporadic demonstrations by leftist students," according to The New York Times, were "something of a godsend" to the reporters even when there were more journalists present than protesters.[64]

It is ironic that some of this overabundance of coverage is due to the fact that the press can be found only where it is permitted to be. It is difficult to cover the story of a slaughter in Cambodia or the training of terrorists in Libya where no American press is permitted.

Walter Lacqueur's book, Terrorism, points, out that the media act as a selective magnifying glass, enormously attracted to terrorism because of its mystery, quick action, tension and drama. The terrorists in turn depend on that publicity and media attention. As J. Bowyer Bell of Columbia University has pointed out, terrorism and media coverage exist in a symbiotic relationship. Television no longer just responds to a terrorist-event; it becomes an integral part of the event.[65] According to Lacqueur, "The media, with their in-built tendency towards sensationalism, have always magnified terrorist exploits quite irrespective of their intrinsic importance. . . . All modern terrorist groups need publicity; the smaller they are, the more they depend on it, and this has, to a large extent, affected the choice of their targets." [66] The fact is the press and the terrorists feed on each other.

As an example, Lacqueur cites the Algerian rebels of the 1950s who deliberately transferred their struggle from the countryside to the capital, even though they knew they could not win the battle for the capital. One of their leaders is quoted as saying that if there were killings in the countryside, nobody would notice; but that a small incident in Algiers would draw the attention of the international press and give them the publicity they needed. This proved to be true. The rebels were beaten in the capital but won what proved to be the decisive battle for publicity.[67]

The media role in terrorist threats is pro-

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ducing growing concern at home as well. The Son of Sam press coverage led the New Yorker to complain, "By transforming a killer into a celebrity, the press has not merely encouraged but perhaps driven him to strike again—and may have stirred others brooding madly over their grievances to act." [68]

Does the holding of a police captain in Ohio by one man justify banner headlines all over the country? Is our definition of "news" such that individual gunmen or bands of gunmen can command constant and dramatic national media attention? The news director of the CBS affiliate in Cleveland, Virgil Dominic, expressed this concern well when he stated after the fact, "We feel that the coverage we give such incidents is partly to blame, for we are glorifying lawbreakers, we are making heroes out of non-heroes. In effect, we are losing control over our news departments. We are being used." [69]

The dean of The Anenberg School of Communications at the University of Pennsylvania, George Gerbner, is not at all sanguine that these concerns will produce change in behavior patterns of the media, because such stories, he says, "fit exactly into the media pattern" in that they are dramatic and provide good action-filled film. He states, "For the media it's a tremendous competitive situation, and as long as they attract attention and ratings by covering these things, they will." [70] The question posed by A. M. Rosenthal, executive director of *The New York Times*, was "whether we are reporting these things or capitalizing on them." [71]

There are crucial questions concerning international and domestic policy that are crying for public information, discussion and knowledge. But again, it is easier and more rewarding for reporters to be assigned to cover the dramatic scoops and the scandals. Reporters on the diplomatic beat complain constantly that they have inadequate assistance and receive little attention except in cases of crisis.

Detente has been a dominant theme of American foreign policy in the past few years. Senator Fulbright, when he was Chairman of the Senate Foreign Relations Committee, complained that the press was uninterested in the extensive and thoughtful hearings on the subject held by his Committee. At one time, he implied that they had mistakenly held the hearings in the open. It would have been far better, he suggested, to have held the hearings in secrecy and then to have leaked the transcripts. In that way, they would have received generous press attention.[72]

THE PRESIDENTIAL CAMPAIGN OF 1976

Two years ago we were in the midst of a Presidential political campaign. The role of the media in candidate selection merits particular attention in an analysis of the media's power, responsibility and professionalism.

The Democratic Party, as part of its reform package, had eliminated the "winner-take-all" concept in state primary campaigns. It had opted for a system of proportionate division within each state, reasoning that the normal, narrow margins in single primary elections are only small indicators of popularity in a multi-contest process. But the media thought otherwise. Roger Mudd, on January 19, 1976, said on the CBS Evening News, "It's not exactly the precise figures that will be important, it's whether or not the media and the politicians agree that this man won and this man lost." [73]

Professor Thomas E. Patterson of Syracuse University, in a paper which he delivered to the American Political Science Association, analyzed the press coverage of the 1976 Presidential primaries and concluded that to the media "only the winner in a state seemed important. No matter how close the voting, the headlines and most of the coverage went to the winner, and he alone. . . . Moreover, the press showed little hesitancy in projecting the results of a single primary." The result was an exaggerated picture of a candidate's national standing, one that the press with its coverage had helped to create.[74]

In the first state to choose delegates, Carter secured 28 percent of the Iowa caucus vote on January 19, 1976. Mudd named him the "clear winner," asserting that "no amount of badmouthing by the others can lessen the importance of Jimmy Carter's finish." [75] It is interesting that in this period, the Gallup Polls showed Carter with only a 5 percent national standing, behind six other candidates.[76]

In New Hampshire, Carter was first past the post in the primary with 30 percent of the vote; 60 percent of the state's electorate had voted for one of the four more "liberal" candidates. But, according to Walter Cronkite, the results gave Carter "a commanding head start in the race" and Roger Mudd proclaimed that Carter's victory "was substantial." [77] NBC's Tom Pettit called Carter "the man to beat"; Newsweek declared him the "unqualified winner." Not only did Carter's face appear on the covers of Time and Newsweek, but on the inside pages he received 2,630 lines of coverage, while Udall, the candidate in second place received 96 lines. All of Carter's opponents together received 300 lines. The week after the New Hampshire primary, Carter received three times the television evening news coverage of his major rivals and four times as much front page newspaper coverage.[78]

One week later, Senator Henry Jackson won the much larger Massachusetts primary with 23 percent of the vote. Paul H. Weaver, writing in the New York Times Magazine, pointed out that reporters did like Jackson and that television therefore dismissed his victories as special cases. Whereas Carter's win in New Hampshire was considered a "substantial victory," giving him "a commanding head start," Jackson's vote in a state seven times as large was looked upon only as "a strong finish" that "scrambled the race." Carter's 23,000 votes merited a great deal of respectful talk about this momentum; Jackson's 163,000 votes elicited little more than surprise.[79]

When Jackson went on to win in New York (the second largest state), Roger Mudd said that his winning coalition was "peculiar to New York" and Leslie Stahl of CBS News declared that his victory did not give him momentum.[80] In absolute terms, television news coverage of the New York primary was only 25 percent of that of New Hampshire. Each New Hampshire vote received 170 times the amount of coverage given a New York vote.[81] It very well may be the case, as Professor Michael J. Robinson of Catholic University concludes, that Senator Jackson was the candidate chiefly "victimized" by the media coverage in 1976: in those six early primary states where Jackson had been a contestant, he had actually beaten Carter by over 300,000 votes.[82]

Professor Patterson's study showed that during the early Democratic primaries, "Carter simply dominated the election reporting. In the critical period between the New Hampshire and Pennsylvania primaries he received 43 percent of the network evening news time given the Democratic contenders, 59 percent of the space in Time and Newsweek, and 46 percent of the newspaper coverage." Jackson and Udall, on the other hand, each received less than 20 percent of this newspaper and television coverage and even less of the magazine coverage. "Moreover," the study continued, "Carter's coverage was more prominent than the others. He was the candidate who was most often in the opening lines of lead stories, the one who got most of the headlines, the one who was pictured and filmed the most." [83] In the week following the January 19 Iowa caucus, Time and Newsweek devoted 726 lines to Carter's candidacy, while the other candidates were granted 30 lines apiece. Carter was the subject of special coverage on the TV news programs, receiving, according to Professor Patterson's analysis, "about five times as much exposure as each of his major rivals. As for the newspapers, Carter received an estimated four times the column inches of his typical opponent." [84]

Presidential primaries attract attention, particularly the one in New Hampshire. In fact, Professor Robinson has formulated what he terms the "dismal" theory that "the key to winning the nomination is merely to be declared the winner by the networks in the New Hampshire primary." [85] It is often "forgotten," for instance that President Johnson received a majority of the votes in the 1968 New Hampshire primary, but Eugene McCarthy was "declared" the real winner by the press. Robinson points out that before the 1976 New Hampshire primary, 11 states held caucuses or conventions and that these states accounted for a total of 587 delegates compared to New Hampshire's 38. Yet, the news stories on those 11 states represented less than 10 percent of the total networks' political news stories compared to 23 percent for New Hampshire alone. Delegate for delegate, that is, New Hampshire received more than 80 times as much coverage as those early non-primary states.[86]

In the three months before the New Hampshire primary, according to Patterson, 54 percent of the campaign news on television and 34 percent of the campaign stories in newspapers were entirely or mostly about New Hampshire. By comparison, the Massachusetts primary, which followed New Hampshire's by a week and in which six times as many delegates were at stake, was the topic of only one in ten news stories.[87] Yet, New Hampshire contributed only 17 of the 3,008 delegates to the Convention, approximately one in every 175.[88]

From all of this media concentration, concludes Patterson, "most people came to know only one of the candidates—Carter." [89] Public recognition of Carter quadrupled.[90] That this proved helpful to Carter is indisputable. The influence of the media in the 1976 nomination process was clear and may well have been decisive.

THE PRESIDENTIAL CAMPAIGN OF 1968

The death of Senator Hubert H. Humphrey and the extensive media attention to it recalls the Presidential campaign of 1968 and the crucial role played by the media, which, in the opinion, of many, may have tilted that close election toward Richard Nixon.

The Chicago Convention of the Democratic Party and the manner in which it was reported portrayed a party that was unfit to govern and unable to cope with its own internal violence and disruption. *Baltimore Sun* Washington Columnist, Ernest B. Furgurson, summarized the views of many observers when he wrote that television made Humphrey's nomination "seem worthless" with its "out of balance" reporting. "Television," he wrote, "came to Chicago in a bad mood" as a result of Lyndon Johnson's refusal to accommodate the networks by holding the convention in Miami Beach, the Republican site, which would have saved them millions of dollars. In Chicago, they were harassed by a telephone strike and by Mayor Daley's refusal to exempt their broadcasting trailers from parking regulations around the major hotels.[91]

There was violence in Chicago. There was also, however, violence in Miami Beach during the Republican Convention. In Chicago, sniper fire was reported; there were no deaths; and no curfew was imposed. In Miami, six persons were killed and the riot area was put under curfew. Drew Pearson and Jack Anderson, who had earlier reported in their column that the networks intended to retaliate against the Democrats by focus-

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ing attention on "disturbances" at the convention, reported that:

"The networks got their revenge. In Chicago they played up the violence which they had virtually ignored in Miami . . . anyone who watched the two conventions on television might think that Chicago was exploding with violence while Miami was comparatively peaceful. The result was an outrageously biased picture of the events in Chicago." [92]

The networks' presentation of a picture of violence which virtually ignored the fact that the demonstrations had been planned by agitators from all over the country seeking to foment trouble and attract attention through blatant provocations was enhanced further on the second day of the convention after a CBS correspondent, Dan Rather, was punched by a convention security officer. In describing this event, Theodore H. White, in his The Making of the President—1968, writes, "The television networks will avenge him by spending their wrath on every security agent, every policeman, from now to the end of the convention." [93] Furgurson called it "a vindictive near-hysteria on the air" which not only affected the commentators, but also "swept through the off-camera producers and directors who began broadcasting tape as fast as it was received, making it seem that the violence in the streets was simultaneous with the nomination process in the hall—indeed, somehow, that Humphrey was being nominated by the force of police clubs." [94]

Thus, as White reports, when Carl Stokes, the Negro mayor of Cleveland, was about to second Humphrey's nomination at 9:55 P.M., the NBC film of the earlier street bloodshed was aired and "Stokes' dark face is being wiped from the nation's view to show blood—Hubert Humphrey being nominated in a sea of blood." [95]

Writing from personal observation, Pearson and Anderson suggested that the television cameras helped incite the violence. They "found almost no action outside the circle of the TV klieg lights." The networks, they concluded, in an effort to make news, "encouraged dissidents to make inflammatory statements and helped to stir up controversies." [96]

Humphrey was identified by the media with Daley and the police, and, therefore, as "evil" in Furgurson's perception. Network reporters looked for a political alternative and stimulated the creation of a Ted Kennedy for President boomlet, but "long after disorganized conversation among the politicians involved had faded." [97] Describing this effort of the network reporters, White says, "If the script that night had called for the discovery and dissemination of a Southern revolt or the candidacy of Lester Maddox, the reporters could have delivered that to the nation, too—all carved out of truth from the lips of authentic and honest men on the floor." [98] Reporters proved themselves quite adept at finding delegates to mouth that which they wanted conveyed to the television audience, thus presenting a distorted view of sentiment on the convention floor.

The criticism of the television coverage of the 1968 Democratic National Convention was so strong and overwhelming that the House of Representatives Committee on Interstate and Foreign Commerce ordered a staff investigation and then published a report which, in the main, supported the criticism.[99] It presented specific evidence of distorted film editing, lack of balance, emphasis on violence, deliberate selection of unflattering camera angles in photographing Humphrey, and overall news slanting.

In early January 1969, before Richard Nixon's inauguration as President, a world-famous network correspondent visited Vice President Humphrey in his White House office and tearfully apologized: "We defeated you, Hubert" was the confession.

At that time another friend commented that the press was so hostile to the Vice President that if he had walked across the Potomac, the headline would read "Hubert Cannot Swim."

FALLING CONFIDENCE IN THE MEDIA

It has been said that the media have been acquiring an unwholesome fascination with the singer to the neglect of the song, placing an excess of emphasis on personalities and not enough on policy.[100] The crucial ingredient for gaining press attention seems to be violence and scandal, whether it is corporate, political or personal. As in the days of "yellow journalism," news programs appear to move from one disaster to another: air crashes, earthquakes, floods, sex. In a speech to the Associated Press, then outgoing president, Wes Gallagher warned, "Too many readers are beginning to look upon the press as a multivoiced shrew, nitpicking through the debris of government decisions for scandals but not solutions." [101] Expressing growing concern, The Wall Street Journal's able investigative reporter, Jerry Landauer, warned that as scandals have come to "dominate the news," competitive pressures will be apt to "overshadow fair play, resulting in overstated coverage" until a new "scandal" emerges.[102]

When contrasted with daily newspapers, the sensationalism of television journalism may well be more evident and thus more serious. Since seeing journalists, rather than just reading their stories, makes them appear more credible as well as more familiar, their influence is that much greater. Professor Michael J. Robinson was led to conclude that "the networks produce an image of society that tends to be both melodramatic and probably inordinately negative." [103]

The cumulative effect of these shortcomings is a diminishing of public confidence in journalism and that, in itself, is a danger to democracy. The Harris Poll reports that confidence in television news fell from 35 percent in 1975 to 28 percent in both 1976 and 1977; confidence in the press fell from 26 percent in 1975 to 20 percent in 1976 and to 18 percent in 1977.[104] A nationwide survey conducted through the University of Texas found that 84.4 percent of those responding believed that journalists sometimes slant the news. Indeed, 71.6 percent of the journalists reached the same conclusion.[105]

A. H. Raskin, an editor of The New York Times, once said: No week passes without someone prominent in politics, industry, labor or civic affairs complaining to me, always in virtually identical terms: "Whenever I read a story about something in which I really know what is going on, I'm astonished at how little of what is important gets into the papers—and how often even that little is wrong." [106]

As has often been observed, there are two Americas—the America you see on your television screen and the America you see when you walk out of your front door.

James Reston recently stated, "The credit of the American newspapers with the American people for accuracy and judgment is not high." [107] It has, of course, from the beginning of our history, never been high with political figures; Spiro Agnew's hyperbole was not unique. Lyndon Johnson's press secretary, Bill Moyers, provided this report of a Cabinet meeting, "The President was much inflamed, got into one of those passions when he cannot command himself, ran on much on the personal abuse which has been bestowed on him, defied any man on earth to produce one single act of his since he had been in the government which was not done on the purest motives . . ." [108] Mr. Moyers was not referring to President Lyndon Johnson, but was quoting Secretary of State Thomas Jefferson describing President George Washington.

At the end of his second term in office, Harry Truman wrote to a friend, "I really look with commiseration over the great body of my fellow citizens, who, reading newspapers, live and die in the belief that they have known something of what has been passing in the world in their time." [109]

On the same theme, Theodore Sorenson, after returning to private life, wrote, "In the White House I felt sorry for those who had to make judgments on the basis of daily newspapers." [110]

IS SELF-REGULATION POSSIBLE?

Whether the media can face up to legitimate criticism is not clear. Raskin himself has expressed doubts on this question, considering 'the unshatterable smugness" of the publishers and editors.[111] Lester Market went further, alleging that "the press, pretending to believe that there is no credibility gap and asserting its near-infallibility, countenances no effective supervision of its operation; it has adopted a holier-than-thou attitude, citing the First Amendment and in addition the Ten Commandments and other less holy scripture." [112]

Constitutional protections of the press are an integral part of the maintenance of our society. The dangers of government regulation of the press are clear. Inescapably, however, the power of the press presents a clear problem to our democracy.

Indeed, two Justices of the United States Supreme Court have publicly reached disparate interpretations of how the First Amendment affects the press, an intellectual disagreement that promises to send substantial constitutional ripples when ultimately faced and resolved by the entire Court. In a speech at the Yale Law School in 1974, associate Justice Potter Stewart expressed his view that the free-press guarantee of the Constitution deliberately extends special protection to the publishing business which he claims is "the only organized private business that is given explicit Constitutional protection." Freedom of the press, he argued, means that the press was specially designated in the Constitution to the autonomous of the Government, so that it may provide "organized, expert scrutiny of government." As such it requires special protections to preserve its independence.[113]

Chief Justice Warren Burger, in dictum of his concurring opinion in a recent unrelated case, stated a contrary position. The Chief Justice took issue with the idea that the "institutional press" has any freedom beyond or different from that of the public generally. He asserted that there is simply no historical basis for distinguishing the press in his context. "In short," he concluded, "the First Amendment does not 'belong' to any definable category of persons or entities; it belongs to all who exercise its freedoms." [114] Such an attitude may very well, if manifested in Court decisions, represent a significant restraint on the power of the press.

An important lesson of history is that self-regulation is the best defense against undesirable control by the government. Walter B. Wreston, Chairman of Citicorp and a leader familiar with power, once said of the press, "History teaches that when any sector of our society grows too powerful, it is only a matter of time before that power is curbed." [115] Significantly, Ralph Nader recently released a 90-page manual designed to facilitate citizen groups in their undertaking of extensive studies of their local newspapers in an effort to make them "more accountable to the people they serve." [116] I question whether the Nader approach will prove sufficient for the task, but it may well be a preview of more intensive "consumer movement" attention to the press.

It is time for the press to come up with an initiative of its own to help solve the prob-

Footnotes at end of article.

lems created by its great and growing power. At the present time, the media fall short of professional standards. Professions provide procedures and standards for qualifying and disqualifying their practitioners, lawyers, doctors and all other professionals must reach a level of training and learning before they are admitted. There are no formal standards for admission to the field of journalism.

Although Sigma Delta Phi (the society of professional journalists) has devised an ideal (but non-binding) code of ethics, there is no universally-accepted standard of profession ethics to guide and judge the behavior of newsmen or their editors. There is no procedure, external or internal, to condemn those who do not live up to a pattern of responsible conduct. Stockbrokers who sell securities and even real estate salesmen must first pass an examination to qualify and can be barred from selling their wares to the public in cases of fraud or failure to disclose pertinent data. But a newsman and his editor can inflict with relative impunity greater damage to our society by selling wares that pollute the well of information. Examinations, qualifications, standards, and "disbarments" may or may not be appropriate measures to help journalism establish professional standards for itself, but clearly, in striving for more professionalism in journalism, additional measures of self-correction are required. When the Twentieth Century Fund, on the advice of some leading figures in American journalism and based on the success of the British example, established a Press Council, such leading papers as The New York Times and The Washington Post refused to cooperate with that council.[117] Indeed, the American Society of Newspaper Editors a few years ago voted by three to one against the establishment of even its own internal grievance committee.[118]

An independent press council is necessary to consider and resolve disputes arising out of alleged unfair press treatment.

Major newspapers and television stations should invest their own independent ombudsmen, who are not members of their staffs, with authority to act to redress valid complaints. In a recent exchange, Hugh Sidey of Time reported that his magazine has never allowed a correction to run in its news columns. He suggested the possibility that major errors could and should be corrected in the same space, giving them the same manner of treatment.[119] Sidey makes an important point, because the manner of presenting the correction is just as important as the presence of the correction itself. Charles B. Seib, a worthy prototype in his role of ombudsman for The Washington Post, confirms that view with his observations: "Newspaper corrections traditionally are cryptic and often grudging. The non-correcting correction . . . is not unusual. . . . The problem is that we do not devote a small amount of the enterprise and zeal we show in news-gathering to cleaning up the messes we make. . . . There is a journalistic truth. . . . The correction never catches up with the mistake." [120]

A code of ethics is needed that addresses itself to the problem of personal bias on the part of news writers and editors.

SOME LEGISLATIVE ALTERNATIVES

Legislation is needed that will minimize the inequitable protection now afforded the press in libel litigation and permit public figures to sue for declaratory judgments when they are defamed, even if little or no money for damages is paid. England's democracy has been able to flourish within its legal system of strict libel laws and its other rigid rules on reporting.

It is time to consider seriously antitrust measures to contain the substantial horizontal and vertical growth of communications conglomerates, such as common ownership of book publishing, newsapers, magazines, broadcasting, and paper products. The media as a market are just as subject to monopolistic and anticompetitive practices as is the market for conventional goods and services. While the promises of the First Amendment are essential to our democracy, we must not forget that, in the words of Justice Hugo Black, "That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." [112] The circle of public disseminators of information is not enlarging; instead, each day brings yet another indication that a relatively concentrated core of communications companies are controlling even more sources of our information.

To address this problem, four legislative initiatives should be given serious consideration. A few years ago, Senator Thomas J. McIntyre proposed a bill which would limit the number of newspapers a company can own and prohibit newspaper ownership of television or radio stations in the same metropolitan area.[122] In April 1977, Congressman Morris Udall introduced legislation that would include publishing and communications in the subject matter of a proposed federal commission to look into industrial concentration, saying, "I dread the day when all American newspapers look alike, and read alike, and where there won't be much more difference in the daily papers in Topeka and New York than there is in . . . a Big Mac." [123] In April 1978, Congressman Udall, with 71 other sponsors, introduced another bill which would provide tax incentives to local newspapers so as to protect them from being acquired by chains.[124] Most recently, Congressman Lionel Van Deerlin and Louis Frey introduced on June 7, 1978, a bill that would overhaul federal communications law by, among other methods, limiting the television networks and other owners of broadcast stations to a maximum of five television and five radio stations although such ceilings would apply only when present owners sold or transferred properties.[125]

The Justice Department and the Federal Communications Commission have suggested or undertaken significant investigations into the possibility of divestiture of network owned-and-operated stations, reductions in the amount of programming networks are allowed to produce in-house, and other measures intended to limit network control over local stations and programming.[126] Further, just recently the Justice Department filed a civil antitrust lawsuit under Section 7 of the Clayton Act against CBS, Inc., asking that it divest itself of Fawcett Publications, Inc. It is also reported that the Federal Trade Commission is looking into the effects of last year's acquisition of the Book-of-the-Month Club by Time, Inc., as well as the proposed merger of Harper & Row Publishers, Inc., with J. B. Lippencott Company.[127] Finally, on June 12, 1978, a unanimous Supreme Court upheld in their entirety regulations issued by the Federal Communications Commission in 1975 to the effect that newspapers can no longer acquire radio or television stations in the same community. Although allowing most existing combinations of newspaper and broadcasting outlets to continue, the Court did require divestiture in 16 "egregious cases" in which, in relatively small communities, the combination included the sole daily newspaper and the sole clear-signal television or radio station.[128]

The tasks required to deal adequately with increasing concentration of power in the press are not simple. A serious professional effort may well require a self-reformation that could take on the characteristics of a self-revolution. The recruitment and training of editors, reporters and the like would require change. News stories would have to be written less hastily. They would probably be longer and in greater depth, possibly at the risk of not being as lively.

The challenge for the media is to come up with their own standards of professionalism and to adapt those standards to the realities of their responsibilities in a free society. There is no further room for complacency and arrogance. In short, the industry must heed the directive of one of its most eminent members, John B. Oakes, when he recently declared, "We of the press have to take much firmer steps than we have taken not only to improve quality and upgrade content but to make ourselves voluntarily more accountable as well as more accessible to the public." [129]

In summation, our country requires a political theory to suit its new role as a world power. We have had a perilously short apprenticeship to shouldering the burdens of that power. We are unfamiliar and morally uncomfortable with our new position. This makes defense policy, foreign commitments and intelligence gathering serious issues to be discussed, debated and understood.

The traditional American political philosophy based on 19th century liberal rationalism is now undergoing serious challenge and reexamination. We need a working political philosophy that will help us to deal effectively with the problems of power. The concept of power has been altered in the modern world by the revolutionary developments in technology and communication.

The intricate relationships that have always existed between freedom and authority are more complex now than they ever have been. It is difficult, but not impossible, for believers in democracy to adapt to the rapidly changing realities of modern technology.

Whether or not our institutions of society and government can work to help us mature to a responsible world power committed to democratic values is what is at stake in this year and in the years to come. The power of the media as it affects and reflects our national interests must be seen within that perspective.

FOOTNOTES

[1] It is interesting that a survey taken in 1974 by *U.S. News & World Report* showed that a cross section of national leaders ranked television ahead of the White House as the country's number one power center. Kevin Phillips, *Mediacracy* (Garden City, New York: Doubleday, 1975) p. 25.

[2] It should be noted that when the framers of the Constitution considered the idea of freedom of the press, they did not envision a press possessed of very nearly unrestrained license. The concept of an unrestrained press was foreign to the liberal philosophers of the 17th and 18th centuries. The idea of freedom without responsibility was also foreign to the experience of the Founding Fathers. When the First Amendment provided that "Congress shall make no law" abridging the stated freedoms, it was clearly intended that it was the national government that would be subject to that prohibition rather than the states. Indeed, Pennsylvania, Delaware and Virginia expressly imposed liabilities for abuses of free speech. Thomas Jefferson explained: "While we deny that Congress have the right to control the freedom of the press, we have ever asserted the right of the states, and their exclusive right to do so." (Letter to Abigail Adams, September 4, 1804).

After the passage of the Sedition Act, however, and with the reaction to it, restraints against the press were gradually removed. The Supreme Court came to interpret the Fourteenth Amendment as extending the rights protected under the First Amendment against restrictions by the states as well as the national government. More recently, court decisions have begun to lessen libel laws as a restraint against the press; and in the Pentagon Papers case, the press was al-

lowed to publish stolen government documents without restraint or liability. (New York Times Co. v. United States, 403 U.S., 1971, p. 713).

[3] As this article was going to press, The New York Times—Myron Farber case, in which the Times reporter and his paper are arguing for First Amendment immunity for the reporter's notes, was being debated.

[4] Tom Bethell and Charles Peters, "The Imperial Press," Washington Monthly, November 1976, p. 29.

[5] Speech by Stanley Baldwin, Westminster, March 17, 1931.

[6] Pennekamp v. Florida, 328 U.S., 1946, pp. 331 and 355-56, (concurring opinion).

[7] Ben H. Bagdikian, The Effete Conspiracy: and Other Crimes by the Press (New York; Harper & Row, 1972) p. 6.

[8] Washington Post, August 3, 1977, p. D13, col. 3.

[9] Washington Post, July 24, 1977, p. G 1, col. 3.

[10] Irving Kristol, "The Underdeveloped Profession," The Public Interest, Winter 1967, pp. 49-50.

[11] Douglass Cater, "Remarks," in G. Will, ed., Press, Politics, and Popular Government (Washington, D.C.: American Enterprise for Public Policy Research, 1972) pp. 33-34.

[12] Washington Post, July 24, 1977, p. G 1, col. 3.

[13] Washington Post, May 9, 1978, p. D 10, col. 1.

[14] John B. Oakes, "Dwindling Faith in the Press," New York Times, May 24, 1978, p. A 23, col. 3.

[15] Donald McDonald, "The Media's Conflict of Interests," Center Magazine, November/December 1976, p. 16.

[16] Ibid., p. 18.

[17] Ben H. Bagdikian, "Newspaper Mergers—The Final Phase," Columbia Journalism Review, March/April 1977, p. 18.

[18] Ibid., p. 19.

[19] Ibid., p. 18.

[20] Washington Post, May 9, 1978, p. D8, col. 1.

[21] The Washington Post Company has announced that it plans to sell its Washington am radio station to the Outlet Company of Providence, Rhode Island, and swap its Washington television station for one in Detroit, Michigan, owned by the Evening News Association. The Federal Communication Commission has approved both transactions, and as of this writing the former swap has been accomplished and the latter sale is imminent. Washington Post December 7, 1977, p. A1, col. 5; Joanne Ostrow, "Ch. 9: Local News Once Removed," Washington Journalism Review, April/May 1978, p. 21; Charles B. Seib, "The First Amendment as Corporate Business," Washington *Post*, May 26, 1978, p. A21, col. 4.

[22] Address by Marvin L. Stone, Editor, U.S. News & World Report, "Journalism in Chains," 1977 Annual Meeting of the American Association of State Colleges and Universities, in Orlando, Florida, December 6, 1977, pp. 2-3; Joseph Volz, "Star Sold: As Time Goes Buy . . ." Washington Journalism Review, April/May 1978, p. 22.

[23] Seib, *supra* note 21.

[24] 376 U.S., 1964, p. 254.

[25] *Ibid.*, pp. 279-80.

[26] *Curtis Publishing Co.* v. *Butts; Associated Press* v. *Walker*, 388 U.S., 1967, p. 130.

[27] *Rosenbloom* v. *Metromedia, Inc.*, 403 U.S., 1971, pp. 29 and 44.

[28] 418 U.S., 1974, p. 323.

[29] 424 U.S., 1976, p. 448.

[30] Alfred Hill, "Defamation and Privacy under the First Amendment," *Columbia Law Review*, v. 76, no. 8, December 1976, pp. 1205 and 1212.

[31] 556 F.2d, 1977, p. 113 (2d Cir.), *cert. denied*, 434 U.S., p. 1002.

[32] 556 F.2d, p. 122.

[33] 46 U.S.L.W., (2d Cir.) Nov. 7, 1977, No. 77-7142, p. 2251, *cert. granted*, 55 L. Ed. 2d, 1978, No. 77-1105, p. 515.

[34] *Herbert* v. *Lando*, No. 77-7142, slip op, Nov. 7, 1977. pp. 264-265 (2d Cir.); *Wall Street Journal*, November 8, 1977, p. 8, col. 2.

[35] *Washington Post*, November 9, 1977, p. A22, col. 1.

[36] John P. Roche, "Libel Rulings Make Public Figures Unfair Game," *Washington Star*, November 23, 1977, p. A9, col. 5.

[37] Jerry Knight, "Judge Says Fighting is Only Libel Remedy," *Washington Post*, November 30, 1977, p. D11, col. 2.

[38] 420 U.S., 1975, p. 469.

[39] Bagdikian, *supra* note 7, p. 61.

[40] Kristol, *supra* note 10, p. 36.

[41] Address by Walter Cronkite, Radio and Television Directors Association Conference, in Miami Beach, Florida, December 13, 1976.

[42] Fergus M. Bordewich, "Supermarketing the Newspaper," *Columbia Journalism Review*, September/October 1977, p. 30.

[43] Oakes, *supra* note 14.

[44] Paul H. Weaver, "The New Journalism and the Old—Thoughts After Watergate," *The Public Interest*, Spring 1974, p. 67.

[45] U.S. News & World Report, August 2, 1976, p. 24.

[46] Confirmed in telephone conversation with Ben Bradlee, December 5, 1977.

[47] Confirmed in telephone conversation with Ben Bradlee, December 5, 1977.

[48] Charles B. Seib, "The New Reporters: Whistling Advocates," Washington Post, January 13, 1978, p. A13, col. 1.

[49] Confirmed in telephone conversation with James B. Lindheim, Senior Vice President, Yankelovich, Skelly and White, Inc., of New York City, New York, December 6, 1977.

[50] Henry Fairlie, "Press Against Politics," The New Republic, November 13, 1976, p. 14.

[51] Theodore H. White, "America's Two Cultures," Columbia Journalism Review, Winter 1969-70, p. 8.

[52] Lionel Trilling, Beyond Culture (New York; Viking Press, 1968). See Daniel P. Moynihan, "The Presidency and the Press," Commentary, March 1971, p. 43.

[53] Irving Kristol, "Crisis for Journalism: The Missing Elite," in G. Will, ed., Press, Politics and Popular Government (Washington, D.C.; American Enterprise for Public Policy Research, 1972), p. 50.

[54] Fairlie, supra note 50.

[55] Edward J. Epstein, Between Fact and Fiction: The Problem of Journalism (New York; Vintage Books, 1975), pp. 210-232.

[56] Peter Braestrup, Big Story: How the American Press and Television Reported and Interpreted the Crisis of Tet—1968 in Vietnam and Washington (Boulder, Colorado; Westview Press, 1977).

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[59] Ernest W. Lefever, TV and National Defense: An Analysis of CBS News, 1972-73 (Boston, Virginia: Institute for American Strategy Press, 1974).

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[62] Jack Anderson, "In Cambodia, Obliterating a Culture," Washington, Post, May 2, 1978, p. B12, col. 4.

[63] Reed Irvine, "Notes from the Editor's Cuff." AIM Report, Supplement, November 1, 1977; AIM Report, Part II, May 1978.

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[65] J. Bowyer Bell, "Terrorist Scripts and Live-Action Spectaculars," Columbia Journalism Review, May/June 1978, p. 48.

[66] Walter Laqueur, Terrorism (Boston: Little, Brown and Company, 1977) pp. 109-110.

[67] Ibid., p. 109.

[68] New Yorker, August 15, 1977, p. 21.

[69] Philip Revzin, "A Reporter Looks at Media Role in Terror Threats," Wall Street Journal, March 14, 1977, p. 16, col. 6.

[70] Ibid.

[71] Charles B. Seib, "Free Press, Fair Trial—In Theory, in Practice," Washington Post, August 19, 1977, p. A27, col. 1.

[72] J. William Fullbright, "Fullbright on the Press," Columbia Journalism Review, November/December 1975, p. 42.

[73] Paul H. Weaver, "Captives of Melodrama," New York Times Magazine, August 29, 1976, p. 6.

[74] Address by Thomas E. Patterson, "Press Coverage and Candidate Success in Presidential Primaries: The 1976 Democratic Race," 1977 Annual Meeting of the American Political Science Association, in Washington, D.C., September 1-4, 1977, p. 1.

[75] Weaver, supra note 73.

[76] Patterson, supra note 74, p. 4, n. 2.

[77] Weaver, supra note 73, p. 51.

[78] Patterson, supra note 74, p. 6.

[79] Weaver, supra note 73, p. 51.

[80] Ibid., p. 56.

[81] Michael J. Robinson, "Television and American Politics 1956-1976," The Public Interest, Summer 1977, p. 17.

[82] Michael J. Robinson, "TV's Newest Program: The 'Presidential Nominations Game,'" Public Opinion, May/June 1978, p. 43.

[83] Patterson, supra note 74, pp. 3-4.

[84] Ibid, p. 5.

[85] Robinson, supra note 82, p. 42.

[86] Weaver, supra note 73, p. 51.

[87] Patterson, supra note 74, p. 5, n, 4.

[88] Idib., p. 6.

[89] Ibid., p. 7.

[90] Ibid., p. 9.

[91] Ernest B. Ferguson, "Anniversary of Chicago," Baltimore Sun, August 28, 1969, p. A18, col. 7.

[92] Drew Pearson and Jack Anderson, "Networks Slanted Chicago Coverage," Washington Post, September 6, 1968, p. B13, col. 5.

[93] Theodore H. White, The Making of the President—1968 (New York; Atheneum Publishers, 1969) p. 285.

[94] Furguson, supra note 91.

[95] White, supra note 93, p. 302.

[96] Pearson & Anderson, supra note 92.

[97] Furguson, supra note 91.

[98] White, supra note 93, p. 282, n. 6.

[99] Staff of Special Subcommittee on Investigations of House Committee on Interstate and Foreign Commerce, 91st Cong., 1st Sess., Television Coverage of the Democratic National Convention, Chicago, Illinois 1968, Committee Print, 1969.

[100] Fulbright, supra note 72, p. 41-42.

[101] U.S. News & World Report, August 2, 1976, p. 22.

[102] Jerry Landauer, "The Press and 'Koreagate,'" Wall Street Journal, October 6, 1977, p. 20, col. 3.

[103] Robinson, supra note 81, p. 28.

[104] Louis Harris, Confidence Climbing (The Harris Survey Press Release of March 14, 1977).

[105] U.S. News & World Report, April 29, 1974, p. 33.

[106] A. H. Raskin, "What's Wrong with American Newspapers?" New York Times Magazine, June 11, 1967, p. 77.

[107] Confirmed in telephone conversation with James Reston December 6, 1977.

[108] B. Adler, ed., The Washington Wits (New York, Macmillan Publishing Company, Inc., 1967) p. 195.

[109] Kristol, supra note 10, p. 49. Also quoted in Moynihan, supra note 52, p. 41.

[110] Raskin, supra note 106, p. 28.

[111] Ibid.

[112] Lester Markel, "Watching the Press," New York Times, February 2, 1973, p. 31, col. 5.

[113] Floyd Abrams, "Two Theories of Press Freedom Are Parallel, Yet Bound to Meet," New York Times, May 7, 1978, p. E11, col. 1. For a related pronouncement on how the press should be afforded special treatment in the context of Fourth Amendment searches and seizures, see Zurcher v. The Stanford Daily, 46 U.S.L.W., May 31, 1978, pp. 4546, 4552–54, U.S., Nos. 76–1484, 76–1600 (Stewart, J., concurring).

[114] First National Bank of Boston v. Bellotti, 46 U.S.L.W., April 25, 1978, pp. 4371, 4379–81, U.S., No. 76–1172 (concurring opinion); Seib, supra note 21.

[115] U.S. News & World Report, August 2, 1976, p. 23.

[116] Larry Kramer, "Nader Urges Public to Monitor Press," Washington Post, April 10, 1978, p. D10, col. 1.

[117] G. Giancardo, ed., Problems of Journalism (Easton, Pennsylvania; American Society of Newspaper Editors, 1973) p. 264.

[118] Ibid., p. 265.

[119] H. Purvis, ed., The Presidency and the Press (University of Texas at Austin; Lyndon B. Johnson School of Public Affairs, 1976) pp. 84–85.

[120] Charles B. Seib, "The Case of the Outrageous Headline," Washington Post, April 15, 1978, p. A11, col. 1.

[121] Associated Press v. United States, 326 U.S., 1945, pp. 1 and 20.

[122] S. 3305, 91st Cong., 2d Sess., 1970.

[123] H.R. 6098, 9th Cong., 1st Sess., 1977; Kevin Phillips, "Busting the Media Trusts," Harper's, July 1977, p. 34.

[124] H.R. 12395, 95th Cong., 2d Sess., 1978; Washington Post, May 9, 1978, p. D8, col. 2.

[125] H.R. 13015, 95th Cong., 2d Sess., 1978; Wall Street Journal, June 8, 1978, p. 2, col. 2.

[126] Phillips, supra note 123, p. 32.

[127] Washington Post, June 2, 1978, p. B8, col. 6.

[128] National Citizens Committee for Broadcasting v. Federal Communications Commission, 46 U.S.L.W., June 12, 1978, p. 4609, U.S., Nos. 76–1471, 76–1521, 76–1595, 76–1604, 76–1624, 76–1685; Morton Mintz, "Press-Broadcast Merging Barred by High Court," Washington Post, June 13, 1978, p. A1, col. 6.

[129] Oakes, supra note 14.

SPECIAL INTERNATIONAL SECURITY ASSISTANCE ACT

● Mr. BELLMON. Mr. President, today we are considering the International Security Assistance Act of 1979. The day before yesterday we considered (and passed) the Special International Security Assistance Act of 1979. That act was called "special," because it was an authorization for economic and military assistance to honor the commitments President Carter made in securing the Egyptian-Israeli peace treaty. But in terms of the message we send, the act we are considering today is no less "special." I support this act, which contains assistance for both Greece and Turkey, but I have some of the same reservations about it that I had about the Special International Security Assistance Act.

It has been our policy as a nation, at least in this century, to do everything we could after a way to help the innocent victims on the other side, as well as on our side, recover. Surely no one would deny that some of that money for rehabilitation might have been better spent before the war broke out or in preventing war from breaking out. I know many of my constituents feel that the price that President Carter has agreed to pay to secure a peace treaty between Israel and Egypt is too high. The first payment is the $4 billion in loans and grants that we authorized Monday. Well, I do not think it is too high provided it produces peace and stability in the Middle East.

But, Mr. President, what we authorized was not $4 billion worth of war prevention. When I said that some of the money we have spent in rehabilitating war-torn countries might have been better spent before the war began, I did not mean by giving each side equal numbers of jet aircraft. And yet, that is what most of the money is to be used for—buying for the Israelis and the Egyptians the weapons they need to war on each other or on other countries. Now we are doing about the same thing for Turkey and Greece.

On a previous occasion, when President Carter sought authority to supply planes to the Saudis and to the Egyptians, I supported his request. I believe that the peace treaty between Egypt and Israel could not have been obtained unless we gave the Arabs some indication that we sought peace in the Mideast, not Israeli dominance.

But that point has now been made. We have demonstrated that a just and peaceful solution to strife is what we seek. The forces were made to see that we were not going to overwhelmingly arm any side if that arming would be prejudicial to a just and peaceful solution.

No one doubts that money properly spent in Egypt and in Israel preventing an outbreak of future fighting between those wartorn countries would be money wisely spent. But what we authorized, mostly, were loans—loans that will have to be paid back. We were warned in the committee report that neither country may be financially able to repay those loans. We authorized two heavily burdened peoples, still paying enormous taxes and experiencing ruinous inflation as a result of previous purchases of airplanes and tanks, to borrow more money to buy more airplanes and tanks.

Mr. President, in the interest of peace, what we must begin to authorize are constructive expenditures that will help countries build their economies, meet the needs of their citizens, and combat inflation. Surely, we can find some way to turn the efforts of peoples to constructive, rather than destructive, pursuits.

The world situation is not guaranteed to improve with time. We are not even guaranteed that the peace treaty between Egypt and Israel will necessarily turn out to be a good thing. Everyone or at least almost everyone has realized for some time that the implementation of any such treaty would determine whether it was good or bad. I believe that President Carter and President Sadat and Prime Minister Begin would be well advised to think long and hard together and take only those defense measures that will almost certainly strengthen the peace rather than threaten it.

Mr. President, I voted and will vote to authorize these loans, but I reserve the right to vote against the appropriation of any money to arm these countries—any money that is not for economic development. I believe that it will soon become obvious that the greatest security threats do not come from outside, but from the danger of internal economic collapse—a collapse that wise use of economic aid could prevent.

Today, we are considering the "ordinary" International Security Assistance Act of 1979. It, too, contains economic and military assistance to Egypt and Israel. It, also, contains economic and military assistance to Greece and Turkey. The arms we provide one country could possibly someday be used against the other. I am concerned that we may accede to requests for military assistance to the detriment of these countries. What we must do, especially in the case of Turkey, is to provide economic assistance.

Mr. President, I support this act, which supplies assistance to Greece and Turkey, as well as to Israel and Egypt. The message it sends is that the United States truly desires just and peaceful relations between neighboring states. But, having sent the message, I now argue for future assistance to be concrete and productive. Having assured these countries of our concern about external threats, let us concentrate on helping them solve their real problems. In that way we will be truly helping international security.●

THE RAILROAD CHALLENGE

● Mr. McGOVERN. Mr. President, both House and Senate committees are considering legislation to deregulate the railroad industry. The President has given high priority to the passage of this legislation as our last hope to stave off nationalization of the rail freight industry. Secretary Brock Adams has announced that if this bill is not swiftly implemented, it will become necessary for the Federal Government to invest an estimated $12 to $15 billion to maintain our Nation's railroads.

The Nation's railroad crisis is, indeed, peaking. The industry, with an overall rate of return of less than 1 percent, has hit rock bottom. The next few years will most assuredly be a period of make it or break it for the freight railroads. The Congress and Federal agencies have at long last realized that the bandaid and bailout approach to railroad revitalization will not work. Sweeping policy and regulatory reforms will be crucial to rail restructuring.

Yet, the question plaguing shippers, economists, and an increasing number of Members of Congress remains. Will deregulation be the long-sought answer to the rail industry's problems? And, if deregulation does return the industry to some improved state of financial health, at what cost to shippers and consumers?

The administration has proposed railroad deregulation on the heels of its widely publicized success with airline deregulation a year ago. In point of fact, rail deregulation is sandwiched between a number of deregulation initiatives pro-

posed by the administration ranging from natural gas and oil to buses and trucks. The administration, evidently, has been struck with deregulation fever. One only hopes that they will pause long enough to recognize the uniqueness of each industry before pursuing this apples and oranges grab bag of deregulation.

As discussed in the following editorial, ever since new competitors first began to make serious inroads into the railroad's traffic, both industry and Government have sought the key that would reverse the tide and return the railroads to prosperity. Today, that magic key is perceived to be deregulation.

No one can argue that an overhaul of the century old regulation of the rail industry is long overdue. Congress first attempted such reforms with the enactment of the Railroad Revitalization and Regulatory Reform Act of 1976. Perhaps further overhaul is in order. The Railroad Deregulation Act of 1979, presently being considered by the Congress, is predicated on the perceived need for the railroads to achieve even greater rate flexibility and to be able to significantly reduce the size of their physical plant.

Such economic and operational flexibility are sorely needed in areas of competition among rail carriers and intermodally, and where duplicative facilities clearly exist. But to provide such freedoms where the railroads have achieved market dominance and at the expense of captive shippers would be a travesty. Numerous industry and administration observers have denied the existence of captive shippers and market dominance. I doubt that they have given careful consideration to the agricultural producing heartland of this Nation or to the plight of electric utilities which in most cases are wholly dependent on a single rail line for unit train shipments of coal.

Perhaps most importantly, have they given any consideration as to the effects of suddenly removing the crutches of a crippled industry? No doubt the railroads will attempt to eliminate as much plant as quickly as possible and increase rates where they intend to continue service. Such action will allow for a temporary improvement in rail finances. But until we address the problem of one-sided Government aid to competing modes of transport, we can expect a serious relapse in the not too distant future.

The key here, is that after decades of debate, the United States has yet to establish a firm national transportation policy. Without such a policy, our decisions and assistance given to one transport mode impacts all other modes. The Federal investment in highways and waterways and airport development have clearly devastated the railroads.

Mr. President, I am not opposed to rail deregulation in general. In areas of competition it is needed. I cannot support the present legislation without protection for captive shippers and until alternatives to outright abandonment are determined. My greatest concern, however, is that deregulation will not be the panacea suggested by the administration. The Nation's railroads may experience a few short years of improved economic health, but at what cost to the shippers and the public. At best we are only delaying the difficult decisions that must be made regarding the form and substance of a truly national transportation system.

Mr. President, I ask unanimous consent that an editorial from the April 1979 issue of Modern Railroads be printed in the RECORD.

The editorial follows:

DEREGULATION ALONE IS NOT ENOUGH

Will deregulation—when and if it comes—be the long-sought answer to the railroad industry's problems?

Ever since new competitors first began to make serious inroads into the railroads' traffic, the industry has sought the magic key, the panacea, that would reverse the tide and return the railroads to prosperity.

First it was thought that the answer lay in getting rid of passenger trains and their associated losses. Next mail, LCL freight, express and most of the perishables traffic were written off. Eliminating branch lines and modernizing the labor work rules have been considered as keys to a renaissance.

Continual cutting back on service and plant has been the rule for several decades. But despite the presence of several relatively healthy firms, the condition of the industry continues to deteriorate.

BROCK TO THE RESCUE

Now comes deregulation. The idea, as we get it from the pronouncements of SecDOT Brock Adams, is to remove or at least loosen the ICC chains that have bound the railroads for the last 90 years or so, and turn them loose to fend for themselves in the competitive world of free enterprise.

Once that is done, the reasoning goes, market forces will determine the proper, economic role of the railroads in the nation's total transportation mix. Since we now have too many railroads and too much railroad trackage, this will mean a substantial slimming down of the rail system. As a result, the Federal government won't have to find the $12 to $15 billion DOT estimates would be needed over the next decade to help meet the industry's capital shortfall and rehabilitate the present system.

Of course, we're over-simplifying; but that seems to be the gist of the Administration's thinking. In general, we agree with the DOT approach. We're glad to see that Mr. Adams calls for significantly greater freedom for railroads to raise and lower rates, and freedom to drop branch lines where neither shippers nor local governments are willing to pay the costs.

We also agree that without meaningful deregulation there is little chance of retaining the railroads in the private sector. Conrail sees this only too clearly, and it is no accident that CR is the strongest railroad advocate of deregulation.

But there are, as we see it, some rather important caveats that ought to be considered before Congress lets the railroads out of ICC's jail. Let's consider one of these caveats. To simply turn the railroads loose would be like releasing an injured, half-starved wolf to run with the pack. He'll get a lot less than his fair share and may indeed starve to death.

For the railroads (even including the few fortunate ones like Santa Fe, Southern, Union Pacific) have been seriously affected by decades of one-sided governmental aid to competing modes. A good estimate of the total subsidies to transportation other than railroads since 1920 is well over $200 billion.

The annual bill to the general taxpayers for aviation traffic control facilities and pilot training alone is running at some $3 billion; and probably a third of the expenditures for roads and streets is supplied by the general taxpayers, not the users. Then of course there are toll-free waterways.

These subsidies, along with unequal regulatory policies, have already badly distorted the relative roles of the several modes. One result is that we have less and poorer rail service today than the true economic worth of railroads would dictate.

FAST FADEOUT

If the railroads are simply turned loose without correcting this very serious inequity, we will see a rapid shrinkage of rail plant and service; and the country will wind up with a far smaller and less effective railroad system than it should have.

Secretary Adams and other DOT officials have noted the need for more adequate user charges for highway and waterways carriers; but, not surprisingly, they have not put much emphasis on the user charge issue in their discussion of railroad problems.

We suggest not only that adequate user charges should be assessed carriers that benefit from publicly-supplied facilities, but also that the railroads should be reimbursed for the many billions of dollars that went to support and encourage rail competitors over the last six decades. The government actually owes the railroads not just that $12 or $16 billion capital shortfall but also many billions more for past inequities!

Obviously, whatever merit this data may have, trying to collect for past inequities is just a pipe dream. In fact, we suspect that even trying to impose adequate user charges, for current operations may be next to impossible politically.

But unless the subsidies to rail competitors are eliminated or equalized, deregulation alone will not produce a healthy railroad industry.—Tom Shedd.●

ARCHITECTURAL BARRIER AWARENESS WEEK

● Mr. COHEN. Mr. President, at the commencement of Architectural Barrier Awareness Week, I would like to focus attention on the difficulties encountered by and the opportunities available to the handicapped in their quest for a barrier-free environment.

It is estimated that 1 out of 10 persons in the United States has limited mobility, because of a temporary or permanent physical handicap. With our increasing elderly population, and our improved medical technology which provides many with mobility not previously possible, this number will continue to expand. Unfortunately, all too often, our communities are designed to accommodate only the able-bodied adult.

Several years ago, as a Member of the House of Representatives, I introduced legislation authorizing a tax deduction for expenses incurred by private businesses in removing architectural or transportational barriers. This legislation was subsequently introduced in the Senate by the senior Senator from Kansas (Mr. DOLE). At his instigation, it was added as an amendment to the Tax Reform Act of 1976. As enacted, this little-known provision allows an annual deduction of up to $25,000 for the expenses of barrier removal for a 3-year period ending this December.

As we move in Congress to reassess this provision, I am pleased to again join with Senator DOLE in sponsoring new legislation that is being developed to strengthen this section of the Code. The focus of our legislation will be the elimi-

nation of those barriers existing in the business community.

Obviously, the best time to eliminate barriers is before they are constructed. Studies have shown that when a barrier-free environment is planned prior to construction, the expense usually runs less than 1 percent of the total cost. Where barriers are already in place, it is important to remember that the costs of removal are generally a onetime expense. Afterward, as customers and employees, handicapped persons will return the investment through their patronage.

The National Commission on Architectural Barriers to Rehabilitation of the Handicapped concluded that the "greatest single obstacle to the gainful employment of handicapped persons is the architectural barriers they must contend with." In 1975, the Urban Institute estimates that $1.3 billion could be saved from Government disability and welfare programs if public transportation alone were accessible to handicapped persons, thus enabling them to get to and from work. More can and must be done to open up the workplace to the handicapped.

As we contemplate the significance of this week, I hope we will translate our concern about the handicapped into action. That action could take a number of forms:

Advocating legislation on the right of public access for all citizens;

Organizing a community action group for the handicapped;

Learning about laws concerning access for disabled citizens;

Volunteering for organizations working with the disabled; or

Increasing our own sensitivity, so that the next time we add a phone, place a drinking fountain, or plan a staircase, we remember the rewards of a barrier-free environment.

Those who close their minds to this objective suffer with the most limiting handicap of all.●

VIETNAM WAR VETERANS MEMORIAL FUND

● Mr. DOMENICI. Mr. President, in January of 1975, and again in March 1977, I introduced legislation to provide for a study of the suitability and feasibility of designating the Vietnam Veterans Chapel, Eagle Nest, N. Mex., as a national memorial to the Vietnam veteran. On both instances the bill failed to be reported out of committee. This failure was largely due to a report from the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments, to the Secretary of the Interior, which recommended that enactment of the bill(s) not be supported. The recommendation was based on the belief that the chapel lacks national significance and the inappropriateness of National Park Service administration of such memorials.

Implicit in the introduction of the bills was the belief that the creation of a National Vietnam War Memorial would acknowledge the sacrifices made by those who gave their lives and who served in Vietnam, and would serve as a significant symbol of our willingness as a society to strive for a genuine peace and to reassess the meaning of our Vietnam involvement. For a long time after the war we tried to forget about it, but I think the tide is turning now. America is now facing the bitter realities of the war and I believe we are now ready to pay a final tribute to those men who sacrificed so dearly in this tragic war. For these reasons, I plan in the near future to reintroduce legislation to have the Vietnam Veterans Chapel made into part of the national park system. In addition, I intend to ask the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments, to reevaluate their position on enactment of such legislation.

In that request I will emphasize the national significance of the memorial and the need to recognize the right of the Vietnam veteran to be remembered and respected. Acknowledging that need is the newly created Vietnam War Veterans Memorial Fund. On April 27, 1979, the Vietnam Veterans Memorial Fund, Inc., was incorporated in the District of Columbia. The fund, a nonprofit corporation, was formed in order to achieve three limited purposes: First, to build in Washington, D.C., a perpetual national monument to the Americans who were killed and who served in Vietnam; second, to complete the Vietnam Veterans peace and brotherhood chapel in Eagle Nest, N. Mex.; and third, to contribute toward other monuments to Vietnam war casualties and returnees in other locations. The original incorporators of the Vietnam Veterans Memorial Fund, Inc., consist of three Vietnam veterans: Jan C. Scruggs, Thomas E. Mullings, and Robert W. Doubek. The fund is strictly a nonpartisan effort designed to get everyone's support and interest. The theme of the memorial planned for Washington, D.C., is the simple one of recognition of the sacrifices made by Vietnam veterans and will make no political statements about the war. Another major theme of the organization is one of national reconciliation of those who favored or opposed the war through providing this project that both groups can support.

I wholeheartedly support the fund's effort and encourage my colleagues to do the same.●

JUDGE DAVID BAZELON

● Mr. McGOVERN. Mr. President, Judge David Bazelon, the chief judge of the U.S. Court of Appeals for Washington, D.C., announced yesterday that he will retire on June 30 and will assume the status of a senior judge on the court.

Judge Bazelon is a pioneering figure in American jurisprudence. He has been unafraid to venture into the wilderness areas of human behavior and legal principles to discover the new frontiers of legal rights. Our legal system has served us so well, providing both liberty and order, because judges like Judge Bazelon have been able to continually modernize the application of rules of decision to social conduct. He is best known for his groundbreaking approach to criminal justice issues, but his opinions are considered by lawyers and legal scholars as landmarks of wisdom in many other areas as well.

Judge Bazelon has said:

> It is easy to concede the inevitability of social injustice and find the serenity to accept it. The far harder task is to feel its intolerability and seek the strength to change it.

That Judge Bazelon has been able to improve our realization of social justice through his work on the bench is a tribute both to Judge Bazelon and to our legal system.

Mr. President, the Washington Post yesterday carried a short profile of Judge Bazelon which I would like to share with my colleagues today an editorial. I request that the texts of the articles be printed in the RECORD.

The articles follow:

JUDGE BAZELON—AUTHOR OF "DURHAM RULE" DECIDES TO "STEP BACK"

(By Lawrence Meyer)

U.S. Circuit Court Judge David L. Bazelon, whose legal opinions have influenced the thinking of a generation of lawyers and educators, announced yesterday that he will assume the semi-retired status of a senior judge on June 30.

Controversial and outspoken during almost 30 years as an appellate court judge—15 of those years spent as the chief judge of the U.S. Court of Appeals here—Bazelon is widely known as a liberal, activist judge. His career has spanned the terms of seven presidents—beginning with Harry Truman—and during his tenure as chief judge, the Court of Appeals here was generally regarded to be second in importance and influence only to the Supreme Court.

In a letter to President Carter released yesterday, Brazelon said that "resolving to step back a bit from a 30-year labor of love is necessarily difficult." But he did so, Bazelon said, knowing that Carter "will select as my replacement an individual with the vision and talent necessary to address the demanding challenges that will face our court in the years to come."

Harvard law professor Alan Dershowitz, once a clerk to the judge, said Bazelon's "enduring contribution" to the law "has been that he has pressed more questions on the system than any other judge . . . He has singled out the function of the Court of Appeals more than any other judge—to raise questions, open areas for discussion."

Bazelon, who will be 70 years old in September, came to the Court of Appeals in 1949 when he was 40, then the youngest man ever appointed to a federal judgeship. Within five years he had begun to provoke debate and controversy with his opinions. He has been a consistent advocate of safeguarding the rights of persons accused of crimes, of ensuring in practice as well as in theory that defendants were adequately represented in court and of bringing knowledge from other disciplines, particularly psychiatry, to bear on the criminal justice system.

Bazelon's effort to open up the legal system to more information, to prompt debate and to pose hard questions, is illustrated by his best known opinion involving the case of Monte Wayne Durham, a convicted burgler with a history of mental disturbance.

In that 1954 appellate court opinion, which propounded what came to be known as the "Durham Rule," Bazelon attempted to change the prevailing legal test for insanity. The old test held that a criminal could claim insanity as a defense only if it could be proven that the defendant could not distinguish between right and wrong or if the act was the product of an "irresistible impulse."

The "Durham Rule" said that a defendant

should not be held criminally responsible if the crime was a product of a mental disease or defect.

But for Bazelon, the Durham case was not a chance to impose a new formula on American courts. Durham, Bazelon said in a recent interview, "was an effort to open the door to information—period. The door had been closed shut."

Bazelon hoped, with Durham, that psychiartists would be able, in the context of a criminal trial, to give juries some insight into what motivated a criminal.

The Durham case, Bazelon wrote in a concurring opinion when the Court of Appeals finally abandoned the Durham Rule in 1972, "fueled a long and instructive debate that uncovered a vast range of perplexing and previously hidden questions. And the decision helped to move the question of responsibility from the realm of esoterica into the forefront of the critical issues of the criminal law."

According to a former law clerk, Bazelon, who became chief judge of the Court of Appeals in 1962, believes that "most judges in America are janitors who sweep the dirt under the rug. He thinks it's critically important to surface the dirt under the rug."

"Any wiseacre can go around asking a lot of hard questions without knowing answers," Bazelon said last week. "But I honestly believe you're never going to move in on anything unless you confront it."

The behavioral sciences, Bazelon said during the interview, had developed information suggesting that a person's genetic makeup or early childhood experiences might color his or her behavior. "In a moral society," Bazelon asked, "do you weigh that before you impose moral guilt or do you ignore it? I wanted people to confront and grapple with the problem. I don't know how to settle it."

"The Baz has wanted the courts to confront the issues," said Joel Klein, a former law clerk. "He has constantly played that role, raising issues others consciously avoided or never thought about."

"Bazelon, despite what people think, does not have a program to carry out," said law professor Dershowitz. "He keeps saying, 'I don't have the answers. I just know the problems.' "

Bazelon according to Dershowitz, prodded lower court judges to produce more and better information during trials and sharpened issues for decision by the Supreme Court. "He sees his job as forcing the Supreme Court to confront these issues," Dershowitz said.

During the 1960s, Bazelon and Chief Justice Warren E. Burger, then a circuit judge on Bazelon's court, carried on a highly publicized and increasingly bitter public debate over the rights of criminal defendants. Although cordial to each other in public, the two men developed an animosity toward each other that became an open secret in legal circles.

In later years, Bazelon wryly claimed that he was responsible for Burger's elevation to the Supreme Court by President Nixon in 1969. "I was the foil," Bazelon said, with Burger's tough law-and-order opinions playing off Bazelon's demands for upholding constitutional safeguards.

Bazelon still maintains the positions, in private and public, that indelibly marked him as a liberal judge. "You can't have criminal justice without social justice," he said recently. "That ties into everything."

"It is easy," Bazelon told a conference of prison officials in 1976, "to concede the inevitability of social injustice and find the serenity to accept it. The far harder task is to feel its intolerability and seek the strength to change it."

He has insisted, in a number of cases, that the Court of Appeals has an obligation to look at how effectively court-appointed lawyers represented their clients in criminal cases. "In most cases they give you a warm body," Bazelon said. "I'm not saying there isn't effective counsel, but in most cases, it's a sham."

During his 30 years on the bench, Bazelon has also been active on a variety of commissions, conferences and organizations concerned with social and psychological problems.

A stern, forbidding figure in court, Bazelon is warm and gregarious in private, expressing himself in colorful language, laced with Yiddish expressions and a seemingly endless supply of jokes and "stories"—some turned against himself—to make his point.

Although Bazelon could have remained as chief judge of the court until he turns 70 in September, he voluntarily relinquished the chief judgeship in March 1978 to allow his close friend and colleague Circuit Judge J. Skelly Wright a longer tenure as chief judge. Wright must step down from the chief judgeship in 1981, when he turns 70.

Bazelon, who could have remained a full-time circuit judge indefinitely, made clear that he intends to maintain his busy schedule. He said he intends to be an active senior judge giving "substantial service" to the court as well as continuing his interests outside the court.

Asked how he would like his period as a judge to be remembered, Bazelon pondered a moment before he replied. "For the effort to make people aware," he said.

JUDGE BAZELON STEPS BACK

For more than a quarter of a century, Judge David L. Bazelon has been the *enfant terrible* of American law. He has asked the indiscreet questions and challenged the conventional wisdom. He has forced his colleagues on the bench and at the bar to think about the things they had always done routinely. By doing so, he has exerted enormous influence on the shape of the law not only in this city, where he has served as a federal circuit judge for 30 years, but throughout the nation as well.

None of this is likely to change now that Judge Bazelon has decided, in his own words, "to step back a bit from a 30-year labor of love" and retire as a regular member of the U.S. Court of Appeals. His new status as a senior judge seems likely to free him to probe even more deeply into those dusty corners of the law where too many unexamined problems still lurk.

Judge Bazelon is best known, here and elsewhere, for having opened up, with his opinion in the *Durham* case, a long and still inclusive debate on the relationship between mental illness and crime. Some of his critics claim that debate has been useless, that the *Durham* rule has been repudiated by his own court, and that the law has not been substantially changed. They have missed the point. Judge Bazelon wanted to make lawyers and psychiatrists and others think about what they were doing to criminals who were or might be mentally ill. They have thought—at least, some of them have—and the awareness of the problem, even if there is no consensus on the solution, is far greater than when the *Durham* case was decided.

The list of other areas of the law in which Judge Bazelon has opened doors and pointed out problems is too long to recite. There were, for example, police interrogation and investigative arrests, sentences equating a fine of $1 with one day in jail, and the failure of juvenile courts to live up to their promise of helping, not punishing, young people.

For years, the phrase "lookit" was a vital part of Judge Bazelon's private conversation. It was a contraction of "look at it," and it was uttered, forcefully and compellingly, when he was trying to persuade someone to examine an issue or a problem or a bit of conventional wisdom that had been too hastily accepted. More than any other phrase, it seems to sum up what his career has been all about. Look at it; examine it; is it right?

This community has been fortunate to have had a judge who was prepared to give that scrutiny to whatever came to his attention. Judge Bazelon has rocked the boat, violently and perhaps even unnecessarily at times, and he will no doubt keep on rocking it. But the law is better now because of what he has done.●

JUDICIAL DISTORTION OF THE CONSTITUTION

● Mr. HELMS. Mr. President, the Student Bar Association of the Campbell College School of Law recently presented its 1979 Winter Symposium. It was entitled, "In Anticipation of the Constitutional Bicentennial: The Philosophical Foundations of the Creation of a Nation."

With the approach of the 200th anniversary of our Nation's Constitution, students at this fine North Carolina law school appropriately felt that it was worthwhile to identify and evaluate the roots of American fundamental law.

As a means of achieving this goal, distinguished speakers were invited to present lectures on the American Constitution. Over a period of days, I want to share some of these stimulating lectures with my colleagues.

First, I will offer the text of the lecture delivered by the Honorable I. Beverly Lake, a former member of the faculty of the Wake Forest University Law School, retired Justice of the North Carolina Supreme Court, and now a member of the faculty at the Campbell College Law School. I am immensely proud of Dr. Lake; he is, and long has been one of my dear personal friends. His lecture subject addressed itself to judicial distortion of the Constitution, a matter of deep concern to many Americans today.

Dr. Lake declares that this country needs no "New Foundation," but rather a "realignment with the old foundation upon which our structure of justice, domestic tranquility, prosperity, and secure liberty was built—the Constitution." He exposes the pitfalls of "sociological jurisprudence" by reference to several Supreme Court decisions. The decisions to which Professor Lake refers have, in effect, enabled the Supreme Court—not the American people—to amend the Constitution.

My good friend concluded by asking, "How can the American people protect themselves against such usurpation of power?" Dr. Lake's answer to that question is worthy of every Senator's consideration: "It was a grievous mistake to give the Federal judiciary life tenure. It would be better to require their reconfirmation by the Senate periodically."

Of course, he acknowledges that such a change is an unlikely prospect. In view of this, Professor Lake correctly observes that the "only other hope of eventual improvement lies in the long slow process of electing presidents and senators who, themselves, have an awareness of the need for selection of judges who have a love for and an understanding of our Constitution, together with some awareness of their own limitations, both in authority and in wisdom."

Mr. President, I ask that the lecture delivered by Justice I. Beverly Lake at the Campbell College School of Law Winter Symposium on February 21, 1979 be

printed in the RECORD at the conclusion of my remarks.

His observations follow:

JUDICIAL DISTORTION OF THE CONSTITUTION

How nice it is to be back at Campbell! Had I been told last August, as I began preparation for the course in Constitutional Law, that, in January and February, I should miss my friends in Kivett Hall as much as I have, I should not have believed that, at my age, in four short months, such strong ties could be woven as those which, I now know, will always keep this college, and especially its law school, clear in my mind and close to my heart. Enduring friendships formed quickly where there is mutuality of respect and of interest in matters of significant importance to the general welfare and where differences of opinion are debated with intellectual honesty and courtesy. Such friendships survive the bruises and strains of taking examinations and grading papers. So, all of the seventy-six men and women who studied Constitutional Law with me last fall will always be very special people to me. As in years to come, I hear and read about their successes in the practice of law and in the leadership of North Carolina thought, I shall derive a great deal of pleasure in remembering our days together at Campbell. I am greatly honored and encouraged by the presence of many of them here this evening. That is evidence both of their endurance and of the friendship I mentioned, for it is unlikely that they will hear much that is new to them in the views I shall express for your consideration.

It is most appropriate that here on the even of the birthday of the Father of Our Country, we direct our attention to the Constitution, in the writing and adoption of which he played such an important part. To this great blueprint for the building of a government of free men and women he gave unswerving fidelity throughout his service as President. In his Farewell Address to the American People he said:

"If in the opinion of the people the distribution of modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way by which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed."

Similarly, Mr. Justice Black, with whose views I am less often in agreement, dissenting in Harper v. Virginia Board of Elections, which held unconstitutional Virginia's requirement of payment of a poll tax as a condition upon the right to vote, said:

"When a political theory embodied in our Constitution becomes outdated, a majority of the nine members of this Court are not only without constitutional power, but are far less qualified to choose a new constitutional political theory than the people of this country proceeding in the manner provided by Article V."

The concept of men and women living in substantially complete personal freedom, and yet in the tranquil security of an orderly society, under a government limited in its powers by a written Constitution, is America's great contribution to political science and governmental philosophy. We have a country marvelously rich in natural resources and climate and exceedingly fortunate in geographic location, but it is my belief that the chief factor in our becoming the great nation we are, and in our achieving the standard of living we enjoy, has been our Constitution. Whatever may have been true of Czarist Russia, this country needs no "New Foundation". What we need is to return our Federal Government, and, more specifically, the Federal Court System, to alignment with the foundation upon which our structure of justice, domestic tranquity, prosperity and secure liberty was built—the Constitution.

The sociological jurisprudence which has dominated the decisions and majority opinions of the Supreme Court of the United States for the past forty years, has ignored the warning of George Washington and has created a governmental superstructure which is oppressive and already virtually beyond the control of the American people. It has flooded us with bad sociology and worse jurisprudence until today the statement, "The Constitution is what the judges say it is," is perilously close to the truth. That, incidentally, is a statement made by Chief Justice Hughes in a political speech long before he went on the Court and is taken out of context and used with great delight by the apostles of sociological jurisprudence for the purpose of belittling the significance of the Constitution. The point Mr. Hughes was trying to make, and which he expressed quite ineptly, was that since the Constitution, like all other laws, is not self-enforcing, we should select judges who respect it and who will give it correct interpretation.

In the landmark case of McCulloch v. Maryland, which sustained the power of Congress to charter a bank, Chief Justice Marshall made the statement, "We must never forget that it is a constitution we are expounding", meaning simply that a constitution cannot be expected to contain in minute detail every authorization to create instrumentalities by which the Government is to carry out the powers expressly given to it. The sociological "jurisprudes", as Professor Llewellyn used to call them, have seized upon this statement by the great Chief Justice and quote it, with pompous, pontifical arrogance, as support for any and all power grabs by Washington bureaucrats and Socialistic legislation.

To be sure "it is a Constitution we are expounding". So what? Because it is a Constitution, not a mere act of Congress, an erroneous construction of which can quickly be corrected by Congress, because it is a Constitution, designed to endure until amended pursuant to its own provision in Article V, its provision should be carefully construed, in the light of its purpose as conceived by the American people when the provision was put into the Constitution, not construed with carefree, experimental abandon by sociological tinkerers who believe they, and they alone, know what sort of "new foundation" America needs.

It would seem obvious that the grants of power to the Congress by the Constitution, such as the power to regulate interstate commerce or the power to enact legislation to enforce the Fourteenth Amendment, should be construed today in the light of the intent of the American people when those provisions were put into the Constitution. It is elementary that provisions in written contracts, deeds, wills and other documents are to be construed so as to give them the meaning intended by the parties at the time the document took effect. So should the Constitution be construed. This does not mean that today Congress may regulate interstate commerce by jet plane only in the same manner it regulated such commerce by sailing vessels in 1789, but it does mean that today Congress, under the pretext of regulating interstate commerce, should not be permitted to regulate the wages paid for harvesting tobacco on a Harnett County farm. It does mean that the Due Process Clause of the Fourteenth Amendment should not be twisted out of shape in order to sustain sociological theories of crime and punishment currently espoused by five justices of the Supreme Court and deemed absurd by their four associates.

To so construe the Constitution does not limit us to a 1789 or an 1868 model Government. Those remarkable men who hammered out the Constitution in the Philadelphia Convention—Washington, Hamilton, Madison, Franklin, James Wilson, the Morrises, the Pinckneys and others like them—were not unmindful of change. They knew our country would face many problems unknown to them, so they provided in the Constitution a procedure for changing it, and change it they and their contemporaries did almost immediately by adding the first ten amendments, which we call the Bill of Rights, so as to get North Carolina and Rhode Island to come into the Union. Were sociological conditions, or economic conditions, or any other conditions changed so as to make a provision of the Constitution more restrictive upon the Government's powers than the American people think proper, the amending process should be used, not a sociological decision by five, or even nine, men in Washington.

I don't ask you to accept my opinion on that. Take the opinion of George Washington, a staunch Federalist president in philosophy though not formally a member of the Federalist Party or of any other party, or, if you want a Democrat of unimpeachable Left Wing credentials, take Justice Hugo Black.

One day last fall, I called on a member of my class here in the Law School to recite on a decision of the Supreme Court. He stated the case correctly and then, as usual, I asked, "What do you think of that decision?" He replied, "I think it is the worst I have ever read." While I was strongly tempted to agree with him, there are so many candidates for that distinction among the recent decisions of the United States Supreme Court I have not yet cast my vote. Let me call a few to your attention.

In each instance, it is quite possible that you may believe a desirable sociological result was reached. I think otherwise, but that is not the point. I cite these cases to you not as examples of bad sociology, but as examples of distortions of the Constitution by the Court, whereby American Government has been changed from a balanced federal system, into an exceedingly powerful, dominant national government, centralized in Washington and, consequently, much more capable of transition overnight, by military coup d'etat, into a totalitarian dictatorship. I do not suggest that these decisions, and the many others like unto them, were rendered for that purpose. It does not blunt the point for me to concede that each of these decisions was intended by the majority of the Court to improve America by bringing about a beneficial sociological change, and I do so concede, at least for present purposes. But, we are told "The road to Hell is paved with good intentions," and so may be the road to dictatorship.

I offer, as my first exhibit, the well-known case of Brown vs. Board of Education, 347 U.S. 483, in which the Court declared that the Fourteenth Amendment forbids a state to educate white and Negro children in separate public schools, otherwise equal. That amendment, of course, says nothing about schools. It simply says, "No state shall . . . deny to any person . . . the equal protection of the laws." Some fifty-five years earlier, when every member of the Court was a man who had been a mature adult when the Fourteenth Amendment was ratified and who, therefore, had personal recollection of the conditions then prevailing, the Court had held the Amendment did not forbid the operation of separate, otherwise equal, public schools for white and Negro children, saying, in Plessy v. Ferguson, 163 U.S. 537: "Laws requiring their separation . . . have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power. The most common instance of this is con-

nected with the establishment of separate schools for white and colored children, which have been upheld even by courts of states where the political rights of the colored race have been longest and most earnestly enforced."

The establishment of separate, otherwise equal, schools for white and colored children did not originate in a Southern state. It originated in Boston and was held a valid exercise of the state's power to legislate in a decision of the Supreme Court of Massachusetts in 1848. Charles Sumner, the Abolitionist Congressman, was counsel in that case. Thus, it was well known to the Congress which submitted the Fourteenth Amendment to the states for ratification. After the amendment was declared ratified, the highest courts of New York, West Virginia, Indiana, Ohio, Missouri, Nevada and California held such schools were consistent with the Fourteenth Amendment. In our own North Carolina, the same Reconstruction legislature which ratified the Fourteenth Amendment provided for the establishment of such separate schools, but the most compelling evidence as to what the amendment was intended to do is supplied by the Congress which submitted it to the states for ratification.

It was that selfsame Congress which by legislation established separate schools in the District of Columbia. Thus, whatever you may think of the sociological merits or demerits of such schools, it is certainly indisputable that the people who wrote the Fourteenth Amendment and who placed it in the Constitution did not believe that in so doing they were depriving the states of the power to operate such schools, or were conferring upon the Federal Courts or Congress, the President or HEW any authority to meddle with them. It is, therefore, perfectly clear that the Supreme Court, not the American people, amended the Constitution by this decision—a change such as George Washington called "usurpation . . . the customary weapon by which free governments are destroyed"—solely because the nine justices believed this was sociologically desirable.

The Constitution provides, "The Congress shall have power . . . to regulate commerce . . . among the several states." The obvious purpose was to promote and encourage trade and the shipment of the products of one state into another for sale and use there. Let's see what that power of the Federal Government has grown to be through sociological jurisprudence.

In Wickard v. Filburn, 317 U.S. 111, the Court decided these words in the Constitution give the Federal Government authority to say to an Ohio (or a Harnett County) farmer, "You cannot grow wheat on your own farm to feed there to your own chickens and cows and to make flour with which to make biscuits for you and your family to eat in your own home, and if you do, the Secreatry of Agriculture can make you pay penalty." What has that got to do with interstate commerce? Well, the Court said, "If we assume [Mr. Filburn's wheat] is never marketed, it supplies a need of a man who grew it which would otherwise be reflected by purchases in the open market."

That is, if Mr. Filburn is not allowed to raise any wheat he will have to buy his chicken feed at the store and the store will buy it from a feed mill which, in turn, will, perhaps, buy its grain in Chicago. But, what about the chickens? Does the authority of Congress to regulate interstate commerce permit a Federal officer to come and count the chickens in your back yard, or the cabbages in your garden, and fine you if you have too many? You say, "oh, nonsense; that can't happen here!" Try to convince Mr. Filburn of that. Well, at least, a bi-product of this sheer Sophistry, by which the Court amended the Constitution, was this gem from the pen of Ogden Nash in the old Saturday Evening Post:

"Higgledy, piggledy, my black hen;
She lays eggs for the gentlemen.
The gentlemen come every day
To count the eggs my hen doth lay,
And if they find she lays too many,
They fine my hen a pretty penny."

For a hundred and fifty years after the Constitution gave Congress power to regulate, "commerce among the several states" it was then obvious that while the word "commerce", might be stretched to include the manufacture of goods, the phrase "commerce among the several states" could not be, since the manufacturing process, at least ordinarily, is local and done at a fixed location within a single state. But that was before our eyes were opened by the miracles of sociological jurisprudence as practiced on the banks of the Potomac. In United States v. Darby, 312 U.S. 100, the Court held Congress can forbid interstate transportation of lumber of excellent quality, because the sawmill which produced it paid its employees less than the wage specified by Congress, and can make the payment of such lower wages a criminal offense if the plant owner intended to ship his lumber into another state. In so holding, the Court said, "Congress, following its own conception of public policy concerning the restrictions which may approximately be imposed on interstate commerce, is free to exclude from the commerce articles whose use in the states for which they are destined it may conceive to be injurious to the public health, morals or welfare even though the state has not sought to regulate their use." Suppose Mr. Califano persuades Congress to prohibit all interstate transportation of cigarettes.

In Maryland v. Wirtz, 392 U.S. 183, the Court held Congress is authorized by the Commerce Clause to fix wages and hours of work in hospitals, nursing homes and educational institutions, such as Campbell College, because these institutions use goods imported from other states and labor disputes in a college cafeteria might hamper this flow of goods across the state line. In Katzenbach v. McClung, 379 U.S. 294, the Defendant operated a restaurant in Birmingham, specializing in barbecue and homemade pies. It was not near any interstate highway or an airport. For thirty-five years he had seated white customers only, with a take-out service for colored patrons. He refused to change notwithstanding the Civil Rights Act of 1964. He catered to a family and white-collar trade. The lower court found he could lose a substantial amount of business if he served Negroes and refused to require him to do so. The Supreme Court reversed on the ground that about half the food he served, though purchased by him locally, had reached his supplier through interstate commerce. How do you suppose the members of the Philadelphia Convention would have characterized these extensions of the power they gave Congress to "regulate commerce among the several states"?

The sociological jurists have, of course, not confined their distortions of the provisions of the Constitution to the inflation of the powers of the Federal Government. They have been equally zealous in whittling away the power reserved to the State Governments by the express language of the Tenth Amendment.

It would seem perfectly obvious that the Due Process Clause of the Fourteenth Amendment fastens upon the State Governments the same limitations placed upon the Federal Government by the Due Process Clause of the Fifth Amendment, since the wording of the two provisions is identical. It would seem transparently clear that since the Fifth Amendment and the rest of the Bill of Rights were submitted by Congress and ratified by the states simultaneously, they were not intended to be repetitious but separate and distinct provisions, for as Chief Justice Marshall declared, "No part of the Constitution can be deemed surplusage." If the Due Process Clause of the Fifth Amendment, standing alone, would have been sufficient to prevent Congress from passing a law restricting freedom of speech, press or religion, there would have been no sense at all in putting such prohibitions in the First Amendment. Similarly, as to the Fourth Amendment protections against unreasonable searches and seizures, and the guaranty of the right to trial by jury. Yet in a series of decisions the Court has said the Due Process Clause of the Fourteenth Amendment imposes these limitations upon the States. Here again we have a clear abuse of judicial power. The Court has simply concluded, as a matter of sociological jurisprudence, "Freedom of Speech, freedom of the press, freedom of religion, freedom from unreasonable search and seizure ought to be protected from State action, so we will say the Due Process Clause of the Fourteenth Amendment imposes those limitations upon the States."

Of course, these freedoms are precious. Of course, they ought to be protected from violation by the State of North Carolina. They are, and for two hundred years have been by our own North Carolina Constitution and our North Carolina courts. But if they were not, there is no lawful authority in the Supreme Court of the United States to amend the Constitution of the United States so as to protect them. For it to do so by a purported construction of the Fourteenth Amendment is precisely the kind of usurpation which George Washington said is "the customary weapon by which free governments are destroyed."

Permit me one final illustration. Coker v. Georgia, decided in 1977, is, I believe, my choice for the distinction, "the worst decision I ever read." While serving valid sentences to life imprisonment for murder, rape and kidnapping, Coker escaped. While so free, he kidnapped and raped another victim after first robbing and tying up her husband. He was tried and found guilty of these new offenses and sentenced to death for the rape. There is in the opinion of the Supreme Court not one suggestion of any error of law or unfairness in the course of his trial and conviction. The procedure by which the death penalty was imposed was in all respects proper under the rule laid down by the Supreme Court, itself, just one year earlier in Gregg v. Georgia. The Supreme Court did not suggest otherwise. Yet the Court vacated the death sentence. Why? This is what they said: "A sentence of death is grossly disproportionate and excessive punishment for the crime of rape and is therefore forbidden by the Eighth Amendment as cruel and unusual punishment."

What was the result? Coker is back in prison, but he was already serving three life sentences, so for this combination of robbery, kidnapping and rape, he has not been and never will be punished at all. Revolting as that is, it is not the worst aspect of the decision. You may agree with the Court's opinion that death is "grossly disproportionate" punishment for a vicious, brutal rape of an innocent victim. I do not, but that is not the point. Here we have the Supreme Court of the United States usurping the legislative function to decide what is the appropriate punishment for crime and usurping the power to amend the Constitution so as to put into it the Court's sociological view of the seriousness of the crime, and the appropriate punishment. It cannot be doubted that in 1711 when the Eighth Amendment was ratified and in 1868 when the Fourteenth was proclaimed to be part of the Constitution, the American people overwhelmingly favored death as the appropriate punishment for

rape. But, assuming the Court's appraisal is in accord with "contemporary standards", what if "contemporary standards" are again reversed ten years hence, as indicated, let us say, but a return then to the practice of lynching rapists, how can this decision ever be changed? It can hardly get back to the Court for reconsideration by other justices, for no lower court will impose a death sentence for rape. No legislature will provide for the death penalty in face of this decision. An amendment to the Constitution to correct this decision is completely improbable. Thus the Court, Chief Justice Burger and Justice Rehnquist dissenting, have deprived the people of America of the right to determine for themselves the proper punishment for crime and have, in necessary effect, deprived Georgia, and every other State, of all power to impose any punishment whatsoever upon an escaped prisoner, already under a life sentence, for rape, kidnapping, burglary or armed robbery.

What is the remedy? How can the American people protect themselves against such usurpation of power? I fear this is a situation which illustrates the futility of locking the barn after the horse is stolen, for the Court has already changed American Government from a balanced federal system to an overpowerful national government. Were we starting over again, it seems obvious that it was a grievous mistake to give the federal judiciary life tenure. It would be better to require their reconfirmation by the Senate periodically, say every eight years, but such a change is hardly a possibility, certainly it is not a likely prospect. The only other hope of eventually improvement lies in the long slow process of electing presidents and senators who, themselves, have an awareness of the need for selection of judges who have a love for and an understanding of our Constitution, together with some awareness of their own limitations, both in authority and in wisdom.●

S. 1158—CLEAN AIR ACT AMENDMENTS

● Mr. BOREN. Mr. President, it is my privilege to bring to the attention of my colleagues S. 1158, which was introduced yesterday by Senator GARN and myself. This legislation would delay the deadline for approval of the implementation plan required by the Clean Air Act until June 30, 1980, and extend the compliance deadline until December 31, 1983. This is necessary in order to allow an adequate amount of time for the States to be in compliance with their implementation plans once they are approved.

The Clean Air Act Amendments of 1977 require each State to submit a revised State implementation plan (SIP) to the Environmental Protection Agency by January 1, 1979, to be approved by the EPA by June 30, 1979. The original deadline mandated by the Clean Air Act did not allow sufficient time for the majority of our States to develop adequate revisions to the State implementation plan. The January 1, 1979, deadline for submission of plan revisions was met by only six States and the District of Columbia. The States have been working on their new plans and regulations as expeditiously as possible.

In addition, EPA has recently changed the ambient air quality standard for ozone from 0.08 part per million to 0.10 part per million. This revision requires most of the States to reevaluate the present air control strategies for this pollutant so that the most cost-effective means are used to attain and maintain the revised standards. Since changes have been made in midstream by the EPA, the States are entitled to more time. Under the most optimistic schedule, most of the States will not have plans submitted to the EPA in order to meet the July 1 deadline for approval of those plans by the EPA. Sanctions which the Environmental Protection Agency could choose to impose upon my State and those of many of my colleagues include: Curtailment of all funds from the EPA for sewage treatment projects, curtailment of Federal highway funds with the exception of those used for safety-related projects, and a freeze on any construction of major new sources of air pollution which includes industrial development.

Several of my colleagues have mentioned to me that although their States have not submitted a plan to the EPA and may not by the July 1, 1979 deadline, that they have made arrangements with the EPA. As a result they do not think that the EPA will impose the penalties for failing to meet that July submission date. Frankly, I would hate to depend upon the generosity of the Environmental Protection Agency to protect the best interests of my State. If the deadline is not a realistic one, then it is the responsibility of Congress to change it to a more reasonable one. If the States are having difficulties in the formulation of these plans in the time period allotted as evidenced by the lack of State plans submitted on time, then legislation should be submitted to alleviate this unreasonable time frame. Therefore, I am cosponsoring S. 1158 which would extend these deadlines in order to give the States the opportunity to submit well-thought-out programs for improving air quality in their jurisdictions.●

A TRIBUTE TO GEN. LOUIS H. WILSON

● Mr. STENNIS. Mr. President, 4 years ago, on May 7, 1975, I rose in this Chamber to present to the Senate the nomination of Gen. Louis H. Wilson to be Commandant of the Marine Corps and to recommend his confirmation.

I stated then that I took pride in the fact that General Wilson was a native Mississippian and that he had been nominated to be chief of his service. Today I am even prouder of this distinguished military leader, for in his 4 years in office he has made many important contributions toward the efficiency and combat readiness of the Marine Corps. He has been one of the most outstanding Commandants the Corps has ever had.

General Wilson completes his term of office on June 30, and will retire from the military service and return to Jackson, Miss., to live. I look forward to having him back in our State, but he will be sorely missed here in Washington. His wise counsel in the Joint Chiefs of Staff and his strong leadership of the Marine Corps will be remembered by all who knew him here.

General Wilson is the only Commandant of the Marine Corps who ever rose to that rank from an enlisted private. He enlisted in May 1941, at the time of his graduation from Millsaps College, in Jackson. He went through officers basic training, was assigned to the 9th Marine Regiment, and went overseas with that unit to Guadalcanal and up through the Pacific Islands. As a captain commanding a Marine company in the assault on Guam in 1944 he displayed heroism above and beyond the call of duty and was awarded the Congressional Medal of Honor. In an intense battle which began in the afternoon, lasted through the night and into the next day, he was wounded three times, but continued to lead his men and captured the strategic high ground in his regimental sector.

This kind of dedicated and effective leadership continued through his career, in exacting command and staff assignments. He served in Korea, attended the National War College, and went to Vietnam with the 1st Marine Division in 1965. He became a general officer in 1966 at age 46, progressed to lieutenant general in 1972, and was assigned as Commanding General, Fleet Marine Force, Pacific, where he served 3 years before being selected by President Gerald Ford to become Commandant.

When he took office as Commandant he said:

> For years I have heard, "They said to do this, and they want that done." Well, now I am "they," and it will be done.

It has been done. The record is eloquent testimony of that fact. When Louis Wilson became Commandant the Marine Corps was confronted with serious manpower and personnel problems. A substantial number of the men in the Marine Corps did not measure up to the quality standards which he thought were essential. He was determined to correct this situation and immediately initiated drastic measures to do so. He ordered a severe screening of the membership based upon quality and dismissed those who did not measure up. The number of those discharged grew rapidly.

Other officers became alarmed by the fear that the course that General Wilson was pursuing would destroy and decimate the Marine Corps. Upon hearing this he reviewed the facts and the status of the personnel of the Marine Corps. He reviewed his own conclusions as to the proper personnel standards. Even though the discharges were approaching one-fourth of the corps, he stuck by his order that the quality be maintained.

History proved him to be right. The major personnel problems were corrected and the corps emerged all the stronger for it. This was accomplished because of Louis Wilson's guiding hand, outstanding leadership and unrelenting insistence on quality. Few other men could have brought about the achievements which came about because he stood firm for quality and gave leadership by personal example. General Wilson thus set an example that influenced the other military services for the good in this difficult field at a dangerous time. In my years as chairman of the Senate Armed Services Committee I believe he was the most influential military officer I have had con-

tact with as a member of the Joint Chiefs of Staff.

I know that Louis Wilson would prefer that his tenure and record as Commandant be judged solely on results. On that basis, the record is clear. He is leaving the Marine Corps a better organization because of this leadership. I think this is the highest tribute he would want.

Mr. President, to me General Wilson exemplifies character and integrity. He has conducted himself as a living example of what young men should strive to be. Our Nation, the national defense, and the Marine Corps are the better for his lifetime of devotion to duty.

His friends are the better for having known him. I join with all of them in wishing to him and to Jane, his wonderful wife, a very happy and productive new life in the civilian community.

Jane Wilson has definitely been a major contributing factor in the splendid military career that the two of them have lived and achieved in unison and complete cooperation. Mrs. Wilson is a lady of charm and intelligence and is a true and loyal patriot of the finest quality. I esteem her highly. Mrs. Stennis shares with me these good wishes for two fine people, Louis and Jane Wilson.●

WHITE HOUSE CONFERENCE IS OPPORTUNITY TO TURN THINGS AROUND FOR SMALL BUSINESS

● Mr. LEVIN. Mr. President, after World War II, small business enterprise in this country went into a 30-year decline, which was dramatized in a 1975 Wall Street Journal article which declared that the small business owner was the forgotten person of American politics.

During the same year, the Senate Small Business Committee, of which I am a member, began an extraordinary effort to reduce the accumulated burdens of taxation, regulation, paperwork, and general indifference that had doubled the number of business bankruptcies, reduced the formation of new technical enterprises to almost zero, and resulted in the shutdown of some 25,000 pension plans.

Over 200 days of hearings have since been held on these and a range of other problems. Out of this research have come many proposals for legislation, administrative actions, and machinery to give small firms greater input into the making of Federal Government policy.

Among the major bills that have resulted from this activity are:

The most progressive corporation income tax since that levy was imposed 70 years ago, which will save the business earning $100,000 $14,750 per year from prior level of the tax;

A thorough reform of the estate tax, for the first time since 1942, which tripled the amount of property which can be passed free of Federal taxes for estate and gift tax purposes;

A reduction of the capital gains tax on investment income from a maximum of 49.1 to 28 percent.

CALL FOR THE WHITE HOUSE CONFERENCE

The committee, under the distinguished leadership of the Senator from Wisconsin (Mr. NELSON) also realized that, in addition to particular changes in the laws and regulations, an overall integrated strategy was needed to revive the climate for small business and preserve the free private enterprise system in these difficult times.

To develop such a strategy, the committee called for a White House Conference on Small Business, which could focus the best thinking from many fields on this task.

In this way, the committee felt that the diverse problems and potential of these 14 million businesses, representing over half of the private sector jobs, 48 percent of the business output, 43 percent of the GNP, and over half of our industrial innovation, would receive concerted, long-range attention.

President Carter responded by announcing the country's first White House Conference on Small Business on April 6, 1978. The Conference, which will convene in Washington on January 14–17, is to be preceded by 12 regional and 45 State meetings, which are now in progress.

The Michigan meeting, for example is scheduled for June 14, 1979 at the Plaza Hotel in the Renaissance Center. At that time, the small business community of my State will be able to present their problems and proposed solutions, in writing and orally, and have a direct input to the recommendations which will be formulated for presentation to the Washington meeting. In addition, delegates will be elected from among those who attend, to carry the message to the Washington conference.

The Conference is a historic first. More than 25,000 spokesmen of independent business will probably participate in the shaping of findings and recommendations and selection of the 2,000 delegates who will make the final decisions on the content of the report which will be sent to President Carter on the theme: "Small Business—the Next 25 Years."

Changing the policies of the Nation is somewhat like trying to change the course of a supertanker. It will take a great amount of energy and time. But, a beginning has been made, and I know that the business community of Michigan will contribute their abundant talents to making the June 14 State forum and the January 1980 Conference in Washington the most effective possible instruments for advancing the interests of small business and the free enterprise system.

I ask that a "Progress Report" describing the activities of the Senate Small Business Committee and a letter indicating the President's intention to call the White House Conference on Small Business, be printed in the RECORD for the benefit of the small business community of my State and all others who have an interest in this Conference.

The material follows:

PROGRESS REPORT: SELECT COMMITTEE ON SMALL BUSINESS, U.S. SENATE

Despite the outstanding contributions of small business to American economy and society, several decades of neglect had left the small business community in this country on the critical list by the mid-1970's. In the past four years, the Senate Small Business Committee has made progress in changing this situation.

During the years 1975 through 1978, the Committee's activities resulted in major small business tax reforms, reduced paperwork, pension simplification, assistance for family farmers, and closer supervision over the Small Business Administration. Attention to small business in government, in the nation's press and academic institutions has been heightened, leading to the forthcoming White House Conference on Small Business.

This report capsulizes these developments and accomplishments:

The White House Conference on Small Business. As a culmination of this four years of activity, President Carter, Small Business Administrator A. Vernon Weaver, and Senator Gaylord Nelson last April announced the nation's first White House Conference on Small Business, to be held in Washington, D.C., in January 1980. It is to be preceded by 12 regional and 45 state meetings, which are now underway. The aims are to carefully delineate the problems of small business and develop an agenda for action over the next 25 years to restore a climate in which small business can be born, grow, and thrive. The 14 million small enterprises in the U.S. account for 55 percent of the private sector jobs, 48 percent of business output, 43 percent of the GNP, and more than 50 percent of all industrial innovations in this century. Given fair treatment, they can make vital contributions to the country's most valued goals.

Breakthroughs in Tax Reform for Small Business. In the four years 1975–78, Congress restructured the corporate income tax to subject all earnings under $100,000 to a progressive and significantly lower level of tax. Savings range from almost one-quarter for the smallest firms earning less than $25,000 to almost one half for those earning between $25,000 and $50,000, as shown in the table below.

Overall, the 94 percent of U.S. companies earning less than $100,000 will save $2 billion in federal taxes in 1979, and $2.2 billion in 1980 as a result of this legislation:

Small business tax savings 1975–79

Corporate income	Amount saved	Percentage reduction	Total saved in 1979 (in millions)
$25,000	$1,250	23	$371
50,000	8,250	47	616
75,000	12,750	43	592
100,000	14,750	36	449
Total			2,028

Public hearings in 1975 resulted in a thorough reform of federal estate and gift tax laws, including: an increase of the "marital deduction" available to surviving spouses to $250,000; tripling of the amount of property exempt from estate tax to $175,000; tripling the gift exemption to $100,000; and providing 15 years for payment of estate taxes attributable to farms or small businesses.

A 1978 Committee investigation on capital formation brought a deep reduction of the maximum tax rate on capital gains—from 49.1% to 28%—a cut of 43%. The Nelson proposal enacted by Congress will exclude 60% of capital gains from taxation (compared to the previous 50%). This has already led to an increased flow of venture capital to new and small enterprises. In addition:

Subchapter S of the Internal Revenue Code (used by 300,000 closely-held businesses) was substantially revised and liberalized, increasing the maximum number of shareholders from 10 to 15.

The Investment Tax Credit was increased 43% for all business (from 7% to 10%) but 185% for small firms buying used machinery, because the amount of used machinery eligible for the investment credit was doubled ($50,000 to $100,000).

The excise tax was graduated for small brewers, saving 35 small breweries $2 per barrel on their first 60,000 barrels of production, or a total of $4.2 million a year.

A Small Business Advisory Committee was formally established at the Treasury Department at the Committee's request.

A sweeping small business depreciation reform bill developed over the past four years almost passed Congress in 1978. This proposal (S. 110) offers massive simplification, eliminating 100 pages of regulations for the 80% of U.S. businesses purchasing less than $25,000 per year in equipment, along with an additional $1.5 billion of capital formation for these companies. It passed the Senate in 1978, but was eliminated from the tax bill in the closing moments of the 95th Congress.

Reduction of Government Paperwork. The first success was creation of a Federal Paperwork Commission which, in turn, conducted a two-year study of paperwork problems. At the end of 1978, 151 of the Commission's 520 recommendations for paperwork reduction had been acted upon; eliminating 400 federal reports.

Another committee bill consolidated into a single annual filing the form 941 on which each of the nation's 4½ million employers must list the name of every employee. Beginning in 1978, this law eliminated a stack of paper more than two miles high every year.

In 1976, the Committee got the Labor Department to drastically reduce the new ERISA pension form (EBS-1) from 16 to 5½ pages. Cutting 10½ pages for each of the nation's 710,000 retirement plans reduced paperwork by 7½ million pages.

An amendment to the 1977 Minimum Wage bill reduced 12 pages of applications and instructions on hiring part-time students to a single postcard. This resulted in an increase in more than 5,000 part-time jobs the following year from businesses newly willing to apply.

In 1979, the Committee Chairman introduced a comprehensive bill to require the Federal Government to cut paperwork 25 percent within two years, or to explain to the Congress why it cannot be done. (S. 259)

Beginning the Process of Reducing Governmental Regulation. Committee studies demonstrated the cost of governmental regulation, and showed that regulations have been a greater source of increased housing costs than labor and materials. As a result, the median price of homes is now more than $50,000, out of range for three-quarters of all U.S. families.

Senator Nelson's "Regulatory Flexibility Act", calling for "two-tier regulation" passed the Senate in 1978 but was not enacted. It would distinguish between large companies that can bear the costs of sophisticated regulations and small firms which cannot. (S. 299)

Another bill, the "Regulatory Procedures and Improvements Act of 1979" (S. 93) would require government to state the cost of regulations and justify the benefits in each instance. Both bills are pending in the current 96th Congress.

Simplification of Pension Reporting and Compliance. The Committee held the first Congressional hearings highlighting the adverse effects of the Pension Reform Act of 1974 (ERISA) on the more than 90 percent of U.S. pension plans sponsored by small businesses. It found that, because of ERISA, the ratio of retirement plan creations to terminations fell from about 14-1 in the five years prior to the law to 3.6 and 1.5 to 1 respectively in 1975 and 1976. Almost 25,000 pension plans closed down in those two years. As a result of these hearings:

The Labor Department reduced the EBS-1 form from 16 to 5½ pages (1975);

The Labor Department and the Internal Revenue Service agreed to limit themselves to a single annual report (1977);

The Administration simplified reporting to plan participants and beneficiaries (Reorganization Message, 1978);

The Labor Department modified the "prudent man" regulations to facilitate investment in small business (April 26, 1978).

Improving Capital Formation for Small Business. In 1978, the Committee began the most concerted congressional investigation of credit and capital needs of small business of the past twenty years.

The initial hearings at the American Stock Exchange in New York and elsewhere laid the basis for approval of Senator Nelson's proposal to cut capital gains taxes from 49.1 percent to 28 percent. The hearings are continuing in 1979.

Requiring a Fair Share of Government Contracts for Small Business. The Committee has consistently pushed for a greater proportion of government contracts of all kinds to be opened to cost-competitive small firms. for example, in research and development, small business has a brilliant record of producing half of all the country's innovation, but it receives only 3.4 percent of federal research contracts.

In 1978, the Committee developed the most comprehensive legislation for small contractors of the past 20 years and gained its enactment as Pub. L. 95-507. The new law requires Federal agencies to establish specific goals for small business contracts, and the appointment of a responsible official at each agency to assist small firms in obtaining this business. Additionally, every large prime contractor must now have a formal subcontracting procedure on each contract.

Another Committee report (S. Rept. 1413) recommended that the Executive Branch lay down targets for small business R & D procurement that could mean an extra $2 billion for small firms.

Imposing a Tighter Rein on the Small Business Administration. In 1978, the Committee developed legislation which would: (1) tighten controls over the SBA through Congressional review of the Agency's budget; (2) strengthen the agency's advocacy program; (3) increase the number of Small Business Development Centers in universities throughout the country to render services similar to the Agricultural Extension Service; (4) create a small business "data base" to improve the quality of small business research; (5) provide for a national small business economic policy mechanism; (6) increase support for venture capital investment; and (7) provide adequate funds for the White House Conference. This bill passed both the Houses of Congress but was not signed by the President. It has been modified and reintroduced in 1979, and has been reported to the Senate as S. 918.

Helping the Family Farm Survive. The Committee legislated an extension of Small Business Administration programs to family farmers. Another initiative was the investigation of the 160-acre size limitation on farms receiving Federal water. A bill has been introduced to assure this land remains in family farm ownership.

Initial Steps toward Product Liability Relief. Committee hearings revealed that some businesses experienced premium increases for liability insurance of up to 1,000 percent, and others could not obtain such insurance at any price. A Nelson-Culver bill enacted as part of the Revenue Act of 1978 provided for a 10-year carry-back of product liability losses and the lifting of the accumulated earnings penalty on after-tax product liability reserves.

Women in Business. Committee conferences on the problems of women business owners in 1976 raised the visibility of this issue and led to a national program to promote and assist women owners of businesses.

Increased Stature of Small Business in the Congress and the Nation. The Congressional Small Business Committees, particularly in the Senate, made great strides in the past four years. The Senate Committee was given legislative authority over all matters pertaining to the Small Business Administration, the Small Business Act, and the Small Business Investment Act. The Committee consults 200 business organizations in seeking to develop the most effective working agenda for the nation's small business community.

THE WHITE HOUSE,
Washington, April 5, 1978.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

TO SENATOR GAYLORD NELSON: I have carefully reviewed your October 1976 memorandum recommending a White House Conference on Small Business, as well as the additional memorandum of last autumn. This material and our recent discussion have satisfied me that such a conference would be very constructive for the Nation's 14 million small and independent businesses. Therefore, I intend to call a White House Conference on Small Business, as you suggested by Senate Resolution 105 which you authored.

I believe such a conference can help us identify the many special problems facing small business and design an agenda that addresses them in a constructive way. As you know, the 14 million small businesses represent a much larger part of our economy than is commonly recognized. They account for over 50 percent of all private employment, 43 percent of the gross national product and over half of all inventions.

You have been a leader in devising ways to help this important sector of our economy grow and prosper. Administrator Vernon Weaver of the Small Business Administration will be working closely with you in preparation for the White House Conference.

Sincerely,

JIMMY.●

SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4 PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. STEVENSON. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice if a Member, officer, or employee of the Senate proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Dr. Leonard Weiss of the Committee on Governmental Affairs to participate in a program sponsored by a foreign educational organization, the Research Institute of the German Society for Foreign Affairs of the Federal Republic of Germany. The program, to be held in Bonn from May 13 to May 16, 1979, in-

volves a conference on reconciling energy needs and nonproliferation.

It has been determined that Dr. Weiss' participation in this program, at the expense of the society is in the interests of the Senate and the United States.●

AUTHORITY FOR ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I be authorized on tomorrow morning to call up either S. 662, which is the Inter-American Development Bank bill, or S. 584, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act.

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

Mr. ROBERT C. BYRD. Mr. President, it will be my hope that I will not have to call up the arms export bill until next Tuesday, but that depends upon circumstances that right at the moment are not under my control. But I sincerely hope that it will be possible to put that bill over until Tuesday, in which case I would proceed, then, to take up the International Bank bill tomorrow.

As I say, the circumstances are not entirely under my control at the moment.

Mr. BAKER. Mr. President, can the majority leader tell us what time we are likely to convene tomorrow?

Mr. ROBERT C. BYRD. Yes, I have a 9 o'clock order. I may know further in just a few minutes; it may be we can change that to 10 o'clock.

Mr. President, I thank the Chair for indulging me.

Mr. President, I change the order as follows:

Mr. President, I ask unanimous consent that the majority leader be authorized to call up the bill S. 584, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes, either on Tuesday or Wednesday of next week, at any time.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

INTER-AMERICAN DEVELOPMENT BANK, ASIAN DEVELOPMENT BANK, AND AFRICAN DEVELOPMENT FUND PARTICIPATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 143, S. 662, with the understanding that there will be no action this evening.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 662) providing for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

U.S. FOREIGN ASSISTANCE PROGRAMS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration, for not to exceed 1 minute, of Calendar Order No. 146, which I believe has been cleared.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 92) expressing the sense of the Senate that the President should review the foreign assistance program of the United States with a view toward providing such assistance through multilateral organizations and private international organizations.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with an amendment to strike all after the resolving clause and insert the following:

That the President is hereby requested—

(1) to review the foreign assistance programs of the United States to determine whether more or all development, humanitarian, and disaster assistance should be provided through (A) multilateral organizations and (B) private voluntary organizations; and

(2) to report to the Congress not later than September 5, 1979, on the results of the review requested under clause (1).

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. JAVITS. Mr. President, this excellent resolution was proposed to the Committee on Foreign Relations by Senator PELL of Rhode Island. It seeks to direct attention to the opportunities which exist for the utilization of private voluntary organizations in the utilization of such programs rather than an emphasis on bilateral assistance programs in providing U.S. development, humanitarian and disaster assistance, also the desirability of utilizing multilateral organizations for that purpose.

As originally phrased, it would have asked the Committee on Foreign Relations in the Senate to decide that is the route we wanted to go. But although we liked the idea in the committee, we decided that we should leave the question for determination, for advice to us, by the President with the requirement that he give us a report not later than September 5, 1979, and that is the way in which the resolution now reads.

That is, to review the foreign assistance programs of the United States to determine whether more or all development, humanitarian and disaster assistance should be provided through first multilateral organizations and second private voluntary organizations.

Senator PELL was gracious enough to accept this formulation. I believe it is highly desirable and an extremely useful enterprise on the part of Senator PELL, and I commend the resolution in its present form, which will give us what we want to make, a judgment, but will not try to make the judgment in the resolution itself before we have the advice of the President.

I commend this resolution to the Senate, and hope that it will pass.

I thank the Chair.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Expressing the sense of the Senate that the President should review the foreign assistance program of the United States with a view toward providing such assistance through multilateral organizations and private international organizations.

Whereas the United States desires to continue to help the less developed countries in their efforts to acquire the technology and resources necessary for development; and

Whereas the idea of providing development, humanitarian, and disaster assistance, pioneered by the United States, has been taken up by multilateral organizations as well as by other countries; and

Whereas multilateral organizations and private organizations are becoming increasingly important and effective in providing development and other forms of assistance because, among other reasons, their activities are not influenced by national considerations; and

Whereas a new International Development Cooperation Administration has been proposed as an independent agency within the executive branch: Now, therefore, be it

Resolved, That the President is hereby requested—

(1) to review the foreign assistance programs of the United States to determine whether more or all development, humanitarian, and disaster assistance should be provided through (A) multilateral organizations and (B) private voluntary organizations; and

(2) to report to the Congress not later than September 5, 1979, on the results of the review requested under clause (1).

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Amend the title so as to read: "Resolution requesting the President to review the foreign assistance programs of the United States, and for other purposes.".

The title was amended so as to read:

Resolution requesting the President to review the foreign assistance programs of the United States, and for other purposes.

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

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

The motion to lay on the table was agreed to.

NATIONAL MUSEUM DAY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 262.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

H.J. Res. 262, to declare May 18, 1979, to be National Museum Day.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution be considered as having been

read the first and second time and that the Senate proceed to its immediate consideration.

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

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resolution (H.J. Res. 262) was passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action of the Senate today in passing Senate Joint Resolution 62, which is a companion measure, be vitiated, and that the measure be indefinitely postponed.

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

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the Senate has just passed House Joint Resolution 262.

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

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes it business today it stand in recess until the hour of 10 a.m. tomorrow.

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

ORDER TO RESUME CONSIDERATION OF S. 662 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 10:30 a.m. tomorrow the Senate resume consideration of the pending business, S. 662, Calendar Order No. 143.

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

ORDER FOR RECOGNITION OF SENATOR LEAHY ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow Mr. LEAHY be recognized, after the two leaders have been recognized under the standing order, and that he be recognized for not to exceed 15 minutes.

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

ORDER FOR RECOGNITION OF LEADERS REDUCED TO 5 MINUTES

Mr. ROBERT C. BYRD. Mr. President, if it is agreeable with the distinguished minority leader, I ask unanimous consent that the time of the two leaders, under the standing order on tomorrow be reduced to 5 minutes each.

Mr. BAKER. Mr. President, I have no objection.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10 o'clock tomorrow morning. After the two leaders have been recognized, each for not to exceed 5 minutes, Mr. LEAHY will be recognized for not to exceed 15 minutes.

At 10:30 a.m., the Senate will resume consideration of Calendar Order No. 143, S. 662, a bill providing for the increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.

It is the hope of the leadership on both sides of the aisle that the Senate will complete action on that bill tomorrow.

Rollcall votes will occur. As to any other measures that have been cleared for action—and, hopefully, there will be some that will have cleared the 3-day rule by tomorrow—we may be able to take action on them by unanimous consent. If such be the case, we shall do that.

Mr. BAKER. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the majority leader.

Mr. President, I take a brief moment to thank the distinguished senior Senator from New York (Mr. JAVITS) for his concurrence in this arrangement. I talked to him on the telephone from the cloakroom a few minutes ago. He had been under the impression that we would proceed to the Foreign Military Sales Act tomorrow. I rather suspect he was prepared to proceed with that tomorrow, being the ranking member of the Foreign Relations Committee. Senator JAVITS, in his typical gracious way, has agreed to try to rearrange his schedule and his preparation to be here tomorrow to manage for our side the bill that the majority leader has identified, which is now pending before the Senate.

I asked the majority leader to yield so I could express my gratitude to the distinguished Senator from New York, who has made it possible for us to proceed in this way without any difficulty or delay.

Mr. ROBERT C. BYRD. Mr. President, I thank the able minority leader. I join in thanking the distinguished Senator from New York (Mr. JAVITS) for his cooperation and characteristic courtesy.

RECESS UNTIL 10 A.M. TOMORROW, MAY 17, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and, at 8:34 p.m., the Senate recessed until tomorrow, May 17, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 16, 1979:

FEDERAL RESERVE SYSTEM

Emmett John Rice, of New York, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1976, vice Stephen S. Gardner, deceased.

THE JUDICIARY

James P. Jones, of Virginia, to be U.S. district judge for the western district of Virginia, vice a new position created by Public Law 95-486, approved October 20, 1978.

INTERSTATE COMMERCE COMMISSION

Darius W. Gaskins, Jr., of the District of Columbia, to be a member of the Interstate Commerce Commission for the term expiring December 31, 1984, vice Virginia Mae Brown, term expired.

Thomas A. Trantum, of Connecticut, to be a member of the Interstate Commerce Commission for the term expiring December 31, 1985, vice Rupert L. Murphy, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 16, 1979:

NATIONAL COUNCIL ON THE HUMANITIES

Kay Howe, of Colorado, to be a member of the National Council on the Humanities for the remainder of the term expiring January 26, 1980.

Charles V. Hamilton, of New York, to be a member of the National Council on the Humanities for a term expiring January 26, 1984.

Louis J. Hector, of Florida, to be a member of the National Council on the Humanities for a term expiring January 26, 1984.

M. Carl Holman, of the District of Columbia, to be a member of the National Council on the Humanities for a term expiring January 26, 1984.

Jacob Neusner, of Rhode Island, to be a member of the National Council on the Humanities for a term expiring January 26, 1984.

Mary Beth Norton, of New York, to be a member of the National Council on the Humanities for a term expiring January 26, 1984.

Sister Joel Read, of Wisconsin, to be a member of the National Council on the Humanities for a term expiring January 26, 1984.

Leon Stein, of New York, to be a member of the National Council on the Humanities for a term expiring January 26, 1984.

Harriet Morse Zimmerman, of Georgia, to be a member of the National Council on the Humanities for a term expiring January 26, 1984.

Dave Warren, of New Mexico, to be a member of the National Council on the Humanities for the term expiring January 26, 1982.

A. D. Frazier, Jr., of Georgia, to be a member of the National Council on the Humanities for the remainer of the term expiring January 26, 1982.

DEPARTMENT OF LABOR

Janet L. Norwood, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor, for a term of 4 years.

NATIONAL MUSEUM SERVICES BOARD

The following-named persons to be members of the National Museum Services Board for terms expiring December 6, 1983:

Douglas Dillon, of New York.

Neil Harris, of Illinois.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

The following-named persons to be members of the National Advisory Council on Women's Educational Programs for terms expiring May 8, 1981:

Sister M. Isolina Ferre, of Puerto Rico.
Anna Doyle Levesque, of Rhode Island.
Susan Margaret Vance, of Illinois.

DEPARTMENT OF STATE

Philip Henry Alston, Jr., of Georgia, now Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia, to serve concurrently and without additional compensation at Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nauru.

Sally Angela Shelton, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Grenada and the Commonwealth of Dominica, and as Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Saint Lucia.

Walter Leon Cutler, of Virgina, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Iran.

Lawrence A. Pezzullo, of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Nicaragua.

Alfred L. Atherton, Jr., of Florida, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

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.

EXTENSIONS OF REMARKS

TAX EXEMPT HOME MORTGAGE BONDS

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 15, 1979

● Mr. HEFTEL. Mr. Speaker, I have followed with great interest the controversy surrounding tax-exempt home mortgage bonds which has grown in intensity since the introduction by my good friend, the distinguished chairman of the Ways and Means Committee (Mr. ULLMAN), of H.R. 3712, which deals with these bonds. I congratulate the chairman of our Ways and Means Committee for so promptly scheduling hearings on his bill.

The effect of H.R. 3712 would be to allow the issuance of only those home mortgage bonds, with certain exceptions, which are issued before May 25, 1979, pursuant to a binding written agreement between an issuing agency and an underwriter to sell such obligations that was entered into before April 25, the date of introduction of Chairman ULLMAN's bill. In essence, with some exception, the bill will remove the current tax exempt status for bonds which are used for mortgages for single family housing.

I can well appreciate the concern that has arisen over the unrestricted use of these bonds. Their volume has increased substantially in the past several months, both in those issued by State housing agencies and those issued by cities and political subdivisions. Certainly, some controls are necessary to prevent abuses and to minimize the erosion of Federal tax receipts, a situation we cannot afford in this period of fiscal austerity.

Mr. Speaker, while I agree with the need to restrict such bond issues, I firmly believe that a financial assistance program is needed for low- and moderate-income families to purchase homes. For that reason, I have introduced a bill, H.R. 4030, which permits States and municipalities to continue to issue these bonds to finance mortgages for households whose income is less than 120 percent of the area's median income. I would like to point out that my bill undertakes to do precisely what the President has recommended. Indeed, in his budget message earlier this year, the President recognized the problem and said he would propose legislation "to limit the use of tax-exempt funds for mortgage financing to low- and moderate-income families or to other, narrowly targeted public policy objectives."

It is my understanding that the Department of Housing and Urban Development, the Department charged with the responsibility of meeting America's housing needs, generally favors the approach I have taken in this bill. It is my hope that during the hearings we will be able to obtain some definitive data concerning not only the actual revenue to the Treasury which is foregone as a result of the tax-exempt status of these bonds, but also the impact any legislation in this area will have on our housing industry.

This is a matter which deserves the close attention of all Members, Mr. Speaker, and I hope that my colleagues on the Committee and in the full House will give their serious consideration to this important legislation.●

LESTER FLATT

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 15, 1979

● Mr. BONER of Tennessee. Mr. Speaker, last Friday, country music lost one of its best loved and most renowned performers, Lester Flatt. Mr. Flatt's professional career began in 1944 when he was hired as the lead singer for Bill Monroe's Bluegrass Boys, the pioneering bluegrass ensemble. Later he joined with Earl Scruggs in April of 1948; a union which became one of the most famous teams in the history of country music. Touring the country with their band, the Foggy Mountain Boys, they became noted for their "Foggy Mountain Breakdown," the theme for the movie "Bonnie and Clyde," and the "Ballad of Jed Clampett" from the "Beverly Hillbillies" television series.

Mr. Flatt's "old-timey" guitar style and his keen singing reflected the traditional virtues of rural Southern music. In combination with Mr. Scruggs, however, the two men exerted a considerable influence on the pop-music world of the 1960's, as their appearances in big-city nightclubs, colleges, outdoor summer festivals, and even Carnegie Hall attested. The duo broke up in 1969 at which time Mr. Flatt continued with the Old Flatt and Scruggs Band, now renamed the Nashville Grass. He performed at more than 50 colleges a year and as late as last February, Mr. Flatt was talking about a resumption of touring and a possible reunion with Mr. Scruggs.

Mr. Flatt fostered the development of new young stars with special emphasis on young mandolin players which was a departure from the old Flatt and Scruggs image. In addition to touring, the team of Flatt and Scruggs performed often on early morning radio programs in Nashville, Tenn. They were always a popular attraction to the fans who attended the Grand Ole Opry in Nashville on which they performed often. Additionally, the team appeared on their own television program in Nashville which ran for many years.

The country music industry has truly lost a good friend and performer. His style of music will be remembered for many years to come and his influence on country music will never be forgotten.●

RESULTS OF SURVEY

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 15, 1979

● Mr. BROOMFIELD. Mr. Speaker, each year I conduct a districtwide survey of my constituents to ascertain their views on several major issues confronting the Nation.

This year, nearly 20,000 residents of Michigan's 19th Congressional District, which I am honored to represent, took their time to respond to my questionnaire. Several hundred expanded upon their views in separate letters.

Mr. Speaker, because I find the views expressed so helpful, I would like to share the results of my survey with my col-

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